

# **The First Parallel Report of the National Centre for Human Rights**

**Submitted on the Occasion of the Government's Submission of its Second Periodic Report**

**on the Measures Taken by the Kingdom to Implement and Give Effect to the Provisions and Articles of the Arab Charter on Human Rights**

**The Arab Human Rights Committee**

**League of Arab States**

**February 2016**

## **Introduction**

The National Centre for Human Rights in Jordan submits to your esteemed Committee its First Parallel Report, at the time when the Government has submitted its Second Periodic Report, pursuant to the statutory powers vested in the Centre by virtue of its Law No. (51) of 2006, which empowers it to monitor and protect human rights, and to verify the observance of the human rights situation in the Kingdom, and which likewise empowers it to address any transgressions or violations that may occur, and to follow up the taking of the measures necessary to that end, including the settlement of such matters or their referral to the executive or legislative authority or to the competent judicial body in order to halt them and remove their effects, and to disseminate a culture of human rights, to monitor the situation thereof, and to provide legal advice or assistance to those in need thereof.

The past three years have witnessed a tangible change in the interaction of the authorities with human rights issues, as reflected in the consideration given to the challenges facing these rights. The Centre has likewise observed a positive orientation on the part of the Government in this regard, evidenced by the numerous positive steps taken within the sphere of the protection and promotion of human rights: the year 2011 witnessed the adoption of several amendments to the Jordanian Constitution; the post of Governmental Coordinator for Human Rights was created within the Prime Ministry in 2014; and the Executive Plan for the Dissemination of a Culture of Human Rights was adopted in 2014. The years 2013, 2014 and 2015 likewise witnessed a responsiveness to the recommendations of the Centre issued in its reports for 2012–2014, which stipulated the necessity of formulating a national plan for human rights. To this end, the Government constituted a committee whose task was the preparation of a comprehensive national plan for human rights; a plan in the preparation of which the Centre played the most prominent role, through preliminary consultations with partners, as well as in shaping the substance of the plan and its final pillars, even though it ultimately emerged as a governmental document. That plan affirmed the necessity of harmonising national legislation with international conventions and treaties, and of highlighting the gaps and shortcomings in national legislation concerned with fundamental rights and freedoms by comparison with international standards. Reference must also be made here to the Government's issuance of its responses to the recommendations of the National Centre for Human Rights for the years from 2011 onwards, through periodic documents that have been published. These documents set out the steps taken by all official institutions in respect of the observations and recommendations of the National Centre for Human Rights, irrespective of the view of the Centre as to the degree to which those steps responded to, and were consistent with, the recommendations referred to. The Centre considers that the political discourse of the Government has appeared more positive as regards dealing with the international and national obligations of Jordan and with human rights issues; indeed, the evidence has disclosed the existence of a political will committed to the undertakings which Jordan has assumed, and to respect for the rights of its citizens at every level.

The Centre is nevertheless unable to open wide the doors of optimism, for the official efforts exerted in relation to human rights issues have not ceased to face challenges in light of the contradictions that persist between national legislation and the international conventions governing human rights to which Jordan has acceded; and in light of manifest practices that have resulted in an increase in the rate of complaints, in particular against law-enforcement agencies, and in the policies pursued by the authorities towards questions of public freedoms, and in particular freedom of opinion and expression and freedom of assembly and association. Moreover, the official handling of the correspondence of the National Centre for Human Rights is attended by certain forms of deficiency, consisting in the failure of certain official bodies to reply to such correspondence.

The failure to consult the Centre during the preparation of the Second Governmental Report submitted to your esteemed Committee is indicative of the slowness or hesitancy of official policy towards genuine responsiveness to the observations and recommendations of the National Centre for Human Rights in relation to these matters.

We must further refer to the problem of achieving a balance between considerations of national security and respect for human rights. In this connection, the question of countering terrorism and extremism has become a serious challenge to the guarantee of the right of the individual to freedom of opinion and expression and to respect for privacy. There has been an increase in complaints relating to torture and to inhuman treatment, which emerged in the course of the monitoring of prisons and places of temporary detention, in addition to the failure to observe the conditions of a fair trial. The Government has recently issued guidelines concerning the question of the foreign funding received by certain civil society institutions, in an endeavour — as the Government asserts — to regulate the activities and initiatives of civil society within the framework of national priorities for development and the combating of poverty. Civil society organisations, however, considered that such directives constitute additional and unjustified restrictions upon their work and upon their freedom of initiative. The National Centre hosted an in-depth dialogue among the parties within the framework of the Tripartite Dialogue Forum established for the discussion of the existing relationship between the Government and civil society, attended by the National Centre for Human Rights. The discussion was constructive, and each side demonstrated a reasonable degree of understanding of, and responsiveness towards, the other.

### **Articles (3 and 11): The Right to Equality and Non-Discrimination**

The Jordanian Constitution guarantees the principle of equality among all Jordanians. Article 6 thereof provides as follows: "**Jordanians shall be equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion.**" The same Article further provides: "**The family is the basis of society; its foundation is religion, morals and love of the homeland; the law shall preserve its lawful entity and shall strengthen its bonds and values. The law shall protect motherhood,**

**childhood and old age, shall care for youth and persons with disabilities, and shall protect them against abuse and exploitation."** On another level, the Government published the Convention whose object is the elimination of all forms of discrimination against women, known as "CEDAW", in the Official Gazette on 1 August 2007, whereby it became part of the corpus of national legislation. Jordan has nevertheless persisted in maintaining its reservations to the Articles relating to the conferral by a woman of her nationality upon her children, and to paragraphs (c), (d) and (g) of Article (16) relating to marriage and family relations under the Convention<sup>1</sup>. The question of the conferral of nationality has thus remained a matter of disagreement, being viewed from the perspective of discrimination between women and men, and remaining the subject of differing interpretations and readings among the various parties.

The year 2014 further witnessed the preparation, by the Jordanian National Commission for Women in cooperation with the National Centre for Human Rights and civil society institutions, of a list of demands addressed to the members of the National Assembly, comprising an increase in the quota for the representation of women in municipal and parliamentary councils and at both the local and national levels, at a minimum of 30%. The National Centre for Human Rights affirms the importance of this list, which relates to reforms in the sphere of policy, and the demand for the amendment of the various items of legislation which contain discriminatory concepts, whether direct or indirect, against women. All of this is affirmed together with the conviction of the Centre that the principal obstacles to the advancement of Jordanian women consist in the necessity of overcoming the impediments inherent in the cultural heritage and in the social concepts inimical to the advancement of women, and in the modesty of the programmes and plans directed towards her economic empowerment.

Moreover, the amendments introduced to the Civil Service Regulations are devoid of any clear provisions obliging official institutions to provide nurseries for the children of female employees — a matter which would contribute to increasing the rate of participation of women in economic life. Those amendments are likewise devoid of any amendment authorising the payment of the family allowance to a female employee upon the same conditions as the allowance paid to a man. Accordingly, the persistence of such gaps is inconsistent with Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, which Jordan has ratified and which has been published in the Official Gazette.

## **Article 5: The Right to Life**

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<sup>1</sup>It is recalled that Jordan withdrew its reservation to paragraph 4 of Article (15) of the Convention on the Elimination of All Forms of Discrimination against Women, relating to the right of a woman to freedom of movement, residence and domicile.

The right to life is the foundation of the human rights system and its cornerstone; it is a right guaranteed by the relevant international covenants and charters<sup>2</sup>, and national penal legislation likewise ensures the protection of this right. The authorities are, in general, keen to fulfil and to protect it: the judiciary is bound to apply the provisions of the law, which require that no leniency be shown towards any criminal act entailing the deprivation of a person of his right to life. There nonetheless remain a number of factors that impinge upon this right, and the Centre has indicated in its reports the necessity of adopting preventive measures to confront these factors, namely:

1– **The rise in the number of narcotics cases:** the cases recorded in 2015 amounted to (14,040), compared with (10,592)<sup>3</sup> cases in 2014. Notwithstanding the various national efforts and strategies directed towards confronting this scourge, it continues to increase tangibly and to spread among the younger age groups and across numerous geographical areas within the Kingdom, which calls for the adoption by the Government of more resolute and effective measures to confront this danger threatening society and an important age group, namely the youth.

2– **Deaths in correction and rehabilitation centres:** the Centre recorded (30) cases of death, of which (26) were natural<sup>4</sup> or resulted from illness, in correction and rehabilitation centres in 2015; (1) case resulted from a beating by another inmate; and (3) were cases of suicide; compared with (24) cases in 2014, (25) cases of natural death in 2013, and (12) cases of death in 2012, of which (11) were natural deaths and one a case of suicide, and (18) cases of death in 2011. In this connection, the Centre affirms the necessity that the health conditions of inmates receive care and attention on the part of the Ministry of Health, on the part of the physicians working in correction and rehabilitation centres, and on the part of the administrations of those centres.

3– **Cases of suicide in the Kingdom:** the National Centre recorded an increase in the number of cases of suicide in the years 2013 and 2014; the number reached (100) cases in 2014<sup>5</sup>, whereas it reached (108) cases in 2013 and (86) cases in 2012. The Centre affirms the necessity of adopting national strategies and preventive measures, through the review of national legislation and the study of the social, economic and family causes.

4– **Deaths resulting from traffic accidents:**

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<sup>2</sup> Articles (3, 5) of the Universal Declaration of Human Rights; Article (6) of the International Covenant on Civil and Political Rights; Article (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Article (4) of the American Convention on Human Rights; and Article (5) of the Arab Charter on Human Rights.

<sup>3</sup> According to the statistics of the Public Security Directorate.

<sup>4</sup> It is noted that the number of inmates of correction and rehabilitation centres in the year 2014 ranged between 8,500 and 10,000.

<sup>5</sup> Al-Ra'i newspaper, 10 March 2015. Cases of suicide were distributed as follows: Amman (33) cases; Zarqa (9) cases; Balqa (7) cases; Madaba (4) cases; Russeifa (2) cases; Western Balqa (3) cases; Irbid (6) cases; Western Irbid (4) cases; Mafraq (4) cases; Jerash (4) cases; Ajloun (4) cases; Karak (7) cases; Tafila (1) case; Ma'an (5) cases; Aqaba (2) cases; and the Badia (5) cases. No cases were recorded in Ramtha or Petra.

The National Centre for Human Rights recorded during the years 2014 and 2015 a decrease in the number of traffic accidents by comparison with the year 2013: whereas accidents in 2013 amounted to (107,864), they fell in 2014 to (102,441), and in 2015 to (101,345). The National Centre wishes here to affirm the importance of adopting strategies relating to road safety, of studying the principal factors contributing to the occurrence of traffic accidents, and of establishing programmes for road-safety awareness.

### **Articles (6 and 7): The Death Penalty**

Jordan is among those States which adopted, during the past decade, a gradual approach with a view to restricting the application of this penalty, through reducing the offences punishable by death and confining it to the gravest criminal cases (such as premeditated murder, terrorism, and the rape of a minor). The Jordanian courts accordingly continued to issue judgments imposing the death penalty, while the execution of the penalty was suspended from the year 2006 until the end of the year 2014. It should be noted that there were (10) persons upon whom sentences of death had been passed who benefited from a special pardon in 2015, compared with (3) persons in 2014. The number of inmates of correction and rehabilitation centres sentenced to death reached (112) convicted persons in 2015. It should further be noted that there are those who regard the suspension of the execution of the death penalty without the determination of a final date as constituting a form of psychological torture.

On 4 January 2015 the Government carried out the death penalty by hanging until death upon two persons convicted by final judgments, one of them a woman sentenced in consequence of grave criminal cases; by contrast, (11) persons convicted by final judgments were executed in 2014 against the background of grave criminal cases. The Government founded its justification for the resumption of the execution of the death sentences suspended until 22 December 2014 upon the rising voices of those supporting the death penalty, on the ground that its suspension had, in their view, contributed to the increase in the rate of crime within society. The statistics of the Public Security Directorate indicated the occurrence of (159) homicides in 2014, compared with (91) homicides in 2009 and (67) homicides in 2005, being the year after which the execution of this penalty was halted. In this framework, the National Centre sets out the following observations concerning the execution of this penalty:

**First:** the Jordanian Constitution has defined the principle of the separation of powers and the independence of the judicial authority in Articles (24–27) thereof. There are, however, those who consider that the legal competence conferred upon the Council of Ministers by virtue of the text of Article (39) of the Jordanian Constitution and Article (357) of the Code of Criminal Procedure may impinge upon the concept of the separation of powers and the independence of the judicial authority set out therein. Some likewise consider, in the text of (Article 357) and in the absence of any determination of a time-limit for the execution of the death penalty, a failure to have regard to the right of the victim and of his family to the swift imposition of just punishment upon the offender; whereas there are those who consider that

these provisions have been enacted in favour of the offender, by affording him a period of time in which developments may occur that could assist, within the framework of the national judicial system, in the commutation of his penalty, and that this practice constitutes no infringement of the principle of the separation of powers or of the independence of the judicial authority, but rather affords scope for the promotion and protection of the rights of the victim and of the rights of the offender, as well as for respect for the principle of the independence of the judicial authority.

**Second:** the execution of the death penalty was carried out in a manner contrary to the procedures established in accordance with international jurisprudence: it was carried out collectively and suddenly, and in exceptional circumstances, without the requisite prior notification of the inmate and his family in the manner required and customarily recognised. This occurred in the cases of those in respect of whom judgment had been rendered in 2014, and it took place after the suspension of the execution of the penalty for a period exceeding (8) years, which is contrary to Human Rights Commission resolution No. (2005/59) of 20 April 2005, which called upon those States which still retain the death penalty to make available to citizens the information relating to the execution of this penalty and to any executions scheduled to be carried out.

## **Article 8: The Prohibition of Torture**

The Jordanian Constitution<sup>6</sup> and the international conventions prohibit torture and other forms of cruel, inhuman or degrading treatment or punishment, and affirm that the right not to be subjected to torture is an absolute right, and that no exceptional circumstances whatsoever may be invoked as a justification for torture, for the reason that the right not to be subjected to torture is a right that is not susceptible of suspension or derogation in accordance with international human rights standards.

From another perspective, the Jordanian legal environment remains deficient as regards the effective pursuit and prosecution of the perpetrators of the crime of torture. Jordanian law criminalises torture pursuant to Article 208 of the Penal Code, and does so in a fragmentary manner: this law falls short of the scope of the definition of torture contained in the United Nations Convention against Torture, by reason of its insistence upon the necessity of the existence of a specific intent (the extraction of an admission or a confession). Article (208) is further open to criticism for having included the crime of torture within the category of misdemeanours, save where the crime results in death or in permanent disability, in which case it is transferred to the category of felonies. This constitutes a manifest breach of that which is

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<sup>6</sup>Article 8 of the Constitution provides as follows: 1– No person may be arrested, detained, imprisoned or have his freedom restricted save in accordance with the provisions of the law. 2– Every person who is arrested, detained, imprisoned or whose freedom is restricted shall be treated in a manner that preserves human dignity; he may not be tortured, in any form whatsoever, or harmed physically or mentally; nor may he be detained in places other than those permitted by law. Any statement made by any person under duress of any torture, harm or threat shall not be accorded any weight.

provided in the international Convention as to the obligation to attribute a felonious character to acts of torture, in their capacity as the gravest of crimes; quite apart from the fact that the treatment of torture as a misdemeanour gives rise to legal consequences flowing therefrom, such as its extinction by pardon and by prescription and the exclusion of the attempt from the scope of criminalisation, which is contrary to the principle of prosecution as required by the Convention.

The judicial pursuit of the perpetrators of the crime of torture thus remains among the practical difficulties which call for the review — as a matter of urgency — of the text of Article 208 of the Penal Code. Practical reality discloses a deficiency in the mechanisms of grievance and of investigation with those against whom complaints of torture are made, which gives rise to a considerable likelihood that the perpetrators of acts of torture will not be held to account and will escape punishment. This is so irrespective of the penalties imposed by the police judicial bodies upon the perpetrators of this crime from among the Public Security cadre, who are tried before the Police Court: many complaints of the occurrence of torture and allegations thereof against citizens are adjudicated by Public Security itself. This situation deprives victims of torture of obtaining compensation in a manner consistent with Article (14) of the Convention against Torture of 1984.

Nor did the years 2014 and 2015 witness the adoption by the competent bodies of effective administrative measures for the conduct of an investigation into allegations of torture by impartial and independent authorities. Here the National Centre for Human Rights affirms the necessity of putting an end to the phenomenon of the impunity of the perpetrators of torture under Article 208 of the Penal Code, and to the treatment by Public Security of the acts committed as being, in essence, mere disciplinary infractions not warranting the application of that Article. The judicial pursuit of such persons under Article (37) of the Public Security Law of 1965 is insufficient and represents no more than the bare minimum. Likewise, the attribution of another criminal characterisation, such as assault in its differing forms, signifies in practice the existence of a climate conducive to impunity. Although the procedures of investigation and prosecution conducted by the public prosecution of the Public Security apparatus, and the judgments issued by the Police Court, are at times severe and deterrent, they nonetheless fail to satisfy the conditions required by the international human rights standards as regards the independence and impartiality required of the body imposing them. The Public Security apparatus has likewise paid compensation in a limited number of cases of torture that resulted in death.

From another perspective, the question of compensating the victims of torture and of their rehabilitation has not ceased to constitute a challenge in the path of confronting the scourge of torture, in addition to the provision of protection for complainants in cases of torture, together with the necessity of establishing an independent national mechanism for the receipt of complaints and the investigation thereof; and finally, the necessity of granting the National Centre the competence to carry out unannounced visits to all places of detention in Jordan.



With a view to strengthening the mechanisms for the prevention of torture, the Centre calls for expedition in the amendment of the Code of Criminal Procedure, in such manner as guarantees the provision of the safeguards of a fair trial at the pre-trial stage, and in particular the enabling of detainees to contact their families and to be presented to a physician, and to obtain the necessary legal assistance from the moment of arrest and throughout the periods of preliminary investigation, and for the adoption of regulations and procedural instructions to that effect.

## **Article 10: The Prohibition of Slavery and Trafficking in Persons**

The Centre makes the following observations:

1– The Anti-Trafficking in Persons Law was enacted in 2009. It is a law containing a definition of trafficking in persons conforming to that contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women (the Palermo Protocol). However, although the Law criminalises all forms of trafficking in persons, it has not treated trafficking as a felony in principle, but rather as a misdemeanour, and treats it as a felony only where it is committed against children; or where it is committed through an organised criminal group practising it with the intent of trafficking; or where it is committed by means of exploitation through prostitution or other forms of sexual exploitation or the removal of organs; or where it is committed with the use of a weapon; or where the victim is afflicted with an incurable disease; or where the perpetrator of the crime is the spouse of the victim, or one of his ascendants or descendants, or his guardian or custodian. In any event, there exist procedural and professional obstacles preventing the full application and activation of this Law, among them the difficulty of proving the crime, and the criminal characterisation of trafficking in persons on the part of public prosecutors and judges.

1– The failure to accede to the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

2– The Jordanian judiciary continues to deal with cases of forced labour as though they were labour disputes.

3– The Centre recorded the continuation of numerous violations of the rights of this category of female workers, consisting in the following:

(a) The subjection of certain domestic workers to beating and abuse by certain employers or by the proprietors of recruitment offices.

(b) The continued retention by certain employers of the passports belonging to female workers.

(c) The failure of the female worker to receive the wages due to her.

(d) The excessive length of working hours, and the failure to obtain a weekly rest day.

### **Articles (12, 13, 16) of the Charter, All of Which Fall Within the Right to a Fair Trial**

Jordan has, during the past ten years, taken broad steps for the protection and promotion of human rights in the sphere of the right to a fair trial, the most important of which are as follows:

(a) The adoption of a series of amendments to the Jordanian Constitution in 2011, which contributed tangibly to the development of the means of protecting and promoting human rights. The most important of that which is contained in these amendments is the following:

1. The express provision prohibiting torture and protecting the dignity of the human person.
2. The affirmation of the right to liberty and personal security.
3. As for the important amendment contained in the first paragraph of Article 128, it provides for the prohibition of the laws issued by virtue of this Constitution from regulating rights and freedoms in such manner as affects or impinges upon the essence of these rights and their fundamentals.
4. The affirmation of the independence of the judiciary and the guarantee of the right to a fair trial, through: the provision for the establishment of a Constitutional Court whose task shall be to consider the interpretation of the provisions of the Constitution and the review of the constitutionality of the laws and regulations in force; the provision for the independence of the Judicial Council, which shall have jurisdiction over all matters relating to the regular judges; and the provision for the constitution of the administrative judiciary at two levels.

(b) In implementation of the constitutional amendments of 2011, a broad set of laws was enacted which are expected to contribute effectively to the protection and promotion of human rights, the most important of which were: the Judicial Independence Law No. 29 of 2014; the Administrative Judiciary Law No. 27 of 2014; the Constitutional Court Law No. 15 of 2012; and the Independent Election Commission Law No. 11 of 2012.

(c) Penal legislation likewise guarantees the right to obtain legal assistance, whether by the appointment by the court of counsel for those unable to afford one, at the expense of the Government, in criminal cases in which the penalty of imprisonment exceeds 10 years, as provided in the Jordanian Code of Criminal Procedure; interpreters are likewise provided where the accused is unable to express himself in the Arabic language adopted

by the courts. It is likewise incumbent upon civil society institutions to provide legal assistance to those in need thereof; foremost among these institutions are the Jordanian Bar Association and the institutions of civil society.

The National Centre for Human Rights undertakes the task of providing legal assistance to the victims of human rights violations generally, and of torture in particular, whether directly or through referral to the aforementioned institutions. Notwithstanding the positive developments to which reference has been made in the sphere of fair trial, there remains a set of challenges impeding the enjoyment by citizens of the right to a fair trial, the most prominent of which challenges are the following:

- (a) The continued operation of the State Security Court Law, notwithstanding the persistent demands for the amendment of this Law, which is inconsistent with human rights standards.
- (b) The abstention from taking any initiative directed towards the review of legislation containing provisions which conflict with the provisions of the Constitution and with the general principles governing the right to a fair trial. The most important of such legislation is: the Customs Law, the Crime Prevention Law, the Law on the Collection of State Debts, and the Economic Crimes Law, which contain provisions conferring upon those working within the executive authority judicial powers to restrict the liberty of others, among other matters.
- (c) No amendment has been introduced to the Public Security Law No. (38) of 1965, the General Intelligence Law No. (24) of 1964, or the Gendarmerie Forces Law No. (34) of 2008, as regards the assumption by the public prosecutions and the courts affiliated to these bodies of jurisdiction to adjudicate the cases referred to them by virtue of the provisions of Article (208) of the Penal Code in respect of cases of torture.
- (d) The necessity of amending the Anti-Terrorism Law No. 18 of 2014, since the amendments introduced to the Law are of such nature as to threaten freedom of opinion and expression and fundamental freedoms.

### **Articles (14 and 20): The Right to Liberty and Personal Security and the Treatment of Persons Deprived of Their Liberty**

The constitutional amendments of 2011 guaranteed, as did all the international charters and conventions by which Jordan is bound, the right of the human person to liberty and personal security. In this context, the failure to amend a number of laws in such manner as to render them fully consistent with the constitutional amendments has contributed to the continued occurrence of certain violations of the rights of many individuals, and hence to the failure in practice to comply with the provision of the fundamental legal safeguards for all detainees, including those detained in the facilities affiliated to the General Intelligence Department and

to the Public Security Directorate, from the moment of their arrest. The Centre has previously set out in its specialised and periodic reports<sup>7</sup> a number of recommendations with a view to limiting these violations, which recommendations are consistent in large part with the recommendations issued by the treaty bodies<sup>8</sup> and the non-treaty mechanisms<sup>9</sup> of the United Nations, and which comprise the obligation to grant detainees, without any exception, the right to the assistance of counsel; the conduct of an independent medical examination; the notification of a member of his family; the informing of the detainee of the reasons for his detention in a language which he understands; the obtaining of information regarding his rights and the time of detention, including his being informed of the charges brought against him; and his being brought before a judge within a short period of time. This is so for the reason that national legislation, and in particular the Code of Criminal Procedure, remains deficient in its text as regards the express granting to the detained person of the right to the assistance of counsel from the moment of arrest, and in particular during the stage of preliminary investigation before the police; quite apart from the fact that the Code of Criminal Procedure, in Articles (63/2) – (64), permits public prosecutors, by way of exception, to interrogate detained persons without counsel in urgent cases. It is worthy of mention in this regard that the year 2014 witnessed the issuance of a law amending the Bar Association Law No. (25) of 2014, Article 2 of which conferred upon lawyers the right to represent their clients before the administrative governors and before the members of the judicial police. In the year 2015 the Ministry of Justice constituted a committee for the review of the Code of Criminal Procedure, and the committee recommended, in the draft amendments, the guarantee of the right to the assistance of counsel. The Ministry of Justice likewise constituted, for its part, a committee comprising within its membership the Government, civil society organisations and the National Centre for Human Rights, with the object of establishing the legal framework for legal aid in Jordan.

Notwithstanding the constitutional amendments of 2011, the legal safeguards relating to the conditions of a fair trial remain generally in need of review and of legislative amendments in that regard, in addition to the necessity of establishing effective oversight mechanisms to ensure compliance with these safeguards on the ground.

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<sup>7</sup> Reports have indicated the deficiency of certain items of national legislation, or their contribution in most instances to the impunity of the perpetrators of the crime of torture, such as: the Crime Prevention Law, which permits the administrative authority to detain persons and does not permit them to contact their families or their lawyers, and that in isolation from judicial oversight; likewise the State Security Court Law, which confers upon the investigating authorities the right to detain suspects for a period of seven days before referring them to the competent judicial authority; and the Code of Criminal Procedure, which renders pre-trial detention as though it were the general rule, and makes detention subject to a broad general criterion known as "the interest of the investigation"; as well as the acceptance of a statement made by an accused in the absence of the public prosecutor as evidence of guilt where the public prosecution establishes the circumstances in which it was made, and that the person made it voluntarily and of his own choice.

<sup>8</sup> See the concluding observations issued by the Committee against Torture following the consideration of the combined (second, third and fourth) report of Jordan at the 44th session, Geneva, 26 April – 14 May 2010. See also the recommendations of the Committee against Torture at the electronic link.

<sup>9</sup> The tenth recommendation issued by the Committee against Torture, which affirmed the necessity of incorporating the prohibition of torture into the Constitution, in order to demonstrate the rejection of torture in all its forms and manifestations. [www2.ohchr.org/arabic/bodies/cat/index.htm](http://www2.ohchr.org/arabic/bodies/cat/index.htm)

From another perspective, the governmental response to the recommendations of the National Centre for the years 2012 and 2014 affirmed the commitment of the competent bodies to the legal safeguards for detainees, in particular as regards informing arrested persons of their rights at the time of detention, such as: the conduct of an independent medical examination; the summoning of counsel; and the informing of their families, immediately upon arrest, of the place of their detention. The response was in the following terms: "In this regard, the legislation governing the work of the police directorates and stations and of the public prosecution provides such means and mechanisms as guarantee to detainees these and other rights, on pain of impairing the presumption of the soundness of the procedures of arrest and investigation." The field visits, however, to the temporary detention centres throughout the Kingdom carried out by the teams of the National Centre for Human Rights during the years 2013 and 2014 confirmed the lack of regularity in giving effect to these safeguards on the part of the field officials, and in particular the maintenance of registers by the detention officers, including the health register, in most of these centres; the failure to permit arrested persons in numerous cases to contact their families; as well as the resort to the practice of rotating arrested persons among several security centres as a means of evading the legal obligation as to the maximum period permitted for detention, namely (24) hours.

### **Temporary Detention Centres at the Public Security Directorate**

Through its unannounced visits to the places of temporary detention within the Kingdom, in cooperation with the Transparency and Human Rights Office of the Public Security Directorate, the National Centre for Human Rights recorded during the years 2013, 2014 and 2015 the persistence of the following observations:

- 1– The age of most of the buildings designated for places of temporary detention, the dilapidation of their infrastructure and their need for maintenance and repair, and the limited nature of their area; in addition to the low standard of cleanliness therein, the prevalence of damp and cold in winter — quite apart from the rise in temperatures in summer — and the absence in some of them of sanitary facilities and sanitary supplies.
- 2– The poor condition of the detention environment in most places of temporary detention, by reason of the high numbers of detainees in these centres, and in particular the security centres in the governorates of high population density (Amman, Zarqa, Irbid), a matter which leads to a severe shortage in the services provided, among them meals. It is to be noted that only one meal is provided to the detained person, namely lunch, and that it is provided at a single time; in addition to the shortage in the number of blankets and mattresses, the absence or insufficiency of lighting, the absence of health-related ventilation in most of them, the absence of water, whether potable or for washing, in some of them, and the failure to designate places for the performance of religious rites.
- 3– The failure to maintain accurate registers in places of detention, and in particular in the security centres, contrary to the rule which requires the existence of registers recording

the time and place of arrest, the identity of the officers, the actual place of detention, the state of health of the person upon his arrival at the place of detention, the time at which contact was made with the family and with counsel, the time of the visit to the detained person, and information regarding the medical examinations upon his arrival at the centre and upon his transfer therefrom.

4– The failure to designate places specifically for holding detained juveniles and women in most of the security centres, which compels those working therein to transfer them to the places designated for that purpose, whether in the police directorates or in other centres. (The governmental response for 2014 stated that there are (7) juvenile detention rooms in the Kingdom, (6) for males and one for females, and that as regards women they are detained at the Juweideh Correction and Rehabilitation Centre for Women.)

5– The failure to observe the criteria for the classification of detainees guaranteed by international and national standards.

6– The deprivation of detainees of contact with the outside world, including the assistance of counsel, and of being presented to a physician during the period of detention.

7– The exceeding of the lawful period for holding suspected persons, being (24) hours, by means of circumventing the law through the transfer of detainees among a number of security centres.

8– The withholding of the investigation papers and the failure to deposit with the public prosecution the arrest records drawn up by the officers of the judicial police during the period of preliminary investigation, which constitutes a breach of the text of Article (49) of the Code of Criminal Procedure. (The governmental response for 2014 stated that this assertion is devoid of accuracy, and that it is to be observed that the National Centre for Human Rights relied, in including this observation, solely upon the complaints received by it, without verification and ascertainment thereof with the Public Security Directorate; and that this is contrary to human rights standards in this field, since findings may not be based upon the statements of a single party; in addition to the fact that no case referred by a security centre may be accepted by the courts in the absence of the investigation papers, the seizure records and the parties.)

9– The extension of the periods of administrative detention ordered by the administrative governors by virtue of the Crime Prevention Law of 1954, and for lengthy periods. The Centre recorded the existence of numerous irregularities, among them the existence of detention orders prepared and signed in advance by the administrative governors at the security centres and directorates, for the purpose of extending the detention of persons on the pretext of investigation and without compliance with the provisions of the Crime Prevention Law of 1954.

10– Cruel and inhuman treatment of certain detained persons at certain security centres, and in particular of recidivists and repeat offenders and of certain persons made subject to house arrest, and the compelling of certain detained persons to carry out cleaning duties within the security centre.

11– The rise in complaints and allegations of torture and of other forms of ill-treatment, by reason of the combination of the powers of investigation and of detention in certain security departments, and in particular the Criminal Investigation Department and the Anti-Narcotics and Counterfeiting Department, which gives rise to practical difficulties and irregularities during the stages of investigation and the taking of statements.

In light of the governmental response for 2014, the Centre states that all the observations to which reference has been made are documented with it, whether through complaints or through the monitoring visits to the places of detention throughout the Kingdom, and through meeting the complainants and hearing them; and that all the allegations (complaints) submitted by complainants are subject to the procedures of verification and ascertainment carried out by the Centre, which fall within its competences, by way of hearing the statements and the evidence submitted by the parties concerned (the complainant; the Public Security Directorate), including the hearing of witnesses, with a view to ascertaining the truth.

### **Places of Temporary Detention at the General Intelligence Department**

In this regard the Centre makes the following observations:

The continuation of the complaints of detained persons and of their families concerning the state of isolation experienced by detainees in solitary cells within the detention centre; the failure to permit inmates to meet their visitors in private during visits; the denial of visits to certain detained persons at times, and that by virtue of a decision of the public prosecutor of the State Security Court<sup>10</sup>; quite apart from the length of the period of judicial detention of certain inmates, which may extend to a period of one year; and the retention of passports and of other identity documents. (The governmental response for 2014 stated that the retention of passports and personal documents takes place in certain cases, and in particular upon the departure or arrival of a person to the territory of the Kingdom in possession of documents suspected of being forged or bearing forged stamps, in which case they are retained for the purposes of their examination and the verification thereof, and of the identity of the bearer thereof, through the security examination of these documents and the taking of the necessary legal measures.) As regards the prohibition of travel (the governmental response for 2014 stated that the allegations of travel bans are untrue, since the General Intelligence Department has no connection with the issuance of travel-ban decisions, which fall in principle within the jurisdiction of the judiciary). As regards the withholding of security clearance for the purposes of obtaining employment (the governmental response for 2014 stated that the General

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<sup>10</sup>Article (63), paragraph 2, and Article (64) of the Code of Criminal Procedure and its amendments, No. 9 of 1961.

Intelligence Department does not intervene at all in the matter of appointment in official departments and institutions, and that the question of appointment in the agencies and institutions of the State is subject to the conditions provided for in the relevant legislation, among them the Civil Service Regulations, which do not require the obtaining of the approval of the security agencies upon appointment to official posts). As regards the failure at times to inform the family of the place of detention of their relative (the governmental response for 2014 stated that the General Intelligence Department complies with the provisions contained in the Law on Correction and Rehabilitation Centres, in that it informs the families and relatives of those detained with it directly, unless the detained person himself requests that his family not be informed; and that where the detained person is a foreign national his embassy is informed of his place of detention). Such information has nonetheless been withheld even from the representatives of the National Centre for Human Rights on certain occasions. The Centre accordingly calls upon the Public Security Directorate to:

- (a) Comply with the obligation to inform the family of the detained person of his whereabouts immediately upon his arrest.
- (b) Separate the offices of the public prosecution of the State Security Court from the premises of the General Intelligence Department.
- (c) Activate the inspection of the detention centre affiliated to the General Intelligence Department by the presidents of the courts and by the public prosecution apparatus, in application of the provisions of the Law on Correction and Rehabilitation Centres No. 9 of 2004 and of Article 106 of the Code of Criminal Procedure, which entrusted the judicial authority with the duty of oversight over correction and rehabilitation centres and over places of detention, in such manner that the bodies charged therewith carry out visits periodically and effectively. (The governmental response for 2014 stated that the detention centre of the General Intelligence Department is subject to continuous inspection by the Military Attorney-General and by the public prosecutors of the Department; that there is a special register held at the centre evidencing these visits, which the staff of the National Centre have previously examined during their visits to the centre; and that this centre is likewise subject to administrative inspection by the officials of the centre, through which inspection it is verified that all detained persons have been detained lawfully and by virtue of judicial decisions.)
- (d) Permit the competent team of the Centre to carry out unannounced visits to the detention centre affiliated to it. (The governmental response for 2014 stated that the General Intelligence Department is a security institution and that entry thereto by persons other than those working therein requires certain security and precautionary procedures, having regard to the nature and sensitivity of its work, and that entry thereto accordingly requires prior coordination in that regard.) In light of the governmental response for 2014, the National Centre states that all the observations to which reference has been made are



documented with it, through complaints or through the monitoring (announced) visits to the places of detention of the General Intelligence Department, and through meeting the complainants and hearing their complaints; and that all the allegations submitted by complainants are subject to the procedures of verification and ascertainment carried out by the Centre by virtue of its competences, by way of hearing the statements and the evidence submitted by the parties concerned: the complainant, the Department, and the witnesses, with a view to ascertaining the truth. Where this proves impossible, the complaints submitted remain within the framework of allegations only.

### **Article 17: The Right to a Justice System Specific to Juveniles**

The Juveniles Law No. 32 of 2014 was enacted in order to keep pace with social, economic and legislative development, and in order to conform with the legal obligations set out in the international conventions ratified by Jordan; and it passed through its constitutional stages so as to become part of national legislation. The Law provided for the establishment of a Juvenile Police Department, and prohibited the imposition upon a juvenile of the death penalty or of hard labour. It likewise prohibited the restraint of the juvenile, or the use of force against him, or his isolation, save in those cases in which he displays rebelliousness or violence, and within the limits required by necessity; and provided that the minimum age of criminal responsibility for children shall be 12 years and not 7 years; in addition to activating alternative penalties in minor cases.

The Law further conferred upon the Juvenile Police the competence to settle disputes in contraventions and misdemeanours the penalty for which does not exceed two years, and that with the consent of the parties to the dispute to the settlement, and in particular in those offences the consideration of which depends upon the complaint of the injured party. The Law likewise provided that the juvenile may not be detained during the settlement stage, and that the parties to the dispute may, at any stage of the settlement proceedings, request the body conducting them to refer the dispute to the competent court, provided that this be effected through the dispute-settlement judge.

(55) judges specialised in juvenile matters have been trained and designated, after the judges had previously taken turns during the afternoon period in considering juvenile cases. The Ministry of Justice is at present engaged in studying the possibility of establishing courts specialised in juvenile matters, it being noted that juvenile cases are at present considered through the designation of separate chambers in the conciliation and first-instance courts throughout the Kingdom.

Notwithstanding the positive developments contained in the Law, certain difficulties remain, the most important of which are the following:

- (a) The legislator omitted the provision requiring the presence of a behaviour supervisor in cases of default and neglect in the upbringing of the juvenile, as was the case under the previous law;
- (b) The Law omitted the question of regulating the education of juveniles during their presence in care homes.
- (c) The absence of a clear provision addressing the case of the failure of the juvenile to comply with non-custodial measures.
- (d) The legislator omitted the provision for the reduction of the fine where the juvenile commits a contravention or a misdemeanour, as was the practice under the previous law, whereby the fine was reduced by half.

## **Article 24: Freedom of Political Practice**

### **The Most Prominent Developments from the Legislative Perspective**

In the month of June 2015 the National Assembly enacted the new Political Parties Law No. 39 of 2015, many of the new provisions of which are consistent with most of the recommendations set out in the annual report of the Centre for the year 2014, among them the following:

- (a) That no citizen may be subjected to prejudice, questioning or accountability, or to infringement of his constitutional or legal rights, by reason of his party affiliation (notwithstanding that the Centre has recorded numerous complaints received by it, both formally and informally, to the effect that many Jordanians are deprived of their right to join the military institutions and to obtain civil and military posts by reason of the membership of their fathers in political parties). The Law further prohibited a party from receiving any funding, gifts or donations, whether in cash or in kind, from any State or foreign body or from any unknown source; it has, however, opened the way for the acceptance of declared, known and specified grants, gifts and donations from Jordanian persons. The Political Parties Law in its new form likewise adopted the Ministry of Political Development as the reference authority for the regulation of the work of political parties; and it fixed the number of founding members at 150 persons instead of 500 persons, and reduced the age of the founding member to eighteen years instead of twenty-one.
- (b) The new Law further comprised the abolition of the requirement that the founders represent five governorates, such that the founders may be from a single governorate, or even from a single clan; and the abolition of the requirement of a proportion of women among the founders. The Law further comprised the possibility of challenging the decision of the committee in respect of its refusal to amend the basic statute of the party,

or its refusal of the merger of parties, before the Administrative Court; and that a party may not be dissolved save by a judicial decision.

(c) The constitution of a committee at the Ministry of Political and Parliamentary Affairs, to be known as the "Political Parties Affairs Committee", for the consideration of applications for the establishment of parties and the follow-up of their affairs, in accordance with Article 9 of the Political Parties Law No. 39 of 2015.

### **The Most Prominent Developments from the Practical Perspective**

(a) Opposition and centrist parties expressed reservations regarding the substance of the new Political Parties Law No. 39 of 2015, and in particular as regards the reduction of the number of the founders of a party from 500 to 150 members; in addition to reservations regarding the conditions of establishment relating to the representation of women, of youth, and of the governorates. Those parties likewise expressed reservations regarding the "disregard" of the addition of a phrase to the effect that among the objectives of a party shall be participation in the peaceful rotation of power, within the definition of a party; and some of them expressed reservations regarding the attachment of the reference authority for political parties to the Ministry of Political and Parliamentary Affairs rather than to an independent commission for the affairs of political parties. Opposition parties further demanded that political parties be granted, by virtue of an express provision in the draft Law, the right to challenge laws, regulations and instructions before the Constitutional Court; and they called for the insertion of a clear and express provision to the effect that no citizen shall be questioned concerning his financial contributions and donations to any party whatsoever.

1– The retention of the same mechanism as regards the registration of a party and the procedures for its licensing.

2– The retention of the condition of the lapse of a period of ten years from the naturalisation of the person wishing to found a party.

3– The fixing of the number of members for the establishment, registration or licensing of a party at not less than (150) members, which is a high figure by reference to the international human rights standards.

4– The length of the period provided for in the Law for the process of registering a party.

5– The Law does not contain any objective criteria setting out the procedures for the provision of financial support to parties and the bases thereof.

6– The requirement of the prior approval of the Political Parties Committee for the purpose of amending the basic statute of a party, or its merger with another party, which constitutes an infringement of the right of the party to amend and develop its internal regulations.

7– The Law comprised a set of penalties which ought not to be found within a law on political parties.

8– The draft Law conferred upon the president of the Political Parties Committee, or upon such person as he may delegate, the right of access to the financial accounts of parties and the auditing of their financial records; which constitutes a conflict with the obligation set out in the Law in paragraph (a) of Article (29) as to the appointment of a licensed auditor for the auditing of the accounts and financial statements of parties at the end of each year; quite apart from the fact that this task ought to fall within the responsibilities of the Audit Bureau.

From another perspective, the year 2015 witnessed movement at the legislative level, and in particular as regards legislation relating to the electoral process: the Council of Ministers approved the draft Election Law of 2015. Among the most prominent features of this Law are: the adoption of the open proportional list at the level of the governorate; the abolition of the single-vote law as announced; the reduction of the number of parliamentary seats from 150 to 130; and the retention of the women's quota at 15 seats. By virtue of this Law, a voter is entitled to vote for a list comprising a number of candidates not exceeding the number of seats allocated to the constituency; the voter must first vote for one of the candidate lists, and thereafter vote for whomsoever he wishes from among the candidates of the same list for which he has voted. The Law likewise treated the governorate as a single electoral constituency. On 7 September 2015 the Royal Will was issued for the addition of the draft new Election Law to the extraordinary session of the National Assembly.

Immediately upon the announcement of the draft Election Law, the reactions of the political parties to the draft varied between praise for its departure from the single-vote system as announced, and the view of those who regarded it as a reproduction of that system by another means; together with reservations regarding the postponement of the issuance of the electoral regulation subsequently and as a separate instrument.

From another perspective, the year 2015 witnessed the enactment of a law amending the Municipalities Law No. (41) of 2015. The amendments introduced to the Law ensured the continuation of the elected municipal councils presently in office in the exercise of their functions and of the powers of the local councils, meaning their continuation for a period of four years, that is to say until the summer of 2017. The Law allocated to women a quota in the municipal councils amounting to 25%, to be filled by the women members of the local councils affiliated to the municipal council who have obtained the highest number of votes relative to the number of voters within their local councils. The Law likewise allocated to women at least one seat for membership of the local council, to be filled by the female candidate who has obtained the highest number of votes relative to the number of voters and who has not been successful in direct competition with the remaining candidates.

The year 2015 likewise witnessed the enactment of the Decentralisation Law of 2015. By virtue of this Law, there shall be constituted in each governorate a council to be known as the executive council, chaired by the Governor, and another council to be known as the governorate council, a number of whose members shall be elected by the voters in the governorate, while the remaining members shall be appointed by the Council of Ministers upon the recommendation of the Minister.

The Decentralisation Law further granted voters the right to elect 85% of the members of the elected governorate council, provided that 10% thereof (a quota for women) shall be allocated to the female candidates obtaining the highest number of votes in the governorate from among those not successful; while the Law conferred upon the Council of Ministers the power to appoint 15% of the members of the council, provided that one third of this appointed proportion shall be women. Women shall thereby have obtained 15% of the seats of any of the governorate councils.

### **Articles (26, 27): Freedom of Movement and Residence**

The Centre affirms that which has been set out in its annual reports, and among it the following: the continued issuance of deportation decisions against foreign nationals married to Jordanian women.

1. The continued deportation of foreign nationals in accordance with the provisions of the Residence and Foreigners' Affairs Law No. 24 of 1973, without affording them the safeguards specified in Article (13) of the International Covenant on Civil and Political Rights, which requires that an alien lawfully resident may not be expelled save in pursuance of a decision reached in accordance with the provisions of the law, and that after enabling him to submit the reasons in support of his non-expulsion and to have his case reviewed by the competent authorities or by such persons as they may expressly designate for that purpose, or to appoint a person to represent him before them.

### **Article 29: The Right to Enjoy Nationality**

There remain numerous difficulties and gaps which impede the exercise of this right, consisting in the following:

- 1– The year 2015 witnessed no legislative developments worthy of mention in respect of the legal framework relating to the right to nationality.

The Centre further records the non-receipt of any complaint during the year 2015 indicating the withdrawal of national identification numbers from any Jordanian citizen. The decision of the Council of Ministers which contributed to the strengthening of this right has continued to be applied, namely that national numbers may not be withdrawn save with the approval of the Council of Ministers alone; national numbers are likewise restored by a

decision of the Prime Ministry upon the recommendation of the Standing Ministerial Committee for the Consideration of Applications for the Restoration of National Numbers.

1. The Centre states its position concerning the facilities granted to the children of Jordanian women married to foreign nationals, as follows:

While the Centre adheres to the necessity of eliminating discrimination between women and men as regards the right to confer nationality upon her children, it has declared its welcome for that which has been achieved by way of the adoption of a package of facilities which facilitate the lives of the children of Jordanian women married to non-Jordanians, as a first step towards the elimination of discrimination between women and men as regards the conferral by her of her nationality upon her children. It has made certain observations regarding those facilities and has called for the removal of certain obstacles which prevent benefit therefrom, among them the following:

I. Its demand that the facilities extend to the children of Jordanian women who are no longer minors and who remain in education, or who have special circumstances (such as disability), and that they be treated in the same manner as their mother in the matter of health insurance, and that they be granted the right to obtain all categories of driving licences.

II. The granting to the children of Jordanian women generally of a residence permit for a period of five years, renewable, by way of facilitation, and that this be not confined to minors alone; in addition to the abolition of the condition that the mother be permanently resident for a period of not less than five years in order to benefit from these facilities.

III. The absence of discrimination between the children of a Jordanian woman married to a holder of Palestinian travel documents and other non-Jordanians, in respect of all provisions and conditions, so long as those facilities do not confer Jordanian nationality.

IV. The report did not address the problem of the number of persons who lost their nationality by reason of the application of the instructions on the decision of disengagement; and the same applies in respect of the inhabitants of the north-eastern Badia.

### **Article 33: The Protection of the Family, and in Particular Women and Children**

1– The Protection from Family Violence Law was issued in the year 2008 with the object of preserving the family and of applying penalties alternative to custodial penalties. The Law, however, continues to contain numerous difficulties, the most prominent of which may be summarised as follows:

(a) The limited scope of application: having defined the members of the family in Article 3 in broad terms, the Law then required that the perpetrator of the crime be living with the victim in the family home, which signifies that it does not apply to the members of the family where one of them resides in another dwelling.

(b) The expansion of the powers granted to the assistants of the judicial police: the Law conferred upon these persons the power to stay prosecution without oversight over them on the part of the judiciary, a matter which is inconsistent with the principle of the separation of powers, and with the right of the judiciary in principle to issue decisions staying prosecution in penal cases, in its capacity as the authority competent to adjudicate disputes. The conferral of this right upon the Director of the Family Protection Department and upon the heads of divisions, and the complete absence of any role for the public prosecutor, are of such nature as to impinge upon the essence of the requisite protection. Moreover, although the Law conferred upon the court the power to refer the dispute to the family reconciliation committees, the court does not possess the right to stay prosecution but is bound to apply the provisions of the Penal Code; and this is a matter which gives rise to considerable questioning as to the expansion of the powers of the assistants of the judicial police, and the unjustified curtailment of the powers of the judicial authorities represented by the public prosecutor and by the court of first instance.

(c) Notwithstanding that the Law conferred upon the court and upon the Family Protection Department the power of referral to the family reconciliation committees, to family counselling sessions, and the issuance of the protection order for the resolution of disputes, and provided for the formation of family reconciliation committees by a decision of the Minister of Development, this Law has, to the present date, not been given effect.

(d) The Law conferred upon the members of the Family Protection Department a number of measures relating to precautionary protection, being measures of a highly serious nature the application of which presents difficulty, the most important of them being the non-permission of the person complained against to enter the family home for a period not exceeding 48 hours; in other words, there exist no controls or precautionary measures preventing the person complained against from entering his home after the expiry of the period of 48 hours; nor do there exist any mechanisms or procedures guaranteeing that the person complained against will not enter his dwelling during the period of prohibition (48 hours).

(e) The Law conferred no power whatsoever upon the public prosecutor, and no mention is made of him therein at all; mention is made only of the Director of the Family Protection Department, of its members, and of the court; and likewise the powers of the public prosecutor were conferred upon the Director of the Family Protection Department and its members.

2. Notwithstanding the increasing attention devoted to raising awareness of the dangers of violence against women, the effort to overcome violence continues to face a number of challenges, the most prominent of which is the persistence of certain customs, traditions and social legacies which regard the phenomenon of violence against women as an ordinary phenomenon; in addition to the existence of certain items of legislation which discriminate against women.

3– The failure to appoint any female judge within the Sharia judiciary, and the absence of female staff in the Sharia courts and in the Department of the General Iftaa, notwithstanding the existence of qualified women holding high academic degrees in the field of Sharia and law.

4– The failure to amend the Civil Service Regulations by providing for the obligatory nature of the provision of nurseries for the children of female employees, and for the payment of the family allowance to a female employee upon the same conditions as the allowance paid to a male employee.

5– The failure to amend the Civil Service Regulations by the necessity of providing for the payment of the family allowance to a female employee upon the same conditions as the allowance paid to a man, upon the basis that the man is the person charged with maintenance. The Centre affirms the necessity of the payment of the family allowance to a female employee upon the same conditions as the allowance paid to a man; and, failing that, this constitutes a contravention of the provisions of Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, which Jordan has ratified and which was published in the Official Gazette in the year 2007.

6– Notwithstanding the provisions of the revealed laws, of the Jordanian Constitution, and the ratification by Jordan of the international conventions relating to the rights of women, and the issuance of domestic legislation for the protection and promotion of the civil, political, economic, social and cultural rights of women, erroneous customs, traditions and social legacies at times prevent women from enjoying their rights. In some instances the woman may herself be the cause of the deprivation of her own rights, and that as a result of her ignorance of the laws and of the procedures relating to claiming them, and of her fear on many occasions of being ostracised by her family, or of being subjected to harm upon claiming her rights, or upon her submission of a complaint, and in particular where she is herself subjected to various forms of violence.

7– The failure of Jordan to ratify the "Optional Protocol" annexed to the Convention on the Elimination of All Forms of Discrimination against Women, notwithstanding the recommendation of the National Centre for Human Rights to that effect through its previous reports, and indeed its correspondence addressed to the Prime Ministry on 14 November 2002.



## **Article 34: The Right to Work**

The Centre sets out certain observations concerning the impediments to this right, being as follows:

1. Unemployment rates continue to rise steadily.
2. The failure to link the outputs of education to the requirements of the labour market, notwithstanding the repeated affirmation of the importance thereof.
3. The decline in the contribution of women to the labour market, together with the persistence of the widening of the wage gap between males and females.
4. The low minimum wage, fixed by a decision of the Wages Committee at (190) dinars per month; there are hundreds of workers who receive wages below the minimum wage, among them "teachers in private schools".
5. Levels of the employment of children in the labour market remain high, and continue to rise by reason of the widening scope of poverty and the decline in the living standards of broad sectors of citizens.
6. The failure to enact a law regulating trade union activity independently, notwithstanding that the Jordanian Constitution guaranteed the right of Jordanians to establish associations and trade unions and to join them, and notwithstanding the issuance of a decision of the Constitutional Court permitting employees working in the public sector to form trade unions and to join them.
7. The failure of the Ministry of Labour to recognise a number of the independent trade unions recently formed, which have constituted a federation which continues to operate outside the legal frameworks.
8. The failure to include the retirees of the Social Security Corporation who worked in the private sector within the umbrella of compulsory health insurance.
9. The failure to accede to and ratify International Labour Organisation Convention No. 87 concerning freedom of association and the protection of the right to organise.

## **Article 35: Freedom to Form Associations and Professional Unions**

No new development has occurred in the legislation governing the right to form associations and to join them during the years covered by the annual report of the Centre on the situation of human rights in Jordan, save for the publication by the Legislation and Opinion Bureau of a draft law amending the Societies Law in the year 2014, which comprised the amendment of only (9) articles of the Societies Law No. 51 of 2008, and which relates to procedural matters designed to overcome certain administrative obstacles within the work of the Ministry and of the Board of the Register; these proposed amendments did not touch upon

the articles the amendment of which civil society institutions had demanded. Although the proposed text which creates a department to be known as the Societies Register, enjoying financial and administrative independence, suggests the strengthening of the independence of the Societies Register, that text — namely the text in question — does not attain the level required to guarantee the independence of the Register; for the Register department continues to be subordinate to the Minister of Social Development, who chairs the Board of the Societies Register, a matter which empties the principle of the administrative independence of the Register of its substance. In the same context, the president of the Board of the Societies Register was granted the power to decide upon the acceptance of donations from foreign bodies, being a power which falls, under the present law, within the competences of the Council of Ministers. Moreover, the draft amending law has not confined itself to notification alone for the exercise by individuals of their right to establish associations, as is required by virtue of the international standards. The draft amending law likewise retained the power of the Minister to dissolve an association in cases exclusively specified in Article (19), notwithstanding that the international standards and best practices require the confinement of this power to the judiciary alone.

The Societies Law No. (51) of 2008 governing this right continues to contain numerous aspects of deficiency which are of such nature as to restrict the exercise of this right, as the Centre has indicated in its previous annual reports. It is worthy of note that the practical application of this Law during past years has given rise to numerous legal and practical difficulties which have confirmed the pressing need for the review of this Law, the most important of which are the following:

- (a) The taking by the Board of the Register of a decision to halt the registration of the private associations provided for in Article 3 of the Law, upon the ground of the non-establishment of any difference between them and the ordinary association, and the absence of the purpose of providing for them in the Law — a matter which led to the suspension of the implementation of the Private Associations Regulation No. (32) of 2010.
- (b) The failure of associations to comply precisely with the principles of good governance in the conduct of their activities; the absence in most of their internal statutes of any time-limit for the holding by the persons working therein of any leadership position; in addition to the failure to adopt the principles of transparency and to provide information in the work of certain associations, which deprives the beneficiaries and the public of obtaining it; in addition to the fact that the majority of these associations remain confined to and concentrated in the capital, Amman — a matter which confirms the need to expand the work of associations and the carrying out of their activities in the various governorates, and for the adoption by the Ministry of programmes and activities for the support of associations in the remaining governorates of the Kingdom.

The Centre affirms in this regard that any amendment to the Societies Law must proceed from the following principles:

1. Freedom to form associations by the notification of the administration thereof, the administration having recourse to the judiciary in the event of objection.
2. That associations enjoy the right to lay down their own charters and statutes and to amend them, without any restrictions save those necessary in a democratic society, for the preservation of national security or public safety, or public order, public health or public morals, together with the avoidance of an expansive interpretation of the concept of "public order".
3. That the supervision of associations be entrusted to an independent body composed of representatives of the governmental administration and of representatives of civil society organisations.
4. That associations enjoy complete freedom in the management of their affairs, under the supervision of the independent body referred to in paragraph (3), which shall have the right of recourse to the judiciary in order to hold accountable any association which contravenes the law.
5. That associations enjoy the right to elect their administrative bodies with complete freedom and without interference by the administration therein.
6. That the law regulate — as the Constitution has provided — all the affairs of associations, and that numerous regulatory matters not be referred to regulations and instructions, as has been repeatedly done in the Societies Law of 2008.
7. That the Government cease from the exercise of the right to appoint temporary administrative committees for the management of associations and federations, as occurred in the case of the Islamic Centre Society, the Federation of Associations of the Capital, and the General Union of Charitable Societies.
8. That the penalties set out in the Law be abolished, and that the treatment of any contraventions committed by associations be referred to the Penal Code, which provides for the same.
9. That it be impermissible to confer upon the executive authority the dissolution of associations, and that this matter be entrusted either to their general assemblies by a large relative majority, or to the competent judiciary.
10. The affirmation of the right of associations to receive assistance and donations from Jordanian and foreign sources, on condition of the disclosure thereof to the independent body supervising associations, and that they appear in their annual budgets, and that they set out the aspects of their expenditure upon the basis of their aims and objectives and in accordance with their basic statutes.

## Trade Unions

The fundamental difficulty consists in the restriction of the establishment of new trade unions, contrary to that which is set out in the decision on the classification of professions, which decision contains in essence a legal provision contrary to the substance of the right of individuals to establish professional unions, in accordance with the text of Article (16/2) of the Jordanian Constitution and Article (23) of the International Covenant on Economic, Social and Cultural Rights, and consisting in the freedom of individual initiative in the establishment of trade unions or in joining them (the freedom of individuals in trade union organisation). The text to which reference was previously made (namely Article 98) of the Jordanian Labour Law is the subject of objective criticism in the reports of the National Centre for Human Rights: it is impermissible to confer upon the Tripartite Committee the power to assess the restriction of the right of individuals to establish trade unions through the classification of professions, upon the basis of which the number of trade unions is determined; and consequently the governmental response was founded upon a reading of national legislation removed from the international legal regulation of this question.

The Labour Law in its present form comprises a number of provisions which conflict with the international standards relating to the right to establish trade unions and to join them, the most important of which are the following:

- (a) The restriction of the right of workers and of employers to establish labour unions, through the following:
  - 1. The requirement of a high number of founders of a labour union, it being required that their number reach (50) persons.
  - 2. The requirement of a high number of founders of an employers' union, it being required that their number reach (25) persons.
  - 2. That the age of the founder be not less than (21) years.
  - 3. The restriction of the freedom to establish labour unions in accordance with the classification issued by the Tripartite Committee for the Classification of Professions<sup>11</sup>. Accordingly, it is impermissible to establish new trade unions for those working in the same profession, or in identical professions, or in professions connected with one another in a single production process.
- (b) The requirement that the trade union obtain prior authorisation from the Ministry of Labour in order to commence its work, rather than mere notification.
- (c) The conferral upon the executive authority, represented by the Minister of Labour, of the power to dissolve labour unions.

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<sup>11</sup>See in this regard Article (98/d) of the Jordanian Labour Law No. (8) of 1996.

As for professional unions, they are established by virtue of special laws (a law in its narrow sense), that is to say, the written legal rules issued by the legislature. It should be noted in this regard that the fundamental difficulty in the establishment of such unions is connected with the weakness of Parliament in performing its legislative role: practical reality in Jordan demonstrates that the issuance of legislation is effected as an embodiment of the will of the Government, beginning with the right to submit the draft law to the Council of Ministers in the first place. Accordingly, we find no application of the text of Article (95/1) of the Jordanian Constitution, which permitted ten members of either of the two chambers to propose laws. As regards the governmental response to the recommendations of the Centre for the years 2013 and 2014, it did not address the possibility of demonstrating governmental initiatives in guaranteeing the right to establish professional unions through new legislation.

As regards trade union pluralism in Jordan, Jordan has not ratified International Labour Organisation Convention No. (87), which calls for trade union freedom and pluralism, and which is consistent with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

### **Article 36: The Right to Social Security**

In the year 2014 the Social Security Law was enacted, which comprised the following insurances: old age, disability, death, employment injuries, and the rights of heirs, among others. Notwithstanding the progress achieved in this Law as regards the provision for insurance against loss of employment and the opening of the way for housewives to join the umbrella of social security, and in a manner consistent to some extent with the Social Security (Minimum Standards) Convention No. (102) of 1952 issued by the International Labour Organisation, the system of social insurances provided by the Social Security Corporation remains non-comprehensive as regards the rights set out in the international standards contained in the relevant international conventions: health insurance remains outside this system; insurance against unemployment has been replaced by insurance against loss of employment, which is attended by certain deficiencies; the mechanisms for the calculation of retirement pensions remain inequitable and do not provide decent living standards for the majority of retirees; quite apart from the fact that the proportion of those included within social security remains low, in that they constitute 56% of the total labour force (employed and unemployed). The number of active insured persons (being those actually at work) reached at the end of the year 2012 approximately one million beneficiaries.

Notwithstanding the multiplicity of the bodies which operate in the provision of the service of social insurance in Jordan — in that both the civil and military retirement schemes provide social security for those working in the public sector, and the retirement schemes affiliated to the professional unions operate a number of social insurances, and that to varying degrees between one professional union and another, such as the old-age benefit (the retirement pension), benefits for heirs, disability and health insurance — a considerable proportion of

workers nonetheless remain outside the coverage of social insurance. According to the estimates of the Jordanian Labour Watch (the Phenix Centre for Economic and Informatics Studies for the year 2013), approximately (350) thousand workers in Jordan and their families do not enjoy any form of health insurance, whether in the private sector or in the public sector. The number of establishments subject to social security has reached (170) thousand establishments, and the number of insured persons has reached (1,074,000) persons as at 31 December 2013.

### **Articles (37, 38): The Right to Development and to the Attainment of an Adequate Standard of Living**

The Centre sets out certain observations concerning the impediments to the right to development and the right to an adequate standard of living, consisting in the following:

1. The rise in indebtedness: the net public debt at the end of the month of November of the year 2015 rose above its level at the end of the year 2014 by an amount of 2,261.5 million dinars, or 11%, and that in order to finance both the deficit of the general budget and the loans guaranteed to the National Electric Power Company and the Water Authority, so as to reach approximately 22,816.6 million dinars, or 84.1% of the estimated gross domestic product for the year 2015, as against 20,555.1 million dinars, or 80.8% of the gross domestic product for the year 2014, being an increase of 3.3 percentage points<sup>12</sup>.
2. The rise in the poverty rate: it is estimated, according to the Department of Statistics, at approximately 14.4%, and in accordance with the poverty report for the year 2010 issued by the Department of Statistics and the Ministry of Planning. According to the World Bank, 18.6% of Jordanians fall below the poverty line during certain periods of the year, in addition to the poverty rate specified in the governmental reports, amounting to 14.4%. This indicates that one third of the population of the Kingdom is exposed to poverty during certain times of the year and for specified periods. There is no doubt that the burdens borne by the Jordanian State recently in receiving hundreds of thousands of refugees have contributed to the rise in the rates of poverty; for the presence of refugees has contributed to competition with the citizen for employment opportunities. According to the Minister of Labour, there are 220 thousand Syrians competing with local labour in the organised and unorganised sectors of employment; in addition to competition with the citizen for services, and even for the support which he receives from charitable and supporting bodies.
3. The continued rise in the rates of unemployment in Jordan: the rate of unemployment in the Kingdom for the third quarter of the year 2015 reached 13.8%, being an increase of 2.4% over the third quarter of the year 2014, according to the Department of Statistics.

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<sup>12</sup>See the "Government Finance Bulletin" issued by the Ministry of Finance, December 2015.

The rate for males reached 11.1%, as against 25.1% for females, for the same period of the current year. The rate of unemployment was highest among holders of university degrees (unemployed individuals holding a bachelor's degree or above, divided by the labour force of the same academic qualification). At the level of the governorates, the highest rate of unemployment was recorded in the Governorate of Irbid, at a proportion amounting to 17.1%, and the lowest rate of unemployment in the Governorate of Jerash, at a proportion amounting to 8.3%.

4. Food security: the requirements of production have witnessed a rise in prices, and a scarcity has emerged in water for meeting the needs of the agricultural sector; and in consequence of all this the wages of expatriate labour have risen, which has in turn constituted an additional burden upon farmers. To the present time no solutions have been found for the problem of marketing, following the closure of the Iraqi and Syrian markets to Jordanian produce.

5. The public transport sector: the sector continues to suffer from an absence of political will for its development and support, in light of a transport network operated by individual proprietors far removed from oversight and regulation. The sector witnesses infringements committed by certain bus drivers against citizens, and the sector suffers from the overlap and conflict of the competences of the bodies which supervise and regulate it; quite apart from the weakness of the infrastructure in terms of departure and arrival stations and stops along the routes, and the lack of services and organisation in those which exist. The sector likewise suffers from the poor regulation of the movement of vehicles carrying passengers, the failure to observe precise times for arrival at the points of assembly of passengers, the excessive intervals between the times of the movement of buses for the provision of the service, the failure of buses to adhere to the specified routes, and overloading.

6. The water sector: the year 2015 witnessed the maintenance of the share of the individual of available water at 120 m<sup>3</sup> per annum, in light of the scarcity of natural resources, Jordan being below the global water poverty line by 88%. In addition to that which Jordan faces by way of drought and the withholding of rainfall, the large numbers of refugees whom Jordan has received over decades, beginning in the year 1948, have had a negative effect upon the share of the individual of available water; and the presence of Syrian refugees likewise produced an increase in the demand for water, and in particular in the northern governorates, at a proportion reaching 40%. The year 2015 likewise witnessed the continuation of the campaigns conducted by the Ministry of Water and Irrigation with the object of controlling violations, limiting the theft of water, implementing programmes for the management of water, and reducing the proportion of water losses; for the theft of water and unlawful uses constitute 70% of water losses in Jordan. As regards sanitation services, the proportion of properties served by sanitation has reached 68% according to the Ministry of Water and Irrigation; and it is imperative that the allocations be provided

for the connection of all properties to the service, and that by reason of what the unserved areas suffer by way of the emission of odours from cesspits, quite apart from the possibility of the occurrence of cases of contamination of drinking water, and the occurrence of environmental damage resulting from the use of this means of disposing of sewage. The year 2015 likewise witnessed the tendering of the Two Seas Conveyance Project, which will provide 85 million m<sup>3</sup> according to the statements of the Minister of Water and Irrigation; and this project will further contribute to the protection of the Dead Sea, the level of which is falling at an estimated annual rate of one metre.

### **Article 39: The Right to Health**

The right to health is a fundamental human right which is indispensable for the enjoyment of the other rights of the human person; for every human being is entitled to enjoy the highest attainable standard of health, being a standard conducive to living in dignity. The Jordanian Constitution, however, is devoid of any reference to the right to health and to its guarantee to citizens, whereas the international charters have accorded the right to health particular attention by reason of the importance which this right represents for human life. At the level of national legislation, we find that the Public Health Law, the Ministry of Health Law and the Medical Association Law have contained provisions affirming the responsibility of the State in the provision of health care in its various forms.

Notwithstanding the efforts exerted by the Ministry of Health, there remains a number of challenges which prevent the full enjoyment of this right, the most prominent of which are the following:

1. The need for the development and improvement of the quality of the services relating to primary health care, given that the cost of secondary and tertiary health care consumes in the aggregate 85% of the health allocations, whereas primary care consumes less than 10% thereof.
2. The need to activate the mechanisms for the monitoring and evaluation of public health, so as to include the identification of needs, the analysis of the causes of problems, the collection of data and their interpretation, the monitoring of trends, the conduct of research, and thereafter the evaluation of results.
3. The need for further programmes of family medicine in the comprehensive health centres, and that with a view to reducing the burdens of referral to hospitals.
4. The increase of oversight and the control of the prices of treatment services, so as to ensure that citizens obtain the best standard of health care, and in accordance with a pricing structure which takes into account the economic circumstances of citizens.



5. The need to provide the necessary support to the Food and Drug Administration, and that in order that it may continue its regulatory efforts in respect of food and food establishments.
6. The failure to announce appropriately certain infectious diseases, such as H1N1 influenza and others.
7. The limited nature of the mental health services provided.

#### **Article 40: The Right to the Provision of a Dignified Life for Persons with Disabilities**

There remains a number of challenges and obstacles which impede the rights of persons with disabilities, the most important of which are the following:

1. The low rate of participation of persons with disabilities in the Jordanian labour market, and the low wages of those among them working in the private sector.
2. The low standard of adaptation of public facilities, a matter which is of such nature as to limit the possibility of access, entry and safe use thereof.
3. The failure to adopt the rights-based concept of the needs and requirements of persons with disabilities; and this requires the review and amendment of the Law on the Rights of Persons with Disabilities No. 31 of 2007 in order that it may be rendered consistent with the Convention on the Rights of Persons with Disabilities.
4. The insufficiency of the financial support allocated to the support of persons with disabilities, and in particular of those families which have more than one person bearing a disability.

#### **Article 41: The Right to Education**

The Jordanian Constitution guaranteed the right to education under the chapter on the rights and duties of Jordanians; it did not, however, provide for the right to higher education. Moreover, the policies of higher education as regards the admission of students remain far removed from the notion of the accessibility of the right to education for all; for certain admissions are effected upon exceptional bases, whether by virtue of the instructions on the bases of university admission or outside those bases; in addition to the parallel and international programmes, which provide university places at a lower grade average in return for higher fees. Alongside this, fees continue to rise and have come to constitute a real challenge to the capacities of students and to the means of their families, a matter which may affect university admission; in addition to the spread of the phenomenon of university violence, which has reached in recent years the point of the existence of cases of injury and death and of damage to

buildings and property. This phenomenon has accordingly come to portend a danger threatening the safe educational environment in Jordan.

At the school level, the efforts of the Ministry of Education remain insufficient for the provision of suitable schools for students, and in particular in remote areas, as regards addressing the problem of overcrowding, the shortage in the number of teachers in certain specialisations, cleanliness, heating and study materials — a matter which may prevent the provision of a suitable educational environment. There likewise remains a limitation in the rewards granted to teachers in the literacy programmes, being programmes which depend upon personal initiative on the part of the teachers in attracting learners; as well as the weakness in the activation of the powers of the administrative governor as regards the obligatory nature of education for pupils who have dropped out.

The efforts of the Kingdom in the year 2014 consisted in the integration of the principles of human rights and fundamental freedoms into the curricula, the educational activities, and the programmes of education, formation and training, through the amendment by the Ministry of Education of certain curricula and the integration of human rights concepts therein. The Ministry did not, however, consult the National Centre for Human Rights as to the substance of the human rights concepts which ought to be integrated, notwithstanding that the Centre had previously requested this and had included it among its recommendations in its annual reports.

The efforts of the Ministry of Higher Education and of the Jordanian universities likewise remain limited in the field of human rights education, in that its teaching is confined to an elective course in the faculties of law or of political science, or to a single master's programme at the University of Jordan; and neither the universities nor the Ministry has yet taken any decision adopting the generalisation of human rights education to all students and across the various specialisations.

Likewise, the efforts exerted in respect of the problem of overcrowding remain far from its resolution in certain public schools, in which certain class sections reach 60 pupils; to which is added the shortage in the number of teachers in certain specialisations, the poor state of cleanliness, and the absence of heating and study materials — a matter which may prevent the provision of a suitable learning environment.

In light of all the foregoing, the Centre has recommended the adoption of a number of measures with a view to providing protection for the right to education<sup>13</sup>.

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<sup>13</sup>The recommendations of the Centre set out in the Eleventh Annual Report on the situation of human rights in the Hashemite Kingdom of Jordan for the year 2014 / chapter on the right to education, pp. 141 and 142.