

The Jordan National Center for Human Rights (JNCHR) Report

on the list of issues prior to reporting (LOIPR) in connection with the consideration of the Third Periodic Report of the Hashemite Kingdom of Jordan¹, that was adopted by the Committee against Torture at its Forty-Ninth Session (29 Oct – 23 Nov 2012)

The Jordan National Centre for Human Rights (JNCHR) hereby submits to your esteemed Committee its response on the (LOIPR) to be taken up in connection with the consideration of the Third Periodic Report of the Hashemite Kingdom of Jordan, which was adopted by the Committee at its forty-ninth Session (29 Oct – 23 Nov 2012), in pursuance of the legal powers granted to the Center under its Law No. (51) for the year 2006, which gives it the competence to monitor, protect, and verify respect for human rights in the Kingdom, to address any abuses or violations, and follow up the adoption of the necessary measures to this end, including their settlement or referring them to the competent Executive, Legislative or the Judicial authority to halt them and eliminate their effects, ensure the dissemination of the culture of human rights and monitors its situation, in addition to providing legal advice or legal aid to people who could otherwise not afford it.

Pursuant to the legal powers vested in the Centre under Article 10 of its Law no. 51 for the year (2006) that enable it to visit correctional and rehabilitation centers (CRCs), detention center, juveniles detention facilities in accordance with the due procedures, and visit any public place reported to be the venue of present or past human rights violations; the Centre was keen to visit those places and on an ongoing basis through the implementation of announced visits until the year 2009, when the Center started to conduct unannounced ones (preventive/ proactive) to all places of civil detention following the signing of a Memorandum of Understanding with the Public Security Directorate (PSD) on the 17th of April, 2009, whereby the Center became able to conduct regular and unannounced visits to all the civil places of detention. It is relevant to note in this connection that, during the period

(1) The Committee against Torture adopted the LOIPR, in accordance with the new optional reporting procedure, that was adopted at its thirty-eighth session held in May 2007, which consists of the preparation and adoption of lists of issues, known as lists of issues prior to reporting (LOIPRs), to be transmitted to States parties prior to the submission of their respective periodic report. The State party's reply to the LOIPR will constitute its report under article 19 of the Convention.

2013-2014, the Center has implemented 180 field visits to the all civil CRCs (total of 15 across the Kingdom) and (250) visits to the places of temporary detention.²

It must be noted here, however, that the National Centre for Human Rights visits to places of military detention is still announced, that include; the Military Reform and Rehabilitation Center as well as the Detention Facilities attached to the Jordan Armed Forces and the Detention Center attached to the GID. The Center recently submitted a draft bill that would amend its Law No. (51) for the year 2006 which suggests amending Article 10 of the Law to explicitly stipulating for the unannounced access for the Center to all places of detention across the Kingdom.

The National Centre for Human Rights continued the implementation of Karama project (dignity) for the third phase, which contributed in enhancing the role of the civil organizations and human rights defenders and activists in the area of combating torture. This objective is pursued through promoting and strengthening the role of the independent National Monitoring Team NMT, which operates under the JNCHR mandate by virtue of article 10 of its Law. The Team conducted 78 visits over the period 2008-2015 and issued its First Periodic Report on the Conditions of the CRCs that covered the period 1st of January, 2014 until the 30th of June, 2015.

The National Center also continued to provide recommendations to the Government to accede to the (OPCAT), and has established a national alliance that comprise in addition to the Center other more 500 entities from the official institutions, civil society organizations and human rights activists. The Alliance seeks to raise awareness in the field of combating torture through conducting sensitization and awareness-raising sessions for the official bodies, civil society organizations, the government and the parliament, in addition to underlining the importance of ratifying the OPCAT.

The most important developments in the field of combating torture (positive aspects):

1. For the first time ever in Jordan and during the year 2014, the Public Prosecution in Jordan has begun to investigate allegations of torture, and register the cases prior to referring them to the Police Court or any other special courts.

²the most prominent objectives of the project are to prevent torture and inhuman or degrading treatment and ensure the criminalization of such acts, the investigate, prosecution and punishment of their perpetrators, and the treatment of its victims in accordance with the international obligations of Jordan, with the participation of the following local partners: the Ministry of Justice, the Judicial Council, and Mizan Group for Human Rights (a non-governmental organization). The Danish partners includes: Dignity – the Danish Institute against Torture; the Danish Public Prosecutor's Office; the National Police Academy; and Prison Monitoring Services.

2. The Establishment of a national register for cases of torture at the public prosecutor. It should be noted here that in 2013 and 2014 two cases were referred to the Police Court under Article 208 of the Penal Code for the crime of torture, but there were no court decisions rendered till now.
3. Reforming the criminal justice system through reviewing the penal legislation, especially the Penal Code and the Code of Criminal Procedures, to ensure the fair trial guarantees and the provisions of legal aid to those in need.
4. The implementation of "Karama Project" contributed in generating a debate in Jordan about the prohibition of torture and ill-treatment, and recommended the adoption of strategies that combat torture, through for example, holding discussions on the need for the ratification on the OPCAT.
5. The organization of two international conferences by the Ministry of Justice at the Dead Sea in June 2013 and in June 2015 to discuss how to combat torture and limit the use of pre-trial detention.

The most important shortcomings in the field of combating torture (negative aspects):

1. Shortcomings in the definition and criminalization of torture provided for in the Penal Code which results in the ineffectiveness of the prosecution and conviction of its perpetrators.
2. Shortcomings in the complaint and investigation mechanisms that address allegations of torture, and then non- independence of the inquiry commissions.
3. Shortcomings in the compensation and the rehabilitations for the victims of torture.
4. Failure to provide the due legal safeguards for detainees (to have access to a doctor and a lawyer of their own choice, and contact with the outside world).
6. Continuing the application of the Crime Prevention Law of 1954

Articles (1 to 4)

Paragraph (1):

The year 2011 witnessed implementing substantial constitutional amendments, including amending Article (2/8) that states: "Any person who is arrested, detained, imprisoned or whose liberty is subject to any restriction shall be treated with dignity, safeguarded from any form of torture or bodily or mental harm and held in no place other than a legally designated holding facility. Any statement obtained from any person by means of torture or the use of harm or threats shall be deemed invalid". On the basis of this, we can therefore say that the prohibition of torture has become the fundamental principle underpinning the Jordanian legal system, since the apex of the legislative pyramid indicates this.

Also the Jordanian Penal Code No. 16 of 1960 criminalizes torture³, but in a fragmentary manner, thus created a legislative environment insufficient to prosecute and punish the persons accused of such crimes, because the Law limits the definition of torture to extracting confession or acquiring information. Which is in violation of the provisions of the UNCAT. Also Article (208) is criticized for not considering torture a serious crime but rather including it within the range of the misdemeanors, unless the crime led to death or injury. This is a clear infringement of the provisions of the Convention, that stipulates conferring the criminal character on the acts of torture as being viewed one of the most grave crimes. Not to mention that considering the torture crime a misdemeanor, yields different legal effects, incompatible to the principle of prosecution provided for in the Convention, such as its ruling out by a general amnesty or prescription as well as not criminalizing the attempt to commit the torture crime. The prosecution of the torture crimes perpetrators remains a real problem that requires, and on an urgent basis, reviewing article 208 of the Penal Code; because in practice, there are shortcomings in the complaint and investigation mechanisms related to the defendants, which would mostly result in not holding the perpetrators of those crimes accountable and allows impunity.⁴

The Ministry of Justice in 2014 formed a legal committee to review and reform the Penal Code and the Code of Criminal Procedure, where the National Center for Human Rights provided the Committee, in its capacity as a member, with a number of proposed amendments on Article (208).⁵

Paragraph (2):

³ 1. Article 208 of Penal Code reads: *"Subjecting a person to any kind of torture not permitted by law in order to obtain confession to a crime or any information thereon shall be punishable by imprisonment from 6 months to 3 years"*.

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

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

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

⁴ Look at the recommendations enshrined in the JNCHR 11th Annual Report on the Human Rights Conditions in Jordan:

- i. Adopting the definition of torture stated in the CAT.
- ii. Making torture a specific criminal offence, punishable of (3-5) years of imprisonment and be excluded from the general or special amnesty or prescription.
- iii. Grant the competence to consider torture allegations to the civil courts, and the consequent guarantee of the investigation, and the trial authorities, as well as the provisions of the fair trial guarantee.

⁵ Judgment rendered by the Amman Magistrate Court.

With respect to the judicial decisions issued on the basis of CAT, it is worth recalling here, that a Jordanian Civil Judge in a precedent case-law in 2014 issued a court ruling that invalidates an administrative decision rendered by a local governor, which provides for the expulsion of an Egyptian worker based on the Crimes Prevention Law. The judge decision obliged the authority that rendered the decision; namely, the Minister of Interior and the Capital Governor) to pay a compensation, because their act amounted to cruel or inhuman treatment in accordance with Article 16 of the CAT.

Article (2)

Paragraph (3 / a, b, c):

The national legislations, especially the Criminal Procedures Code is still deficient for its failure to explicitly providing for the right of the arrested persons to access a defence lawyer upon their arrest, especially during the initial inquiry and the pre-trial investigation at the police station,⁶. Also the Code of Criminal Procedures in articles (63/2) - (64) allowed for the prosecutors to interrogate detainees without the presence of a lawyer in case of urgency. It should be noted here that, the year 2014 witnessed the issuance of an amendment law for the Jordanian Bar Association Law No. (25) for the year 2014, which stipulates in article 8 that "a lawyer is granted the right to represent its client before the local governors and members of the judicial police". But this text is flawed, because it gives this power to the attorney and not to the person arrested, in addition to the ineffectiveness of such procedures in practice.

Also the year 2015 witnessed the genuine consideration of the Jordanian Bar Association to stand ready to provide legal and judicial aid to those who can not afford the necessary financial burdens. This is in implementation of Article 100 of the Bar's Law No. (11) for the year 1972. And the Bar Association signed a memorandum of understanding with the Ministry of Justice with a view to cooperate in regulating the provision of the legal assistance. Also the Cabinet is currently considering to issue a special system for the legal assistance on the basis of the provisions of Article (78/2) of the Bar Association Law. Also the Center notes here, that the Directorate of Public Security is considering to issue special instructions to include all the due procedures in dealing with detainees upon arrest until their referral to the competent judicial authorities. In this regards, it is vital to mention that the National Center for Human Rights provided the above-mentioned committee with concrete proposals to amend Article 208 of the Code of Criminal Procedures, in order to ensure the mandatory provision of the legal aid for the accused persons in a crime punishable by death penalty, a perpetual hard labor, a life imprisonment or a hard labor for more than ten years, in the

⁶The exception of this is what is stated in article (18) of the Jordanian Reform and Rehabilitation Centers Law no. (9) of 2004, that obligates informing the inmate's family about the transfer within (48) hours.

absence of a lawyer, as well as expanding the powers of prosecutors and the competent court in relation to the provision of legal aid to persons accused of crimes punishable by other penalties other than the aforementioned, which entails the need to guarantee the provision of all of the fair trial requirements.

Concerning the implementation of monitoring visits, it is to be noted in this regard, that the Center has carried out (127) unannounced visits in 2014, in cooperation with the Transparency and Human Rights Office at the Public Security Directorate to the places of temporary detention in the Kingdom, to examine the conditions of these facilities and meeting with detainees, reviewing all records and the information contained therein, and assess the situation of those places and the services provided to them. The reports underline the persistence of a number of negative practices that affect the rights of detained persons, which has already referred to in previous JNCHR reports, and which constitute a violation of relevant international and national standards, including:

1. The lack of accurate records at the places of detention, particularly in the police centers, which is in violation of the due procedures that require the existence of records that shall contain the time and place of arrest, the identity of the staff members, the actual venue of custody, the health status of the person upon arriving at the detention center, the time of the contact with the family and the lawyer, the time to visit the detained person, and information on the medical examinations upon arrival to the center and upon transfer.
2. Failure to allocate special places to detain juveniles and women in most security centers, forcing employees to take them to the designated areas, both in the police departments or other centers.
3. Non-observance of the criteria for the classification of detainees guaranteed by the national and the international established norms.
2. Non-observance of the need of detainees to contact the outside world, the right to have a lawyer, and to see a doctor during the period of detention because of inadequate legislation
3. Exceeding the statutory limit of detaining the suspects, which should not exceed more than (24) in most cases.
4. The extension of the administrative detention periods issued by local governors under the Crime Prevention Law of 1954 for long periods. NCHR monitored the presence of numerous irregularities, including the existence of arrest warrants that are ready and signed in advance by the local governors at the police centers and departments to extend the detention of persons under the pretext of the investigation and without complying with the provisions of the Crime Prevention Law of 1954.

5. The cruel and inhuman treatment that some detainees are subjected to in some police centers, especially ex-convicts, repeated offenders, and some persons who have been placed under house arrest.
6. The increasing number of the allegations and complaints of torture and other forms of ill-treatment because of the combination of the powers of investigation and detention in some security departments, especially the Departments of Criminal Investigation and the Anti-Narcotics and Counterfeiting Department, which gives rise to realistic problems during the stages of investigation and collecting statements⁷.

Paragraph (4 / A)

The administrative detention violates the right to freedom and personal security in light of continuing the application of the Crimes Prevention Law by the local governors without observance to the due legal procedures contained in the Code of Criminal Procedures, when issuing administrative detention decision, which are the same procedures inscribed in Article (5) of the Prevention of Crimes Act for the year 1954. According to the PSD the year 2014 witnessed a remarkable increase in the number of the administrative detainees to reach the number of (20216)⁸ compared to (12 766) detainees in 2013, while in 2012 the number was (12410), and (11345) in 2011. In the same time, the same violations recorded by the center in previous reports persisted also in 2014.

⁷Look at the JNCHR 11th Annual Report on the Condition of Human Rights in the Hashemite of Jordan (www.nchr.org.jo)

⁸There are (3541) foreign administrative detainees, according to the PSD statistics. However, the Interior Ministry refutes this figure because it is based on the serial number of the process of the administrative detention, as the detainee receives several numbers in various stages of the arrest process from the beginning until the end; hence, the serial number is doubled. The particular problems that administrative detainees suffer from are as follows: (i) the continuation of local governors in detaining people in detention facilities away from their families domicile, (ii) the length of detention, especially for foreign nationals, which is due to their inability to pay bails, the delay in issuing a decision of their deportation or pending final decisions on their cases. This contributes to increasing the crowding in the CRCs, and the occurrence of disturbances therein. (iii) the continued lack of commitment of the local governors to the due procedures of the administrative detention, namely; not allowing lawyers to attend the interrogation with the suspected person, embarking on investigations without the existence of a written complaints, which is inviolate of the amending law of the Bar Association Law no 25 for the year 2014, which provides for the right of the lawyer to represent their clients before the local governor, (iiii) the continuance of local governor to implement the house arrest based on the criminal records, upon the recommendation of the security bodies without taking into account the conditions and the stipulations enshrined in the Law, (iiiii) women are still the most adversely affected person the application of the Crimes Prevention Law concerning, the honor killing crimes as they are deprived of their liberty for the purpose of protecting them. Some of them are still detained for more than 5 years, however, there are national efforts are being exerted for releasing them and placing them in a designated shelter or a safe rehabilitation home care instead of the preventive incarceration.

Regardless of the justifications and the considerations that may be invoked for continuing the application of this Law as being considered an appropriate legal mechanism for maintaining the social peace and tranquility, however, the Center deems a breach of the principle of the separation of powers, as well as a violation of the principle of criminal legality, particularly the legal maxims that read "The accused is innocent until proven guilty, the legal principle", "There is no crime and no punishment without a provision in the law", and "the inadmissibility of the prosecution of a person for the same offense more than once".

Paragraph (5):

No effective administrative procedures have been taken by the concerned authorities to investigate allegations of torture through a neutral and autonomous body. In this connection, the Center stresses the need to end the phenomenon of not trying the perpetrators of torture under article 208 of the Penal Code, and stop considering these acts by the law enforcement authorities as mere disciplinary infractions that do not require the application of this article. Also the judicial prosecution of the persons who work in the public security organ under Article 37 of the Public Security Law of 1965 is insufficient, also the characterization of the crime of torture as harm, in effect, indicates the existence of an environment that is conducive to the occurrence of impunity for such crimes.

The registered total number of the crimes of torture and ill-treatment cases filed against the PSD personnel are (140) cases in 2014. Noting that four officers are currently on trial for the death of a detainee (nm) under Article (208); and the case was sent back from the civil courts to the Police Court in 2013 and is still under consideration. This is compared to (392) cases of torture. Whereas the case of ill-treatment committed against the inmates of the reform and rehabilitation centers in 2014 reached 61 cases, led to the conviction of 31 persons, while blocked the trial of 30 others, compared with 36 cases in 2013; where two cases among those committed in 2013 were referred to the police court, and (9) cases for trial before the commander of the unit. It was decided to prevent the trial in (18) cases. While (7) cases are still pending; therefore the Center calls for the need to expedite the amendment of Article 208 of the Penal Code; to be fully in line with the provisions of the CAT of 1984.

In the same context, the National Center for Human Rights observed during 2014, an increase in the number of complaints and allegations of torture against the Departments of Criminal Investigation and the Anti-Narcotic and Counterfeiting Department. The most prominent of these allegations are as follows:

⁹ Of which (49) cases were referred to the contingent commander, (60) cases that ban the conviction of the defendants, while (24) cases are under consideration, and (6) cases were filed, and only one case was referred to the Police Court.

First: the so-called (A.H) was subjected to torture by a group of staff members working at the PSD on 12/17/2014, and one of the aggressors posted a picture that testified their involvement of this act through one of the social networking sites, and the case is still under consideration.

Second: The so-called (MA) was subjected to torture by a group of staff members working at the PSD on 10/13/2014 and the case is still under consideration.

Third: Four persons were tortured by a group of staff members working at the PSD on 08.17.2014, and the case is still under consideration.

Fourth: Two persons were tortured by a group of staff members working at the PSD on 04.10.2014, the case was closed as no offence had been proved.

Fifth: one person (NA) was tortured by a group of staff members working at the PSD on 11.22.2014, and the case is still under consideration.

With respect to the actions taken towards reforming the justice system and the replacement of the special court system, it should be noted that in spite of the comprehensive amendments to the provisions of the Jordanian Constitution in 2011, the Constitutional Jordanian legislator has retained the special courts independent from the regular courts. And article (101.2) contained an exclusion that provides for the admissibility of prosecuting civil persons before special courts (military) in certain crimes, and gives them the jurisdiction to try persons for the following crimes: treason, espionage, terrorism, the crimes of drugs and currency forgery. Also the constitutional legislator's retention of the private courts laid down the legal basis to keep the military court which is the competent judicial authority to consider crimes committed by the security services personnel except those working in the Public Security Directorate where the competent police court to consider the crimes committed by them is the Police Court. It should be noted here, that in 2015 there has been an amendment to the Public Security Law No. 38 of 1965 which stipulates that the litigation in the police court shall be on two degrees. However, all these courts are criticized by not enjoying the administrative autonomy, therefore they lack the requirements of justice and the fair trial guarantees, in spite of the fact that its rulings are subject to the scrutiny of the Jordanian Court of Cassation.

Paragraphs (6 and 7):

1. The Law on the Protection from Family Violence No. 6 of 2008 pays special attention to the family, women and children. It aims to safeguarding and maintaining family ties, reducing the effects of penal measures in cases of violence among family members, imposing alternative and less harmful measures instead of custodial penalties, maintaining confidentiality of all the procedures and information related to cases of domestic violence, focusing on the importance of imposing preventive and precautionary measures, and referring family members to family guidance sessions

and psycho-social counselling and rehabilitation, especially for abused children, in addition to the creation of family reconciliation committees operating in accordance with the Law, upon the consent of both parties and in cases that involve felonies only, prior to referring the matter to the court, and upon reaching a reconciliation, the committees apply the general rules of conciliation as per stated in the law.

Table (20): the violence against women in 2014 as compared with those occurred in 2013

Number of victims	physical	sexual	years
2128	1319	785	2013
2270	1496	717	2014

2. Numbers and statistics issued by the Family Protection Department (FPD)/ PSD indicate that the crimes of violence against women during 2014 were as set forth in the corresponding table.

With respects to the data gathering of violence against women and girls: the FPD/PSD deals with cases of domestic violence and sexual assault by starting using an electronic case-tracking system

that ensure the rapid response from the service providers entities in a participatory approach that is based on the coordination among them and assigning roles and responsibilities of the parties involved to ensure providing comprehensive services, it also serves to establish a database to record violence cases and facilitate tracking and follow up and ensures the quality of the integrated services. The social service offices at the FPD headquarters and those exists in its other branches in the different Governorates in 2013 dealt with (4746) cases of family violence, including (2298) for children under 18 years, (1311 females and 987 males), and (2448) for female adults. It shows that (79% and 48.4%) of cases of female and children, which indicates that the violence is correlated with and the sex and the age of the individual. The PFD conducts training courses on the prevention of the gender-based violence.

The obstacles in this filed are as follows:

- **The problem of the administrative detainees.** Despite that judges are convinced that the administrative detention is not the optimum solution that provides protection to battered women, but they justify it, as being the only viable option for the lack of other alternatives.
- With respect to the Domestic Violence Law, it is noted that the Law is not sufficiently activated. Also, despite that the Law was issued in 2008, but the required regulations that operationalize it were issued in 2010, in addition to the non-activating the Family Reconciliation Committees, given the small number of cases that they considered,

that they reached 10 in total, out (18) thousand cases of domestic violence registered since 2008.

- The problem in Article 308 of the Penal Code that allows a rapists to escape punishment if they agree to marry his victim.
- The battered women prefer not to report cases of domestic violence, because they do not want for the abuser to be fined or imprisoned, who is often a family member, whether the husband, father or brother.

5- The crimes under the pretext of the so-called honor- killing: the exclusion of crimes committed under the pretext of the so-called honor crimes from the mitigation granted under articles (97) and (98) if the act was inflicted on who did not complete fifteen years old, male or female. Also in 2010 and 2011 no court ruling accepted to take account of the mitigated excuse. These are deemed commendable improvements in the fight against impunity. Statistics surveys of court rulings on murder cases that have been committed under the pretext of honor which benefited from the mitigating factors, indicates that the punishment of such crimes was not less than (10) years. In 2013 the courts considered ten cases committed under the pretext of honor, one of them was sentenced a death penalty, and in the other was sentenced (20)years of hard labor imprisonment, while the remaining cases are still under consideration .And the Act amending the Penal Code for the year 2011 increased the punishment on the perpetrators of physical and sexual violence like the crimes of; rape, the violent affront to modesty, kidnapping and sexual harassment.

The Family Protection Department in collaboration with the Ministry of Social Development deals with cases of domestic violence through qualified personnel in all of its branches that exist in most of the Jordanian Governorates, and provides a safe haven that offers integrated services to women victims of domestic violence through the Rusaifa Home Shelter for Women, Dar Al Yafiaat (a care home that rehabilitates graduates of Jordan orphanages who completed 18 years old), and Dar al Wifaq Al Osari Home Shelter (Family Reconciliation House), which is affiliated to the Ministry of Social Development, provides integrated services to victims of domestic violence. In 2013 the Shelter won a UN Public Service Award for Gender, in recognition of its efforts and achievements. The Shelter's services include; sanctuary, social, medical and therapeutic services as well as the psychological counseling. The Shelter recently established a new affiliated branch in Irbid Governorate. It also worthy to note here that, the Shelter runs a program that affords protection for the run-away women from their families and precludes incarcerated them the (CRCs).

7- Repealing Article 308 of the Penal Code was one of the recommendations accepted by the Jordanian Government during the UPR review of the second national report in front of UN Human Rights Council in 10/24/2013. Also the Center called for its abolition through its subsequent Annual Reports on the Conditions of Human Rights for the years (2011-2014).

However noting has been reported to this effect till now but there are pressures from the center and the concerned SCOs to advocate for its abolition.

Paragraph (10 / A / B / C):

- a. The criminal responsibility for juveniles according to the new Juvenile Law of 2014 became more in harmony with the international standards for the rights of the child, which did state the right age for criminal responsibility for children, and left this matter to be decide by states. In Jordan the previous criminal responsibility age was 7 years, but as of 2014 it become 12 years as stipulated in above mentioned Law.
- b. In an unprecedented development, the new Juvenile Law of 2014 stipulates for using alternative measures instead of incarceration and the deprivation of liberty. As for, it has been announced, they are in the process of preparation in order to activate the law. The Centers stresses in this respect, that judges and (after training (55) specialist juvenile specialist judges on the implementation and the activation of the new Law) are applying what they discern appropriately viable until the issuance of the rules, and it has been found that the number of juveniles in one of the Juvenile Detention Facilities (al Rusaifa) has dropped with the percentage (40%). This is a good indicator because the exclusion and segregation of juveniles should be a last resort and not the sole procedure.
- c. As for the trial of juveniles before the juvenile courts, it is to be noted, that there are in each Governorate a specialized juvenile court through allocating special court rooms for this purpose within the premises of the regular adult courts. This procedure is temporary until independent juvenile courts premises are made available. The Center considers this is an appropriate procedure pending the establishment of designated buildings for this purpose.

Paragraphs (12, 13 and 14):

12- Pursuant to the provisions of Articles (5, 10 / b) of the National Centre for Human Rights Law No (51) for the year 2006, the Center formed a fact-finding team to monitor and document the events took place at the Interior Ministry Circle in Amman on 24 -25 March, 2011. The team was formed in order to establish true facts and verify the extent of compliance with all relevant international and national standards on human rights , that are related to the respect for the freedom of association and expression, as well as the effectiveness and adequacy of the actions taken by the concerned authorities to secure the necessary protection for the protestors, including the protection of lives and public and private properties .Accordingly the fact-finding team met with all relevant bodies and collected testimonies and followed-up websites and social networking website.

As For the death of the citizen (Khairi Jamil), given that investigation into the cause of his death is considered a technician matter, and that the National Center for Forensic Medicine is the competent body to determine the cause of death, it was officially announced, based on their findings, that the cause of death was acute heart failure resulting from cardiac hypertrophy and narrowing of the coronary arteries .the Centers also sought to verify the cause of death by meeting with the participants of the Interior Circle demonstrations, who have confirmed the deceased was not subjected to beatings or other forms of ill-treatment.

13- .The Center also issued a press release dated 21/04/2011 whereby it denounced the unfortunate incidents that took place in Zarqa City on Friday 15/04/2011. It was a departure from the united national march, and an unacceptable manifestation of breaching the security and public order. Also the Center followed-up the statements and the news that have been reported in the media ,in its various forms, in which the protestors were shown carrying blade weapons (swords, daggers, knives), batons and sticks, which prompted the existing security forces to control the demonstrators with tear gas and water cannons, and as a result of the demonstrators' resistance and the occurrence of injuries between the public security personnel, the gendarmerie forces intervened, by using the appropriate strength, to control, disperse and arrest some of them.

The Center also visited and interviewed a number of detainees from the Salafi group in the Juwaida CRC, on the 5th of August. The visits aimed to gain first-hand knowledge of their conditions and the circumstances of their arrest by the Prosecutor of the State Security Court on the grounds of their participation in a sit-in in Zarqa Governorate on 04.15.2011. They were charged with inciting riots and of unlawful assembly. Following the implementation of the visits, the Center prepared reports that enabled it to take a firm stand on that issue. Based on that, the Center addressed the Prime Minister and the PSD concerning the procedures that were followed in arresting of the people involved or not involved in the Zarqa sit-in on Friday, 04/15/2011.

.14- The Center formed a fact-finding team to monitor and document the events that were followed during the demonstration and sit-in that took place on 15/07/2011, in order to establish facts about the actions that took place on that day as well as on the attacks on the participants and the media and security personnel, as well as to ensure the effectiveness and the adequacy of the procedures that have been taken by the competent authorities, and hence make the necessary recommendations to ensure the non-recurrence of any such violations in the future.

In light of the facts and realities that have been substantiated and verified by the Centre as a result of gathering and analyzing the information and evidences, the Center stressed the urgent need to take the following recommended actions to ensure that all citizens' civil and

political rights, especially the right to freedom of opinion and expression, the right to peaceful assembly and the right to physical integrity are fully guaranteed:

- 1) The pressing need for the Committee formed by the Director of the PSD to finalize its work in expeditious manner and prosecute whoever proved to be committed, participated, knew, or kept silent on the attacks on the demonstrators and the media personnel in accordance with fair and transparent procedures, as well as the need for the dissemination of their outcomes to keep the public opinion informed of the actions taken. Accordingly an investigation committee was formed, headed by PSD Assistant Director at the time. The inquiry resulted in the prosecution of everyone proven to be involved among the PSD personnel as well as the retirement of a number of officers.
- 2) claiming the government to compensate all the injured parties among the protesters and journalists for the losses and injuries including the physical and moral ones
- 3) Calling for the non-participation of any of the security services affiliated personnel in the protection of sit-ins, only after receiving an adequate training on the human rights international standards and the controls on the usages of force during law enforcement operations. Also he Centers stress in this respect, on the need to take all necessary measures to ensure the clear identification of every man of the security forces and gendarmerie involved in law enforcement operations by putting a badge that cleanly and visibly show his name.

In this connection, the National Center for Human Rights confirms that it had reservations with regards to the formation of the said committee, as it only includes public security officers, and stressed the need for the formation of a neutral committee in order to achieve more transparent and fair results.

Paragraph (15):

The National Center for Human Rights received six complaints related to the expulsion of that the official Jordanian authorities a number of refugees for security reasons. It is worth mentioning here, that the Center, pursuant to Article 3 of the Convention against Torture, has prevented the implementation of an expulsion decision taken by the Capital Governor against a Syrian national, due to the availability of substantial grounds for believing that he would be at risk of torture upon returning back to his homeland. Also a Bahraini national have been deported and handed over to the Bahraini authorities due to committing acts disruptive of public order by inciting sectarian strife on the Jordanian territory.

Paragraph (16):

In 2009, the two governments; the Jordanian and British, signed an agreement attached to the memorandum of understanding signed between the two parties on the extradition of persons deported to Jordan, including the Islamic Omar Mahmoud Othman Abu Omar, which is known as «Abu Qatada» who had been detained in a British prison. Under the new

amendment, the Memorandum of Understanding designates AdalehCenterfor Human Rights Studies "justice" to act as a neutral party to oversee the people deported from Britain to Jordan and monitoring dealing with them to ensure their civil rights and to ensure, the provision of a fair trial guarantees and that they are not subjected to torture or ill-treatment.

The Agreement stipulated the necessary guarantees to enable «Adalah» to play its role as a neutral and independent in monitoring the due observance of the human rights principles in relation to the deported persons to Jordan, and in particular the guarantees of fair trial. It also provides that an observer of «Adalah» shall accompany the extradited persons from the sending State to the receiving State, and promptly visit him upon arrest and then at least once a week, and interview them in private. It also is known that the National Center for Human Rights and by virtue of its competence under Article 10 of its Law conducts periodic and regular visits to CRCs and detention facilities and the Juvenile detention centers. It has visited the aforementioned person two times on 01/07/2013 and 03.04.2014 to establish facts about his conditions in the light of the entering into hunger strike along some of inmates in support for their demands related to visits, contacting the outside world and the inspection procedures among others. It is noted that though the Centers mediation efforts, the hunger strike terminating and meeting their legitimate demands.

Article 11

Paragraph (24 / a, b)

a. Monitoring the temporary places of detention affeleiated to the General Intelligence Department:

in 2014, the JNCHR implemented one announced visit to places of detention affellieated to the Department of General Intelligence. The visit showed a continuation of the notes that have already indicated by the Center in its previous reports, the most important of which are as follows: complaints of the detainees and their families from the isolation experienced by detainees in the solitary cells within the detention center, and not apermmiting inmates to meet their visitors privetely during the visit, and preventing the visit for some of the detainees sometimes under the Prosecutor of the State Security Court's decision, and the length of the judicial detention of some inmates that may extend up to a year, and the holding passports and some other identification documnts. (While the government's response is that this conducted only on suspetion of false documents or they carry forged stamps), and travel bans, and not granting them security clearance certificates for the purposes of getting a job, and not informing the familyof the place of the detetion sometimes, and concealing, sometimes, for the National Centre for Human Rights staff

agaist this backdrop the JNCHR calls upon the GID on the need to: (a) inform families of the detainees promptly on the perdon's arrest and whereabouts (B) the separation of the Public Prosecutor Offices of the State Security Court offices from the headquarters of the General Intelligence Department. (C) activation of the inspection of the detention center attached to

the the General Intelligence Department by the heads of the courts and the Prosecutor's Office in accordance with the provisions of the Correctional and Rehabilitation Centers Law No. (9) of 2004 and Article 106 of the Code of Criminal Procedures, which mandated the judicial power and the duty of oversight of correctional and rehabilitation centers to places of detention, so that the authorities in charge shall conduct periodically and effective visits (D) to allow the JNCHR team to implement unannounced visits to the detention center in the GID, noting that the government's response to the recommendations contained in its Annual Report for the Condition of Human Rights 2012 included lack of support for the center in this request. The response is as follows: "in connection with the GID, please note that it is an official security institution and the non-employees are not allowed access, except in accordance with certain security and preventive procedures; and that due to the nature and the specificity of their work, hence it is unallowed to implement unannounced visits to visits such as those that the Center conducts to the places of detention affiliated to the Directorate Public Security".

B. the government response in this issue reads as follows: (the the Military Prosecutor and the General Prosecutors in the GID. There is a record at the Center substantiates these visits and the JNCHR staff had previously seen it upon their visit to the detention center. Also the Center is subject to an administrative inspection by the detention center officials, to ensure that all the detainees had been arrested legally and pursuant to judicial orders, as well as making sure the services are provided to those detainees and whether they have any complaints or any other requests.

Paragraph (25)

In 2015, The JNCHR Carried out two field visits based on prior coordination by the Government Coordinator for Human Rights with the Public Security Directorate to the Juwaidah Correctional and Rehabilitation Center on 03/05/2015, and to the Suwaqa Correctional and Rehabilitation Centers Center on 9/22/2015, where many national and international NGOs participated in the two visits.

Paragraph (26)

Because of the National Centre for Human Rights keen interests to examine the condition in the places of detention periodically, the Center conducted, in 2014, (127) unannounced visits to places of temporary detention all across the Kingdom. Through the visits the JNCHR found there are several observations that shall be provided to the public security apparatus as the competent authority operates this facility. The most prominent of these observations are:

1. Most of temporary detention buildings are old, has dilapidated infrastructure and needs maintenance and renovation, small, suffer from poor hygiene levels. Also they

are humid and cold in winter and very hot in summer, and some of them lack sanitation facilities as well as sanitary supplies.

2. The poor environmental conditions in most temporary places of detention because of the overcrowding of detainees in these centers, especially security centers in densely populated Governorates (Amman, Zarqa, Irbid), which leads to the acute shortage of services offered in terms of meals. Noting that the inmate is provided with only one meal (lunch), and served in one specific time. There is also shortage of blankets, mattresses, and the lack of inadequacy of lighting, and lack of healthy ventilation in most of its cells, and the lack of water, whether for drinking or washing purposes in some of them, and not to allocate places for worship.

Paragraph (28)

The Police Court is currently considering two cases that involves two PSD staff members, who were accused of having committed the torture crime, contrary to the provisions of Article 208 of the Jordanian Penal Code No. (16) for the year 1960. Accordingly, the JNCHR forthwith formed a fact-finding team for each incident separately. The two teams found that the accused persons have committed the crime of torture. also the National Centre for Human Rights on 09/30/2015 formed a fact-finding team about the death of a detainee at the headquarters of the CID, due to the presence of suspicion about his death as a result of the torture he was subjected to.

Paragraph (31/a)

a. It is noteworthy in this regard to refer to the constitutional amendments for the year 2011 where the second paragraph of article (8) ends with: (All statements issued by any person under the weight of any torture or harm or threat does not count). It also should be noted that, although that the Jordan's Cassation Court overturned many of these confessions, nevertheless it did not refer judicial police personnel to the prosecutor for the existence of the suspicion of having committed the crime of torture.

Other issues

Paragraphs (34 and 35):

-the Center on 3/23/2014 addressed the Government, and the Senate and the House of Representatives, whereby it expressed its opinion about the draft of the Prevention of Terrorism Law, which still raises wide legally constitutional controversy , and needs a comprehensive review, especially in terms of :

(a)The third article that came overly vague and broad. It considered several acts as terrorist offenses, making it subject to discretion and interpretation and hence unpredictable, open to abuse, and in violation the principle of the legality of crimes and penalties, (b) Article 8, which grants the State Security Court the jurisdiction to consider the crimes of terrorism,

which their parties are civilians, whereas it is essentially that all cases of civilians shall be heard by civilian courts who have the competence to do so, (c) of Article 7, which considered a contravention of the general norms in the penal law, such the rules of “criminal complicity” and the general provision on attempting to commit a criminal offence. This was done in an effort to bring the Jordanian legislation in harmony with the international human rights standards.

The Center believes that the Prevention of Terrorism Law No. (18) For the year 2014 in force includes many of the problems that can be highlighted as follows:

- 1- The expansion of the concept of a terrorist act under Article (2) of the Law, beyond the definition of a terrorist act stipulated in the Penal Code under Article 147. It is well recognized that expansion of the definition raises a conflict in the legislative system during the application of the penal provisions, which constitute a source of equality and infringes on the principles of fair trial for the concerned litigants.
- 2- Overlooking the concept of criminal intent (mens rea) under Article (2) of the Law, which entitles a judge to apply the legal provisions on ordinary acts that may not actually amount terrorist crimes, and hence, results in the unfound attribution of terrorism for the accused person. This is in violation of the international standards that ensure the fair trial guarantees and not to prosecute the crimes except upon a criminal conspiracy (Article 14 of the ICCPR, and Articles (7) and (11) of the UDHR, and Article 2 of the United Nations Convention against Transnational Organized Crime.
3. Describing terrorist acts by vaguely-worded and broad terms such as the "public order", "jeopardizing the safety of the community," "sow discord" "disturbing public order", "terrorizing people." These phrases have wide significance; hence open to misuse when invoking them during the application of the legal provisions and leads to considering any action or activity as an act of terrorism! This violates with the international standards, specifically articles (4 and 14) of the ICCPR which ensures that authorities shall not to take any measures that would prejudice the rights guaranteed, or derogate in any form the guarantees of fair trial.
4. Article (3/ b) of the Law considers any act capable of destabilizing the relations of Jordan with a foreign state an act of terrorism. This would allow the inclusion of any act under the characterization of a terrorist act, without stipulating any objective and legal controls. This is an apparent breach of the right to freedom of expression (and the right to peaceful assembly and public participation), or even the freedom of press and the media to receive, disseminate and transmit and transfer information.

In terms of practice, a number of users of social networking websites were administratively detained due to of their Tweets on their own personal pages. The SSC charged them with the commission of the crime of “disturbing relations with a foreign country”, which is in violation of the provisions of the Jordanian Penal Code, in addition to leveling other charges

to them like promoting the ideology of terrorist organization and the crime of lengthening the tongue and many others. Once again, in the lack of a clear and explicit law that stipulates the crimes that maybe construed as an infringement of the national security, or the dignity and reputation of others in an attempt to criticize the government's actions by local and international bodies. This resulted the decline of Jordan's position in the international indexes in the field of journalism and media freedom.

On another level, more than one person was detained as a result of expressing their opinions, particularly during the demonstrations, both when chanting or due to carrying some postures. They were accused with different charges, including: subverting the regime of the government, or disturbing relations with a foreign country, or lengthening the tongue. The number of cases filed at the regular courts in Jordan of "lengthening the tongue" 85 cases, in pursuant with Article 195 of the Penal Code.

On the level of freedom of expression by means of writing and publication, the Center monitored the referral of one author to the judiciary, due the work entitled "Soldiers Talk" (Second Edition) authored by Ayman Otoum; for violating the Press and Publication Law of 1998 And Its Amendments of 2007, as announced by Jordan's Audiovisual Media Commission.

Paragraph (37)

Jordan has made significant strides in recent years, towards the protection and promotion of human rights, including:

- a. The year of 2011 witnessed the adoption of a set of constitutional amendments, which contributed significantly to developing the protection and promotion of human rights; the most important of these amendments are as follows:
 1. Explicitly provided for the prohibition of torture and the protection of the human dignity.
 2. Underlying the right to liberty and security of person.
 3. The important amendment on the first paragraph of Article 128 which adds general provision that ensures that the laws are free from any provision that would impair the substance of the rights adopted by the Constitution or affects their fundamentals.
 4. Affirming the independence of the judiciary and guaranteeing the right to a fair trial through: to stipulate the establishment of a constitutional court that has the jurisdiction to consider the interpretation of the Constitution provisions and monitoring the constitutionality of legislations and regulations in force. In addition to providing from the independence of the Judicial Council, which considers all matters related to civil judges, and the formation of the administrative court on two degrees of litigation.

- b- To implement the constitutional amendments for 2011, a package of legislations has been modified; including laws related political parties, the election laws and the public gatherings law, as well as the adoption of a set of laws which will hopefully contribute effectively protect and promote human rights. the most important of which are as follows:
 - 1. The Constitutional Court Law No. (15) for the year 2012.
 - 2- The Independent Commission for Elections Law No. (11) for the year 2012.
 - 3- The Independence of the Judiciary Law No. (29) for the year 2014.
 - 4- The Administrative Justice Law No. (24) for the year 2014.

Paragraph (38)

The Jordanian state took, during the past two years under the direct directive of His Majesty the King, two significant steps towards the promotion of human rights in the Kingdom, namely:

In 2014, the JNCHR adopted the action plan for the promotion and the dissemination of the human rights culture. The plan was prepared in 2013 at the suggestion of His Majesty the King when he received JNCHR's 9th Annual Report on the Situation of Human Rights in the Hashemite Kingdom of Jordan, whose main recommendations included developing national plan for the promotion and protection of human rights, as well as another plan for teaching and integrating the culture of human rights into educational institutions at the school and university levels.

A National plan for the dissemination of the culture of human rights.

. This plan was elaborated during 2012 and the early months of 2013 following wide-ranging consultations with governmental agencies, CSOs, and educational institutions, especially universities. The National Plan for Disseminating the Culture of Human Rights covers the following six objectives, coupled with clear time-frames:

- 1. Supporting the National Plan for the promotion and protection of Human Rights, previously proposed by JNCHR, which was included as a recommendation in JNCHR's 9th Annual Report's recommendations.
- 2. Training and synthesizing government institutions in the area of human rights.
- 3. Enhancing the culture of human rights at the family, home, school and university levels.
- 4. Training and synthesizing workers at government institutions in the area of human rights.
- 5. Sensitizing local communities on human rights and providing human rights training and education to the different groups in the community.
- 6. Raising public awareness of human rights.

A Comprehensive Human Rights National Plan

The year 2014 witnessed a better response to the repeated recommendations enshrined in the JNCHR reports that are endorsed the CSOs, in connection to the need to develop a comprehensive national plan for human rights. Accordingly, the government formed a committee to elaborate a comprehensive national plan for human rights under the chairmanship of the Minister of Justice and the membership of the Secretary General of the Legislation and Opinion Bureau, and the Commissioner-General for Human Rights, the Government Coordinator for Human Rights and Secretary General of the Jordanian National Commission for Women's Affairs, and the Press Syndicate Head (Member of the JNCHR Board of Trustees). The center has played a key role in the initial consultations with the partners in the development of the content and axes of the plan; as it organized, at its premises, many consultative meetings about the plan, and the center staff members participated actively in the formulation of the plan's themes and activities, as well as in stressing the role of international conventions and treaties in the national legislation, and highlighting gaps and shortcomings in the national legislation related to the fundamental rights and freedoms as per stipulated in the relevant international standards. The recommendations contained in the Center's periodic reports formed a significant reference for the team, who took the charge of elaborating of the initial draft plan, which included the following main axes:

1. The civil and political rights axis.
2. The economic, social and cultural rights axis.
3. The most vulnerable groups axis.