



JORDAN

Shadow report

**Report submitted to the Human Rights Committee in the
context of the review of the fifth periodic report of Jordan**

Alkarama Foundation – 18 September 2017

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1. Introduction

The fifth periodic report of Jordan (CCPR/C/JOR/5) was submitted to the Human Rights Committee in July 2016, overdue since October 2014. Jordan will be reviewed by the Committee during its 121st session on 19 and 20 October 2017.

Alkarama hereby submits this shadow report in which it evaluates the implementation of the International Covenant on Civil and Political Rights (ICCPR) in Jordan, highlighting its main concerns and addressing recommendations to the State Party. This report is based on first hand testimonies gathered by Alkarama, and provided by the victims themselves, their families and lawyers, as well as by local non-governmental organisations with which we collaborate.

Since its last review, Jordan has been marked by an unprecedented protest movement in the context of the Arab Spring which involved large sections of Jordanian society. Demonstrations called for political, economic and social reform, prompting the king to promise change. A set of superficial constitutional amendments were introduced, and a new prime minister was appointed to carry out several economic and political reforms, including an amendment to the Law on Public Gatherings. However, the pace of reforms was halted in September 2012, when the king considerably restricted freedom of information by requiring news websites to obtain accreditation. In 2014, the Anti-Terrorism Law was amended to include acts of terrorism aimed at “disturbing the public order”, which can be interpreted broadly to crackdown on freedom of speech.

In March 2016, Jordanian authorities launched the Comprehensive National Plan for Human Rights,¹ a 10-year initiative that calls for changes to numerous laws, policies, and practices. In this context, the king established the “Royal Committee for Developing the Judiciary and Enhancing the Rule of Law”,² which presented its report in February 2017. The report included a set of recommendations to improve the judiciary and criminal justice system, but no recommendations were made for anything related to the intelligence services. In this regard, we believe that among the most pressing concerns in the country is the practice of *incommunicado* detention and systematic torture by the General Intelligence Directorate (GID), the country’s intelligence agency controlled by the king, including against peaceful dissenting voices. Individuals detained by the GID are then subjected to unfair trials before the State Security Court (SSC) and sentenced to heavy penalties. In several cases, this constituted a form of retaliation for acts of free speech, in an environment where freedom of expression, association and peaceful assembly is severely restricted.

Despite recognising that several positive steps were taken by the Jordanian government since its last review in 2010, these pressing issues contravene the recommendations set forth by the Committee seven years ago. Besides, the cooperation with the Special Procedures of the Human Rights Council remains limited. Jordan is yet to set a date for both the visit of the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the visit of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the latter of which was initially scheduled for the second half of 2015, and has been delayed *sine die*.

2. The National Centre for Human Rights

The Jordan National Centre for Human Rights (NCHR)³ was created in 2002, and re-accredited with the A status in November 2015 by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions.⁴ Despite the fact that the NCHR plays an active role in the country,

¹ Comprehensive National Plan for Human Rights, <http://petra.gov.jo/library/635974500772435385.pdf> (accessed on 24 August 2017).

² Human Rights Watch, *Jordan: A Strong Move for Justice Reform*, <https://www.hrw.org/news/2017/03/14/jordan-strong-move-justice-reform>, 14 March 2017 (accessed on 23 August 2017).

³ The Jordan National Centre for Human Rights (JNCHR) was established in 2002 by virtue of a temporary Law No. 75 and later became permanent under the Law of the National Centre for Human Rights No. 51 of 2006.

⁴ Global alliance of national institutions for the promotion and protection of human rights, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, Geneva, 14-18 November 2016, pp. 29-31.

Alkarama believes that it is not provided with the adequate means to carry out its mission. Amendments to its enabling law were approved by the Council of Ministers and then adopted by the House of Deputies on 8 February 2017.⁵

Following the NCHR's review, the SCA expressed concern over the lack of a clear, transparent and participatory selection and appointment process. Indeed, the chairman and members of the NCHR's Board of Trustees – its decision-making body – are appointed by royal decree upon the prime minister's recommendation. The enabling law does not require the advertisement of vacancies and does not promote broad consultation in the application, screening, selection and appointment process. In addition, the NCHR law does not contain an independent and objective dismissal process, which is therefore left to the discretion of the appointing authorities.

Furthermore, the NCHR is not free from political interference since three members of its board are parliamentarians who also hold voting rights. Additionally, the receiving of any foreign donation by the NCHR is subject to the approval of the Council of Ministers.

Under the Paris Principles, the NCHR should monitor the human rights situation on the ground and, to that effect, hold the necessary powers to gather information and evidence in order to fulfil this function effectively. Under its enabling law, the NCHR has the authority to visit all places of detention as well as any public space where human rights abuses have taken place.⁶ However, visits to the General Intelligence Directorate, where abuses are common, are subject to prior approval and cannot be carried out unannounced.⁷ Although the authorities claim that "systematic visits" to the GID are carried out,⁸ the NCHR's annual reports, including the annual report for 2016, do not provide any information regarding such visits.⁹

The NCHR is given a broad mandate - being empowered to monitor the human rights situation, address violations, and follow-up on the implementation of necessary measures taken. However, the NCHR rarely raises its voice on sensitive issues, such as violations committed under the anti-terrorism framework or in politically sensitive cases.¹⁰ This demonstrates the selective approach of the NCHR, which may be due to political interference.

The NCHR Commissioner General is also mandated to receive complaints concerning human rights violations and follow-up on them until they are settled.¹¹ They can receive complaints directly from victims through the online complaint form, by phone, and through the 24-hour complaints-receiving hotline. However, there is no mention of working methods used to deal with such cases. Moreover, lawyers and families of victims interviewed by Alkarama have reported that the NCHR never acts in sensitive cases.

Recommendations:

1. Amend the NCHR enabling law in order to ensure its full independence from the executive, including in relation to its selection and appointment process, its composition, and its funding;
2. Effectively allow the NCHR to visit any place of detention without prior authorisation from the authorities;

⁵ Jordanian Official Gazette, Law No. 4 of 2017, published on 1 March 2017, available at: goo.gl/iAsFuy (accessed on 18 September 2017).

⁶ Article 10 of The National Centre for Human Rights Law No. 51 of 2006.

⁷ Response to the List of Issues (Arabic), p. 14.

⁸ National report, p. 13.

⁹ The report is available in Arabic here: <http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%20%D9%85%D8%B1%D8%A7%D9%83%D8%B2%20%D8%A7%D9%84%D8%AA%D9%88%D9%82%D9%8A%D9%81.pdf> (accessed on 29 August 2017).

¹⁰ According to lawyers of victims interviewed by Alkarama.

¹¹ Article 17 of The National Centre for Human Rights Law.

3. Establish clear procedures to receive and process complaints concerning human rights violations and ensure that justice is provided to victims of human rights abuses.

3. Prohibition of torture and other cruel, inhuman or degrading treatment (article 7)

3.1 Definition, absolute prohibition and criminalisation

Following a 2011 amendment, the Jordanian Constitution states that no person should be tortured,¹² and that statements extracted under duress must be rejected.¹³ In addition, torture is defined and criminalised under article 208 of the Jordanian Criminal Code (CC),¹⁴ which was amended in 2014 to remove the mention of "illegal torture". However, punishments are not commensurate with the gravity of the crime under the provisions of the Jordanian CC since perpetrators face sentences of six months to three years of imprisonment, a penalty that would be attached to a misdemeanour. Acts of torture are therefore subject to a statute of limitations, and the legislation fails to make clear that the offence of torture cannot be subject to amnesty or pardon.¹⁵

In addition, Jordanian law does not explicitly mention that no exceptional circumstances of any kind, such as a state of war or the threat of war, or any other state of emergency, can be invoked to justify the use of torture. This omission is particularly worrisome in a country where the fight against terrorism is systematically invoked as a justification for human rights violations.

In February 2017, the Royal Committee for Developing the Judiciary and Enhancing the Rule of Law – which had been established in September 2016 by the king – presented a report including 49 recommendations to improve the judicial system.¹⁶ Among the proposals were raising the minimum punishment for torture from six months to one year and maintaining the maximum three-year punishment, which can neither be considered appropriate, nor have a deterrent effect.

Lastly, regarding confessions extracted under torture, although the Criminal Code punishes the use of torture in order to obtain confession,¹⁷ the Jordanian Constitution remains the sole legal basis establishing the inadmissibility of evidence obtained therein. The Code of Criminal Procedure (CCP) invalidates evidence or proof obtained by "means of physical or moral coercion" but does not refer to torture *per se*.¹⁸ In practice, coerced confessions or self-incriminating statements are commonly admitted as evidence in courts, particularly before the State Security Court (see parts 5.2 and 5.3).

3.2 A prevailing impunity for acts of torture

Acts of torture remain unpunished in Jordan due to both the lack of efficient complaint mechanisms as well as the absence of prosecution of perpetrators.

¹² Article 8 of the Constitution of the Hashemite Kingdom of Jordan, 1 January 1952.

¹³ Article 8(2) of the Constitution of the Hashemite Kingdom of Jordan.

¹⁴ Article 208 (Obtaining Information by Force) of the Penal Code.

"1. Subjecting a person to any kind of torture in order to obtain confession to a crime or any information thereon shall be punishable by imprisonment from 6 months to 3 years.

2. For the purpose of this Article, torture means "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

3. If torture caused illness or injuries, the punishment shall be temporary hard labour.

4. Notwithstanding Articles (45) and (100) of this Law, the Court may not stay of execution of the punishment decided in the crimes stated in this Article or take extenuating circumstances."

¹⁵ UN Committee against Torture (CAT), *Concluding observations on the third periodic report of Jordan*, 29 January 2016, CAT/C/JOR/CO/3, para. 9.

¹⁶ Human Rights Watch, *Jordan: A Strong Move for Justice Reform*, 14 March 2017, <https://www.hrw.org/news/2017/03/14/jordan-strong-move-justice-reform> (accessed on 23 August 2017).

¹⁷ Article 208(1) of the Criminal Code.

¹⁸ Article 159 of the Criminal Code of Procedure.

The Public Security Directorate (PSD) – which is composed of the police, prison, and border services and falls under the authority of the Ministry of Interior – can receive complaints through its public prosecutors, who, according to the authorities, “enjoy complete independence in respect of decision-making and report only to the Attorney General at the Public Security Directorate”.¹⁹ However, in reality, they lack the necessary independence as they fall under the same authority as torture perpetrators.²⁰ Indeed, these public prosecutors are appointed by the Public Security Director²¹ and are not overseen by the judiciary but by the PSD itself; as stated in the national report, “[public prosecutors] report only to the Attorney General at the Public Security Directorate.”²²

If the complaint is deemed admissible, the public prosecutor will then seize the Police Court, which has trial chambers composed of a civil judge appointed by the head of Jordan’s Judicial Council – the judiciary’s highest administrative body – and two other judges appointed by the Public Security Director.²³ In other words, two thirds of the magistrates investigating and prosecuting acts of torture belong to the same administration as alleged perpetrators. Furthermore, the PSD director may adjudicate cases of misdemeanours, including torture, carrying a prison sentence of less than three years.²⁴

Moreover, it is concerning that unit commanders enjoy discretionary powers allowing them to decide whether to prosecute cases of abuse or to “settle” cases internally by disciplining officers. As shown in the state report, it appears that the majority of complaints are settled in this second manner.²⁵ On the other hand, the authorities affirm that between 2010 and 2015, only three cases of torture were referred to the Police Court.²⁶ While the Comprehensive National Plan for Human Rights includes a recommendation to move jurisdiction over crimes of torture and ill-treatment from the Police Court to regular courts,²⁷ no such measure has been taken to that end so far.

Lastly, with regards to the investigation and prosecution of acts of torture committed by GID officers, it is difficult to assess which jurisdiction is vested with this task due to a very complex legal regime. Indeed, the GID Law²⁸ affirms that GID officers are to be prosecuted before the “Military Tribunal of the GID”, which is presided over by judges who are also GID officials, but only for crimes that would fall under the jurisdiction of the SSC. It would therefore mean that such a tribunal does not have competence over the crime of torture, since it does not fall under the SSC jurisdiction.²⁹ On the other hand, as members of the GID are considered military personnel,³⁰ the Military Code of Criminal Procedure should be applied.³¹ More precisely, the Military Prosecutor shall investigate cases in which any of the defendants is a member of the military,³² and the military court has jurisdiction over crimes defined by the Military Penal Code and the Penal Code, among which torture is included.

As a result of this complex legal regime, there is a lack of oversight over the GID, whose officers are never held accountable. In its national report, Jordan merely states that “written and oral instructions exist in the General Intelligence Directorate that absolutely forbid the subjection of any person who presents himself or detained person to any type of coercion or mistreatment”.³³

¹⁹ National report, p. 9.

²⁰ UN Committee against Torture (CAT), *Concluding observations on the third periodic report of Jordan*, 29 January 2016, CAT/C/JOR/CO/3, para. 33.

²¹ Article 80 (b) of the Public Security Law No. 38 of 1965.

²² National report, p. 9.

²³ Public Security Law No. 27 (2010) amending the law No. 38 of 1965.

²⁴ Article 81 (c) of the Public Security Law.

²⁵ National report, p. 9.

²⁶ National report, p. 9.

²⁷ Comprehensive National Plan for Human Rights, <http://petra.gov.jo/library/635974500772435385.pdf> (accessed on 24 August 2017).

²⁸ Article 7 of the General Intelligence Department Law No. 24 of 1964.

²⁹ Article 3 of the State Security Court Law No. 17 of 1959.

³⁰ Article 5 of the General Intelligence Department Law.

³¹ Military Code of Criminal Procedure as amended by Law No. 34 of 2006.

³² Article 3 of the Military Code of Criminal Procedure.

³³ National report, p. 9.

In January 2016, Police Court prosecutors filed torture charges under Penal Code article 208 against five policemen in connection with the September 2015 death in detention of 49-year-old Omar al-Nasr, but the case is still pending.³⁴

To date, no police or intelligence officer has ever been convicted for acts of torture under article 208 of the Criminal Code. There have been few convictions pronounced on the basis of article 334 of the same code, sanctioning assault and battery, and article 37 of the Public Security Law, which requires, in case of failure to observe orders, penalties ranging from disciplinary measures to two months of imprisonment.³⁵

In 2006, the Court of Cassation ruled that the Public Security Law, which does not clearly prohibit torture or ill-treatment, constitutes a *lex specialis* in relation to the Criminal Code.³⁶ In practice, this entails that public officials who use excessive force, which may amount to torture, may effectively evade responsibility under article 208 of the Criminal Code and thus heavier penalties.

Recommendations:

1. Review legislation in order to ensure that the definition of torture is in full compliance with international standards, and that the principle of absolute prohibition is incorporated in the legislation and no statute of limitation applies to cases of torture;
2. Establish an effective mechanism to investigate acts of torture and ensure suspected perpetrators are duly tried and punished in a manner commensurate with the gravity of the crime;
3. Guarantee that confessions obtained under torture and the subsequent proceedings are declared null and void;
4. Refer systematically cases of torture falling under the scope of article 208 of the Penal Code to a civil court rather than special courts (i.e. police court and military court of the GID).

4. Liberty and security of persons (article 9)

In its General Comment No. 35, the Human Rights Committee provides a non-exhaustive list of legal safeguards essential for the protection of the security of the person.³⁷ Those include, *inter alia*, that any person deprived of liberty shall be informed, at the time of arrest, of the reasons for the arrest, and that detainees should be promptly informed of their rights. They should also be granted the right to communicate with a counsel and with their relatives. Furthermore, any person arrested or detained on a criminal charge shall be brought promptly – i.e. within 48 hours – before a judge or other officer authorised by law to exercise judicial power. Finally, independent and impartial mechanisms should be established for visiting and inspecting all places of detention.

Some provisions of Jordanian domestic law do comply with the standards set forth by the committee. For example, under the Code of Criminal Procedure (CCP), arrests must be conducted on the basis of a warrant³⁸ and anyone who is arrested must be brought before a judicial authority within 24 hours.³⁹ However, there is no provision according to which the detention would then become arbitrary, except for persons arrested on the basis of a subpoena and who remain at the police station for more than 24

³⁴ CNN, "الأردن: أول تقرير مختص يكشف عن "ظاهرة التعذيب" في مراكز التوقيف", <https://arabic.cnn.com/middle-east/2017/03/06/jordan-torture-report> (accessed 30 August 2017).

³⁵ ACAT France, *Un Monde Tortionnaire*, <https://www.acatfrance.fr/un-monde-tortionnaire/Jordanie> (accessed on 15 August 2017), p. 211.

³⁶ See Court of Cassation Decision No. 561 of 2006, 25 July 2006.

³⁷ UN Human Rights Committee (HRC), General comment no. 35, Article 9 (Liberty and security of person), 16 December 2014, CCPR/C/GC/35.

³⁸ Article 103 of the Criminal Code of Procedure.

³⁹ Articles 100 and 112 of the Criminal Code of Procedure.

hours.⁴⁰ *A fortiori*, when being brought before the Public Prosecutor, there is no mention under domestic law of whether the latter evaluates the legality of the detention or, if so, has the power to release the defendant, which clearly undermines the right to *habeas corpus*.

Equally concerning is the power granted to local governors by the Crimes Prevention Law to “detain an individual without charge, and without being brought before a judicial authority, for an indeterminate period if he or she is about to commit a crime or represents a threat to others”,⁴¹ which effectively deprives detainees of procedural guarantees. Although under the law detainees can challenge their detention before the Administrative Court (formerly the Higher Court of Justice) within 60 days,⁴² the procedure is costly and heavily restricted.⁴³ In its national report, Jordan affirms that administrative detention is “justified by the need to maintain public order”.⁴⁴ According to figures of the National Centre for Human Rights, 19,860 individuals were administratively detained in 2015, some for longer than a year.⁴⁵

Furthermore, the Code of Criminal Procedure does not explicitly mention the right of arrestees to contact their family. On the contrary, the prosecutor may decide to prohibit the suspect from “contacting others”, apart from his lawyer, for a renewable period of ten days, i.e. indefinitely.⁴⁶ While individuals arrested by the Public Security Directorate are usually allowed to contact their family, in cases of arrests by the General Intelligence Directorate, they were systematically denied access to their relatives for periods ranging from several days to several months.

The CCP also does not guarantee the right of suspects to contact their lawyer from the moment of their arrest, but instead only once they are brought before the prosecutor. Although a detainee has the right not to reply to the charges unless in the presence of a lawyer,⁴⁷ the prosecutor can interrogate the suspect “in case of urgency” and until the completion of the investigation.⁴⁸ As a consequence, most detainees are not represented by a lawyer during the arrest, investigation, and trial, unless the case involves a felony punishable by the death penalty or life imprisonment.

Lastly, on the right to an independent medical examination, the national report mentions that “a detainee can only be placed in a detention facility after being given a medical check-up”.⁴⁹ However, there is no legislation indicated that would provide for such guarantees. Testimonies gathered by Alkarama have shown that individuals detained by the GID are never granted access to a doctor despite repeated requests from their lawyers, who can therefore never obtain forensic reports.

In the report prepared by the Royal Committee for Developing the Judiciary and Enhancing the Rule of Law, which echoes the aforementioned points of concern, recommendations were formulated to guarantee the right to access a lawyer from the time of arrest and during interrogations, as well as the creation of a legal aid fund.⁵⁰ Prosecutors would also be required to include in the investigation file the means by which a person was able to contact a lawyer. Furthermore, pre-trial detention would become an exceptional measure and would be limited to certain cases, including when it “is the only means of preserving evidence or material signs of a crime” or “to prevent coercion of witnesses or victims, or to prevent the suspect from contacting his partners or associates in a crime”. Pre-trial detention would be limited to three months for minor offenses and could only be renewed by a court to 18 months in cases of serious crimes. Pre-trial detainees would also be granted the right of appeal. Another proposal calls

⁴⁰ Article 113 of the Criminal Code of Procedure.

⁴¹ Article 3 of the Crime Prevention Law No. 7 of 1954.

⁴² Article 12 (a) of High Court of Justice Law.

⁴³ Human Rights Watch, *Guests of the Governor: Administrative Detention Undermines the Rule of Law in Jordan*, 26 May 2009.

⁴⁴ National report, p. 14.

⁴⁵ Human Rights Watch, *Jordan: A Strong Move for Justice Reform*, 14 March 2017, <https://www.hrw.org/news/2017/03/14/jordan-strong-move-justice-reform>, (accessed on 23 August 2017). However, the NCHR 2016 annual report is not available on their website.

⁴⁶ Article 66 of the Criminal Code of Procedure.

⁴⁷ Article 63(1) of the Criminal Code of Procedure.

⁴⁸ Article 64 of the Criminal Code of Procedure.

⁴⁹ National report, p.8.

⁵⁰ Human Rights Watch, *Jordan: A Strong Move for Justice Reform*, 14 March 2017, <https://www.hrw.org/news/2017/03/14/jordan-strong-move-justice-reform> (accessed on 23 August 2017).

for more supervision of medical reports involving detainees, and the enactment of penalties for issuing false medical reports.

Recommendations:

1. Ensure, in law and in practice, that all detainees are afforded all fundamental safeguards from the moment of their arrest, including the right to access a lawyer in private and without delay, and the rights to an independent medical examination, to notify a relative, as well as to appear promptly before a judge;
2. Abolish the practice of administrative detention by amending the Crimes Prevention Law

5. Counterterrorism measures

Since the enactment of the Anti-Terrorism Law in 2006 in response to the 2005 hotel bombings in Amman, numerous violations have been committed by the authorities under the pretext of counterterrorism. These violations have been perpetrated primarily by the General Intelligence Directorate, the country's intelligence agency that is controlled directly by the king, and by the State Security Court, an exceptional jurisdiction whose members are appointed by the executive. Alkarama notes that when denouncing such practices, civil society has been accused of being "politically motivated" and wanting to "[harm] Jordan's good image and standing in the international community".⁵¹

5.1 The Anti-Terrorism Law

Jordan's Anti-Terrorism Law No. 55 of 2006 – also called the Prevention of Terrorism Act – contains a broad definition of terrorism, which has allowed the authorities to violate the rights of individuals prosecuted for "disturbing public order", including those who have exercised their right to freedom of expression and peaceful assembly.

On 1 June 2014, the law was amended but only to broaden its already vague definition of terrorism. Article 2 defines a terrorist act as, among other things, any act that would "cause disorder by disturbing the public order".⁵² Furthermore, under its article 3, certain acts criminalised under the Penal Code are also considered acts of terrorism, including "disturbing relations with a foreign country".⁵³ These provisions leave room for interpretation and are not limited to precise threats and clear types of violent attacks.

The amended text also states that using media or publishing material in order to "facilitate the commission and promotion of terrorist acts" can be characterised as an act of terrorism.⁵⁴ Such wording is vague enough for the authorities to consider that media outlets reporting on terrorist attacks are themselves promoting terrorism. For example, in July 2015 the authorities arrested a journalist⁵⁵ and

⁵¹ "While many praise Jordan's commitment to advancing human rights and freedoms, other campaigns and reports tend to be politically motivated and, thus, provide a distorted image of Jordan's record in human rights' observance. In these reports, accusations tend to be exaggerated and based on individual cases with the aim of harming Jordan's good image and standing in the international community." See official website of the General Intelligence Directorate: <https://gid.gov.jo/topics-views/human-rights> (accessed on 11 August 2017).

⁵² Article 2 reads as follows: "[A]ny deliberate act or abstention of an act, or threat of an act, regardless of its causes, uses, or means committed to carry out a criminal act collectively or individually that could jeopardise the safety and security of society; or cause disorder by disturbing public order or causing terror among the people, or intimidating them, or jeopardizing their lives; or cause harm to the environment, or facilities, or public or private property, or facilities of international or diplomatic missions, or occupy any of them; or jeopardise national resources, or pose economic risk; or to force the legitimate authority or an international or regional organisation to do any work or abstain from it, or disable the application of the constitution, laws, or regulations." Unofficial transcription from the Arabic version.

⁵³ Article 3(b) of the Anti-Terrorism Law No. 55 of 2006. In its State report, the Jordanian authorities refer to "acts designed to spoil the good relations that Jordan maintains with foreign countries" (p. 4).

⁵⁴ Article 3(e) of the Anti-Terrorism Law. In its State report, the authorities affirm: "it is now an offence to use information systems, the Internet and websites to facilitate the commission and promotion of terrorist acts." (p. 4).

⁵⁵ Human Rights Watch, *Jordan: Journalists, Writers Facing Terrorism Charges*, 15 July 2015, <https://www.hrw.org/news/2015/07/15/jordan-journalists-writers-facing-terrorism-charges> (accessed on 9 August 2017).

held him for four days, alleging that he violated a media gag order by publishing details about a foiled terrorism plot.

Lastly, the law carries penalties ranging from hard labour to life in prison and the death penalty in cases of violent acts. While for terrorist acts falling under article 2 of the law – including “disturbing the public order” – the punishment is a “minimum of five years of hard labour”,⁵⁶ for other crimes such as “disturbing relations with a foreign country” or using the media to promote terrorist acts, a mere reference to “temporary hard labour” is made.⁵⁷ In practice, individuals are generally sentenced to one to five years imprisonment.

5.2 The General Intelligence Directorate and the State Security Court

Established by Act No. 24 of 1964, the General Intelligence Department (GID) (“Da’irat al-Mukhabarat al-’Amma”) – the country’s intelligence agency – is vested with, among other things, carrying out “intelligence duties and operations to safeguard national security”.⁵⁸ The GID General Director is appointed directly by the king and reports to the prime minister. GID officers are also appointed by royal decree and are considered members of the armed forces.

The GID’s headquarters are located in Amman’s Jandawil district in Wadi Sir, and also operate as a detention centre. According to the authorities, the centre is a “declared facility subject to the Correct and Rehabilitation Centres Act”,⁵⁹ thus falling under the authority of the Ministry of Interior, and is regularly visited by the National Centre for Human Rights. However, these visits are subject to prior approval and cannot be carried out unannounced.⁶⁰ The NCHR does not provide any information on its website regarding such visits and their outcomes.

Although the GID does not constitute *per se* a law enforcement agency and therefore holds no power of arrest or detention, it exercises such powers in practice.⁶¹ GID officers, who are always in civilian clothing, usually carry out arrests without any warrant.⁶² Suspects are then taken to the GID headquarters where they are detained *incommunicado*, i.e. without the possibility to contact their family or lawyer, and thus they are placed outside the protection of the law and deprived of any legal safeguards. Under the State Security Court Act, the GID can detain a suspect for seven days before his first presentation before the SSC General Prosecutor,⁶³ a military officer who sits at the GID headquarters. This means that both the GID and the General Prosecutor fall under the same administrative authority.

The prosecutor may then order a detention of 15 days, renewable for the “purpose of the investigation”, which should not exceed two months.⁶⁴ Although the power of investigation is normally vested with the SSC General Prosecutor once charges are formally laid, the latter systematically delegates this responsibility to GID officers, who then continue to detain suspects before being either transferred to another prison or released. In practice, during this two-month period, individuals are detained *incommunicado* by the GID. This was the case of Ramsi Suleiman,⁶⁵ who disappeared following his arrest by the GID on 23 May 2017. For almost two months, his lawyer and family were systematically denied any information about his fate and whereabouts, despite their numerous visits to the GID headquarters. It was only on 16 July 2017 that the GID recognised his detention and allowed his lawyer to see him in the SSC Prosecutor’s office to sign the power of attorney.

⁵⁶ Article 7(i) of the Anti-Terrorism Law.

⁵⁷ Article 7(a)(3) of the Anti-Terrorism Law.

⁵⁸ Official website of the General Intelligence Directorate: <https://gid.gov.jo/gid-info/g-i-d-s-duties/> (accessed on 9 August 2017).

⁵⁹ National report, p. 13.

⁶⁰ Response to the List of Issues (Arabic), p. 14.

⁶¹ Human Rights Watch, *Suspicious Sweeps – The General Intelligence Department and Jordan’s Rule of Law Problem*, 18 September 2006, p. 14.

⁶² “The GID staff hold military ranks and are committed to military laws. However, due to the nature of the job, GID officers are required to wear civilian clothing. Except of course for the departments internal security and protection unit, which are in full Jordanian Armed Forces uniform”, <https://gid.gov.jo/topics-views/frequently-asked-questions/> (accessed on 9 August 2017).

⁶³ Article 7(b)(1) of the State Security Court Law No. 17 of 1959.

⁶⁴ Article 7 of the State Security Court Law.

⁶⁵ Alkarama, *Jordan: Pharmacist Reappears Two Months After Abduction by Intelligence*, 19 July 2017, <https://www.alkarama.org/en/articles/jordan-pharmacist-reappears-two-months-after-abduction-intelligence> (accessed on 16 August 2017).

However, in some cases, the GID detains individuals *incommunicado* for longer periods. In a testimony collected by Alkarama,⁶⁶ a man was secretly detained for four months at the premises of the GID between late February and late June 2016. Deported from Beirut to Amman after having served a prison sentence, he was abducted at Amman Queen Alia International Airport by GID officers. Despite his family's numerous attempts to locate him, the GID has always denied his detention. He was eventually released without any judicial procedure.

Furthermore, during this period of *incommunicado* detention at the GID headquarters, torture is systematically used as a means to extract confessions, which are used by the SSC Prosecutor to both charge the suspect and constitute incriminating evidence during trials before the SSC.

The methods of torture most commonly employed by the GID are beatings – including with cables, plastic pipes and whips – all over the body including the soles of the feet ("falaqa"), stress positions, sleep and food deprivation, injections that cause states of extreme anxiety, humiliation, threats of rape against the victim and members of his family, and electric shocks. In addition, the GID systematically places detainees in solitary confinement for prolonged periods of time, a practice that amounts to torture *per se*.

As for the State Security Court, despite repeated recommendations by the Human Rights Committee and the Committee against Torture, the Jordanian authorities have not shown any willingness to abolish it. The court has jurisdiction over, among other crimes, crimes of terrorism⁶⁷ and is composed of two military and one civilian judge. Since it is directly subordinate to the executive branch, and its members are appointed by the prime minister and can be replaced anytime by executive decision, this court cannot be considered as impartial and independent.

Although the authorities have affirmed that the Code of Criminal Procedure is applied before the State Security Court and that SSC judgments can be appealed before the Cassation Court on the basis of article 8 of the State Security Court Law,⁶⁸ this exceptional jurisdiction is seriously flawed. Indeed, suspects are systematically denied contact with their counsel during the investigation stage, and lawyers cannot access their clients' judicial files. It is only after they are formally charged or during the first trial hearing that defendants can access their lawyers. This violates the right of victims to adequate time and facilities for the preparation of one's defence. In addition, during trials, the judge routinely accepts confessions extracted under torture even when the victim or his lawyer affirms that self-incriminating statements were made under duress. Lastly, trials are public but can be held in secret if it is deemed to be in the "public interest".⁶⁹

5.3 Testimonies

Alkarama has received numerous testimonies of victims that illustrate this dynamic between the GID and the State Security Court. The cases submitted by Alkarama before the United Nations Working Group on Arbitrary Detention (WGAD) largely follow the same pattern: victims were arrested by the GID without any warrant, brought to their headquarters where they were detained *incommunicado* for several weeks, and severely tortured in order to extract confessions. These self-incriminating statements were then used by the SSC Prosecutor to charge the victims and were later admitted as the sole source of evidence during heavily flawed trials.

⁶⁶ Alkarama, *Jordan: University Student Released After 4 Months of Disappearance*, 20 October 2016, <https://www.alkarama.org/en/articles/jordan-university-student-released-after-4-months-disappearance> (accessed on 10 August 2017).

⁶⁷ Article 8 of the Anti-Terrorism Law.

⁶⁸ National report, p. 15.

⁶⁹ Article 13 of the State Security Court Law.

Adam Al Natour⁷⁰ is a 21-year-old Polish and Jordanian student who was sentenced to four years of imprisonment by the SSC after a flawed trial. He was arrested on 12 August 2015 by GID officers without any warrant, and detained *incommunicado* for several weeks, during which time he was beaten and subjected to electric shocks. Despite numerous attempts, his father was only allowed to visit him three weeks after his arrest. In late September 2015, Al Natour was brought before the SSC Prosecutor and forced to sign a paper written in Arabic, a language he neither understands nor speaks. A month later, he was formally indicted on the basis of the the Anti-Terrorism Law. It was only in mid-November, one week before his first trial hearing, that he was allowed to meet with his lawyer. His demands for the assistance of a sworn translator were not taken into consideration until his fourth hearing. On 15 February 2016, Al Natour was sentenced by the SSC to four years of imprisonment for "joining an armed group and terrorist organisation" on the sole basis of the statements he signed under duress, and after a trial held in a language he does not understand. His appeal before the Cassation Court was rejected in August 2016. The United Nations Working Group on Arbitrary Detention (WGAD) has issued an Opinion⁷¹ on Al Natour's case, qualifying his detention as "arbitrary" and calling upon his release. The WGAD concluded that "as the State Security Court does not meet the fundamental principles of independence and impartiality, it fails to uphold Mr Al Natour's right to a fair and public hearing by a competent tribunal in the determination of any charge against him." To date, the Jordanian authorities have still not implemented the decision.

Ghassan Mohammed Salim Duar⁷² is a civil engineer who was arrested on 29 October 2014 without any warrant by officers of the GID and Public Security. He was then taken to the GID headquarters where he was detained *incommunicado* for 15 days, during which time he was beaten up and subjected to threats, sleep and food deprivation, and psychological stress. He was then forced to sign documents he was not allowed to read beforehand. On 11 November 2014, Duar was informally accused by the SSC General Prosecutor of "manufacturing explosive materials and threatening the public order and the regime" before being formally charged three months later, on 26 February 2015, with "threatening the public order, joining an armed group and recruitment of people into an armed group," under the Anti-Terrorism Law. It was only in December 2014, after three months at the GID premises where he was held in solitary confinement and denied access to the outside world that he was allowed to contact his family and lawyer. During the trial, Duar's lawyer indicated that his client's statement was extracted under torture and that his confessions were used as the sole source of evidence, but the judge dismissed these allegations without opening an investigation. On 29 July 2015, the State Security Court sentenced him to five years of imprisonment, which was confirmed on appeal by the Cassation Court in March 2016. In April 2017, the WGAD issued an Opinion⁷³ on his case qualifying his detention as "arbitrary" and calling upon his release. To date, the Jordanian authorities have still not implemented the decision.

Hatem Al Darawsheh⁷⁴ is a 19-year-old high school student who was arrested on 19 January 2016 by GID officers without any warrant, before being brought to the GID premises in Amman. Two days later, Al Darawsheh was brought before the SSC Public Prosecutor who accused him of "being a supporter of the Islamic State (IS)", an accusation he firmly denied. For an entire month, he was denied access to the outside world, during which time he was severely beaten and banged against the wall while being interrogated until he would answer the questions in the way in which his interrogators wanted. He was then forced to sign a document containing his confession. On 10 March 2016, after almost two months of detention at the GID, he was transferred to Muwaqqar II, a maximum security prison. It is only at this time that his relatives could appoint a lawyer to act on his behalf. On 5 April 2016, the SSC Prosecutor indicted Al Darawsheh with "promoting a terrorist organisation" under the Anti-Terrorism Law. His trial was marred with irregularities. Indeed, several witnesses testified that Al Darawsheh had

⁷⁰ Alkarama, *Jordan: Student Adam Al Natour Detained Arbitrarily According to United Nations Experts*, 3 November 2016, <https://www.alkarama.org/en/articles/jordan-student-adam-al-natour-detained-arbitrarily-according-united-nations-experts> (accessed on 10 August 2017).

⁷¹ Opinion No. 39/2016 concerning Adam al Natour (Jordan), 9 November 2016, A/HRC/WGAD/2016/39.

⁷² Alkarama, *Jordan: Civil Engineer Ghassan Duar Detained Arbitrarily According to UN Experts*, 11 July 2017, <https://www.alkarama.org/en/articles/jordan-civil-engineer-ghassan-duar-detained-arbitrarily-according-un-experts> (accessed on 10 August 2017).

⁷³ Opinion No. 17/2017 concerning Ghassan Mohammed Salim Duar (Jordan), 23 June 2017, A/HRC/WGAD/2017/17.

⁷⁴ Alkarama, *Jordan: A 19-Year-Old Tortured to Confess his "Support to the Islamic State"*, 23 September 2016, <https://www.alkarama.org/en/articles/jordan-19-year-old-tortured-confess-his-support-islamic-state> (accessed on 10 August 2017).

always opposed the IS and even participated in distributing leaflets criticising the armed group and its actions following the execution of a captured Jordanian pilot in January 2015. Two co-detainees also attested that they witnessed signs of torture on his body following interrogation sessions; however, the judge ignored their statements and did not open any investigation. On 5 December 2016, he was sentenced by the SSC to three years in prison. His appeal before the Cassation Court is still pending to date.

Amer Jamil Jubran⁷⁵, an activist for the Palestinian cause and an anti-war advocate, was arrested on 5 May 2014 by GID officers without any warrant. After his arrest, he was detained *incommunicado* for almost two months at the GID headquarters, during which time he was subjected to torture, including threats against his family members, long interrogations lasting 72 hours, sleep deprivation, and severe beatings. The torture was inflicted in order to extract confessions that he was not allowed to read before signing, which were used to charge him in August 2014 with a series of terrorism-related offences, including "harming the relationship with a foreign government". On 29 July 2015, Jubran was sentenced to 10 years in prison following an unfair trial before the State Security Court. During the trial, his forced confessions were used as the sole evidence against him. Motions brought by Jubran's lawyer to bring evidence exculpating him were ignored, as was his right to question the witnesses presented by the prosecution, including the GID officers who arrested and tortured him. In its ruling, the court affirmed that it was "not obliged to discuss the defence's evidence presented by the attorneys since accepting the prosecution's evidence automatically implies the rejection of defence's evidence." Today, his appeal is pending before the Court of Cassation. In April 2016, the Working Group on Arbitrary Detention issued an Opinion⁷⁶ on Jubran's case qualifying his detention as "arbitrary" and calling upon his release. To date, the Jordanian authorities have still not implemented the decision.

Recommendations:

1. Amend the Anti-Terrorism Law to bring it into conformity with international human rights standards;
2. Place the General Intelligence Directorate under civilian authority and oversight, and ensure that detainees are afforded all fundamental legal safeguards from the very outset of their deprivation of liberty, and that no one is detained *incommunicado*;
3. Abolish the State Security Court;
4. Implement all WGAD opinions and proceed with the release of all those arbitrarily deprived of their liberty as a result of unfair trials.

6. Freedom of opinion and expression (article 19)

Although article 15 of the Jordanian Constitution guarantees freedom of opinion and freedom of the press, this right is often impaired. This is allowed by the enactment of restrictive laws, including the Anti-Terrorism Law, the Press Law, the Cybercrime Law and certain provisions of the Criminal Code.

6.1 Freedom of the press

In 2017, Reporters Without Borders ranked Jordan 138 out of 180 countries with regards to press freedom.⁷⁷ Moreover, local NGOs have reported that detention cases of Jordanian journalists in 2015 were the highest since 2006, with 29 journalists prosecuted.⁷⁸ The restrictions are such that self-

⁷⁵ Alkarama, *Jordan: Human Rights Activist Sentenced to 10 Years in Prison After Unfair Trial Before State Security Court*, 5 October 2015, <https://www.alkarama.org/en/articles/jordan-human-rights-activist-sentenced-10-years-prison-after-unfair-trial-state-security> (accessed on 16 August 2017).

⁷⁶ Opinion No. 9/2016 concerning Amer Jamil Jubran (Jordan), 10 October 2016, A/HRC/WGAD/2016/9.

⁷⁷ See the 2017 World Press Freedom Index: <https://rsf.org/en/ranking> (accessed on 11 August 2017).

⁷⁸ Khetam Malkawi, "2015 marks highest number of journalists behind bars since 2006 – report", *Jordan Times*, 7 May 2016, <http://www.jordantimes.com/news/local/2015-marked-highest-number-journalists-behind-bars-2006-%E2%80%94-report> (accessed on 14 August 2017).

censorship is common, and journalists are well aware of red lines they must not cross, for example when reporting on the royal family or issues of state security. Surveys have shown that in 2016, 93.6% of journalists affirmed practicing self-censorship.⁷⁹

The press is regulated by the Press and Publications Law No. 8 of 1998,⁸⁰ under which only journalists registered with the Jordanian Press Association (JPA) are allowed to operate.⁸¹ Those critical of the government have been excluded from JPA membership⁸² on the grounds that they have not reported “within the law and the framework of protecting public freedoms, rights and obligations and respecting the privacy of others”.⁸³ In addition, to establish a printing press, a licence is required which can only be granted by decision of the Cabinet – i.e. the executive – upon the recommendation of the Minister of Information.⁸⁴

In 2012, the Press Law was amended to regulate electronic publications, imposing restrictions on online news content and requiring news websites to register and obtain licenses to operate from the Media Commission⁸⁵ (MC) – formerly the Press and Publication Department⁸⁶ – which falls under the direct supervision of the Council of Ministers. As such, the MC Director General decides whether an electronic publication requires registration and licence and provides a 90-day deadline to comply.⁸⁷ The MC can block a website without the possibility of judicial recourse if it fails to obtain a licence or, more broadly, “violates Jordanian law”. Non-compliance with the registration requirement may also result in a fine of between JD 1,000 and JD 5,000 (approximately to 1,400 and 7,000 US dollars).⁸⁸ In practice, this licencing system is used to curtail online freedom of information.⁸⁹

This is particularly concerning considering the Press and Publication Law also prohibits publications which are deemed “inconsistent with the principles of freedom, national obligation, human rights and Arab and Islamic values”.⁹⁰ Moreover, article 37 prohibits the publication of “anything that includes contempt, slander, or defamation of individuals or affects their personal freedom”.⁹¹ Although no crime under the law can be sanctioned with imprisonment, fines ranging from 5,000 to JD 10,000 (approximately 7,000 to 14,000 US dollars) can be imposed for violations of article 37.⁹²

It is based on these restrictive provisions that the Media Commission has issued hundreds of gag orders to block foreign and domestic websites, particularly since 2013, claiming that they had failed to obtain the required licence.⁹³ In August 2016, the Media Commission issued a memo to news outlets prohibiting any reporting of news about the king or the royal family, unless from official court bulletins.⁹⁴ Similarly, a gag order was issued banning the coverage of the case of Amjad Qourshah to allegedly “protect secrecy of investigation”.⁹⁵

⁷⁹ Mohammad Ghazal, “80 per cent of journalists consider press freedoms ‘low to medium’ — report”, *Jordan Times*, 25 April 2017, <http://www.jordantimes.com/news/local/80-cent-journalists-consider-press-freedoms-low-medium%E2%80%99-%E2%80%94-report> (accessed on 14 August 2017).

⁸⁰ The 1998 version of the law is available in English here: <http://al-bab.com/documents-section/jordan-press-and-publications-law> (accessed on 14 August 2017).

⁸¹ Articles 2 and 10 of the Press and Publication Law No. 8 of 1998.

⁸² Freedom House, *Jordan: Freedom of the press 2016*, <https://freedomhouse.org/report/freedom-press/2016/jordan> (accessed on 14 August 2017).

⁸³ Article 4 of the Press and Publication Law.

⁸⁴ Articles 15 and 17 of the Press and Publication Law.

⁸⁵ Article 49 of the Press and Publication Law (as amended in 2012).

⁸⁶ The Media Commission replaced the Press and Publication Department in 2014.

⁸⁷ Article 49 of the Press and Publication Law.

⁸⁸ Article 49 of the Press and Publication Law.

⁸⁹ Reporters Without Borders, *Jordan blocks access to nine more news websites*, 9 July 2014, <https://rsf.org/en/news/jordan-blocks-access-nine-more-news-websites>, (accessed 11 August 2017).

⁹⁰ Article 5 of the Press and Publication Law.

⁹¹ Article 38 of the Press and Publication Law.

⁹² Article 47(c) of the Press and Publication Law.

⁹³ Reporters without borders, *Jordan blocks access to nine more news websites*, 9 July 2014, <https://rsf.org/en/news/jordan-blocks-access-nine-more-news-websites> (accessed on 11 August 2017).

⁹⁴ Middle East Eye, *Amman bans independent coverage of Jordan's royal family*, 2 September 2016, <http://www.middleeasteye.net/news/jordan-bans-media-publishing-about-royal-family-531467385> (accessed on 14 August 2017).

⁹⁵ The Jordan Times, *Gag order bans coverage of detained preacher Qourshah*, 28 August 2016, <http://www.jordantimes.com/news/local/gag-order-bans-coverage-detained-preacher-qourshah> (accessed on 14 August 2017).

Although journalists cannot face imprisonment if they violate the Press and Publication Law,⁹⁶ it is otherwise under the 2010 Cybercrime Law,⁹⁷ which seriously hampers the freedom of speech of not only media professionals but also ordinary citizens. Indeed, in June 2015, a new provision was introduced sanctioning “defamation on social media or online media outlets” with a fine of no less than JOD 100 and a maximum of 2,000, and a prison term of at least three months.⁹⁸ This clearly undermines journalists’ immunity from imprisonment under the Press Law and means that journalists could face harsher penalties for publications online compared to printed media. This was confirmed by the Law Interpretation Bureau, which ruled that article 11 of the Cybercrime Law supersedes any other legislation.⁹⁹ As a result, journalists could also be imprisoned for print articles if they appear online.

It is under the Cybercrime Law that Hussam Al Abdallat,¹⁰⁰ a former government official, journalist and anti-corruption activist, was detained for a month in June 2017 for having criticised corruption within the Jordanian government on Facebook. Arrested on 18 May 2017 by members of the Criminal Investigation Unit, he was charged three days later by the Public Prosecutor with “defamation on social media” under the Cybercrime Law. He was released on bail on 22 June 2017 but the charges have not yet been dropped.

6.2 Judicial harassment of dissenting voices for “terrorism” or “insult to the king”

Since a wave of demonstrations for the respect of fundamental rights and freedoms hit the country in 2011-2012, the authorities have arrested, prosecuted, and in some cases tortured, critics and activists under terrorism charges enshrined both in the Anti-Terrorism Law and the Criminal Code. The GID and the State Security Court have played a central role in the repression established by the authorities to suppress any dissenting voice.

Systematically arrested and detained by the GID for investigation, activists are brought before the SSC for charges falling under the Anti-Terrorism Law, in particular disturbing “the public order” or “relations with a foreign country”, and sentenced to prison terms. Amjad Qourshah,¹⁰¹ a professor in comparative religion and a famous TV and radio presenter, was summoned by the GID on 13 June 2016. He was questioned about a 2014 video in which he criticised the participation of Jordan in the international coalition against the Islamic State, which he considered to be part of the United States’ agenda, forcing Arab States to fight a war that is not theirs. The SSC Prosecutor subsequently issued an arrest warrant for Qourshah for “disturbing relations with a foreign state”. He was then transferred to Jweida prison in Amman, where he was detained, without ever being officially charged, until 6 September 2016, when the SSC accepted his lawyer’s request for conditional release following a media campaign and pressure exerted by human rights organisations.

Furthermore, the SSC also has jurisdiction over certain crimes of “terrorism” defined in the Penal Code, including article 149, which criminalises acts that would “encourage the contestation of the political system” or “aim at changing the fundamental structure of society”, and punishes them with imprisonment.¹⁰² This provision was used for the first time in 2011 against teachers who were protesting

⁹⁶ Article 42 of the Press and Publication Law. See: Response to the List of Issues (Arabic), p. 21.

⁹⁷ Information Systems Crimes Law No. 30 of 2010.

⁹⁸ Article 11 of the Cybercrime Law No. 27 of 2015.

⁹⁹ International Press Institute, *Jordan’s Online Media Freedom at Stake*, 2015, p. 14.

¹⁰⁰ Alkarama, Jordan: Journalist Arbitrarily Detained for Criticising Corruption Released on Bail but Charges Still Pending, 5 July 2017, <https://www.alkarama.org/en/articles/jordan-journalist-arbitrarily-detained-criticising-corruption-released-bail-charges-still> (accessed on 14 August 2017).

¹⁰¹ Alkarama, Jordan: Professor Qourshah Released After Three Months in Detention for Acts of Free Speech, 15 September 2016, <https://www.alkarama.org/en/articles/jordan-professor-qourshah-released-after-three-months-detention-acts-free-speech> (accessed on 11 August 2017).

¹⁰² Article 149 of the Criminal Code reads as follow: “Any person, who commits any act that might undermine the political regime in the kingdom or incite opposition against it, or who commits an individual or a collective act in order to change the state’s economical or social system, shall be punished by temporary imprisonment with hard labor.”

near the prime minister's building, demanding the establishment of a teachers syndicate¹⁰³. The provision has since led to the prosecution of numerous activists.

It is under such provisions that Eyad Qunaibi¹⁰⁴ was detained for a year for "incitement against the political regime". On 10 June 2015, Dr Qunaibi posted on Facebook an article criticising, among other things, Jordan's ties with Israel. Five days later, he was arrested by the GID after being summoned and interrogated about his publications on social media. He was only charged almost two months later by the SSC Prosecutor with "undermining the political regime in the Kingdom or incitement against it". During the hearing, the prosecutor presented as sole evidence references to specific sections of his article, which indisputably showed that he had been prosecuted solely for exercising his fundamental right to freedom of expression. In December 2015, he was sentenced to two years in prison. On 17 May 2017, he was released after the Cassation Court reduced his sentence to one year of imprisonment. For almost a year, Dr Qunaibi was held in solitary confinement at Muwaqqar II high security prison.

Several individuals have also been prosecuted before the SSC under such "terrorism" charges, which are often coupled with crimes of lèse-majesté, including "insult to the king", which is punishable by one to three years of imprisonment.¹⁰⁵ For example, in January 2017, about 20 activists who had denounced corruption were arrested by the GID and brought before the SSC on charges of "insult to the king" and "undermining the political regime".¹⁰⁶ Most recently, in June 2017 a man was charged by the SSC under the very same charges because of a video he published on Facebook denouncing corruption.¹⁰⁷

Recommendations:

1. Review the Press and Publication Law to ensure that journalists and media outlets can carry out their activities freely;
2. Amend the Cybercrime Law, the Anti-Terrorism Law and the Criminal Code – particularly articles 149 and 195 – to ensure that dissenting voices are not penalised for having expressed critical views;
3. Cease the persecution of journalists, political opponents and critical voices.

7. Right of peaceful assembly and freedom of association (articles 21 and 22)

In the wake of the Arab Spring, Jordan experienced a surge in peaceful demonstrations which put considerable pressure on the government. The king responded with limited and consecutive concessions, such as the amendment of the Public Gatherings Law in March 2011,¹⁰⁸ according to which the organisation of a demonstration no longer requires prior written authorisation from an administrative governor, but a simple notification to the governor at least 24 hours in advance. The names, addresses and details of the organisers must be provided as well as the purpose, time and venue of the gathering.

However, the authorities actively circumvent the decriminalisation of peaceful assembly by resorting to anti-terrorism legislation and trying protesters before the SSC. For example, in January 2015, two

¹⁰³ Mohammad Ersan, "Is Jordan's state security court threat to freedom of expression?", *Al Monitor*, 21 February 2017, <http://www.al-monitor.com/pulse/originals/2017/02/jordan-civilian-trials-charges-activists-arrest.html#ixzz4pRDBiDY3> (accessed on 11 August 2017).

¹⁰⁴ Alkarama, *Jordan: Release of Eyad Qunaibi After One Year in Detention for a Facebook Post*, 18 May 2016, <https://www.alkarama.org/en/articles/jordan-release-eyad-qunaibi-after-one-year-detention-facebook-post> (accessed on 11 August 2017).

¹⁰⁵ Article 195 of the Criminal Code.

¹⁰⁶ Mohammad Ersan, "Is Jordan's state security court threat to freedom of expression?", *Al Monitor*, 21 January 2017, <http://www.al-monitor.com/pulse/iw/originals/2017/02/jordan-civilian-trials-charges-activists-arrest.html#ixzz4pkRtAfOO> (accessed on 14 August 2017).

¹⁰⁷ Rana Hussein, "Man charged with undermining regime, lèse-majesté", *The Jordan Times*, 6 June 2017, <http://www.jordantimes.com/news/local/man-charged-undermining-regime-l%C3%A8se-majest%C3%A9> (accessed on 14 August 2017).

¹⁰⁸ Public Assemblies Law No. 5 of 2011.

political activists, Thabet Assaf and Bassem Al Rawabedah,¹⁰⁹ were arrested by the Preventive Security Services following their participation in a peaceful demonstration against French magazine *Charlie Hebdo's* front-page cartoon. Subsequently handed over to the GID and transferred to their headquarters, Assaf and Al Rawabedah were held *incommunicado* and in solitary confinement for over a week. They were both brought before the State Security Court and sentenced in May 2015 to three and five months in prison, respectively, for "insult to the king" under article 195 of the Criminal Code.

Another concerning trend seriously infringing on the right to peaceful assembly is the practice of arresting and forcing individuals to sign pledges in which they renounce their right to peaceful protest. In 2013, the Working Group on Arbitrary Detention issued an Opinion¹¹⁰ on the case of four members of the Islamic Jordanian Youth movement arrested for their participation in demonstrations. In one case, Hisham Al Heyshah was requested by the SSC Prosecutor to sign a document in which he had to affirm that that he "opposed the protests" if he wanted to be released; as he refused to do so, he was charged with "undermining the political regime" under article 149 of the Criminal Code.

More recently, in February 2016, Mahdi Suleiman¹¹¹ was arrested in front of the Israeli Embassy in Amman where he was peacefully protesting against the detention of his son in Israel. After three days, he was brought to the government's headquarters of Amman's province, where he was told by the governor himself that he would be released under the condition that he signs a statement in which he would commit to never take part in any demonstration or carry any sign with the picture of his son in public. Mahdi was released after signing this statement as well as paying JOD 20,000 Jordanian dinars (US\$ 28,000) as a financial guarantee.

In addition, freedom of association remains limited in the country. In March 2016, amendments to the already restrictive 2009 Law on Societies¹¹² were proposed by the Social Development Ministry.¹¹³ According to the authorities, they have not yet been submitted to the parliament and are still under consideration.¹¹⁴

Under the 2009 Law, groups with "political goals"¹¹⁵ which are "contrary to the public order"¹¹⁶ are prohibited. This already vague terminology would be broadened if the 2016 draft law was endorsed, since it bans groups whose aims are contrary to "national security, public safety, public health, public order, public morals, or the rights and freedom of others".¹¹⁷ This wording stems from article 22(2) of the International Covenant on Civil and Political Rights, which lists criteria under which the right to association might be restricted. However, in Jordan, dissenting voices are systematically prosecuted under the pretext of having "disrupted the public order", and such provisions could open the door to banning associations that the authorities see as too critical.

Furthermore, the 2016 amendments do not address provisions allowing for the interference of the executive into the work of NGOs.¹¹⁸ In particular, the provision according to which a representative from the relevant Minister and Register of Associations can attend any meeting of an association's general assembly has not been repealed.¹¹⁹ Moreover, minutes of the board of directors' meetings and registers

¹⁰⁹ Alkarama, *Jordan: Release of 2 Activists Charged with "Insulting the King" for Participating in Peaceful Demonstration against Charlie Hebdo's Cartoon*, 5 June 2015, <https://www.alkarama.org/en/articles/jordan-release-2-activists-charged-insulting-king-participating-peaceful-demonstration> (accessed on 15 August 2017).

¹¹⁰ Opinion No. 53/2013 concerning Mr. Hisham Al Heysah, Mr. Bassem Al Rawabedah, Mr. Thabet Assaf and Mr. Tarek Khoder (Jordan), 2 April 2014, A/HRC/WGAD/2013/53.

¹¹¹ Alkarama, *Jordan: 57-year-old Mahdi Suleiman forced to forfeit his right to assembly after protesting against the detention of his son*, 4 April 2016, <https://www.alkarama.org/en/articles/jordan-57-year-old-mahdi-suleiman-forced-forfeit-his-right-assembly-after-protesting> (accessed on 15 August 2017).

¹¹² Law on Societies No. 51 of 2008 as amended by Law No. 22 of 2009.

¹¹³ The draft law is available in Arabic here: <http://www.mosd.gov.jo/Images/files/Societies%20.pdf> (accessed on 15 August 2017).

¹¹⁴ Response to the List of Issues (Arabic), pp. 23-24.

¹¹⁵ Article 3(A)(1) Law on Associations of 2009.

¹¹⁶ Article 3(D) of the Law on Associations.

¹¹⁷ Article 4 of the draft law.

¹¹⁸ The draft law is available at: <http://www.mosd.gov.jo/Images/files/Societies%20.pdf> (accessed on 18 September 2017).

¹¹⁹ Article 14(B)(2) of the Law on Associations.

of finances are also accessible at any time.¹²⁰ In such conditions, NGOs can hardly operate independently from the government.

Another issue of concern is the fact that the 2016 amendments cancel the provision stipulating that the Board of Directors of the Register of Associations shall issue its decision within 60 days and, if it fails to do so, the association becomes registered.¹²¹ Instead, the registration would be automatically rejected if the board fails to respond.

This is all the more problematic considering such a decision can only be challenged before the administrative court,¹²² and that no criteria explicitly states the basis on which an association may be denied registration. The court would thus only evaluate whether the procedure has been followed but would not rule on the grounds behind the decision.

In addition, with the 2016 draft law, foreign NGOs would also be facing more pressure. While under the 2009 Law, the local branch needed the consent of the Council of Ministers to collect donations or funding from Jordan,¹²³ but could freely transfer funds from abroad to their local branch, the amendments stipulate that even this will be subjected to the approval of the Council of Ministers.¹²⁴ This would add to the restrictions already prevailing since October 2015 with the establishment of a foreign funding control mechanism by the Council of Ministers. Since then, NGOs are required to submit such requests to the Ministry of Social Development, provide extensive information about the project, and demonstrate how it accords with Jordan's national and developmental goals as well as the Response Plan for Syrian refugees.¹²⁵ The authorities can also reject such funding without any justification.

Lastly, no modification has been made in the 2016 draft law regarding the penalties imposed for any violation to the law, which range from JOD 100 to 1,000.¹²⁶ More severe penalties could however still be applied if stipulated in another law which could, for example, be the case if an NGO or its members are found to be undermining the "public order."

Recommendations:

1. Amend the Law on Societies to lift current restrictions on freedom of association;
2. Cease the prosecution of peaceful protestors.

¹²⁰ Article 14(A) of the Law on Associations

¹²¹ Article 11 of the Law on Associations.

¹²² Although under article 20(C) of the Law on Associations, a decision of the board to dissolve an association may be appealed before the High Court of Justice, the Administrative Court Laws No. 27 of 2014 replaced this jurisdiction with a two-degree adjudication system for administrative disputes composed of the Administrative Court whose decisions can be appealed before the Higher Administrative Court.

¹²³ Article 9(C) of the Law on Associations.

¹²⁴ Article 9 of the draft law.

¹²⁵ Human Rights Watch, *Human Rights Watch Statement on Proposed Amendments to Jordan's 2008 Law on Associations*, 7 August 2016, <https://www.hrw.org/news/2016/08/07/human-rights-watch-statement-proposed-amendments-jordans-2008-law-associations> (accessed on 15 August 2017).

¹²⁶ Article 26 of the Law on Associations.