

The Role of Civil Society Institutions (Associations and Unions) in Strengthening the Right of Individuals to Public Participation in the Hashemite Kingdom of Jordan

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- The Ministry of Labour.
- The professional associations.
- The labour unions.
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Executive Summary

This study has addressed the extent to which Jordanians enjoy their right to public participation through the establishment of civil society institutions (associations and unions), and the extent to which these institutions are able to exercise their activities freely, transparently and effectively in a manner that strengthens the exercise by individuals of their right to public participation as a right guaranteed in the Jordanian Constitution and in the international human rights standards, thereby enabling individuals to protect and defend their common interests.

The following methodology was adopted in preparing this descriptive analytical study:

1. Reviewing the legislation relating to civil society institutions (associations and unions) and analysing it in the light of the constitutional and international standards on the right to establish civil society institutions and on their exercise of their activities effectively and with integrity.
2. Collecting and reviewing the information and data on civil society institutions (associations and unions).
3. Reviewing and analysing the studies previously carried out on civil society institutions (associations and unions), in order to draw on them in understanding the reality of civil society institutions in the Kingdom and in designing the questionnaire for the quantitative study.
4. The quantitative assessment of the reality of civil society institutions (associations and unions), through the preparation and development of a questionnaire composed of five dimensions, its distribution and collection and the analysis of its content. This covered the following dimensions: the legal framework (establishment, dissolution and the exercise of activity); the financial and administrative framework; internal democracy and good governance; transparency; and effectiveness.
5. The qualitative assessment of the reality of civil society institutions, through the holding of three focus meetings with a group of those in charge of administering civil society institutions, during which certain matters were discussed that clarify and confirm certain of the findings drawn from the quantitative study.
6. Analysing the quantitative and qualitative data and drawing the findings on the reality of civil society institutions in the Hashemite Kingdom of Jordan and their role in strengthening the right of individuals to public participation, and thereafter formulating the recommendations that it is hoped will contribute to improving the reality of these institutions.

This study arrived at a number of findings and put forward several recommendations, which may be summarised as follows:

1. Individuals enjoy freedom of establishment and dissolution and freedom to exercise their activities with a medium degree of agreement, equivalent to (66%). This is consistent with the legal analysis, which showed the existence of certain provisions that conflict with the right of individuals to establish civil society institutions, to dissolve them and to exercise their activities, which may be summarised as follows: the contravention by the Jordanian

constitutional provision of the international instruments that guaranteed the exercise of the right to establish civil society institutions (associations and unions) to everyone, whether citizens or foreigners, and which affirmed the universality and comprehensiveness of this right - for Article (16) of the Constitution guaranteed the exercise of this right to Jordanians only, without extending it to reach foreigners present on the territory of the Kingdom; the contravention by the provisions of the laws governing the establishment of civil society institutions (the Associations Law and the Labour Law, in addition to the laws of the professional associations) of the international standards that require that unions acquire legal personality without the need for prior permission or any measure liable to obstruct the establishment of the union - for associations, professional associations and labour unions cannot be established and acquire legal personality except after obtaining the approval of the administrative bodies (the Council of Ministers, the Associations Board or the tripartite committee at the Ministry of Labour); and the contravention by the provisions of the laws governing the establishment of civil society institutions (the Associations Law and the Labour Law, in addition to the laws of the professional associations) of the international standards that require that these institutions not be dissolved except through their general assembly or by the issuance of a judicial decision in respect of them - for the laws governing the work of these institutions granted the executive authority, represented by the Council of Ministers or the competent minister, the power to dissolve these institutions or their boards of directors.

2. Those in charge of civil society institutions enjoy freedom to manage the administrative and financial affairs of the institutions for which they are responsible with a low degree of agreement, equivalent to (73%). This is attributable to the legislation governing the work of civil society institutions specifying the objectives which they must seek to achieve, to the interference of the public administration in the right of these institutions to lay down their internal regulations, and likewise to the law linking the receipt by civil society institutions of foreign funding to the approval of the Council of Ministers - which constitutes a contravention of the international standards that require that civil society institutions be enabled to obtain funding from whatever source without the imposition of restrictions or obstacles liable to prevent the obtaining of this funding, provided that these institutions disclose precisely the amounts of funding they have received, the sources of this funding and the ways in which it is used, supported by documentary evidence.

3. Those in charge of civil society institutions adhere to the values of internal democracy and good governance with a high degree of agreement, equivalent to (88.75%). The qualitative analysis, however, showed that the participants in the focus groups did not agree with the quantitative findings, and they attributed this to a number of reasons, foremost among them the mistaken understanding of the concept of democracy on the part of a section of those in charge of charitable associations, and the absence of free and fair elections in another section of the institutions under study. Among the reasons that led to the high rate of adherence to democratic values and good governance are the nature of the work of human rights associations, which is founded upon the very idea of disseminating the principles of democracy and good governance, in addition to the political competition

witnessed in the elections and work programmes of the professional associations, which strengthens the existence of genuine competition in the elections of their councils.

4. Those in charge of the institutions adhere to the standards of transparency as set out in the international standards and best practices with a medium degree of agreement, equivalent to (82.75%), notwithstanding that certain findings of the quantitative and qualitative analysis revealed two practices inconsistent with the standards of transparency: the first being the failure of the greater part of these institutions to publish their financial and administrative reports on their websites and in the various media; and the second being the failure of a number of civil society institutions to change their financial auditor annually.

5. Civil society institutions are able to exercise their service role and to give effect to the right of individuals to public participation with a medium degree of agreement, equivalent to (77%). The qualitative analysis of the views of those in charge of these institutions showed their incomplete satisfaction with the role of their institutions, owing to the failure of some programmes to respond to the needs of the local community, as well as the small number of members of the administrative body and the unavailability of qualified staff to achieve the institution's objectives, their inability to adhere to the institution's objectives and to provide services to the local community, the non-availability of equipment and apparatus, and their failure to receive local funding.

Proceeding from these findings, the research team arrived at a number of recommendations, the most important of which are:

1. Amending Article (16) of the Jordanian Constitution by deleting the word "Jordanians" and replacing it with the words "every Jordanian and every person resident on Jordanian territory", consistently with the international standards that require that all individuals be enabled to exercise this right and the other rights contained in this provision - namely the formation of unions and political parties - whether they are citizens or foreigners.

2. Enabling civil society institutions to acquire legal personality merely upon the sending of notification to the administrative bodies concerned, so that associations commence the exercise of their activities merely upon the sending of that notification, while granting the administrative bodies concerned the right to have recourse to the judiciary if it becomes apparent to them that the establishment of a given civil society institution contravenes the provisions of the law.

3. Granting civil society institutions freedom to lay down their basic regulations and to amend them in the manner they consider appropriate, and treating any amendment made to their basic regulations as effective merely upon its adoption by the general assembly of the association; and if the public administration objects to that amendment, it must have recourse to the judiciary.

4. Working to enable civil society institutions to obtain aid, grants and donations without the need for the approval of the administrative bodies, while enabling these bodies to challenge the lawfulness of this funding before the competent judiciary, provided that the institutions disclose precisely the amounts of funding they have received, the sources of this funding and the ways in which it is used, supported by documentary evidence.

5. That the ministries concerned, the general federations of associations and unions, and likewise the supporting bodies, motivate civil society institutions to adhere to the values of internal democracy and good governance, by publishing the names of the institutions that adhere to these values and making this one of the basic criteria for the provision of financial support.
6. Implementing further qualification and training programmes for those in charge of civil society institutions on the importance of adhering to the values of internal democracy and good governance, in order to preserve the positive image of the institution and to activate its role in serving its members and the local community.
7. Devoting a special study to the extent to which those in charge of civil society institutions adhere to the values of internal democracy and good governance from the viewpoint of the members of the general assembly and of the beneficiaries of the services of these institutions, in order to ascertain genuinely the extent to which the administrative bodies adhere to these values.
8. Stressing the necessity that civil society institutions publish their administrative and financial reports on their own websites; and where one of the institutions is unable to have its own website, a special icon should be allocated on the website of the ministry concerned for publishing on it the administrative and financial reports of the institutions affiliated to it.
9. Urging civil society institutions to change their financial auditor annually and encouraging financial auditors to open branches in all the governorates.
10. Motivating associations to merge, one of the methods of motivation being to increase the value of support to associations as the number of members of the general assembly increases; working seriously to eliminate sham associations; and laying down legal rules that guarantee the classification of associations according to objective bases, the most important of which are: the number of members, activities and achievements, the proportion of females in the total general assembly, and the proportion of young people in the total general assembly - and providing financial support on the basis of these criteria.

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Chapter One

Background, Significance and Methodology of the Study

First: Introduction

The success of strengthening and developing the process of democratic transformation in the Hashemite Kingdom of Jordan requires reliance upon the principle of the participation of citizens in political life, which calls for strengthening the independence and credibility of civil society institutions as one of the basic levers for this. Arriving at effective institutions requires improving the environment and conditions in which civil society institutions operate, by increasing their capacity to participate in formulating public policies in all political, economic, social and cultural spheres and at the various levels of decision-making, whether at the level of the central government (the ministries and Parliament), at the level of the governorates (the governorate council and the executive council), or at the level of the cities and villages (the municipalities and local councils).

In view of the breadth of the subject and of the legislation governing civil society institutions in the Kingdom, this study has focused on the role played by associations, labour unions and professional associations, by studying the legislation governing the work of these three institutions, and likewise by carrying out a field study showing the extent to which the legal, administrative and financial frameworks are suitable for the performance of the role hoped for from them - quite apart from studying the capacity of those in charge of these institutions to carry out their tasks in a manner consistent with the principles of transparency and effectiveness - by setting out the reality of these institutions and the extent of its conformity with the best standards established under the international human rights standards contained in the international human rights conventions ratified by the Hashemite Kingdom of Jordan.

The choice of these laws came after reviewing the reality of civil society institutions in the Kingdom; this reality showed the existence of more than seven thousand civil society institutions of various specialisations and affiliations, distributed across nine categories comprising: associations, professional and labour unions, parties, clubs, employers' unions, chambers of commerce and of industry, and non-profit companies.

Table No. (1): Distribution of civil society institutions according to the nature of their work and the law governing their establishment and the exercise of their activities

#	Type of civil society institution	Law governing its work	Number
1	Associations registered with the Associations Registry	Associations Law No. 51 of 2008 and its amendments	5989
2	Non-profit companies	Companies Law No. 22 of 1997 and its amendments	1021
3	Sports and youth clubs	Higher Council for Youth Law No. 13 of 2005	349
4	Employers' unions	Labour Law No. 8 of 1996 and its amendments	50
5	Political parties	Political Parties Law No. 39 of 2015	46
6	Labour unions	Labour Law No. 8 of 1996	17
8	Chambers of commerce	Provisional Chambers of Commerce Law No. 70 of 2003	17

#	Type of civil society institution	Law governing its work	Number
9	Professional associations	Laws and regulations of the professional associations	13
10	Chambers of industry	Chambers of Industry Law No. 10 of 2005	4

It is apparent from Table No. (1) above that associations constitute the largest part of civil society institutions; their proportion of the total, as shown in the study carried out for the Center for Human Rights in 2016 "Civil Society Institutions in Jordan: Reality and Needs"¹¹, amounted to (79.16%), while labour unions come in sixth place with a proportion of (0.00267%) and professional associations in eighth place with a proportion of (0.00195%).

In addition to the large number of associations as a principal part of civil society institutions, the choice to study the reality of associations was made for the following reasons:

Table No. (2): Distribution of associations according to the ministries supervising them

Ministry	Number of associations
Ministry of Social Development	3681
Ministry of the Interior	1077
Ministry of Culture	696
Ministry of Political Development	172
Ministry of Environment	122
Ministry of Health	104
Ministry of Tourism and Antiquities	46
Ministry of Agriculture	39
Ministry of Industry and Trade	15
Ministry of Awqaf	25
Ministry of Justice	6
Ministry of Communications	5
Ministry of Water and Irrigation	1
Total	5989

1. Associations represent a principal part of civil society institutions, since they consist of institutions that do not seek to make a profit and that aim to serve the local communities in which they operate, in all the fields of work that civil society institutions can offer, without their principal objectives being to serve or defend their own members.

2. The broad scope of the activities and work of associations, which covers many fields of public activity at the economic, social, cultural and human rights levels. The Center's study

¹¹Dr Ali Al-Dabbas and Mr Hussein Shuqairat, Civil Society Institutions in Jordan: Reality and Needs, unpublished study, National Center for Human Rights, 2016. See also: Hani Al-Hourani, Contemporary Civil Society in Jordan: Characteristics, Challenges and Tasks, Al-Urdun Al-Jadid Research Center, Amman, 2010, p. 43; and Mohammad Jribei', Civil Society and the Jordanian State (Moving from the Square of Scepticism to the Square of Participation and Trust), published on the website: www.amnestymena.org/ar/magazine/Issue17spx?articleID=1050

of 2016 showed that the fields of work of associations extend to the social, health, tourism and agricultural spheres, etc., as shown in Table No. (2).

Table No. (3): Distribution of associations according to their geographical distribution across the governorates

Governorate	Number of associations
Amman	2582
Balqa	296
Zarqa	505
Madaba	195
Irbid	747
Ma'raq	520
Jarash	163
Ajloun	236
Karak	307
Tafilah	138
Ma'an	176
Aqaba	124
Total	5989

1. The wide geographical spread of associations, which covers all regions of the Kingdom, making associations institutions capable of adopting initiatives at the level of the municipalities and the governorates; these associations cover all the governorates of the Kingdom, as shown in Table No. (3).

2. A number of local and international studies and reports have pointed to the lack of conformity of the provisions of this legislation with the international standards and best practices in global experience, which prompted legislative activity on both sides of the equation - the Government and the associations - to amend the provisions of the Associations Law. Since 2008, civil society institutions have been demanding the amendment of the Associations Law in a manner that strengthens the independence of these associations and enables them to obtain sufficient funding to carry out their activities²². Among the most prominent attempts by civil society institutions to amend the Associations Law was the implementation by 35 associations during 2011 of an advocacy campaign for the draft law they had proposed, the proposal calling for a number of amendments, the most important of which were: (a) adopting a deposit system as an alternative to registration and its complicated procedures, and guaranteeing that associations exercise their activities in a manner achieving their objectives without any restrictions or obstacles; (b) affirming the right of associations to lay down their internal regulations and their freedom to receive domestic and foreign support, while guaranteeing adherence to the bases of good

²²See the Report of the National Center for Human Rights for the year 2008, p. 57, and the Report of the Center for the year 2009, p. 62.

governance, integrity and transparency and the disclosure of any funds received in their annual budget³.

By contrast, the Ministry of Social Development sought to amend the Associations Law: in 2015 it submitted a draft law amending the Associations Law and announced that these amendments had come to remedy certain problems contained in the law, the most important of which were: (a) the creation of a department called the Associations Registry, enjoying financial and administrative independence, which suggests a strengthening of the independence of the Associations Registry; (b) the amending law also granted the chairman of the Associations Registry Board the power to decide on the acceptance of donations from foreign bodies, which is among the powers of the Council of Ministers under the current law. In 2016 the media circulated reports that the Ministry of Social Development had prepared a draft law amending the Associations Law; in the light of this, many civil society institutions demanded a meeting with the Prime Minister to discuss the problems and challenges from which civil society institutions suffer, and a meeting was held on 6/7/2016 which brought together a number of representatives of civil society institutions with the Prime Minister and the Minister of Social Development. During the meeting the Prime Minister gave his directions on the necessity of consulting civil society institutions on the development of the Associations Law and of providing associations with a copy of the draft amending law in order to express their opinion on it⁴; no decision had been taken on this draft law as at the date of preparing this study. It should be noted that this draft law met with opposition from certain civil society institutions: the International Center for Not-for-Profit Law considered that the draft Associations Law "places additional obstacles on the system of foreign funding for civil society in Jordan". The Center stated, in a paper containing observations on the amending Associations Law, the most important of which were: granting the minister appointed to supervise an association, according to the association's objectives, the right to recommend to the Associations Registry Board the dissolution of any association having political objectives; and placing additional obstacles on the system of foreign funding for civil society in Jordan, since applications to obtain foreign funding must currently pass through two stages of review, being reviewed by the Associations Registry (the Foreign Funding Unit) as well as by the Council of Ministers⁵.

It is hoped that this study will contribute to formulating recommendations that may assist civil society institutions, the Government and Parliament in adopting amendments to the Associations Law that contribute to respect for the right of individuals to establish and join associations, and in a manner that strengthens the right of individuals to participate in the conduct of public affairs.

³³Report of the Center for the year 2011, p. 68.

⁴⁴Report of the National Center for the year 2015, p. 115.

⁵⁵For the content of the report see: http://www.cdfj.org/wp-content/uploads/2016/05/ICNL-comments-JordanNGOlaw_ar_FNL.pdf

As regards labour unions and professional associations, and notwithstanding that Table No. (1) shows the low number of labour unions and professional associations, their selection to be among the subjects of this study was based on the following reasons:

1. The large number of their members, amounting to approximately (543,410) members (as shown in Tables No. (4) and No. (5)). This indicates the importance of the institutions representing them enjoying independence and effectiveness in order to defend their rights. In addition, these unions constitute a genuine barometer of the problems and difficulties facing society generally, especially since they are in direct contact with the problems that obstruct the progress of society, which makes them capable of contributing to solving many of the problems from which citizens suffer, and in particular young people who are starting their working lives, whether as workers or as professionals.

1. The nature of the social category of the members of labour unions: citizens of limited income constitute a large proportion of the members of labour unions, which confirms the importance of focusing on the role of labour unions in protecting low-income workers - meaning a serious effort to preserve their rights in a manner ensuring that they do not slip back into the poor categories, thereby contributing to the preservation of social peace. Hence the importance of focusing on activating the role of labour unions in preserving the rights of their members.

Table No. (4): Distribution of Jordanian professional associations according to the number of their members

No.	Association	Number of members
1	Jordan Bar Association	25328
2	Jordan Dental Association	8000
3	Jordan Press Association	1339
4	Jordan Medical Association	32340
5	Jordan Pharmacists Association	17000
6	Jordan Engineers Association	142124
7	Agricultural Engineers Association	23000
8	Jordan Geologists Association	4800
9	Jordan Veterinary Medical Association	1700
10	Jordan Nurses and Midwives Council / Association	33000
11	Jordanian Construction Contractors Association	2500
12	Jordan Artists Association	726
13	Jordan Teachers Association	165987
	Total	457844

(The membership figures of the professional associations: see footnote⁶⁶)

⁶⁶The membership figures of the professional associations were obtained either from the associations' websites, by telephone, or from the figure recorded on the questionnaire. Regrettably, the research team was unable to contact the Jordan Dental Association and the Jordan Pharmacists Association, and therefore had to rely on the figures contained in the Al-Dabbas and Shuqairat study of 2016.

2. The provisional nature of the provisions of the Labour Law governing the formation of labour unions: Chapter Eleven of the Labour Law was adopted by Provisional Law No. (26) of 2010 and, notwithstanding the importance of this law and the succession of three Houses of Representatives since the issuance of the provisional law, and its discussion more than once before the Labour and Development Committee of the House of Representatives, it has not been adopted in the form of a permanent law, which constitutes a constitutional contravention.

3. The nature of the social category of the members of professional associations: the majority of the members of professional associations are middle-income citizens, and this category of citizens is of great importance in view of their significant role in contributing effectively to developing the country's economy through their active role in carrying out the professional activities essential to the activities on which the State's economy largely rests. This calls for securing a dignified life for them and providing suitable working conditions enabling them to be creative and to implement medium-sized projects contributing to strengthening the national economy; moreover, this class of society is the one capable of leading society in demanding its rights and in contributing seriously to the process of democratic transformation.

4. Many national studies and reports have pointed to the lack of conformity of part of the provisions of the labour legislation with the international standards and best practices in global experience. The Labour Law still grants the tripartite committee the right to classify the occupations and industries whose workers are entitled to establish a union for themselves, in agreement with the General Federation of Trade Unions, and to specify in its decision the groups of occupations and industries in which it is not permissible to establish more than one general union for all the workers therein, by reason of their similarity, their interconnection or their participation in a single or integrated production⁷⁷.

5. The establishment of the independent labour unions in 2011, which took on their role in the exercise of public life and union work, in addition to the labour unions licensed by the Ministry of Labour and falling under the General Federation of the seventeen labour unions, which have represented workers for decades. The Government and the General Federation of Associations have adopted a declared position towards the independent unions, considering them unlawful on the basis of the Labour Law, which does not permit the formation of labour unions where similar unions exist; for their part, the unions affirm that the law contravenes the Constitution from which it derives its legitimacy, and certain of the international conventions and instruments signed by Jordan, whose articles affirm the right of individuals to form associations and to join peaceful groups.

Table No. (5): Labour unions in Jordan arranged in ascending order according to the year of establishment⁸⁸

⁷⁷Article (98/d) of the Labour Law.

⁸⁸These figures are estimates, since the study team was unable to obtain precise figures regarding the membership of the labour unions.

#	Name of the union	Number of members
1	General Union of Railway Workers	1000
2	General Union of Workers in Banks, Insurance and Accounting	3200
3	General Union of Workers in Printing, Paper and Photography	2821
4	General Union of Workers in Public Services and Free Professions	4150
5	General Union of Workers in the Spinning and Weaving Industry	7250
6	General Union of Workers in Land Transport and Mechanics	5000
7	General Union of Municipal Workers	18000
8	General Union of Workers in Air Transport and Tourism	3690
9	General Union of Workers in Sea Ports and Clearance	1100
10	General Union of Electricity Workers in Jordan	7523
11	General Union of Workers in Health Services	1962
12	General Union of Workers in Petrochemicals	1963
13	General Union of Workers in Private Education	1969
14	General Union of Workers in Mines and Mining	1970
15	General Union of Construction Workers	1972
16	General Union of Workers in the Food Industries	1976
17	General Union of Workers in Commercial Shops	
	Total	85566

Second: Objectives of the Study

- a. To set out the extent to which the legislation governing the work of the civil society institutions under study is consistent with the provisions of the Jordanian Constitution and with the international standards contained in the international conventions ratified by the Hashemite Kingdom of Jordan.
- b. To set out the field reality of these institutions and the extent to which the bodies implementing the provisions of the laws adhere to their content, in a manner consistent with the provisions of the Jordanian Constitution and with the international standards contained in the international conventions ratified by the Hashemite Kingdom of Jordan.
- c. To set out the extent to which these institutions are able to perform the roles hoped for from them through their adoption of the standards of good governance and effectiveness.
- d. To arrive at a set of recommendations and proposals assisting in the development and activation of the role of civil society institutions in public participation, including the development of the legislation governing the establishment of these institutions and the exercise of their activities.

Third: The Study Problem and its Questions

The problem of the study lies in setting out the extent to which Jordanian national legislation and the reality of civil society institutions (associations and unions), and the role they play in strengthening the right of individuals to public participation, are consistent with the

international standards governing the human right to establish civil society institutions - by answering the principal question of the study: To what extent do Jordanians enjoy their right to public participation through establishing and joining civil society institutions (associations and unions) and through the exercise by those institutions of their activities, as a right guaranteed in the Jordanian Constitution and in the international human rights standards, from the viewpoint of those in charge of these institutions? And through the sub-questions branching from it, namely:

Question 1: To what extent do individuals wishing to establish civil society institutions enjoy their right to freedom of establishment and to exercise activities?

Question 2: To what extent do civil society institutions enjoy freedom to manage their administrative and financial affairs?

Question 3: To what extent do those in charge of civil society institutions adhere to the values of internal democracy and good governance?

Question 4: To what extent do those in charge of administering civil society institutions, while carrying out the institution's activities, adhere to the standards of transparency as set out in the international standards and best practices?

Question 5: To what extent are civil society institutions able and effective in exercising their service role and in giving effect to the right of individuals to public participation?

Fourth: Methodology of the Study

With a view to ascertaining the reality of civil society institutions in the Hashemite Kingdom of Jordan and their role in strengthening the right of individuals to public participation, this analytical evaluative study was prepared on the basis of the following methodology:

1. Reviewing the legislation relating to civil society institutions (associations and unions) and analysing it in the light of the constitutional and international standards on the right to establish civil society institutions and on their exercise of their activities effectively and with integrity.
2. Collecting and reviewing the information and data on civil society institutions (associations and unions).
3. Reviewing and analysing the studies previously carried out on civil society institutions (associations and unions), in order to draw on them in understanding the reality of civil society institutions in the Kingdom and in designing the questionnaire for the quantitative study.
4. The quantitative assessment of the reality of civil society institutions (associations and unions), through the preparation and development of a questionnaire composed of five dimensions, its distribution and collection and the analysis of its content. This covered the following dimensions: the legal framework (establishment, dissolution and the exercise of activity); the financial and administrative framework; internal democracy and good governance; transparency; and effectiveness.
5. The qualitative assessment of the reality of civil society institutions, through the holding of three focus meetings with a group of those in charge of administering civil society

institutions, during which certain matters were discussed that clarify and confirm certain of the findings drawn from the quantitative study.

6. Analysing the quantitative and qualitative data and drawing the findings on the reality of civil society institutions in the Hashemite Kingdom of Jordan and their role in strengthening the right of individuals to public participation, and thereafter formulating the recommendations that it is hoped will contribute to improving the reality of these institutions.

Fifth: Previous Studies

In carrying out its study, the research team relied on a number of studies related to the subject of the study which it was able to consult and compare with certain aspects and variables relevant to the study, the most important of which are:

1. The study by Humaimat (2013)⁹⁹ entitled *The International Standards Governing Non-Profit Associations and the Extent of their Observance in Jordanian Legislation*, which aimed to ascertain the most prominent international standards governing the right to freedom to form and join associations, and to examine the extent of their observance in Jordanian legislation, in particular the Jordanian Constitution and the Jordanian Associations Law No. (51) of 2008. In this study the researcher followed the descriptive, analytical and comparative method. He therefore divided his study into two chapters: devoting the first chapter to discussing the legal regime of the right to freedom to form and join associations at the international level, while devoting the second chapter to examining the extent to which Jordanian legislation is consistent with the international standards governing the right to freedom to form and join associations, in particular in the Jordanian Constitution and the Jordanian Associations Law No. (51) of 2008.

The study concluded that the Jordanian Constitution and the Jordanian Associations Law, in their regulation of the right to freedom to form associations, are to a large extent inconsistent with the international standards governing the exercise of this right. In this regard the researcher put forward a number of proposals which it would be desirable to adopt in order to ensure the consistency of the Jordanian Constitution and the Associations Law with the international standards governing the right under study, foremost among them: (a) working to abolish the Registry Board and to replace it with an independent body undertaking the functions of the Board and the supervision of the work of associations, provided that the body includes (49%) representatives of the Government and (51%) representatives of civil society, in order to provide the greatest possible protection for associations from interference by the public administration in their affairs; (b) amending the provisions of the Jordanian Associations Law governing the acquisition by an association of legal personality, so that the association acquires legal personality through a notification submitted to the aforementioned independent body and the association exercises its activities merely upon the submission of that notification; and if the public administration objects to this establishment, or if a legal contravention results therefrom,

⁹⁹ Humaimat, Mu'ath Mansour (2013), *The International Standards Governing Non-Profit Associations and the Extent of their Observance in Jordanian Legislation*, master's thesis, Al-Isra University.

recourse is had to the competent judiciary - so that the public administration has no discretionary power over the application for registration, whether to accept or to reject it, thereby overcoming the problems of the acquisition by an association of legal personality by way of registration.

2. Mohammad Ya'qoub¹⁰ and Saddam Abu Azzam (2011) carried out a study entitled "The Right to Form Associations in Jordan: An Analytical View and Future Visions (A Legal and Field Study)", in which the two researchers addressed the most prominent legal aspects governing the right to freedom to form and join associations. The study was based on a methodology combining legal analysis with field monitoring of the problems of applying the legislation governing this right in the Kingdom. In various parts it addressed the right to form and join associations within the Jordanian Constitution and the international standards contained in the international human rights conventions and Jordan's position on them; it devoted a special part to the legal problems contained in the Associations Law No. (51) of 2008 and the extent of their consistency with the international standards governing human rights; the study then presented an analysis of the reality of associations in Jordan and the challenges they face, through a presentation of the findings of field monitoring of the vision and orientations of associations regarding the development of this law, relying on (12) interviews in all the governorates of the Kingdom.

The study arrived at a set of recommendations, the most important of which were: (a) reconsidering the system of registration of associations by following the method of notifying the competent body, and if the latter finds that the association's means are not peaceful and its aims are not lawful, it should have recourse to the judiciary; (b) that the Jordanian legislator comply with the international and comparative legal standards regarding the dissolution of associations, which make dissolution possible in only two ways: the agreement of the members or the issuance of a judicial decision to that effect.

3. As for the study by Ahmad Awad and Rania Al-Sarayrah (2016), they carried out a study entitled National Assessment of the Enabling Environment for Civil Society Organisations in Jordan. The study adopted the special methodology developed by "CIVICUS" in cooperation with the International Center for Not-for-Profit Law "ICNL", which is based on the analysis and assessment of ten standards relating to the work of civil society and which defines the features of the enabling environment for civil society. These standards were divided into two levels: the first consisting of mandatory standards used in the process of assessing the enabling environment for civil society, namely: establishment and working mechanisms, access to funding, freedom of expression and peaceful assembly, and the relationship of civil society organisations with the Government. The second level comprises optional standards used in the assessment process, namely: cooperation among civil society organisations and their ability to access information, their being subject to the tax system, and freedom to use the internet. The two standards of being subject to the tax system and freedom to use the internet were excluded, being considered neutral variables in Jordan,

¹⁰¹⁰ Mohammad Ya'qoub and Saddam Abu Azzam (2011), study entitled "The Right to Form Associations in Jordan: An Analytical View and Future Visions (A Legal and Field Study)", study submitted to the Research Grants Programme - International Center for Not-for-Profit Law.

since the various civil society organisations in Jordan are not subject to the tax system, in addition to access to the internet being available to all without restrictions, according to the opinion of the advisory committee composed of a group of experts in the field of civil society in Jordan.

The study arrived at a set of findings, the most prominent of which were: (a) the existence of large gaps in the degree of consistency of the Jordanian legislation relating to the regulation of the various civil society organisations with the international standards contained in the International Bill of Human Rights and the standards of the International Labour Organization in the field of the right to organise, since it is not consistent with the principle of notification (notice) and focuses on the use of the principle of prior approval; (b) the contravention by the legislation and instructions relating to obtaining foreign funding of the international standards and best practices recognised globally, since the Associations Law requires the approval of the Prime Ministry to obtain foreign funding, and the approval of the Ministry of Social Development to obtain local funding.

4. The study by Al-Dabbas and Shuqairat¹¹ (2017), entitled "Civil Society Institutions in Jordan: Reality and Needs", consisted of a theoretical part comprising a historical review of the concept, emergence and development of civil society institutions in Jordan and the laws governing them, and of an applied part based on the statistical analytical method, through the design of a questionnaire composed of (6) axes, containing (14) sections and comprising in total (130) items. The first axis covered general information on the institutions: [their property, their administrative and financial affairs, and electronic publication]. The second axis, composed of (33) items, addressed the services provided by the institution, while the third axis addressed the obstacles impeding the work of civil society institutions, whether financial, legal, administrative and organisational, or technical. The fourth axis addressed the most important needs of the institutions within (5) items comprising financial, legal, administrative and technical needs, as well as the objectives represented by a project to be achieved. The fifth axis came in (6) items addressing future aspirations for serving the local community and developing the working members, according to the visions of (improving performance, capacity building, empowerment, development projects, and participation in public affairs). The sixth and final axis comprised (14) items requiring a yes or no answer, covering the criteria for evaluating and assessing the level of performance of the institutions, whether by self-assessment or by the competent ministry, and the plan for investing the intellectual capital of the members and of the local community; it also included (10) globally recognised evaluation areas, including (the availability of an organisational structure for the institution, the existence of job descriptions for staff, the extent of participation of the general assembly in the objectives, vision and mission of the institution, the participation of the local community in setting objectives for the institution consistent with its needs, the means of documenting activities and work and their availability in an integrated database, the participation of members of the general assembly in meetings of the administrative body annually, the means of receiving complaints and proposals from members of the community and the

¹¹¹¹Unpublished study carried out for the National Center for Human Rights in 2017.

extent of its satisfaction with its work, and the extent of the availability of justice in the internal regulations of the institution and non-discrimination in the rights of members).

The study arrived at a set of recommendations, the most prominent of which were: (a) reviewing and developing the legislation governing the work of civil society institutions (such as the laws on associations, parties, labour, the Higher Council for Youth and companies) to become more consistent with constitutional principles and international conventions, provided that civil society institutions participate actually and genuinely in the process of development and modernisation; (b) that the Government lay down a clear, time-bound plan to develop the capacities of the staff of the ministries concerned with following up civil society institutions, and to acquaint them with the concept of civil society, its activities and working mechanisms so that they become more aware and conscious of the role of civil society, and to raise their capacities in the field of evaluating the work of civil society institutions according to clear and specific criteria; (c) reviewing the experience of the Associations Registry and considering the possibility of unifying the reference authority of all civil society institutions, so that the task of following up the work of civil society institutions is assigned to a single body, in a manner ensuring that this body plays an active role in strengthening and protecting the right of individuals to peaceful assembly, and ensuring the activation of the role of civil society institutions in serving the local community and their adherence to the standards of good governance, integrity and transparency; (d) conducting a survey study covering all civil society institutions in all their specialisations, surveying the views of citizens on the extent of the success of civil society institutions in meeting the needs and aspirations of citizens.

5. The study by Al-Jribei' (2013)¹², entitled "Civil Society and the Jordanian State: Moving from the Square of Scepticism to the Square of Trust", examined the concept of civil society, its emergence in Jordan, and the international principles and legislative framework governing the work of civil society, and then studied the points of convergence and divergence between civil society institutions and the State. The study concluded that the most prominent strengths of civil society are the political openness of the State, engagement in international treaties and conventions, the diversity of civil society institutions, the availability of new funding opportunities from international institutions especially with the presence of Syrian refugees, the availability of communication technology, which facilitated the process of communicating with international institutions, the eagerness of young people to join civil society institutions, and the existence of relative cooperation and partnership between civil society and the State. The study concluded that the weaknesses consist of the absence of coordination and networking among civil society institutions, which weakened their ability to influence decision-makers; the concentration of more than 60% of the institutions in the capital, Amman; the weakness of the popular bases on which these institutions rest; the fluctuation of their relations with the State; the weak capacities of some of them; and their weak application of the principles of good governance. The

¹²12 Mohammad Jribei', Civil Society and the Jordanian State (Moving from the Square of Scepticism to the Square of Participation and Trust), web study, date of visit 5/12/2017, published on the website: www.amnestymena.org/ar/magazine/Issue17spx?articleID=1050

study also concluded that the majority of national laws neither achieve nor are consistent with the international principles contained in international conventions and laws, especially as regards freedom to form associations, the lawfulness of legal registration, State interference and the right to freedom of expression, privacy, freedom of assembly and obtaining funding - which calls for reconsidering the laws and legislation governing the work of civil society institutions in Jordan. The study likewise concluded that among the most important causes of the disturbance in the relationship between civil society and the State are the existence of a mutual negative view, which led to the absence of coordination and cooperation between them, the dominance of the security obsession in the mentality of the State, in addition to the difference in priorities for the two parties.

The study recommended establishing a relationship that is more participatory and complementary and of greater mutual trust between them, through the establishment of a joint council between the State and civil society with the aim of deepening the principle of partnership; involving civil society in meetings and gatherings devoted to formulating national policies; the adherence of civil society to internal democracy and the principles of good governance, integrity, accuracy and objectivity; modernising the legislation and laws governing the work of civil society institutions; and unifying their reference authority.

6. The study by Al-Miqdad (2012)¹³¹³, entitled (Evaluating the Effectiveness of the Performance of Associations in Jordan), reviewed the effectiveness of the work of Jordanian unions and associations by measuring their institutional capacities and the organisational conditions by which they are affected, according to a field application of the indicators prepared by specialists in the field of studying civil society institutions in the Arab world and contained in the Scientific Guidance Manual of 2010 laid down by the Arab Network for NGOs, which includes a set of indicators capable of measuring the human, material, technological and administrative capacities of unions and the extent of the influence of the political, legislative, cultural and social aspects on the activity of unions, with a view to translating the objectives they seek. The study was built on the hypothesis that there is a correlation between the effectiveness of unions in achieving their objectives and their human, material, technological and organisational resources on the one hand, and the institutional environment relating to the political, legislative, cultural and social aspects on the other; the study used the institutional method and systems analysis, the field survey, and the comparative statistical method in order to serve its general objectives. The study arrived at several conclusions and recommendations, the most prominent of which was the existence of a negative relationship between the institutional capacities of unions in Jordan and the general conditions in which they live, and the effectiveness of their roles - especially the labour unions compared with the professional associations - which calls for the necessity that the executive authority respect the international provisions on freedom of union work, and the actual need for the self-development of unions, such as activating democratic performance among the members and playing noticeable roles in building the public policies that are reflected on the members and on society generally.

¹³¹³ Mohammad Ahmad Miqdad, Evaluating the Effectiveness of the Performance of Associations in Jordan, Jordan Journal of Social Sciences, vol. 5, no. 3, 2012.

Sixth: Method and Procedures for Carrying out the Field Study

a. Determining the study population

The study population consisted of all those in charge of administering civil society institutions (associations, labour unions and professional associations), in their various assigned tasks and their spread across the geographical area of Jordan.

b. The study samples:

In view of the diversity in the names and duties of the civil society institutions under study, the following samples were selected:

1. The sample of charitable associations: Since these associations constitute the great majority of civil society institutions, and in view of their spread across all the Jordanian governorates, the research team selected (40) charitable associations from each governorate by random method, i.e. a total of (480) institutions.
2. The sample of professional associations: The research team reviewed the data on the professional associations and found that their number amounts to (13); it distributed questionnaires to all the representatives of the professional associations owing to their small number, and the research team was able to collect only (9) of them as a sample representing the professional associations.
3. The sample of labour unions: The research team distributed (30) questionnaires to the representatives of the labour unions and the independent labour unions, and the research team was able to collect only (17) questionnaires as a sample representing the labour unions, selected by random method.
4. The sample of human rights associations: The research team distributed (10) questionnaires by random method to these associations; they were collected and considered as a sample representing these associations.

c. Sources of the field data:

On the basis of the nature of the study population and the diversity of the questions, appropriate methods of collecting information were used. The following is a reference to the generalisation of the sources and the verification of their validity and reliability, and then their application:

1. The questionnaire: After reviewing the literature and studies related to the subject of the study, the research team designed a questionnaire composed of (33) items graded on a four-point scale, in addition to two open questions, to cover all aspects relating to the subject of the study after analysing them; this required the questionnaire to consist of five dimensions. The content validity of the questionnaire was verified by submitting it to eight specialist arbitrators for arbitration and evaluation and for making the necessary amendments by way of addition or deletion; after the amendments the questionnaire came to consist of (38) items and two open questions. To verify the reliability of the questionnaire, it was applied to a pilot sample composed of (10) persons in charge of administering a civil society institution, and the reliability coefficient was calculated

using the Cronbach's alpha method, the internal consistency reliability coefficient amounting to (0.86).

2. Application of the questionnaire: After the research team obtained letters of facilitation, the research team coordinated with the directors and officials of the associations and unions in all the governorates of the Hashemite Kingdom of Jordan, by telephone for some and by field visit for others; coordination took place with them and (480) questionnaires were distributed, at the rate of (40) questionnaires in each governorate, to the charitable associations, (13) questionnaires were distributed to all those in charge of the professional associations, (30) questionnaires to the officials of the labour unions and (10) questionnaires to the officials of the human rights associations; they were requested to read the statements of the questionnaire carefully and to place a mark (✓) in the grading category corresponding to their estimates.

d. Procedures of the study:

Coordination took place with all the directors of civil society institutions on the mechanism for collecting the questionnaires after they had been completed: (469) questionnaires were collected from the charitable associations, (9) questionnaires from the professional associations, (10) questionnaires from the labour unions and (17) questionnaires from the human rights associations, making a total of (505) questionnaires, which were entered into the computer memory within the Statistical Package (SPSS) and statistical treatments were used to analyse them.

e. Statistical methods used:

- The reliability coefficient was calculated and the internal consistency coefficient derived using Cronbach's alpha.
- Arithmetic means and standard deviations of the estimates of those in charge of administering civil society institutions on the five dimensions were used.
- The arithmetic means and standard deviations of the estimates of the directors of the professional associations, the labour unions and the charitable associations were extracted, each separately, for research purposes.

f. Scoring of performance:

The research team used the following scale to estimate the degrees of response of the directors and officials of civil society institutions on the study instrument:

Range of the arithmetic mean	Degree
1 - less than 1.5	Disagreement to a high degree
1.5 - less than 2	Disagreement to a medium degree
2 - less than 2.5	Disagreement to a low degree
2.5 - less than 3	Agreement to a low degree
3 - less than 3.5	Agreement to a medium degree
3.5 - 4	Agreement to a high degree

Chapter Two

The Legal Framework

The right to freedom to form and join civil society institutions is among the most important rights included in the international instruments concerned with human rights. The importance of this right emerges from the nature of the role it plays within the framework of the other rights: the right to freedom to form civil society institutions enables all individuals to defend and promote human rights in a manner that guarantees the actual exercise of civil and political rights and advances economic and social rights.

In view of the importance enjoyed by the right to freedom to form and join civil society institutions, the international instruments governing human rights have affirmed this right, while setting out a number of standards necessary to achieve the optimal exercise of this right; the basic control of those standards lies in the absence of arbitrary interference by the public administration of the State in the establishment of any of these institutions, in their exercise of their activities or in their arbitrary dissolution.

Since many States of the world have [adopted] those standards and included them in their national legislation governing the right under study, in particular Jordanian national legislation, this Chapter has been devoted to examining the most prominent international standards governing the right to freedom to form and join civil society institutions, applying them to the reality of Jordanian legislation, and addressing certain legal problems faced by the Jordanian legislator in seeking to guarantee the optimal exercise of the right under study.

In order to cover all these subjects, this Chapter shall be divided into six Sections, while the Preliminary Section is devoted to the position of the Jordanian Constitution and the international instruments on the right to form civil society institutions.

Preliminary Section

The Position of the Jordanian Constitution and the International Instruments on the Right to Form Civil Society Institutions

The right to form civil society institutions - the right to freedom of association and the right to form unions - is characterised by being individual in its vesting and collective in its exercise; that is to say, it vests in individuals in their individual capacity, but it can only be exercised collectively - quite apart from the importance of the role this right plays in supporting the bonds of democracy by enabling individuals to express their political and non-political opinions¹⁴. In order to ascertain properly the general provisions governing the exercise of this right, this Section shall be divided into two Sub-sections: the first shall be devoted to determining the position of the Jordanian Constitution on the provisions governing the exercise of this right,

¹⁴¹⁴ Mu'ath Mansour Al-Humaimat, master's thesis entitled "The International Standards Governing Non-Profit Associations and the Extent of their Observance in Jordanian Legislation", Al-Isra University, Amman, 2013, p. 1; and Mervat Rishmawi, study entitled "Freedom of Association and Peaceful Assembly in International Law", Mawarid Journal, issue (17) devoted to the right to freedom of association and peaceful assembly, Amnesty International Regional Office, Beirut, 2011, p. 42.

while the second Sub-section shall be devoted to the position of the international instruments on this right.

Sub-section One

The Position of the Jordanian Constitution on the Provisions Governing the Exercise of the Right to Form and Join Civil Society Institutions

The Jordanian Constitution affirmed this right in Article (16) thereof, which provided: "... 2. Jordanians shall have the right to form associations, unions and political parties, provided that their aim is lawful, their means peaceful and their regulations not contrary to the provisions of the Constitution. 3. The law shall regulate the manner of forming associations, unions and political parties and the control of their resources"¹⁵. The Jordanian Constitution has thereby guaranteed the exercise of this right by affording Jordanians the opportunity to form and participate in associations, whether ordinary associations regulating the relations between groups united by common customs and traditions, or charitable or cultural associations, as well as the formation of unions¹⁶.

Article (23) of the Jordanian Constitution likewise provided: "... 2. The State shall protect labour and enact legislation therefor based on the following principles: ... f. Free union organisation within the limits of the law."

From an in-depth reading of the aforementioned constitutional provisions, several matters may be inferred, which may be confined to the following points:

- 1) The Jordanian Constitution guaranteed the right to freedom to form civil society institutions to Jordanians only, without extending it to foreigners resident on the territory of the Kingdom - which may be drawn from the word "Jordanians" contained in the body of the provision. The Jordanian Constitution has thereby strayed from the correct path, contravening the principles contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, which guaranteed the exercise of that right to any human being, whether a citizen or a foreigner, without the slightest discrimination¹⁷.
- 2) The Jordanian Constitution required that the aim of exercising the right to form civil society institutions be lawful, through peaceful means, and with regulations not contrary to the Constitution. These restrictions are consistent to some extent with the standards established by the international conventions governing human rights, and in particular the International Covenant on Civil and Political Rights, which permitted the restriction of the

¹⁵¹⁵This is how the article reads after its amendment by the 2011 amendment of the Jordanian Constitution, published in the Jordanian Official Gazette, issue 5117 dated 1/10/2011, p. 4455; article six of the amendment provided: "Article (16) of the Constitution is amended by adding the word 'and unions' after the word 'associations' in paragraphs (22 and 23) thereof."

¹⁶¹⁶Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the International Covenant on Civil and Political Rights, "Third periodic reports of States parties, periodic report submitted by the Jordanian Government to the Human Rights Committee on 12/3/2009", document symbol (CCPR/C/JOR/3), issued on 30/3/2009, para. 105.

¹⁷¹⁷Mu'ath Mansour Al-Humaimat, op. cit., pp. 88-89.

exercise of this right with the aim of safeguarding public order and public health and protecting the rights of others¹⁸.

3) The Jordanian Constitution entrusted the regulation of the formation of civil society institutions and the control of their resources to the law, whose role is confined to the regulatory aspect only without prejudicing the essence of the exercise of this right¹⁹, in a manner allowing individuals to exercise the right in a way that does not empty it of its content. Accordingly, the law may not contain provisions making the exercise of that right contingent upon the will of the public administration, or violating their independence and the management of their affairs²⁰. This is what Article (28) of the Jordanian Constitution affirmed, providing: "The laws issued under this Constitution to regulate rights and freedoms may not affect the essence of these rights or prejudice their fundamentals." It is worth mentioning in this context that the Jordanian Constitution used the word "law", entrusting to it the regulation of the work of associations and unions; by contrary implication, the work of associations may not be regulated by instructions or regulations.

4) The Jordanian Constitution affirmed the right to form unions - in particular - in two separate places: the first where it affirmed political rights in Article (16), represented by the right to form associations and political parties; and the second where it affirmed the right to work as one of the economic, cultural and social rights.

In sum, the Jordanian Constitution guaranteed the right to freedom to form and join associations, confining the exercise of that right to Jordanian citizens to the exclusion of resident foreigners, and entrusting the regulation of the exercise of that right to the ordinary laws. In application of this, the Jordanian Associations Law No. (51) of 2008 and its amendments was issued²¹, and the Labour Law and its amendments No. (8) of 1996²² included a set of provisions regulating labour unions, together with another set of laws relating to the professional associations to some of which we shall refer in the body of this study.

Sub-section Two

The Position of the International Instruments on the Right to Form and Join Civil Society Institutions

¹⁸¹⁸Article (22/2) of the Covenant provides: "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right."

¹⁹¹⁹Article (128) of the Jordanian Constitution expressly affirmed this, providing: "The laws issued under this Constitution to regulate rights and freedoms may not affect the essence of these rights or prejudice their fundamentals."

²⁰²⁰Dr Laith Kamal Nasrawin, *The Right to Peaceful Assembly in Jordanian Law and International Conventions (A Comparative Study)*, 1st edition, Dar Sader for Legal Publications, Beirut, 2013, p. 92.

²¹²¹The Jordanian Associations Law No. (51) of 2008 was published in the Jordanian Official Gazette, issue (4928) dated 16/9/2008, p. 4219.

²²²²The Jordanian Labour Law No. (8) of 1996 was published in the Jordanian Official Gazette, issue (4113) dated 16/4/1996, p. 1173.

The importance of this right emerges through the international instruments that expressly provided for its content. The Universal Declaration of Human Rights²³ provided in Article (20) thereof: "1. Everyone has the right to freedom of peaceful assembly and association. 2. No one may be compelled to belong to an association." The Declaration also affirmed this right in Article (23/4), which provided: "Everyone has the right to form and to join trade unions for the protection of his interests." The International Covenant on Civil and Political Rights²⁴ affirmed this right in Article (22/1) thereof: "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."

Article (8) of the International Covenant on Economic, Social and Cultural Rights came to affirm this right, providing: "1. The States Parties to the present Covenant undertake to ensure: (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others ..."

The conventions issued by the International Labour Organization also include a convention specific to union organisation, namely Convention No. (87) concerning Freedom of Association and Protection of the Right to Organise, which includes a set of standards suitable to serve as a basic foundation for ascertaining the most prominent controls governing that right, even if the framework of that convention is confined to labour unions; moreover, the jurisprudence of the International Labour Organization contributes significantly to entrenching the concept of freedom to form civil society institutions and its international standards at the international level²⁵.

The most prominent observation on the aforementioned provisions is that they used the word "freedom" when referring to the various types of civil society institutions, and this is an express affirmation of the necessity of enabling individuals to enjoy this right freely without restriction or obstruction except according to specific bases and standards²⁶. This is an affirmation of the necessity of enabling individuals to exercise this right without the imposition of any restrictions except according to the following controls:

- 1) That they be provided for in the law.

²³²³The Universal Declaration of Human Rights was adopted by General Assembly resolution 217 A (III) of 10 December 1948.

²⁴²⁴The International Covenant on Civil and Political Rights was adopted and opened for signature and accession by United Nations General Assembly resolution 2200 A (XXI) of 16 December 1966, entry into force 23 March 1976 in accordance with article 49 thereof, and was published in the Jordanian Official Gazette, issue No. (4764) of 15 June 2006, p. 2227.

²⁵²⁵Ghassan Mukheiber, Advocate, study entitled "Freedom of Association and Peaceful Assembly in International Law", Mawarid Journal, issue (17) devoted to the right to freedom of association and peaceful assembly, Amnesty International Regional Office, Beirut, 2011, p. 47.

²⁶²⁶Mu'ath Mansour Al-Humaimat, op. cit., text and footnote, p. 7.

2) That these restrictions be necessary to achieve specific objectives on the basis of the rule of the specification of objectives, so that their aim is to safeguard national security or public order, or to protect the rights and freedoms of others.

It must be noted that the international standards governing the exercise of the right to form civil society institutions are numerous, the most prominent of them being the freedom of civil society institutions to adopt appropriate objectives and activities, their freedom to lay down their basic regulations, their freedom to elect their boards of directors, their right to obtain the resources necessary to carry out their activities, and their dissolution either by a decision issued by their general assembly or by a judicial judgment. In order to cover these standards, a Section shall be devoted to each of them.

Section One

The Freedom of Civil Society Institutions to Adopt Appropriate Objectives and Activities

This standard rests in its content upon a basic pillar, namely that associations adopt the objectives and activities they consider appropriate without interference by the public administration; accordingly, the individuals founding an association manage its affairs according to the objectives and activities for which the association was established, which gives the association the right to adopt appropriate objectives and activities without interference by the public authorities²⁷.

This principle was affirmed by International Labour Organization Convention No. (87) concerning Freedom of Association and Protection of the Right to Organise in Article (3) thereof, which provided: "1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes. 2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."

Accordingly, restrictions may not be imposed on the various types of activities which civil society institutions are permitted to carry out, nor may civil society institutions be obliged to obtain prior permission from the public authorities to exercise a particular activity; moreover, those authorities are prohibited from issuing laws and regulations containing provisions setting out the activities which civil society institutions are permitted, or prohibited, to exercise. Laws containing such provisions are, in the great majority of cases, drafted vaguely and subject to discretionary interpretation by the public authority, in addition to which such laws may be used to limit the activities of an association, especially if it criticises the policies or practices of the government²⁸.

²⁷²⁷ Mu'ath Mansour Al-Humaimat, op. cit., p. 43.

²⁸²⁸ Report of the Special Rapporteur on the situation of human rights defenders, submitted to the United Nations General Assembly at its sixty-fourth session, dated 4/8/2009, document symbol A/64/226, para. 79; and Report of the Special Rapporteur on the situation of human rights defenders, submitted to the United Nations General Assembly at its fifty-ninth session, dated 1/10/2004, document symbol A/59/401, paras. 64 to 68.

The public authorities may, however, specify the unlawful objectives and activities which civil society institutions are prohibited from exercising, provided that the public authorities in specifying them are consistent with the international standards on the right to form civil society institutions; the public authorities must also always presume the lawfulness of the objectives and activities of civil society institutions²⁹. Another obligation also rests upon the public authorities, requiring them not to scrutinise in advance the objectives and activities of civil society institutions in order to ascertain their lawfulness except where a complaint is received against these institutions, provided that the task of scrutiny in that case is in the hands of an independent judicial body³⁰.

It is apparent from the Jordanian Associations Law that it has prohibited associations from exercising activities and objectives that fall within the scope of the work of political parties, since Article (3/a/1) of the Jordanian Associations Law, in its definition of the association, included the activities which associations are permitted to exercise, providing: "The word (association) means any legal person composed of a group of persons not fewer than seven in number and registered in accordance with the provisions of this Law, to provide services or carry out activities on a voluntary basis without aiming to make and share profit or to achieve any benefit for any of its members or for any specific person, or to achieve any political objectives falling within the scope of the work and activities of political parties in accordance with the provisions of the legislation in force."

The most prominent observation on the definition of the association given by the Jordanian legislator is that it prohibited associations from exercising any activity or achieving any political objectives falling within the scope of the work and activities of political parties. This is an express contravention of the international standards that require that restrictions not be imposed on the types of activities which associations are permitted to carry out - quite apart from the fact that the terms included in this definition are characterised as general, loose and broad, liable to allow the administration to plead that the activities of an association have political objectives falling within the scope of the activities of political parties in order to prohibit them, especially in the absence of clear legal pillars for the political objectives which Jordanian law has prohibited associations from pursuing³¹.

This position of the Associations Law was a subject of global criticism and attention: the evaluation report on freedom of assembly and association in the Euro-Mediterranean region affirmed the necessity of enabling associations in Jordan to carry out freely the activities contained in their application for registration, including activities of a political nature, especially those prohibited by article three thereof³². The research team therefore recommends that the Jordanian legislator amend the text of article three of the Associations Law in a manner

²⁹²⁹Jeremy McBride, study entitled "European Standards on Freedom of Association", Mawarid Journal, issue (17) devoted to the right to freedom of association and peaceful assembly, Amnesty International Regional Office, Beirut, 2011, pp. 60-61.

³⁰³⁰Report of the Special Rapporteur on the situation of human rights defenders, submitted to the United Nations General Assembly at its fifty-ninth session, op. cit., para. 82(m).

³¹³¹Dr Laith Kamal Nasrawin, op. cit., p. 161; and Mu'ath Mansour Al-Humaimat, op. cit., p. 109.

³²³²Evaluation Report on Freedom of Assembly and Association in the Euro-Mediterranean Region (Civil Society under Threat), Euro-Mediterranean Human Rights Network, Copenhagen, 2010, p. 45.

that allows associations to exercise the various lawful activities, whether political or non-political, consistently with the international standards governing the provisions for the exercise of that right relating to the objectives and activities of associations.

It must be noted in this context that the draft amendment of the Jordanian Associations Law No. 51 of 2008³³ submitted by the Government in (2015), in its definition of the word "association", retained the concept as contained in the law currently in force, which prohibited associations from exercising political activities³⁴. This means that associations under the draft amendment of the Associations Law will not be able to exercise political activities, which is also a continuation of the contravention of the international standards as regards the activities of associations.

As regards unions under the Jordanian legislative system, they are divided into labour unions and professional associations. In order to examine the extent to which Jordanian national legislation is consistent with the international standards governing the freedom of unions to adopt appropriate objectives and activities, the Labour Law shall be examined as regards labour unions, together with the laws of certain professional associations, of which we mention by way of example and not of limitation the Bar Association Law, it being the oldest association in the Kingdom; the Engineers Association Law, since it is classified as the largest association in the Kingdom; and the Teachers Association Law, it being the most recently established association in the Kingdom.

First: Labour unions

Chapter Eleven of the Jordanian Labour Law was devoted to regulating the provisions on workers' unions and employers' unions. As regards the question of the objectives and activities which labour unions are entitled to adopt, we find that the law did not specify the nature of the activities which unions are entitled to exercise in its definition of the term "union", since Article (2) of the Law defined the union as "a workers' occupational organisation formed in accordance with the provisions of this Law".

It is observed from this provision that the activity of labour unions must be confined to workers' occupational organisation, and they may not exercise any other activity conflicting with the content of workers' occupational organisation.

Article (98/c) of the Labour Law prohibited unions from exercising any activity on an ethnic, religious or sectarian basis, providing: "No union of workers or of employers may be established whose aims or objectives include carrying out any activity on ethnic, religious or sectarian bases, and it is also prohibited from exercising any of these activities after its establishment."

This provision is not, in its content, consistent to some extent with the international standards that require that labour unions be enabled to adopt appropriate objectives and activities so long

³³³³Draft amendment of the Jordanian Associations Law No. 51 of 2008, published on the website of the Ministry of Social Development at the following link: <http://www.mosd.gov.jo/Images/files/Societies%20.pdf> ; this site was accessed on 11/4/2017.

³⁴³⁴See in this regard the text of Article (2) of the draft amendment of the Jordanian Associations Law.

as they fall within the crucible of workers' occupational organisation, for there is no harm in establishing a labour union aiming to organise the workers' occupational affairs of the members of a single community.

The law also stated exhaustively the objectives which labour unions must seek to achieve through the exercise of their activities, since Article (99) of the Law provided: "The union shall exercise its activity to achieve the following objectives:

- a) Looking after the interests of those working in the occupation and defending their rights at work.
- b) Working to improve work relations, conditions and terms, including the procedures of collective bargaining and the conclusion of collective agreements.
- c) Contributing to avoiding collective and individual disputes and seeking to resolve them.
- d) Representing workers in institutions related to labour, economic and social affairs in accordance with the legislation in force.
- e) Working to raise the level of economic, social, occupational and cultural awareness of workers and to strengthen their participation in taking the decisions relating to them.
- f) Providing health and social services to its members and any facilities to meet consumer needs."

It is observed of those objectives that they are closely connected with workers' occupational organisation, and unions are not entitled to seek to achieve any objectives other than those provided for in Article (99), even if connected with workers' occupational organisation. It would have been more appropriate for the Jordanian legislator to add a final paragraph to this article allowing all unions to pursue any other objectives relating to workers' occupational organisation; with this proposed amendment, the legislator would have listed these objectives by way of example and not of limitation, and this provision would thereby become consistent with the relevant international standards.

It must be noted that the Labour Law, in affirming the right of workers and employers to form unions in Article (97/a) and Article (98/a, b)³⁵, referred the determination of the occupations and industries in which unions (of workers and employers) may be established to the tripartite committee.

It provided in Article (98/d) thereof: "1. The tripartite committee shall be competent to classify the occupations and industries in which unions may be established in accordance with the provisions of paragraphs (a and b) of this article, and it may also specify the groups of occupations and industries in which workers or employers may not establish more than one union, by reason of their similarity, their interconnection or their participation in a single integrated production. 2. The tripartite committee shall issue its decisions for the purposes of item (1) of this paragraph unanimously; otherwise the decisions in force at the time shall continue to apply." On the basis of this, a decision was issued concerning the classification of

³⁵³⁵ Article (98) provides: "a. A union shall be established by a number of founders of not less than fifty persons working in the same occupation, or in similar occupations or occupations interconnected in a single production. b. Employers in any occupation, being not less than twenty-five persons, shall be entitled to establish a union for themselves to look after their occupational interests relating to the provisions of this Law ..."

the occupations and industries whose workers are entitled to establish unions for the year 1999³⁶. From an examination of these provisions we observe the following:

1) Labour unions that are similar, interconnected or participating in a single integrated production may not be established³⁷. This is what the High Administrative Court affirmed, clarifying that it is not permissible to establish a union of workers where there is a similarity of objectives with another union already formed, since this exposes the sector to fragmentation and conflict of interests and aims³⁸. This position of the Jordanian legislator and the Jordanian judiciary conflicts with the international standards relating to freedom of union organisation; for the international conventions gave the right to join unions in complete freedom, and no restrictions may be imposed on this right other than those provided for in the conventions prepared by the International Labour Organization and the relevant international instruments³⁹.

2) The law restricted the freedom to establish labour unions according to the classification issued by the tripartite committee, which takes its decision unanimously in this case. This position of the Jordanian legislator does not respond to the rules of freedom of union work and its independence from any body, because the voice of the workers in the tripartite committee may not be heeded if the Ministry and the employers' representatives therein agree on a matter on which the workers' representatives do not agree⁴⁰. This is a logical consequence derived from the nature of the composition of this committee, which may constitute an obstacle to the formation of unions in this regard; Article (43/a) of the Labour Law provided: "There shall be formed in the Ministry a committee called (the Tripartite Committee for Labour Affairs), chaired by the Minister and composed of representatives of the Ministry, the workers and the employers equally among them; the provisions and procedures relating to the manner of formation of the tripartite committee, its work, its functions, the holding of its meetings, the determination of the number of its members, the manner of their appointment and their remuneration and all other matters relating to them shall be determined by a regulation issued for this purpose."

Second: Professional associations

³⁶³⁶See in this regard the Decision on the Classification of Occupations and Industries whose Workers are Entitled to Establish Unions, issued by the Minister of Labour pursuant to paragraph (b) of Article 98 of the Labour Law of 1996, published on the website of the Ministry of Labour at the following link: <http://www.mol.gov.jo/Pages/viewpage.aspx?pageID=238> ; this site was accessed on 29/4/2017.

³⁷³⁷Twelfth Annual Report on the State of Human Rights in Jordan for the year 2015, op. cit., p. 108.

³⁸³⁸See for example judgment No. 87 of 2015 - High Administrative Court -, published in the Journal of the Bar Association, combined issues (7, 8, 9), 2015, p. 1036.

³⁹³⁹This is what is contained in the text of Article (23) of the Universal Declaration of Human Rights, Article (22) of the International Covenant on Civil and Political Rights, and Article (8) of the International Covenant on Economic, Social and Cultural Rights.

⁴⁰⁴⁰Fayez Al-Shakhatreh, Rights of Assembly in Jordanian Legislation, National Center for Human Rights, Amman, 2008, p. 72.

The Jordanian Bar Association Law No. (11) of 1972⁴¹ specified in Article (5) thereof the objectives which the Association must seek to achieve through the exercise of its activities, providing: "The Association shall exercise its activity to achieve the following objectives: (1) Defending the interests of the Association and of lawyers, preserving the effectiveness of the profession and guaranteeing the freedom of the lawyer in performing his mission. (2) Organising the efforts of the members of the Association to develop legal thought in the service of right, justice and progress, and contributing to the development of legislation with a view to facilitating justice without material impediments or administrative complications. (3) Stimulating legal research, encouraging those engaged in it and raising the scientific level of the members of the Association. (4) a. Providing economic, social and cultural services to members, organising pensions for old age, disability and death, providing assistance when needed and providing health care in a manner guaranteeing members and their families a dignified life. b. Establishing and developing a retirement fund for lawyers guaranteeing the lawyer a retirement salary, this right not being affected by his receiving a retirement salary from the Treasury fund or from any other body. c. Establishing and developing a cooperative fund for lawyers to strengthen the spirit of cooperation among them and to consolidate cooperative, professional and material services for them. (5) Providing professional work for members, organising cooperation in the practice of the profession and providing legal aid to citizens who are unable to afford it."

It is observed that these objectives were stated by way of limitation and not of example, and are connected in their content with the organisation of the work of the legal profession and the activities related to it; the Association is not entitled, in organising the work of the legal profession, to achieve any other objective not contained in the text of Article (5) of the Association's Law. This is a contravention of the relevant international standards, for it would have been more appropriate for the legislator to specify these objectives by way of example and not of limitation, and to allow the Association to achieve any other objectives so long as they strengthen the organisation of the legal profession.

The Engineers Association Law and its amendments No. (15) of 1972⁴² specified exhaustively the objectives which the Association seeks to achieve through the exercise of its activity, since Article (6) thereof provided: "The Association shall exercise its activity aiming to achieve the following purposes:

- a. Organising the practice of the profession with a view to raising its scientific and professional level and benefiting from it in economic mobilisation and national civilisation.
- b. Defending the interests and dignity of the members and preserving the traditions and honour of the profession.
- c. Raising the scientific and professional level of engineers and stimulating and supporting engineering scientific research.

⁴¹⁴¹The Jordanian Bar Association Law No. (11) of 1972 was published in the Official Gazette, issue 2357 dated 5/6/1972, p. 666.

⁴²⁴²The full text of the law is published on the website of the Jordan Engineers Association at the following link: http://www.jea.org.jo/route.php?MIId=19&src=our_jea ; this site was accessed on 19/7/2017.

- d. Contributing to the planning and development of engineering, industrial and vocational education and training programmes and working to raise the efficiency of those working in the engineering field.
- e. Contributing to the study of subjects of a nature common to the Arab, Islamic and other countries and exchanging information, expertise and engineering publications among them.
- f. Securing a dignified life for engineers and their families in cases of disability, old age and other emergency cases.
- g. Working on everything that assists the Association in achieving its professional objectives.
- h. Cooperating and coordinating with the official bodies in the Kingdom in the capacity of the Association as an advisory body in its field of specialisation.
- i. Cooperating and coordinating with the Arab, Islamic and international engineering professional federations and participating in their membership."

Accordingly, the Engineers Association is not able to achieve any other objective not contained in this provision, even if the aim thereof is to organise the practice of the engineering profession affirmed by Article (4) of the same Law⁴³.

As for the position of the Teachers Association Law, it did not differ much from the laws referred to above, since the Law specified the objectives of the Association by way of limitation and not of example; this is what Article (5) of the Law provided: "The Association shall work to achieve the following objectives:

- a. Raising and developing the mission and profession of the teacher and preserving its ethics and traditions.
- b. Contributing to raising the scientific, cultural and social level of the teacher.
- c. Preserving the rights and dignity of teachers.
- d. Securing a dignified life for teachers and their families in the event of retirement, disability, old age and death."

In sum: the laws of the professional associations studied specified the objectives of the associations by way of limitation and not of example; accordingly, an association cannot achieve any other objective not expressly provided for, even if it lies at the very core of the organisation of the profession for which the association was established - and this is a contravention of the relevant international standards.

Section Two

The Acquisition by Civil Society Institutions of Legal Personality without the Need for Prior Permission from the Public Administration

The international standards governing the right to form civil society institutions require that these institutions acquire legal personality without the need for prior permission from the public administration; accordingly, if the acquisition by civil society institutions of legal personality

⁴³Article (4) of the Law provides: "The Engineers Association shall regulate, in accordance with the provisions of this Law, the conditions for practising the engineering profession in the Kingdom."

is linked to the approval of the public administration, this is regarded as a contravention of the relevant international standards.

The international standards governing the acquisition by civil society institutions of legal personality focus upon a basic pillar, namely that any institution being established acquires legal personality automatically merely upon the public authorities being notified by its founders in a manner indicating the establishment of that association⁴⁴, and without the need for a licence or prior permission.

The French Constitutional Council previously established this principle on 16 July 1971, stating: "It follows from the very principle of freedom that associations are formed freely and may be declared public subject only to the single condition of prior declaration ... Accordingly, the formation of associations, even where they appear to be null or to pursue unlawful objectives, cannot be subjected to prior intervention by the administrative authority or even by the judicial authority ... and this negative role is one of the essential elements of freedom of association, which any prior control would destroy ..."⁴⁵.

This principle was also included in Convention No. (87) concerning Freedom of Association and the Right to Organise, which provided in its second article: "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation."

This principle was included in Article (1) of Arab Convention No. (8) of 1977 concerning Trade Union Rights and Freedoms, which provided: "Workers and employers, whatever the sector in which they work, shall have the right, without prior permission, to form organisations among themselves or to join them, in order to look after their interests, defend their rights, work to improve their material and social condition, represent them before the various bodies, contribute to raising productive efficiency and to achieving the plans aimed at economic and social progress."

Article (3) of the same Convention also provided: "The procedures for forming a workers' organisation or an employers' organisation shall be confined to depositing its formation papers with the competent body; the law shall specify the competent body and the method of deposit in a manner that does not include any obstacles." Article (4) of the same Convention provided: "Workers' organisations and employers' organisations shall exercise their activity merely upon the deposit of their formation papers." And Article (5) of the same Convention provided: "The competent administrative body and each of the General Federation of Workers' Organisations or the employers' organisations, each within the framework of its organisation, shall have the right to challenge the validity of the formation of workers' organisations or employers' organisations for contravention of the law or of the organisation's basic statute; the judiciary alone shall be competent to decide the challenge, without this affecting the existence of the organisation or the conduct of its activity, until the challenge is finally decided."

⁴⁴⁴⁴Report of the Special Rapporteur on the situation of human rights defenders, submitted to the United Nations General Assembly at its fifty-ninth session, op. cit., para. 51.

⁴⁵⁴⁵Ghassan Mukheiber, Advocate, op. cit., pp. 52-53.

This principle was affirmed by the Amman Declaration⁴⁶, issued under the title (Declaration of Principles and Standards on Freedom of Association in the Arab Countries), which provided in its fourth article: "The basic legal principle on which freedom of association rests is the right of establishment without the need for a licence or prior permission; associations are established merely by the agreement of the will of their founders and may be declared public merely upon prior information/notification, and the establishment may not be subjected to any prior intervention by the administrative authority or by the judicial authority."

Thus, the consistency of national legislation with the international standards governing the provisions on the establishment of civil society institutions requires that these institutions be granted legal personality merely upon notification of their establishment and without the need for a licence or prior permission. The question that arises in this context, however, is: may civil society institutions acquire legal personality by the method of registration? Nothing prevents civil society institutions from acquiring legal personality by way of registration, but according to a set of controls and restrictions, the most prominent of which are that registration not be compulsory, so that civil society institutions are allowed to exercise their activities without being compelled to register whenever they wish⁴⁷; and also the independence of the authorities in charge of registration from the government in order to guarantee the integrity of registration, together with the necessity of the presence of representatives of civil society in those authorities, appointed free from government interference⁴⁸. The principle and general rule is that civil society institutions must acquire legal personality without the need for the approval of the public authorities, and nothing prevents civil society institutions from being given legal personality by way of registration within certain controls and restrictions⁴⁹.

The Jordanian legislator adopted the method of registration for associations to acquire legal personality, which contravenes the international standards governing the provisions on the acquisition by an association of legal personality, which affirmed that registration as a method for an association to acquire legal personality is lawful and consistent with the international standards if carried out according to controls and conditions, the most prominent of which are that registration not be compulsory and that the bodies in charge of registration be independent of the government. The following, however, is observed of the position of the Jordanian legislator in this regard:

⁴⁶⁴⁶The Declaration of Principles and Standards on Freedom of Association in the Arab Countries (the Amman Declaration of May 1999) was adopted at the end of the proceedings of the workshop that was one of the outputs of the Euro-Mediterranean partnership process guaranteeing the actual and lawful exercise of rights and freedoms, including freedom of expression and freedom of assembly for peaceful purposes, organised in cooperation with the Arab Initiative for Freedom of Association. For more on this subject see: Thibault Guillet, study entitled "The Euro-Mediterranean Human Rights Network: Working Group on the Right to Freedom of Association", *Mawarid Journal*, issue (17) devoted to the right to freedom of association and peaceful assembly, Amnesty International Regional Office, Beirut, 2011, pp. 35-38.

⁴⁷⁴⁷Report of the Special Rapporteur on the situation of human rights defenders, submitted to the United Nations General Assembly at its sixty-fourth session, op. cit., para. 59.

⁴⁸⁴⁸Report of the Special Rapporteur on the situation of human rights defenders, submitted to the United Nations General Assembly at its fifty-ninth session, op. cit., para. 60 and para. 82(h).

⁴⁹⁴⁹For more on the controls and restrictions governing the method of registration as one of the ways in which associations acquire legal personality, see Mu'ath Mansour Al-Humaimat, op. cit., pp. 36-42.

First: The Jordanian legislator considered registration a necessary and indispensable condition for an association to acquire legal personality: on the basis of the provisions of the Jordanian Associations Law, in order to establish an association it is necessary to begin by submitting an application for registration to the Registry Board, which has discretionary power in respect of this application either to approve or to reject it within sixty days from the date of receipt of the application; and if this period elapses without a decision being issued in this regard, the application is deemed approved by operation of law⁵⁰. Notwithstanding the inconsistency of the provisions of the current Associations Law with the international texts, the proposed draft law amending the law submitted by the Ministry of Social Development in (2015) came with stricter provisions in this field: the words "approved" by operation of law were deleted and replaced by the word "rejected"⁵¹ - that is, the lapse of the legal period without the Registry Board disclosing its wish in respect of the application for registration means that the application is deemed rejected. It must be noted that, if the Government's proposal in this regard is adopted, this would constitute a major retreat in public freedoms in the Kingdom; the research team therefore calls upon the National Assembly to study this proposal carefully and not to retreat from the provision currently in force, under which an application for establishment is deemed approved by operation of law if the legally specified period elapses without a response from the competent authorities.

If the registration of the association is approved, it is entered in the Associations Registry, and merely upon this entry the association enjoys legal personality; this is what is included in the text of Article (12) of the Associations Law, which provided: "Every association shall, upon its entry in the Registry, have legal personality, and it may carry out the acts and transactions necessary to achieve the aims and objectives contained in its basic regulations in a manner consistent with the provisions and conditions provided for in this Law and the regulations and instructions issued thereunder, and it shall have the right to litigate and to appoint lawyers."

In sum: approval of the application for registration in accordance with the provisions of the Associations Law has a constitutive and not merely declaratory effect for the acquisition by associations of legal personality; without this approval no association is able to exercise its activities and achieve its objectives, and this is a contravention of the relevant international standards, which require that associations acquire legal personality without prior permission from the public administration.

Second: The lack of independence of the Registry Board from the government. The Registry Board, to which the power to accept the application for establishment has been entrusted, is characterised as being of a purely governmental character, from which genuine representation

⁵⁰⁵⁰This is what is provided in Article (11) of the Jordanian Associations Law, which provides: "a. The Board shall issue its decision on the application for registration within sixty days from the date of receipt by the Registrar of the application satisfying all the conditions, and the aggrieved party may challenge this decision before the High Court of Justice in accordance with the provisions of the legislation in force. b. In cases other than those provided for in paragraph (d) of this article, if the Board does not issue a decision on the application for registration within the period specified in paragraph (a) of this article, the application shall be deemed approved by operation of law."

⁵¹⁵¹Concerning the amendment of the text of Article (11/b) of the Jordanian Associations Law, see the text of Article (9) contained in the draft amendment as approved by the Legal Committee, and the text of Article (10) contained in the draft amendment as proposed by the Legislation and Opinion Bureau.

of the associations is absent⁵². This may be drawn from the text of Article (4) of the Law, which provided: "a. There shall be established in the Ministry a registry called (the Associations Registry), administered and supervised by a board called (the Registry Board), chaired by the Minister and composed of: (1) the Registrar as vice-chairman; (2) a representative of the Ministry of the Interior; (3) a representative of the Ministry of Culture; (4) a representative of the Ministry of Tourism and Antiquities; (5) a representative of the Ministry of Environment; (6) a representative of the Ministry of Political Development; (7) four persons with experience in the field of the charitable or voluntary work sector, appointed by the Council of Ministers upon the recommendation of the Minister for a renewable period of two years, and the membership of any of them may be terminated and a replacement appointed in the same manner. b. The Council of Ministers may, upon the recommendation of the Minister, add to the membership of the Board a representative of any other ministry related to the work of associations. c. The minister concerned shall name the representative of the Ministry referred to in any of items (2), (3), (4), (5) and (6) of paragraph (a) of this article and in paragraph (b) thereof from among the first-category employees of his Ministry whose grade is not lower than the second. d. The vice-chairman shall act in place of the chairman in his absence. e. The Board shall, with the approval of the Council of Ministers, lay down special instructions containing the bases for determining the ministry competent for each association."

This position of the Jordanian legislator prompted the leaders of associations in Jordan to demand and stress the necessity of establishing an independent body to undertake the supervision of associations, and that this body be formed of members representing civil society elected by the associations and of members representing the government, provided that the larger proportion belong to the members representing civil society organisations⁵³.

According to the draft amendment of the Associations Law, the name "Associations Registry" was changed to the Associations Registry Department, enjoying financial and administrative independence, without any amendment being added relating to the manner of supervision and administration; indeed, two members were added to the Registry Board, namely a representative of the Ministry of Social Development and a representative of the General Federation of Associations named by the President of the Federation. The amendments have thereby increased the weight of the dominance of the public administration over the Associations Registry Board⁵⁴.

As regards unions, it was previously noted in an earlier part of this study that unions under the Jordanian legal system are divided into two types, labour unions and professional associations, and each of them has its own procedure for establishment and for the acquisition of legal personality; this will be discussed in turn as follows:

⁵²⁵²Dr Laith Nasrawin, op. cit., p. 169.

⁵³⁵³The National Campaign to Amend the Associations Law in Jordan (Towards Effective and Influential Associations), National Center for Human Rights and the Friedrich Naumann Foundation, with the support of the European Union, Amman, 2009, p. 6.

⁵⁴⁵⁴Concerning the amendment of Article (4) of the Jordanian Associations Law, see Article (5) contained in the draft amendment as approved by the Legal Committee.

First: The establishment of labour unions

On the basis of the provisions of the Jordanian Labour Law, we find that the Jordanian legislator adopted the method of registration for labour unions to acquire legal personality: the law required that the application for the registration of labour unions and employers' unions first be submitted to the Registrar of Unions at the Ministry, who shall issue his decision on this application within 30 days from the date of submission of the application⁵⁵; and the union acquires legal personality either from the date of publication of the Registrar's decision in the Official Gazette, or upon the issuance of a decision of the High Court of Justice (currently the Administrative Court) annulling the Registrar's decision of rejection, or upon the expiry of the period for challenge provided for by law⁵⁶.

It is observed of the position of the Jordanian legislator in this regard that it contravened the international standards governing the mechanism by which unions acquire legal personality, which require that the union acquire legal personality without the need for a licence or prior permission - quite apart from the fact that the Registrar's decision is constitutive and not declaratory, which would result in the union being regarded as contravening the laws if it exercised its activities before the issuance of the Registrar's decision and its acquisition of legal personality; and this is not consistent with the relevant international standards. This is a clear violation of the international standards governing the establishment of unions, which require that the union acquire legal personality without the need for a licence or prior permission from the public administration of the State⁵⁷.

It would have been more appropriate for the Jordanian legislator in this field to enable unions to acquire legal personality merely upon the deposit of the registration papers with the Registrar, so that the union commences its work and is regarded as an existing entity from the

⁵⁵⁵⁵ Article (102) of the Labour Law provides: "a. The application for the registration of any union or employers' union, signed by the founders, shall be submitted to the Registrar of Unions and Employers' Unions at the Ministry, accompanied by the following: (1) its internal regulations, setting out its name, head office and address; (2) a list of the names of the founding members and the identity documents of each of them; (3) the names of the members of the first administrative body elected by the founders; (4) the minutes of the meeting of the founding body. b. The Registrar of Unions and Employers' Unions may request the administrative body to provide him with any additional documents he considers necessary to complete the registration. c. The Registrar of Unions and Employers' Unions shall issue his decision on the application for the registration of any union or employers' union within a period not exceeding thirty days from the date of the submission of the application to him; if he approves the application he shall issue a certificate of registration of the union or employers' union and the registration decision shall be published in the Official Gazette, and if he decides to reject the application the founders may challenge his decision before the High Court of Justice within thirty days from the date of notification of the decision. d. Persons aggrieved by the registration of any union or employers' union may challenge the decision to register it before the High Court of Justice within thirty days from the date of publication of the decision in the Official Gazette."

⁵⁶⁵⁶ Article (103/a) of the Jordanian Labour Law provides: "a. A union or employers' union shall be deemed to exist under the name under which it was registered, shall acquire legal personality and shall exercise in that capacity all the acts it is authorised to exercise in accordance with the provisions of this Law, the regulations issued thereunder and its internal regulations, as from the date of: 1. publication of the decision of the Registrar of Unions and Employers' Unions to register the union or employers' union in the Official Gazette; 2. or the issuance of a decision of the High Court of Justice annulling the Registrar's decision rejecting the registration of the union or employers' union; 3. or the expiry of the period for challenge provided for in Article (102) of this Law."

⁵⁷⁵⁷ Twelfth Annual Report on the State of Human Rights in Jordan for the year 2015, National Center for Human Rights, Amman, 2015, p. 108.

date of deposit, while enabling the Ministry to object to this entity before the judiciary, which has jurisdiction to decide whether or not the union has acquired legal personality⁵⁸.

Second: The establishment of professional associations

From an examination of the reality of the Jordanian legal regulation of professional associations, we find that this type of association is established under special laws. The basic problem in this course is not confined to the contravention of the international standards only, but is connected with the practical reality of enacting this type of legislation, which is initially proposed by the Government through the submission of a draft bill, with the text of Article (95/1) of the Constitution, which permitted ten members of either House to propose laws, being disregarded⁵⁹.

The Constitutional Court affirmed this course in the establishment of professional associations in its interpretative decision No. (6) of 2013, in response to the question submitted by the Senate on the possibility of establishing unions for employees subject to the Civil Service Regulation whose posts have no counterpart in the private sector or outside the government framework. The Court held "that employees in any ministry, department, body or government institution may establish a special union for themselves, even if they are employees subject to the Civil Service Regulation and regardless of whether or not they have a counterpart in the private sector outside the framework of the government, provided that this is done under legislation issued for this purpose as the legislative authority, which has original competence in legislation, considers appropriate"⁶⁰. From an analysis of the aforementioned decision of the Constitutional Court we observe the following:

(1) The decision was consistent with the international standards governing the right to form unions when it permitted employees to establish and join unions, since the international standards affirmed the necessity of enabling all members of society to establish unions without the slightest discrimination among them, whether they are workers subject to the Labour Law or public employees subject to the Civil Service Regulation; it was also consistent with the Labour Relations (Public Service) Convention⁶¹, which expressly affirmed the right of public employees to establish and join unions.

(2) The decision was consistent with the text of Article (16/2) of the Jordanian Constitution, which affirmed the right of all Jordanians without discrimination to establish and join unions.

(3) The decision contravened the international standards when it linked the establishment of professional associations to special laws, contrary to the international standards that affirmed the necessity of establishing unions merely upon notification without the need for

⁵⁸⁵⁸Fayez Al-Shakhatreh, op. cit., p. 74.

⁵⁹⁵⁹Twelfth Annual Report on the State of Human Rights in Jordan for the year 2015, op. cit., p. 108.

⁶⁰⁶⁰Interpretative decision of the Jordanian Constitutional Court No. (6) of 013, published in the Official Gazette, issue 5238 dated 1/9/2013, p. 4111.

⁶¹⁶¹Convention (No. 151) concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service, adopted by the General Conference of the International Labour Organization on 27 June 1978 at its sixty-fourth session; date of entry into force: 25 February 1981, in accordance with the provisions of Article 11(2).

prior permission - quite apart from the fact that the procedure of establishing professional associations by law is declaratory and not constitutive, which is liable to obstruct the exercise of this right.

(4) The decision contravened the text of Article (16/3) of the Constitution, which affirmed the necessity of the existence of a law regulating the establishment of unions, on a par with parties and associations, and not the issuance of a separate law for each union intended to be established⁶².

It is worth mentioning in this context that the professional associations are among the largest civil society institutions in Jordan, and they currently comprise (13) professional associations established under a law issued by the legislative authority, namely: physicians, dentists, lawyers, pharmacists, engineers, agricultural engineers, journalists, nurses and midwives, contractors, artists, veterinarians, geologists and teachers. Some add to these associations the following⁶³: (a) an association established under a regulation issued by the Council of Ministers, namely the Association of Auditors: pursuant to the provisions of the Law Regulating the Profession of Certified Public Accountancy No. 73 of 2003, an association called the Jordanian Association of Certified Public Accountants is established, enjoying legal personality with financial and administrative independence, and pursuant to the provisions of Article 45/b of this Law the internal regulations of the Jordanian Association of Certified Public Accountants were issued, setting out the manner of its establishment, membership, its objectives and everything relating to its administration; (b) an association formed as a non-governmental association, namely the Jordanian Writers Association. This association was established and registered in 1974 under the Associations Law as a non-governmental, non-profit organisation to achieve a set of objectives, the most important of which are stimulating the intellectual and literary movement, providing suitable conditions for the growth of the capacities of the Jordanian writer, strengthening the ties among Jordanian men of letters and disseminating literary and intellectual output. Notwithstanding its establishment in the form of an association, it was approved that the association be a member of the General Union of Arab Writers and Men of Letters. In 1987 the association was dissolved by a decision of the Military Governor under his powers pursuant to the declaration of martial law, but the General Union of Arab Writers and Men of Letters continued to regard it as a member. The association resumed its work after the abolition of martial law in 1989.

Before concluding the examination of the establishment of unions according to what is contained in Jordanian legislation, it is necessary to refer to the legal status of the independent unions in Jordanian legislation. Notwithstanding the lawfulness of these unions and the affirmation by the Labour Law of the right to establish them - when it permitted in Article

⁶²⁶²Dr Ayman Halaseh, article entitled "A Comment on the Decision of the Jordanian Constitutional Court in the Case of the Right of Imams to Establish a Union: A Rift between Reasoning Consistent with International Standards and its Conclusions", published on the Legal Agenda website at the following link: <http://www.legal-agenda.com/article.php?id=2210> ; this site was accessed on 14/1/2017.

⁶³⁶³Dr Ayman Halaseh, article entitled "The Jordanian Constitutional Court Interprets the New Constitution without Looking at its Text: Union Freedom for Public Employees under the Ceiling of Parliament", published on the Legal Agenda website at the following link: http://www.legal-agenda.com/article.php?id=460&lang=ar#.Ukk_IWDfqP8 ; this site was accessed on 14/1/2017.

(98/a) at least fifty persons working in a single occupation, or in similar occupations or occupations interconnected in a single production, to establish a union for themselves - practical reality has witnessed the Ministry of Labour refusing the establishment of such unions. We mention of these cases, by way of example and not of limitation, the refusal of the application to establish a union for workers in the field of aircraft maintenance, which constitutes an infringement of the right of workers in this profession to establish a union for themselves to organise their affairs and defend their interests⁶⁴ - quite apart from the fact that this course by the Ministry of Labour constitutes a violation of the relevant international standards and national legislation.

The conclusion of the brief analysis presented regarding the position of the legal regulation on the mechanism for establishing unions shows that the Jordanian legislator adopted the method of registration for labour unions and the establishment of each professional association under a law, which constitutes a fundamental contravention of the international and constitutional standards governing the right to form and join unions.

Section Three

The Freedom of Civil Society Institutions to Lay Down and Amend their Basic Regulations without Interference by the Public Administration

The international standards and best practices focus on civil society institutions enjoying complete freedom to lay down and amend their basic regulations without interference by the public administration, which requires national legislation, in regulating the provisions for the exercise of the right to form civil society institutions, to provide clearly for enabling these institutions to lay down and amend their basic regulations freely without interference by the public administration.

This principle was affirmed by Convention No. (87) concerning Freedom of Association and the Right to Organise in the aforementioned third article, which provided for the necessity of enabling any union organisation to lay down its basic statute in complete freedom, free from interference by the public administration. The Arab Convention concerning Trade Union Rights and Freedoms also affirmed this principle, providing in Article (6) thereof: "The workers and employers founding the organisation shall lay down its basic statute, which shall in particular include its objectives and the means of achieving them, as well as its organs and the methods of its funding and administration, without interference or influence from any body whatsoever. Workers' organisations or employers' organisations may not be bound by any bylaws or regulations on the organisation of their work and the exercise of their activity laid down by any body; non-binding models of such bylaws or regulations may be laid down for guidance."

As for the Amman Declaration, it provided in Article (8) thereof: "The founders of associations shall enjoy the right to lay down their regulations freely and without any interference; the public

⁶⁴⁶⁴Eleventh Annual Report on the State of Human Rights in Jordan for the year 2014, National Center for Human Rights, Amman, 2015, p. 90.

administration may lay down optional models to assist the founders in the process of establishment and to serve them."

This was expressly affirmed by the Special Rapporteur on the rights to freedom of peaceful assembly and of association when he affirmed the necessity of granting associations absolute freedom to lay down their basic statute and to determine the particulars that must be included in it without the slightest interference by the public administration⁶⁵.

For national legislation to be regarded as consistent with the international standards in its regulation of the exercise of the right to form civil society institutions, it must respect the right of civil society institutions to lay down their constitutions and bylaws without interference by the governmental authorities⁶⁶, whether through obliging civil society institutions to include a set of mandatory particulars in their basic regulations or through obliging them to use particular models. When the public administration lays down optional models to assist the founders in the process of establishment, it must take care that these models cannot be turned from optional into quasi-mandatory if linked to the procedures for establishment⁶⁷.

It is apparent from a study of the provisions of the Jordanian Associations Law that it obliges associations to include a set of mandatory particulars in their basic regulations, which is drawn from the text of Article (7/b) of the Jordanian Associations Law, which provided: "The provisions that must be contained in the basic regulations of the association shall be determined under a special regulation issued for this purpose, provided that the basic regulations include the following: (1) the name of the association; (2) its head office and the geographical scope of its work; (3) the objectives and aims of its establishment in a specific and clear manner; (4) the conditions for acquiring membership and the cases of its loss; (5) the membership fees and the amount of the annual subscriptions; (6) the manner in which the general assembly of the association meets in ordinary and extraordinary meetings, its powers, the legal quorum for holding those meetings and the mechanism for taking decisions therein; (7) the number of members of the administrative body, the manner of their election, its powers, the legal quorum for holding its meetings and the mechanism for taking its decisions; (8) the sources of funding of the association and the manner in which its financial affairs are conducted, controlled and audited; (9) the rules of good governance and transparency; (10) the manner of dissolving the association and the devolution of its funds."

Article (14/c/2) of the Jordanian Associations Law also provided: "Notwithstanding any provision to the contrary, the decision of the general assembly of the association to make any amendment to the provisions of its basic regulations shall not be implemented except after the approval of the Board of this amendment, within sixty days from the date of its delivery to the Registrar, and the amendment shall be deemed effective if no contrary decision is issued." If these provisions are placed under analysis, the following becomes apparent to the study team:

⁶⁵Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, submitted to the Human Rights Council at its twentieth session, dated 21/5/2012, document symbol A/HRC/20/27, paras. 64 and 97.

⁶⁶Code of Conduct for Jordanian Union Organisations, produced by the Arab-European Project for the Right to Assembly and Organisation in the Arab World, National Center for Human Rights, n.d., p. 5.

⁶⁷Ghassan Mukheiber, Advocate, op. cit., p. 54.

(1) The Law referred the determination of the provisions that must be contained in the basic regulations of any association to a special regulation issued for this purpose, and this is an express contravention of Article (16) of the Jordanian Constitution, which affirmed the necessity of regulating the work of associations under a law and not regulations or instructions.

(2) The Law obliged associations to include a set of mandatory particulars in their basic regulations, and this is a violation of the freedom of associations to lay down their basic regulations in complete freedom without interference by the public administration.

(3) The Law made the effectiveness of any amendment to the basic regulations contingent upon the approval of the Registry Board, and if its decision is not issued within sixty days the amendment is deemed effective. It would have been more appropriate for the Jordanian legislator in this context to regard the amendment as effective merely upon its deposit with the Registrar⁶⁸.

A study of the provisions of the Labour Law likewise shows that it was not consistent to some extent with the international standards, since the Jordanian Labour Law obliged the General Federation of Trade Unions to lay down internal regulations for the unions, with the necessity of including a set of mandatory particulars; Article (100) of the Labour Law provided: "The General Federation of Trade Unions shall lay down internal regulations for the unions, not conflicting with the provisions of the legislation in force, and shall deposit them with the Registrar of Unions and Employers' Unions immediately upon their adoption, provided that they include the following matters: (a) the name of the union and the address of its head office; (b) the aims for which the union will be established; (c) the conditions and procedures for the admission of members to the union and their expulsion therefrom, and the conditions that must be satisfied by a candidate for the elections of the administrative body or any of its committees; (d) the conditions for forming committees in the union and their functions; (e) the number of members of the administrative body of the union, the duration of its term, the manner of their election, the dates of its meetings, the method of filling vacancies in its membership and its powers; (f) the rights enjoyed by a member of the union, the obligations he bears and the cases in which he is exposed to disciplinary penalties, including a fine and expulsion from the union; (g) the services."

This constitutes in its content a contravention of the international standards. The same Law, however, regarded any amendment made to the internal regulations as effective merely upon its deposit with the Registrar of Unions and Employers' Unions⁶⁹, and did not make the effectiveness of these amendments contingent upon the approval of the Registrar; this position

⁶⁸⁶⁸ Mohammad Ya'qoub and Saddam Abu Azzam, research entitled "The Right to Form Associations in Jordan (An Analytical View and Future Visions)", legal and field study submitted to the Research Grants Programme, International Center for Not-for-Profit Law, Amman, 2011, p. 20.

⁶⁹⁶⁹ Article (103/b) of the Labour Law provides: "The General Federation of Trade Unions or any of the employers' unions shall deposit any amendment made to the internal regulations of the Federation, the unions or the employers' unions with the Registrar of Unions and Employers' Unions, provided that this amendment does not contain anything contrary to the provisions of the legislation in force; and it shall take effect as from the date of its deposit."

is to the credit of Jordanian legislation for its consistency with the international standards governing the mechanism for amending the basic regulations of unions.

As regards the freedom of professional associations to lay down their internal regulations, we find that national legislation, in addressing this matter, used one of two methods: the first, obliging professional associations to include a set of mandatory particulars in their basic regulations, which is what Article (23) of the Teachers Association Law provided⁷⁰; or making the task of laying down the internal regulations within the competence of the Council of Ministers, which is what Article (78) of the Bar Association Law provided⁷¹, and Article (95) of the Engineers Association Law, which made this competence permissive for the Council of Ministers⁷². This course by the Jordanian legislator is a clear and express contravention of the international standards governing the freedom of unions to lay down their basic regulations without interference by the public administration of the State.

In sum, the Jordanian legislator contravened the international standards in this regard; it would have been more appropriate for him to allow associations and labour unions to lay down their basic regulations freely and also to grant them freedom to amend their basic regulations without the need for the approval of the Registry Board.

Section Four

The Freedom of Civil Society Institutions to Elect their Boards of Directors

The international standards require that civil society institutions enjoy complete freedom to elect the members of their boards of directors without interference by the public administration; this is a necessary matter which national legislation must take into account when regulating the provisions for the exercise of the right to freedom to form civil society institutions. On the basis of the international standards guaranteeing the optimal exercise of the right to freedom of association, associations must be enabled to elect the members of their boards of directors and their representatives in complete freedom without interference by the public administration; nor may the public administration in this field object to particular candidates, and it may not suspend the membership of the board of directors of any association or replace its members⁷³.

This principle was affirmed through Article (3/1) of Convention No. 87 concerning Freedom of Association and the Right to Organise, which provided: "1. Workers' and employers'

⁷⁰70. "The internal regulations of the Association shall specify the following: a. the administrative and organisational matters relating to the meetings of the central body of the Association and the bodies of the branches, having regard to what is contained in paragraph (a) of Article (15) of this Law; b. the formation of the committee supervising the elections and the determination of its functions and powers, provided that among its members there is a representative chosen by the Minister; c. the procedures for candidacy, election and membership of the bodies of the branches; d. the administrative and organisational matters relating to the Council and the determination of the functions and responsibilities entrusted to members; e. the fees for membership of the Association and the annual subscription thereto and the dates and procedures for their payment, and the procedures for collecting the funds of the Association and depositing them in banks and the powers of disbursement therefrom."

⁷¹71. Article (78) of the Law provides: "The Council of Ministers shall issue the regulations necessary for the implementation of the provisions of this Law, including: 1. the internal regulations of the Association ..."

⁷²72. Article (95) of the Law provides: "The Council of Ministers may, upon the recommendation of the general assembly of the Association, issue the regulations necessary for the implementation of the provisions of this Law, including: 1. the internal regulations ..."

⁷³73. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, op. cit., para. 65; and Report of the Special Rapporteur on the situation of human rights defenders submitted to the General Assembly at its fifty-ninth session, op. cit., para. 36.

organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes ..."

This principle was also expressly provided for in Article (4) of Arab Convention No. 8 of 1977 concerning Trade Union Rights and Freedoms, which provided: "The legislation of each State shall guarantee non-interference in the candidacy and elections of union members."

The Amman Declaration also affirmed this principle, providing in Article (10) thereof: "The association shall be administered by its bodies provided for in its own regulations. The public administration shall have no right to interfere in the conduct of its meetings, elections or activities or to influence them."

On the basis of the foregoing, any interference by the public administration liable to obstruct the freedom of civil society institutions to elect the members of their boards of directors and their representatives is regarded as a clear contravention of the international standards governing the right to freedom of association. On reference to Jordanian legislation, it becomes apparent that the Jordanian Associations Law, on the basis of the text of Article (7/b), granted associations freedom to elect the members of their administrative bodies, since the legislator obliged associations to include in their basic regulations the manner of electing the members of their administrative body, their number and their powers; the legislator has thereby, in this field, been consistent with the relevant international standards.

By contrast, the Law allowed the public administration to encroach upon the composition of this body and to replace it with what is called the "temporary administrative body", since Article (19/a) of the Jordanian Associations Law provided: "The competent minister may appoint a temporary administrative body for the association to act in place of its administrative body and to replace it in any of the following cases, provided that one or more members of its general assembly participate in it wherever possible: (1) if it becomes impossible for the administrative body of the association to hold its meetings owing to the loss of its legal quorum by reason of resignation or death, or similar cases; (2) if the association contravenes any of the provisions of this Law or the regulations issued thereunder, or contravenes the provisions of its basic regulations, and does not remove the causes of the violation within two months from the date of its notification of a written warning of that violation; (3) if the association contravenes the provisions of paragraph (c) of Article (18) of this Law; (4) if the association accepts any donation, support or funding from any source whatsoever without disclosing it and recording it in its financial records and reports."

It is apparent from an examination of the cases set out by the legislator, in which he permitted the competent minister to appoint a temporary administrative body to replace the general [administrative] body, that these cases do not in their content constitute a justified reason for the competent minister to disregard the will of the members in choosing the administrative body of the association and to replace it with a temporary body - quite apart from the fact that these cases are, in their content, minor violations that could be addressed by administrative or

financial penalties without going so far as to replace its administrative body with a temporary administrative body⁷⁴.

Moreover, the powers granted to the competent minister in this field are loose; the reason for this is the possibility of characterising any act carried out by the association that is not consistent with government policy as contravening the law, regulations and instructions - and especially the first case, relating to the loss of the legal quorum by reason of death, resignation or similar cases, for the expression "similar cases" is open to interpretation and construction. The legislator also did not specify the nature of the persons who may be members of the temporary administrative body, which may lead the competent minister to appoint persons representing purely the government's point of view to the temporary administrative body in order to guarantee complete control over the association - quite apart from the fact that the Law granted the competent minister the power to appoint the temporary administrative body without a warning or notice being addressed to the violating association, while excluding the role of the judiciary in this regard⁷⁵. It is clear from the foregoing that it is necessary for the Jordanian legislator to intervene to reconsider the power of the competent minister to appoint the temporary administrative body and to abolish it, since it involves a violation of the freedom of associations to choose the members of their body.

A study of the draft amendment of the Jordanian Associations Law shows that it made no amendment worth mentioning to the minister's power to form a temporary administrative body, save that the new draft required, in forming the temporary administrative body, that its members be members of the general assembly of the association whenever possible, and if that is not possible, that the members of the body be named from among activists in the association's field or from among employees of official departments, to act in place of its administrative body and to replace it. The draft also added an additional ground for forming the temporary administrative body, namely the expiry of the legal term of the association's administrative body and the impossibility of holding elections for its administrative body⁷⁶.

On reference to the position of Jordanian legislation on the freedom of unions to choose the members of their boards of directors, it becomes apparent that the Labour Law guaranteed labour unions freedom to elect their administrative bodies, which may be drawn from the text of Article (100) of the Jordanian Labour Law, which affirmed the necessity that the General Federation of Labour Unions specify the manner of holding the elections of the members of the administrative bodies of the unions in the internal regulations laid down for each union established⁷⁷. On the basis of the provisions included in the internal regulations of certain

⁷⁴⁷⁴Dr Laith Kamal Nasrawin, op. cit., p. 186.

⁷⁵⁷⁵Mohammad Ya'qoub and Saddam Abu Azzam, op. cit., pp. 20-21, and Dr Laith Kamal Nasrawin, op. cit., pp. 186-188.

⁷⁶⁷⁶Concerning the amendment of the text of Article (19/a) of the Associations Law, see the text of Article (13) contained in the draft amendment of the Associations Law as approved by the Legal Committee, and the text of Article (17) contained in the draft amendment of the Law as proposed by the Legislation and Opinion Bureau.

⁷⁷⁷⁷Article (100) of the Jordanian Labour Law provides: "The General Federation of Trade Unions shall lay down internal regulations for the unions, not conflicting with the provisions of the legislation in force, and shall deposit them with the Registrar of Unions and Employers' Unions immediately upon their adoption, provided that they include the following matters: ... e. the number of members of the administrative body of the union, the duration of its term, the manner of their election, the dates of its meetings, the method of filling vacancies in its membership and its powers ..."

labour unions, we find that the general assembly of each union has the power to elect the president of the union and the members of the administrative body⁷⁸; and if the number of members of the union falls below half, it is deemed dissolved by law and the union is administered temporarily by a committee formed by the General Federation of Unions chaired by the elected president of the union⁷⁹. The chairing by the elected president of the union of the temporary committee administering the union has the effect of keeping the administration of labour unions free from interference by the public administration.

As regards the professional associations, it becomes apparent that the laws of those associations guaranteed the general assembly freedom to elect the president and the members of the council of the association without the slightest interference by the public administration⁸⁰; and if the elections are not held on their specified date for any compelling reason, the council whose term has expired continues to exercise its functions without a temporary board being appointed by the public administration, as is the case under the Jordanian Associations Law⁸¹. The role of the competent minister is also confined to challenging these elections before the Administrative Court⁸².

In short, Jordanian national legislation on the freedom of unions, whether labour or professional, to elect their boards of directors has been largely consistent with the international standards governing the freedom of civil society institutions to elect their boards of directors, and has thereby moved ahead of the Associations Law, which still grants the public administration greater dominance in the field of choosing the administrative bodies of associations.

Section Five

The Freedom of Civil Society Institutions to Obtain Funding

Civil society institutions need, in exercising their various activities, financial resources to fund the exercise of those activities; this necessarily requires the public authorities to enable those institutions to fund their activities from the various available sources⁸³, whether national or foreign funding. All national legislation must strive to enable these institutions to obtain the funding necessary to carry out their lawful activities without the need for approval by the public administration.

⁷⁸⁷⁸See for example Article (37) of the internal regulations of the General Union of Workers in Banks, Insurance and Accounting, published on the union's website at the following link: <http://gtubia.org.jo> ; this site was accessed on 20/7/2017; and see also Article (37) of the internal regulations of the Union of Workers in Air Transport and Tourism, published on the union's website at the following link: <http://www.guatt.org.jo/index.php?module=page&id=79> ; this site was accessed on 20/7/2017.

⁷⁹⁷⁹See for example Article (61) of the internal regulations of the General Union of Workers in Banks, Insurance and Accounting, and Article (61) of the internal regulations of the Union of Workers in Air Transport and Tourism.

⁸⁰⁸⁰See for example Article (77) of the Jordanian Bar Association Law, Article (28) of the Jordan Engineers Association Law, and Article (14) of the Jordan Teachers Association Law.

⁸¹⁸¹See for example Article (97) of the Bar Association Law, Article (44/a) of the Engineers Association Law, and Article (14) of the Teachers Association Law.

⁸²⁸²See for example Article (98) of the Bar Association Law and Article (39/a) of the Engineers Association Law.

⁸³⁸³Mu'ath Mansour Al-Humaimat, *op. cit.*, p. 46.

This principle was included in the text of Article (13) of the Declaration on Human Rights Defenders⁸⁴, which provided: "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration." So long as the right of individuals to obtain the funding necessary to run civil society institutions falls within the scope of promoting the protection of human rights and fundamental freedoms, this necessarily requires that States be obliged to enable individuals to obtain the funding necessary to promote and protect human rights, including the funding of civil society institutions.

As for the sources of funding, they are numerous, and Article (13) of the Amman Declaration set out examples of these sources, stating: "Associations have the right to develop their financial resources, including: members' fees and donations, the acceptance of gifts, grants and assistance from any natural or legal person, local or foreign, and the carrying out of activities liable to generate income for them and yield a profit used in their activities, provided that these profits are not distributed to the members."

On the basis of this, we can say that the State must enable civil society institutions to obtain funding whatever its source, whether national or foreign; and any restrictions imposed that are liable to obstruct those institutions from obtaining the funding necessary to carry out their activities which do not contravene the provisions of the legislation in force and which are characterised as lawful are regarded as a violation of the international standards governing the right of civil society institutions to obtain funding.

It becomes apparent from evaluating the position of the Jordanian Associations Law on associations obtaining funding that the Law, as a general rule, granted associations the right to obtain funding, whether national or foreign, provided that they undertake to declare that funding in their annual report and to record the value of the funding and the name of the body providing it in their financial records⁸⁵. Affirming the commitment of associations to the rules and bases of transparency represented by declaring the funding they obtain, the Jordanian legislator imposed financial fines on them of not less than five hundred dinars and not more than five thousand dinars⁸⁶ in the event that any association fails to do so. Notwithstanding that the Jordanian legislator allowed associations to obtain funding, whether foreign or national,

the Jordanian legislator returned and departed from the general rule by linking the obtaining by associations of foreign funding to the approval of the Council of Ministers; without that approval associations cannot obtain that funding, and the decision of the Council of Ministers refusing the association's obtaining of foreign funding is subject to challenge before the High

⁸⁴Declaration on Human Rights Defenders: Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the United Nations General Assembly on 10 December 1998.

⁸⁵Article (17/a) of the Jordanian Associations Law provides: "Subject to the provisions of paragraphs (b) and (c) of this article, the association shall declare in its annual report any donation or funding it has received, and the association shall record in its financial records the name of the body providing the donation or funding, its amount, the purpose on which it will be spent and any conditions relating thereto."

⁸⁶See in this regard the text of Article (26/a/1-2) of the Jordanian Associations Law.

Court of Justice⁸⁷ (currently the Administrative Court). If the foreign funding is obtained after its refusal, that funding is transferred to the Associations Support Fund unless the funder refuses that measure, in addition to the imposition of the penalty of dissolution on the association if it accepted this funding without the approval of the Council⁸⁸. It must be noted in this context that the bases contained in Jordanian Council of Ministers decision No. 21/11/1/46554 relating to the mechanism for obtaining foreign funding provided to associations, civil society institutions and non-profit companies operating in Jordan included the following procedures⁸⁹:

- a. Any association wishing to obtain foreign funding submits an application according to an approved form to the Associations Registry at the Ministry of Social Development; and if the application is submitted directly to the Prime Ministry, the Prime Ministry must send the application to the Associations Registry within two working days.
- b. The Registrar of Associations in all cases sends copies of this application to the competent ministry, to the Ministry of Planning and International Cooperation and to the Ministry of the Interior, which in turn study this application; the competent ministry studies the technical, legal, administrative and financial aspects of the application, examines the extent of the area's need for the project intended to be implemented, and provides recommendations and observations to the applicant association to make necessary amendments whenever that is necessary.
- c. The Ministry of Planning ascertains that the application falls within the national priorities and examines whether the project falls under the umbrella of any international agreement, especially if it requires customs or tax exemptions.
- d. The aforementioned bodies send the application to the Associations Registry within (5) working days from the date of its receipt by them.
- e. After the Registrar of Associations ascertains the completeness of the application, the Minister of Social Development addresses the Prime Minister to submit the application to the Council of Ministers with a recommendation that it take the appropriate decision thereon.
- f. The Minister of Social Development is notified of the decision of the Council of Ministers.
- g. The Registrar of Associations notifies the decision to the association concerned.

Where the association obtains the approval of the Council of Ministers, the decision affirmed that the competent ministry, in cooperation with the governor according to the location of implementation of the project, is to follow up the project, and the association concerned must provide the competent ministry and the Ministry of Planning and International Cooperation with reports on the progress of the project, so that each of the Ministry of Planning and the

⁸⁷⁸⁷See Article (17) of the Jordanian Associations Law.

⁸⁸⁸⁸See Article (20/b) of the Jordanian Associations Law.

⁸⁹⁸⁹Decision of the Council of Ministers No. 21/11/1/46554, issued on 26/10/2015, published on the website of the Ministry of Social Development at the following link: <http://www.societies.gov.jo/SitePage.aspx?PageId=124> ; this site was accessed on 14/4/2017.

ministry concerned studies the report and evaluates its impact. Presenting a brief analysis of the aforementioned decision of the Council of Ministers, we find the following:

- (1) The decision included a set of bureaucratic procedures liable to obstruct associations from obtaining foreign funding.
- (2) The decision referred to the necessity that the Registrar of Associations send the funding application to the competent ministry, the Ministry of Planning and International Cooperation and the Ministry of the Interior, without obliging him to a specific period within which to send the application to those bodies, while at the same time obliging the ministries concerned to return the application to the Associations Registry within (5) working days.
- (3) The content of the decision contravenes the text of Article (17/b) of the Associations Law, which required that the source of funding be lawful and not contrary to public order, that it be consistent with the provisions of the Associations Law and that it be spent for the purpose for which it was provided; for the decision introduced additional conditions, namely the area's need for the project intended to be implemented and that it fall within the national priorities - quite apart from the fact that the term "national priorities" is a loose term in need of a criterion to clarify it.
- (4) The decision granted the public administration broad powers exceeding its oversight role, since the association has become obliged to submit periodic reports to the competent ministry and to the Ministry of Planning and International Cooperation on the implementation of the project - quite apart from the competent minister, in cooperation with the governor, following up the spending of the funding after the association has obtained it.
- (5) The content of this decision has increased the burden of the flagrant violation of the international standards that require that associations obtain foreign funding without the need for prior permission: it is not enough that the Law linked the obtaining by associations of foreign funding to the approval of the Council of Ministers; rather, a series of procedures must be passed through under this decision before the application is submitted to the Council of Ministers.

On the basis of this, and in accordance with what the Euro-Mediterranean Human Rights Network recommended, the Jordanian legislator must enable associations to obtain the funding necessary to carry out their activities without the need for prior permission, according to conditions and bases guaranteeing commitment to transparency and respect for the law⁹⁰.

As for the proposed amendments to the Associations Law as regards foreign funding, they obliged an association wishing to obtain foreign funding to submit an application first to the Associations Registry Department, which in turn submits it to the Council of Ministers - unlike the current text, which permitted the association to submit the application directly to the Council of Ministers - quite apart from the necessity for the association to specify the amount

⁹⁰⁹⁰Monitoring Report on Freedom of Association in the Euro-Mediterranean Region, Euro-Mediterranean Human Rights Network, Copenhagen, 2008, p. 27; and Evaluation Report on Freedom of Assembly and Association in the Euro-Mediterranean Region (Civil Society under Threat), op. cit., p. 30.

requested, the manner of obtaining it and the ways in which it will be used⁹¹. These proposed amendments are liable to impose further onerous restrictions on associations wishing to obtain foreign funding.

As regards the funding of labour unions, it rests in its content upon several sources, the most prominent of which are the membership fees and subscriptions paid by members to the union, the fee for obtaining a union membership card, the proceeds of events held by the union and the prices of publications, the profits of investments of its funds and the revenues of the real estate it owns, the profits resulting from the sale of any of its assets, and the subsidies and gifts accepted by the administrative body⁹².

It is observed that, when the internal regulations of labour unions were drawn up, reference was made to the subsidies and gifts accepted by the administrative body, without reference to the source of those donations or gifts, whether national or foreign; accordingly, the obtaining by unions of funding, whether national or foreign, is contingent upon the approval of the administrative body of the union, without the need for the approval of the public administration. It must be noted, however, that the Labour Law subjected the funds of unions, and any funds allocated by the Government to support them, to the audit of the Audit Bureau, which deprives labour unions of the freedom to dispose of their funds without interference by the public administration of the State⁹³.

As for the resources of the professional associations, we find that each association has particular sources of which its resources consist⁹⁴; these sources differ from one association to

⁹¹⁹¹Concerning the amendment of Article (17) of the Associations Law, see the text of Article (12) contained in the draft amendment of the Associations Law as approved by the Legal Committee, and the text of Article (15) contained in the draft amendment as proposed by the Legislation and Opinion Bureau.

⁹²⁹²See for example Article (19) of the internal regulations of the Union of Workers in Air Transport and Tourism, and Article (19) of the internal regulations of the General Union of Workers in Banks, Insurance and Accounting.

⁹³⁹³Article (109) of the Jordanian Labour Law provides: "a. The funds of the unions, the General Federation of Trade Unions and the employers' unions, and any funds allocated by the Government to support them, may not be spent except in a manner achieving their objectives in accordance with the provisions of the legislation in force and their internal regulations and consistent with international accounting standards, provided that these funds and allocations are subject to the audit of the Audit Bureau ..."

⁹⁴⁹⁴Article (102) of the Jordanian Bar Association Law provides: "a. The resources of the Association shall consist of: (1) registration fees, re-registration fees and annual fees for practising the profession; (2) fees for the production of powers of attorney; (3) fines and civil obligations payable in the event of failure to execute mandatory powers of attorney or to report them; (4) the dues collected for each of the retirement fund and the cooperative fund; (5) subscriptions to the Association's journal and its publication and the prices of its publications; (6) donations and subsidies approved by the Council of Ministers; (7) a percentage not exceeding (5%) of the lawyer's income from the legal profession according to the final assessment of the Income Tax Department; (8) a percentage not exceeding (10%) of the lawyers' fees awarded by the courts in civil actions ..."

Article (85) of the Jordan Engineers Association Law provides: "a. The revenues of the Association shall consist of: (1) the registration fees of members of the Association, determined under the internal regulations of the Association; (2) registration fees, annual fees, practising fees, fee charges and the fines accrued thereon for members, engineers and Jordanian and non-Jordanian engineering offices and companies and non-Jordanian contracting companies, under the provisions of the internal regulations of the Association; (3) subsidies and gifts approved by the Council of Ministers; (4) the fees collected under the provisions of paragraph (y) of Article (23) of this Law; (5) fees for applications for the assessment of fees determined under the internal regulations, and any fees paid for engineering and arbitration inspections and the settlement of technical disputes, and the fees for any additional inspection or assessment approved by the Council; (6) subscriptions to the Association's journal and the proceeds of its sales and of the Association's other publications; (7) fines collected as a result of the imposition of penalties and civil obligations payable under the provisions of this Law and fines arising from violations; (8) the proceeds of investments of the Association's funds and real estate; (9) the proceeds of the Association's stamps which the member is obliged to use according to the instructions issued by the Council for this purpose ..." Article (25) of the Jordan Teachers Association Law provides: "The financial resources of the Association shall consist of the following: a. membership fees of the Association and annual subscription fees thereto; b. donations, subsidies and gifts approved by the Council of Ministers if they are from a

another, but the laws of the professional associations, in particular those of the lawyers, engineers and teachers, included a common provision, namely linking the obtaining by those associations of subsidies, gifts and donations to the approval of the Council of Ministers, whether the source of those donations or subsidies is national or foreign. This is an express contravention of the international standards that require that civil society institutions obtain the funding necessary to exercise their activities without interference by the public administration of the State.

In short: Jordanian legislation directly restricts the freedom of civil society institutions to access and obtain financial support, and is stricter still as regards foreign financial support - which conflicts with the international standards and may affect the capacity of the institutions to carry out the tasks required of them.

Section Six

The Dissolution of Civil Society Institutions

The right of individuals to freedom to form civil society institutions entails necessarily their right to freedom to dissolve any institution they have established without interference by the public administration of the State⁹⁵. Accordingly, the international standards governing the mechanism for dissolving civil society institutions rest upon a basic pillar, the content of which is that the procedures for dissolving any association be free from interference by the public authorities, and that they take place by a decision issued by its own body, or by a final judicial decision after the rights of defence have been fully guaranteed⁹⁶.

Article (4) of Convention No. 87 concerning Freedom of Association and the Right to Organise provided: "Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority." The Arab Convention concerning Trade Union Rights and Freedoms also affirmed this principle, providing in Article (20) thereof: "The basic statute of workers' organisations and employers' organisations shall specify the rules relating to the grounds and methods of their voluntary suspension or dissolution." The same Convention also provided in Article (21) thereof: "The administrative body may not suspend or dissolve a workers' organisation or an employers' organisation or one of its executive formations except by a judicial judgment, where there is a contravention of the law or of the organisation's basic statute. The workers' organisation or employers' organisation shall have the right to exercise its activity until the judgment of the judiciary is issued with finality."

The Amman Declaration also came to affirm this principle, providing in Article (17) thereof: "Associations may not be subject to dissolution except by a decision issued by their own bodies, or by a final and conclusive judicial judgment, after the association has benefited from the right

non-Jordanian source; c. the revenues accruing to it from the cultural and social activities it carries out; d. the proceeds of the investment of its funds."

⁹⁵⁹⁵Al-Humaimat, op. cit., p. 48.

⁹⁶⁹⁶Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, op. cit., paras. 75 and 76; and Jeremy McBride, op. cit., p. 62.

of defence in a public and fair trial, and in cases which the law must specify expressly and exhaustively."

This principle was also adopted by the European Court of Human Rights in the case of the Communist Party against Turkey, where it accepted that it is not permissible to grant the public administration any competence enabling it to dissolve any association whatsoever, holding that the right to freedom of association included in Article (11) of the European Convention on Human Rights might become largely theoretical and illusory if the public administration were granted the power to dissolve an association immediately without being bound to comply with the Convention⁹⁷. The international standards that are regarded as acceptable for dissolving any civil society institution lie in:

- (1) Voluntary dissolution on the basis of a decision issued by its own body.
- (2) Involuntary dissolution under a judicial decision: the involuntary suspension of the work of an association and its dissolution is among the most severe restrictions, and therefore its application may not be extended except within restrictions and controls consisting of the following⁹⁸:
 - a. The existence of a clear and imminent danger leading to a grave violation of national law, in compliance with the provisions of international law.
 - b. That less restrictive measures be insufficient.
 - c. That the dissolution measure be proportionate to the legitimate aim and the objective sought.
 - d. That the dissolution procedures be applied under a judicial decision after the rights of defence have been fully guaranteed.

Accordingly, national legislation, in regulating the provisions on the dissolution of unions, must provide them with the necessary protection from dissolution under decisions issued by the public administration of the State⁹⁹.

In order to provide a precise analysis of the position of Jordanian national legislation on the international standards governing the mechanism for dissolving civil society institutions¹⁰⁰, it is necessary to apply those standards to the reality of the Jordanian national legislation governing the work of associations in the Kingdom, and to the reality of the legislation governing the work of unions as well.

First: Provisions on the dissolution of associations

⁹⁷⁹⁷Case of United Communist Party of Turkey and Others v. Turkey [GC], Application No. 19392/92, ECHR, Judgment of 30/January/1998, P. 16, Para 33.

⁹⁸⁹⁸Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, submitted to the Human Rights Council at its twentieth session, op. cit., para. 84.

⁹⁹⁹⁹Code of Conduct for Jordanian Union Organisations, op. cit., p. 5.

¹⁰⁰¹⁰⁰Article (20/a) of the Jordanian Associations Law provides: "The association shall be deemed dissolved by operation of law in either of the following two cases: 1. if it does not commence its work or if it ceases to exercise it for a period of one year; 2. if it fails to regularise its position in accordance with the provisions of Article (28) of this Law."

It becomes apparent from reviewing the provisions of Article (20) of the Jordanian Associations Law that the Law regulated two types of provisions on the dissolution of associations, as follows:

a. Cases of dissolution of associations by operation of law: the cases of dissolution of associations by operation of law consist of the following:

(1) The association's failure to commence its work or its cessation of its activity for a period of one year: the Jordanian legislator considered that the association's failure to exercise its work or its cessation of its activity for a period of one year is a justified reason for dissolving an association registered in accordance with the provisions of the Law. The research team finds that this provision is not consistent with the international standards governing the mechanism for dissolving associations, which confined it to dissolution by a decision of the general assembly or by a judicial decision - quite apart from the fact that the legislator did not take into account the reasons that prompted the association to cease exercising its activities and work, whether these reasons are attributable to the absence of the funding necessary to continue exercising its activities¹⁰¹, to its having completed one of the projects it was implementing and its preparing to begin implementing a new project, or to the existence of force majeure beyond its will that led it to cease exercising its work¹⁰².

(2) The association's failure to regularise its position within the legally specified period: the Jordanian legislator considered that associations registered before the entry into force of the Jordanian Associations Law No. (51) of 2008 are registered by operation of law, with the necessity of regularising their position in a manner consistent with the provisions of the new Law within a period not exceeding one year, extendable for a further year by the Registry Board¹⁰³; and if they do not regularise their position within the legally specified period, the association is deemed dissolved by operation of law. This course by the Jordanian legislator is a violation of the international standards governing the right to freedom to form and join associations.

The research team finds that the cases set out by the Jordanian legislator for the dissolution of associations by operation of law are not justified reasons for dissolving an association - quite apart from the fact that these cases are not, in their content, grave violations, which would lead to a violation of the principle of proportionality between the violation committed and the

¹⁰¹¹⁰¹ Mohammad Ya'qoub and Saddam Abu Azzam, op. cit., p. 23.

¹⁰²¹⁰² Dr Laith Kamal Nasrawin, op. cit., p. 205.

¹⁰³¹⁰³ Article (28) of the Jordanian Associations Law provides: "a. Any legal person registered under the provisions of any of the following legislation before the entry into force of this Law shall be deemed existing as though registered in accordance with its provisions: 1. associations, federations and bodies registered in accordance with the provisions of the Associations and Social Bodies Law No. (33) of 1966 and its amendments; 2. any legal person, whatever its capacity or form, registered in accordance with the provisions of the Culture Promotion Law in force; 3. any association registered in accordance with the provisions of the Environment Law in force; 4. any association registered in accordance with the provisions of the Tourism Law in force; 5. any association, body, organisation or institution to which the definition of (association) applies in accordance with the provisions of this Law and which was registered in accordance with the provisions of any of the legislation in force ... c. The associations and federations existing on the date of entry into force of this Law shall regularise their position within a period not exceeding one year from the date of entry into force of this Law, and the Board may extend it for a period not exceeding one further year. d. The Board may issue any instructions necessary to enable associations and federations to regularise their position in accordance with the provisions of this Law and the regulations issued thereunder."

penalty imposed, namely dissolution. It would therefore have been more appropriate for the Jordanian legislator, in the event of the commission of this type of violation, to require first that a warning be addressed to the association; if the violation is repeated, fines are imposed; and dissolution is then resorted to as a last measure, provided that it is under a judicial judgment¹⁰⁴.

b. Dissolution of associations by a decision of the Registry Board¹⁰⁵:

The Jordanian Associations Law granted the Registry Board, upon the recommendation of the competent minister, the right to dissolve any association by a reasoned decision if any of the cases exists which, in the belief of the legislator, justify the dissolution of associations by this mechanism; these cases are:

a) Failure to elect the administrative body of the association: it was noted in an earlier part of this study that the competent minister has the right to appoint a temporary administrative body to replace the administrative body of the association, the temporary administrative body in turn calling the general assembly to meet within (60) days at most in order to elect a new administrative body in accordance with the provisions of the Jordanian Associations Law and the regulations and instructions issued thereunder; and if this election proves impossible, the competent minister has a discretionary power to extend the temporary administrative body for a period of (60) days and once only. If it proves impossible to elect the administrative body after the foregoing procedures have been exhausted, this is regarded as a justified reason for dissolving the association by a decision of the Registry Board.

b) The association's obtaining a donation or foreign funding after the issuance of a decision of the Council of Ministers refusing it: the Jordanian legislator imposed several penalties at one and the same time on every association that obtains foreign funding or a donation after its refusal by the Council of Ministers, these penalties consisting of the following: (a) transferring the donation or funding, if its provider does not object, to the Associations Support Fund¹⁰⁶; (b) imposing a fine of not less than five hundred dinars and not more than five thousand dinars under a decision issued by the competent court, with the return of the

¹⁰⁴104 Mu'ath Mansour Al-Humaimat, op. cit., p. 132.

¹⁰⁵105 Article (20/b) of the Jordanian Associations Law provides: "The Board may, upon the recommendation of the competent minister, issue a reasoned decision dissolving the association in any of the following cases, provided that a copy thereof is sent to the Registrar: 1. if it proves impossible to elect an administrative body for the association in accordance with the provisions of its basic regulations and the provisions of this Law and the regulations and instructions issued thereunder, after the competent minister has exhausted the procedures set out in Article (19) of this Law; 2. if the association retains or uses a donation or funding from non-Jordanian persons contrary to the provisions of paragraph (c) of Article (17) of this Law; 3. if the association commits for a second time the violation in respect of which it was previously warned in accordance with the provisions of item (2) of paragraph (a) of Article (19) and does not remove the causes of this violation within two months from the date of its notification of a written warning in respect thereof; 4. if two-thirds of the members of the general assembly approve the dissolution in an extraordinary meeting in accordance with the provisions of the basic regulations of the association."

¹⁰⁶106 Article (17/d) of the Jordanian Associations Law provides: "If the association obtains any donation or funding contrary to the provisions of paragraph (b) or paragraph (c) of this article, the Council of Ministers may transfer the donation or funding in favour of the Fund, unless the body providing the donation refuses this, in addition to any other penalties or measures provided for in this Law and the legislation in force."

amount retained¹⁰⁷; (c) dissolving the association in accordance with what is provided in Article (20) of the Associations Law.

The research team finds the Jordanian legislator to be strict in these penalties, for it would have been more appropriate for the Jordanian legislator, in dealing with this case, to graduate the imposition of penalties, beginning with a warning and the transfer of the donation or funding to the Associations Support Fund, then the imposition of fines with the transfer of the amount to the Associations Support Fund in the event of the violation being repeated a second time, and then resorting to dissolution as a last measure in the event of this act being committed a third time, provided that the imposition of fines and dissolution is under a judicial decision¹⁰⁸.

c) The association's contravention for the second time of the provisions of the Associations Law and the regulations issued thereunder, or its contravention of its basic regulations: if any association contravenes the provisions of the Jordanian Associations Law and the regulations issued thereunder for the second time and does not remove the causes of the violation within two months from the date of its written notification, this is regarded as a justified reason for its dissolution by the Registry Board. It would have been more appropriate for the Jordanian legislator in this case to confine himself to referring this matter to the judiciary, since it constitutes a violation or an offence¹⁰⁹.

d) The approval of the members of the general assembly of the dissolution: this is the only case that is consistent to some extent with the international standards governing the provisions on the dissolution of associations, unlike the previous cases, which involve a clear exclusion of the role of the members and the judiciary in the dissolution of associations; under this case the association is dissolved with the approval of two-thirds of the members of the general assembly at an extraordinary meeting, and this approval is translated into reality under a decision issued by the Registry Board.

In sum: the Jordanian legislator, in regulating the provisions on the dissolution of associations, was not at all consistent with the relevant international standards, since he granted the Registry Board the right to dissolve associations upon the recommendation of the competent minister, which means that associations may be dissolved under administrative decisions.

The research team finds that it would have been more appropriate for the Jordanian legislator in this regard to be guided by the provisions on the dissolution of political parties contained in the Political Parties Law No. (39) of 2015¹¹⁰, which is more developed than the Jordanian Associations Law in its treatment of the provisions on dissolution; Article (17/b) provided: "A

¹⁰⁷¹⁰⁷Article (26/a) of the Jordanian Associations Law provides: "The following shall be punished by a decision of the competent court: ... 3. Any person who retains or uses the donation or funding provided to the association by non-Jordanian persons, in the event of its not being disclosed and recorded in the association's records in accordance with due process, or in the event of its being retained or used notwithstanding its rejection by the competent minister, by a fine of not less than five hundred dinars and not more than five thousand dinars, together with the return of the amounts retained or used."

¹⁰⁸¹⁰⁸Mu'ath Mansour Al-Humaimat, op. cit., p. 135.

¹⁰⁹¹⁰⁹Mohammad Ya'qoub and Saddam Abu Azzam, op. cit., p. 136.

¹¹⁰¹¹⁰The Political Parties Law No. (39) of 2015 was published in the Official Gazette on 16/9/2015, issue 5358, p. 7835.

party may not be dissolved except in accordance with the provisions of its basic regulations or by a judicial decision in accordance with the provisions of this Law."

Second: Procedures for the dissolution of labour unions

The Jordanian Labour Law adopted two methods for the dissolution of labour unions:

First: Voluntary dissolution: the Law permitted the voluntary dissolution of labour unions with the approval of two-thirds of the members who have paid their subscriptions, at an extraordinary meeting held by the general assembly of the union or employers' union, provided that the Minister and the General Federation of Trade Unions are notified of the decision to dissolve within fifteen days from the date of its issuance and that it is published in the Official Gazette¹¹¹. This method is fully consistent with the international standards governing the dissolution of unions, since the union is dissolved with the approval of its members quietly and in accordance with their will, without the slightest interference by the public administration of the State.

Second: Dissolution under a decision issued by the Minister of Labour: the Labour Law granted the Minister of Labour the right to dissolve labour unions if the union or employers' union, or the administrative body of either of them, commits a violation of the provisions of the Labour Law or the regulations issued thereunder, or if its internal regulations contain a violation of any of the legislation in force, and it does not remove the violation within thirty days from the date of its notification of the written warning addressed to it by the Minister. This decision is subject to challenge before the Administrative Court within thirty days from the date of its notification, provided that this decision is not effective except after the expiry of the period for challenge before the administrative judiciary¹¹².

This position of Jordanian legislation is an express contravention of the international standards governing the mechanism for dissolving unions, which require that unions not be capable of dissolution under administrative decisions. It would have been more appropriate for the Jordanian legislator to give the Minister the right to bring an action before the judiciary requesting it to dissolve the violating union, instead of the dissolution taking place under an administrative decision issued by the Minister. This was the text of Article (116) of the Labour

¹¹¹¹¹¹Article (106) of the Jordanian Labour Law provides: "A union or employers' union shall be dissolved voluntarily with the approval of two-thirds of its members who have paid their subscriptions, at an extraordinary meeting held by the general assembly of the union or employers' union for this purpose alone; its funds and rights shall in this case be liquidated and disposed of in accordance with the provisions of the internal regulations, and the Minister and the General Federation of Trade Unions must be notified of the decision to dissolve within fifteen days from the date of its issuance, and it shall be published in the Official Gazette."

¹¹²¹¹²Article (116) of the Labour Law provides: "(a) If the union or employers' union, or the administrative body of either of them, commits a violation of the provisions of this Law or the regulations issued thereunder, or if the internal regulations of either of them contain a violation of the legislation in force, the Minister shall address a written warning to it to remove the violation within a period not exceeding thirty days from the date of its notification; and in the event of the violation continuing, the Minister may issue a decision dissolving the union or employers' union or the administrative body of either of them, and the decision shall be subject to challenge before the High Court of Justice within thirty days from the date of its notification. (b) The decision of the Minister to dissolve the union or employers' union or the administrative body of either of them shall not be effective except after the expiry of the period for challenge referred to in paragraph (a) of this article; and if the aggrieved party files a challenge, the stay of execution of the decision shall continue until the action is decided."

Law before its amendment by the amending Provisional Law No. (26) of 2010¹¹³; Article (116) provided: "a. The Minister may bring an action before the Court of First Instance requesting the dissolution of any union in any of the following cases:

1. If it commits any violation of the provisions of this Law, provided that he has addressed a written warning before bringing the action requesting it to remove the violation within the period he specifies for it, but it has not responded to the request.
 2. Incitement to leave work or abstain from it, or to sit-ins or demonstrations, in the cases in which the carrying out of these acts is prohibited under this Law and the other legislation in force.
 3. The use of force, violence, threats or unlawful measures in assaulting or attempting to assault the right of others to work or any other of their rights.
- b. The decision of the Court of First Instance dissolving the union may be appealed to the Court of Appeal within thirty days from its pronouncement if it is in the presence of the parties, and from the date of its notification if it is deemed to be in their presence, and the decision of the Court of Appeal shall be final."

It becomes apparent that the text of Article (115) before its amendment, notwithstanding certain observations on it, is more consistent with the relevant international standards, since the Law before the amendment adopted two methods for dissolving unions, the first being voluntary dissolution and the second judicial dissolution, which made the Labour Law in this regard more consistent with the international standards.

Third: The dissolution of professional associations

As regards the dissolution of professional associations, it becomes apparent that the laws governing the work of those associations did not provide for the dissolution of the association, but rather for the dissolution of the council of the association, either by a decision issued by two-thirds of the members of the association, or under a judicial judgment if the council contravenes the provisions of the association's law¹¹⁴, or by a decision issued by the Council of Ministers upon the recommendation of the competent minister for the requirements of security and safety¹¹⁵. This is an interference by the public administration in the administration of associations whose laws permit the dissolution of their councils by the public administration, which is regarded in its content as a contravention of the relevant international standards.

In sum, the legislative authority must reconsider all the laws of the professional associations as regards the dissolution of their councils, and must strive to make the dissolution of those councils take place either by the will of their members or under a judicial judgment, and that

¹¹³113The provisional law amending the Labour Law No. (26) of 2010 was published in the Official Gazette, issue 042, dated 15/7/2010, p. 4478.

¹¹⁴114See the following articles: (27) of the Teachers Association Law; Article (88) of the Dental Association Law; Article (78) of the Pharmacists Association Law; Article (71) of the Law of the Association of Nurses, Male Nurses and Licensed Midwives; and Article (56) of the Geologists Association Law.

¹¹⁵115See for example Article (75) of the Jordan Medical Association Law No. (13) of 1972, published in the Official Gazette, issue (2357) dated 6/5/1972, p. 764.

the public administration have no power in this regard other than to challenge the legitimacy of those councils before the judiciary.

Chapter Three

The Findings of the Field Study and their Discussion

This Chapter contains a presentation of the findings reached in the light of the questions of the study, which aimed to set out the extent to which Jordanian national legislation and the reality of civil society institutions (associations and unions), and their role in establishing the right of individuals to public participation, are consistent - and the extent to which this reality is consistent with the international standards governing human rights. In view of the high proportion represented by the charitable associations among the total civil society institutions under study, their influence on the overall findings was clear; therefore, and in order to facilitate the study of the findings of the associations, they were combined in the same table as that for civil society institutions as a whole. The findings are presented below:

First: Findings relating to the first question, which provides: To what extent do civil society institutions enjoy their right to freedom of establishment and to exercise their activities?

Table No. (6) sets out the arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions (associations, professional and labour unions, and human rights associations), as well as those in charge of charitable associations, on the items of the dimension "the legal framework (establishment, dissolution and exercise of activity)", composed of 14 items (1-14).

Table No. (6): Arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions in general and charitable associations in particular on the items of the dimension "the legal framework (establishment, dissolution and exercise of activity)"

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
1	The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification	2.90	0.863	2.97	0.806
2	The law sets out the establishment procedures clearly and specifically	3.36	0.575	3.35	0.599
3	The establishment procedures provided for in the law are applied to everyone equally	3.17	0.735	3.18	0.712
4	The legal registration of the institution takes place easily and smoothly and without legal obstacles	3.16	0.654	3.18	0.636
5	All individuals wishing to join the institution are permitted to do so, and no one has been prevented from doing so	3.32	0.613	3.32	0.602
6	The institution is able to obtain financial support easily and without legal obstacles	2.56	0.896	2.57	0.878
7	The institution is able to obtain financial support easily and without administrative obstacles	2.69	0.841	2.70	0.834
8	The work of the institution is governed by laws and regulations consistent with the provisions of the Constitution	3.38	0.573	3.40	0.546

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
9	The work of the institution is governed by laws and regulations consistent with the provisions of the international human rights conventions	3.19	0.733	3.21	0.705
10	The law allows institutions to form alliances and mergers freely	2.91	0.775	2.94	0.765
11	The institution needs to obtain official approvals before carrying out its activities	3.19	0.650	3.22	0.614
12	The supervising governmental bodies enjoy broad powers to dissolve the institution	3.09	0.748	3.12	0.703
13	There are objective and clear criteria for dissolving institutions	3.16	0.705	3.22	0.679
14	The right of administrative and judicial challenge provides effective protection for the members of the institution in the event of the arbitrary dissolution of the institution by the administration	3.15	0.642	3.16	0.625
	The dimension as a whole	3.08	0.419	3.109	0.407

Table No. (6) shows that the arithmetic means of the estimates of the study sample on the dimension as a whole amounted to (3.08), with a medium degree of agreement. The arithmetic means of their estimates on the items of the dimension likewise show that item (8), which provides "The work of the institution is governed by laws and regulations consistent with the provisions of the Constitution", came first with an arithmetic mean of (3.38) and a medium degree of agreement, followed by item (2), which provides "The law sets out the establishment procedures clearly and specifically", with an arithmetic mean of (3.36) and likewise a medium degree of agreement; while item (6), which provides "The institution is able to obtain financial support easily and without legal obstacles", came in the lowest rank with an arithmetic mean of (2.56) and a low degree of agreement, and item (7), which provides "The institution is able to obtain financial support easily and without administrative obstacles", came in the second lowest rank with an arithmetic mean of (2.69) and likewise a low degree of agreement. The research team finds that the finding that does not agree with the finding reached by the legal analysis is that of item (9), which provides: "The work of the institution is governed by laws and regulations consistent with the provisions of the international human rights conventions"; for the legal analysis confirmed that the method of notification is not used for the establishment of any of the civil society institutions under study.

The participants in the focus groups for the charitable associations explained the answers of the members of the sample, which showed their agreement with the legal framework to a medium degree (3.109), on the basis that a large number of the persons in charge of administering associations are not aware of the provisions contained in the Associations Law, so that the content of their answers is inaccurate. In addition, there are those who establish associations on family bases and with the aim of achieving personal objectives, for the current law makes it easy for members of a family to form associations, notwithstanding that this is contrary to the nature of the work of associations. They demanded that tribalism and familism be kept away from the work of associations. Some also indicated that this finding may be

explained by the absence of effective oversight by the ministry concerned with following up the affairs of the association.

The participants in the focus group also explained the arithmetic mean of items (8 and 9), which showed the consistency of the laws and regulations governing the work of the institution with the provisions of the Constitution and the provisions of the international human rights conventions - notwithstanding that the legislation and practical reality indicate the existence of procedures inconsistent with the Constitution and the international standards - by the fact that a large section of those in charge of associations are not aware of the content of the international conventions and the Jordanian Constitution, especially in the absence of awareness-raising on the content of the international conventions. Some of those in charge of associations also indicated that they had not read the content of the Associations Law.

The participants in the focus group added that there are a number of regulations and instructions regulating many of the activities of associations of which most of those in charge of associations (indeed most citizens) are unaware. They gave as an example the amendment of the procedures for obtaining approval for the activity of associations, which now takes place through the ministry concerned and not through the administrative governor as was previously the case. They affirmed that these instructions are strict and create difficulties for the work of associations. They explained the needs of charitable associations for funds to enable them to achieve their objectives, which prompted some to say that whoever wishes to form an association must be a person of capital so that he can spend on the association.

Table No. (7): Arithmetic means and standard deviations of the estimates of the sample of those in charge of labour unions on the items of the dimension "the legal framework" (establishment, dissolution and exercise of activity)

No.	Item	Arithmetic mean	Standard deviation
1	The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification	1.59	0.87
2	The law sets out the establishment procedures clearly and specifically	3.59	0.62
3	The establishment procedures provided for in the law are applied to everyone equally	3.35	1.11
4	The legal registration of the institution takes place easily and smoothly and without legal obstacles	2.94	1.14
5	All individuals wishing to join the institution are permitted to do so, and no one has been prevented from doing so	3.47	0.80
6	The institution is able to obtain financial support easily and without legal obstacles	2.41	1.22
7	The institution is able to obtain financial support easily and without administrative obstacles	2.41	1.12
8	The work of the institution is governed by laws and regulations consistent with the provisions of the Constitution	3.41	0.87
9	The work of the institution is governed by laws and regulations consistent with the provisions of the international human rights conventions	3.24	1.14
10	The law allows institutions to form alliances and mergers freely	2.12	0.60
11	The institution needs to obtain official approvals before carrying out its activities	2.47	0.94
12	The supervising governmental bodies enjoy broad powers to dissolve the institution	2.00	1.06

No.	Item	Arithmetic mean	Standard deviation
13	There are objective and clear criteria for dissolving institutions	1.94	0.90
14	The right of administrative and judicial challenge provides effective protection for the members of the institution in the event of the arbitrary dissolution of the institution by the administration	3.24	0.90
	The dimension as a whole	2.72	0.42

Table No. (7), for its part, shows that the arithmetic means of the estimates of the sample of those in charge of labour unions on the dimension as a whole amounted to (2.72), with a low degree of agreement on the extent and ability of these institutions to establish themselves and exercise activity within the legal framework granted to them; this degree is lower than the estimate of the study sample as a whole, which amounted to (3.08) with a medium degree of agreement. This is notwithstanding that what raised the arithmetic mean among the labour unions was item No. (2), which provides "The law sets out the establishment procedures clearly and specifically", with an arithmetic mean of (3.59) and a high degree of agreement, which came in the highest rank since this item reflects an actual fact: the Labour Law sets out clearly the procedures for establishing labour unions - with the observation that these provisions narrow the right of individuals to establish labour unions, not permitting workers in a given sector to form labour unions except under a decision issued by the tripartite committee chaired by the Minister of Labour. Likewise, the arithmetic mean of item (5), which provides "All individuals wishing to join the institution are permitted to do so, and no one has been prevented from doing so", came in second rank with an arithmetic mean of (3.47) and a medium degree of agreement. The study team considers this proportion logical, since joining labour unions is open and easy after approval of their formation by the tripartite committee - especially in the light of the reality of labour unions, which rests on reports of oversight bodies indicating the absence of internal democracy in these unions granting their members the ability to change the leadership of the unions or to influence the work of the unions¹¹⁶. What supports this analysis is the affirmation by the leaders of labour unions that the law is not consistent with the international human rights standards in the field of establishing unions: item (1), which provides "The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification", came in the lowest rank with an arithmetic mean of (1.59) and a medium degree of disagreement - which is consistent with the legal analysis that showed that the Jordanian legislator adopted the method of registration for labour unions to acquire legal personality: the law required that the application for the registration of labour unions and employers' unions first be submitted to the Registrar of Unions at the Ministry, who issues his decision on this application within 30 days from the date of submission of the application, and the union acquires legal personality either from the date of publication of the Registrar's decision in the Official Gazette, or upon the issuance of a decision of the High Court of Justice (currently the Administrative Court) annulling the

¹¹⁶For further details see: Phenix Center - Jordan Labor Watch, Freedom of Union Organisation in Jordan - The Controversy over the Legitimacy of the New Unions, May 2012, published at the link: http://www.phenixcenter.net/uploads/ar_phenixcenter.net_635452612637008329.pdf ; the site was visited on 24 January 2018. See also Ali Al-Dabbas, The Independent Labour Unions, article published at the link: http://www.nchr.org.jo/User_Site/Site/View_ArticleAr.aspx?type=2&ID=2185 ; the site was visited on 24 January 2018.

Registrar's decision of rejection, or upon the expiry of the period for challenge provided for by law.

The participants in the focus group affirmed that the high arithmetic mean of the fifth item, relating to freedom of membership, is attributable to the following reasons:

- a. Complete freedom to join or withdraw from labour unions.
- b. The ease of the conditions for joining the labour union as set out in the regulations governing membership of labour unions.
- c. The desire of workers to benefit from the social services and investments provided by the unions.
- d. The effort of labour unions to seek out the workers of the sector and organise them in the union.
- e. The ability of labour unions to achieve the demands of the workers of the sector; indeed, labour unions sometimes achieve more demands than are contained in the law.
- f. The commitment of labour unions before employers and the Government to demand the rights of workers, whether members of the union or not.

The participants in the focus group explained that the rate of membership of Jordanian labour unions amounts to (13-15%), which is a high rate compared with Western countries, where it amounts to (9-10%); but they expressed their dissatisfaction with this rate and attributed the causes of the low membership of labour unions to the following reasons:

- a. The low wages of workers, which makes it difficult for them to pay membership fees.
- b. The nature of the sector in which the workers work, for the membership rate differs from one sector to another; in sectors whose workers are distributed over more than one site there is difficulty in organising those working in the sector.
- c. The existence of apprehension on the part of some individuals about joining unions.

As for the extent to which Jordanian legislation is consistent with the international standards, the participants in the focus group explained that the legislation in Jordan is among the best systems applied in the Arab world, but that it is not absolutely consistent with the Constitution and the international human rights conventions; they explained that labour unions need to develop their legislation to protect the right of workers to strike, having shown that there are gaps in Article (135) of the Labour Law¹¹⁷ - notwithstanding that labour unions consider that a successful strike is one that achieves its objectives and not one that complies with the provisions of the law. They affirmed the need to develop the laws in a manner consistent with the international standards, and in particular Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise. They added that the challenge facing union work is how to strengthen the internal democracy of unions and how to strengthen their independence. As for the low arithmetic mean for the right of labour unions to establishment

¹¹⁷Article (135) of the Labour Law provides: (a) A worker may not strike without giving notice to the employer at least fourteen days before the date set for the strike, and this period shall be doubled if the work relates to one of the public utility services. (b) An employer may not close his establishment without giving notice to the workers at least fourteen days before the date set for the closure, and this period shall be doubled if the work relates to one of the public utility services. (c) The other conditions and procedures for strikes and closures shall be determined under a regulation issued for this purpose.

merely upon the submission of written notification, the participants in the focus group explained that reality explains this finding, since the law requires the licensing of labour unions by the tripartite committee as provided for in the Labour Law.

Table No. (8): Arithmetic means and standard deviations of the estimates of the population of professional associations on the items of the dimension "the legal framework" (establishment, dissolution and exercise of activity)

No.	Item	Arithmetic mean	Standard deviation
1	The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification	2.22	.83
2	The law sets out the establishment procedures clearly and specifically	3.56	.53
3	The establishment procedures provided for in the law are applied to everyone equally	3.56	.73
4	The legal registration of the institution takes place easily and smoothly and without legal obstacles	2.78	.67
5	All individuals wishing to join the institution are permitted to do so, and no one has been prevented from doing so	2.89	1.05
6	The institution is able to obtain financial support easily and without legal obstacles	2.0	.87
7	The institution is able to obtain financial support easily and without administrative obstacles	1.89	.78
8	The work of the institution is governed by laws and regulations consistent with the provisions of the Constitution	3.78	.44
9	The work of the institution is governed by laws and regulations consistent with the provisions of the international human rights conventions	3.56	.73
10	The law allows institutions to form alliances and mergers freely	2.33	.87
11	The institution needs to obtain official approvals before carrying out its activities	2.56	1.01
12	The supervising governmental bodies enjoy broad powers to dissolve the institution	2.22	1.09
13	There are objective and clear criteria for dissolving institutions	2.67	.87
14	The right of administrative and judicial challenge provides effective protection for the members of the institution in the event of the arbitrary dissolution of the institution by the administration	3.22	.98
	The dimension as a whole	2.802	.32

Table No. (8) shows that the arithmetic means of the estimates of the population of professional associations on the dimension as a whole amounted to (2.802), with a low degree of agreement on the ability of professional associations to establish themselves and exercise their activities easily. This mean is close to the mean of the labour unions, with the observation that the items that raised the arithmetic mean of the dimension are items (8, 9): the eighth item, which provides for the consistency of the content of the laws and regulations governing the work of professional associations with the provisions of the Jordanian Constitution, came in the highest rank with an arithmetic mean of (3.78), while item (9), which provides "The work of the institution is governed by laws and regulations consistent with the provisions of the international human rights conventions", came in the second highest rank with an arithmetic mean of (3.56) and a high degree of agreement. By contrast, item (7), which provides "The institution is able to obtain financial support easily and without administrative obstacles", came

in the lowest rank with an arithmetic mean of (1.89) and a medium degree of disagreement, while item No. (6), which provides "The institution is able to obtain financial support easily and without legal obstacles", came with the second lowest arithmetic mean of (2.22) and a low degree of disagreement. The leaders of the professional associations affirmed that the law does not give civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification, which means that the provisions of the legislation are not consistent with the international standards in this field; the arithmetic mean of item No. (1), which provides "The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification", was (2.22) with a low degree of disagreement.

The participants in the focus group agreed with the quantitative finding reached by those in charge of the professional associations, which showed that an association cannot be established by notifying the administrative bodies of that establishment, and they attributed this to several reasons, the most important of which are:

- a. The absence of genuine democracy in the Jordanian State and society.
- b. The professional associations' performance of the role of regulating the affairs of the profession, which calls for this role to be granted to them under the law so that they are able to perform it.
- c. Fear of the chaos that might result from opening the door of establishment by notification, represented by the formation of several associations for the same task without reliance on objective bases - such as the spawning of numerous associations as a result of dissatisfaction with election results.

The participants in the focus group linked development towards harmony with the international standards through the formation of associations by notification to several matters, the most important of which are:

- a. Reaching a democratic society that will open the way to the application of human rights standards as set out in the international standards.
- b. The issuance of a special law regulating the affairs of the profession, so that the Government is charged with regulating the affairs of the profession, which would facilitate the application of the principle of establishment by notification.

The participants in the focus group affirmed that joining associations would not be to the same degree it reaches with compulsory membership of associations, and explained that the ideal democratic situation requires ending compulsory membership, but that the current legislative and regulatory situation does not permit the application of this principle for the following reasons: it would lead to weakening the associations; it is consistent with the policy of the State, which seeks to privatise certain sectors in which the associations regulate the affairs of the profession, such as the health professions; and the difficulty for the Government of performing certain roles performed by the associations, such as training their members and holding them accountable swiftly and fairly in the event of professional errors.

The participants in the focus group did not agree with the quantitative finding reached by those in charge of the professional associations, which showed the consistency of the provisions of

the laws and regulations with what is contained in the Jordanian Constitution and the international standards; they attributed this to the lack of a sound understanding of the provisions of the Constitution and the international standards on the part of some of those in charge of the professional associations, and to the interpretation by those completing the questionnaires of the question as being about the extent to which their work and activities are consistent with these standards. Some indicated that the answer indirectly indicates consistency with the provisions of the Constitution, proceeding from the fact that the Constitution referred the regulation of matters relating to the formation of associations to the law.

Table No. (9): Arithmetic means and standard deviations of the estimates of the sample of those in charge of human rights associations on the dimension "the legal framework"

No.	Item	Arithmetic mean	Standard deviation
1	The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification	1.60	0.70
2	The law sets out the establishment procedures clearly and specifically	2.50	0.52
3	The establishment procedures provided for in the law are applied to everyone equally	2.50	0.70
4	The legal registration of the institution takes place easily and smoothly and without legal obstacles	2.80	0.63
5	All individuals wishing to join the institution are permitted to do so, and no one has been prevented from doing so	3.00	0.66
6	The institution is able to obtain financial support easily and without legal obstacles	1.90	0.87
7	The institution is able to obtain financial support easily and without administrative obstacles	2.50	0.53
8	The work of the institution is governed by laws and regulations consistent with the provisions of the Constitution	2.70	0.82
9	The work of the institution is governed by laws and regulations consistent with the provisions of the international human rights conventions	2.30	0.67
10	The law allows institutions to form alliances and mergers freely	2.40	0.70
11	The institution needs to obtain official approvals before carrying out its activities	2.80	0.92
12	The supervising governmental bodies enjoy broad powers to dissolve the institution	3.10	0.87
13	There are objective and clear criteria for dissolving institutions	2.20	0.42
14	The right of administrative and judicial challenge provides effective protection for the members of the institution in the event of the arbitrary dissolution of the institution by the administration	2.50	0.70
	The dimension as a whole	2.48	0.29

Table No. (9) shows that the arithmetic means of the estimates of the sample of those in charge of human rights associations on the dimension as a whole amounted to (2.48), with a low degree of disagreement on the extent of the ability of these institutions to establish themselves and exercise their activities; this mean for the dimension represents the lowest mean among all categories of the sample. The study team attributes this finding to the knowledge of those in charge of these associations of the content of both the international human rights standards and national legislation, and of the points of difference between them.

Those in charge of human rights associations affirmed the unsuitability of the legal framework in the fields of freedom of establishment, the legal regulation of obtaining financial support, and the dissolution of associations: item (1), which provides "The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification", came in the lowest rank with an arithmetic mean of (1.60) and a medium degree of disagreement. Those in charge of human rights associations agreed with those in charge of labour unions in considering this item to be the lowest, which indicates the existence of a genuine problem in this regard. Item (6), which provides "The institution is able to obtain financial support easily and without legal obstacles", came in the second lowest rank with an arithmetic mean of (1.90) and a medium degree of disagreement; those in charge of human rights associations agreed with those in charge of the professional associations, which considered this item their lowest, which indicates once again the agreement of Jordanian civil society institutions on the existence of a problem in the axis of the legal regulation of their obtaining financial support.

The participants in the focus group of those in charge of human rights associations explained the low arithmetic mean of the first item of this dimension, which provides "The law gives civil society institutions (associations and unions) the right of establishment merely upon the submission of written notification" (1.6), by the fact that most human rights associations were formed recently under the current Associations Law, which tightened the procedures for establishing associations, in addition to the higher awareness among human rights associations compared with other associations and labour unions; their answers therefore came lower than those of the other institutions.

They explained the low arithmetic mean of the sixth item, which provides "The institution is able to obtain financial support easily and without administrative obstacles" (1.9), on the basis of the existence of administrative obstacles to associations obtaining funding, especially since practical reality shows that human rights associations suffer in obtaining funding, whereas other institutions do not resort to the same degree as human rights associations to obtaining foreign funding and usually obtain humanitarian charitable support easily. They added that practical reality confirms the increasing difficulty for institutions of obtaining foreign support under the instructions applied by the Ministry of Social Development since 2016.

The participants mentioned forms of restriction on associations through the necessity of obtaining prior approvals for the activities of organisations that receive funding and are implemented outside the institution's premises, which require prior approval from the official bodies; and likewise the silence of the administrative governor, when informed of an association's wish to carry out an activity, until 24 hours before the date of the activity, after which he announces his non-approval of the activity, which disrupts the institution and its work.

The participants in the focus group affirmed that the law grants the official bodies broad powers to dissolve associations - an example being the Government's dissolution of the Arab Organisation for Human Rights - and they also pointed to arbitrariness in the dissolution of associations, especially since the law does not specify the cases of dissolution exhaustively, which leads to the abuse of this right.

In sum: the results of calculating the arithmetic means and standard deviations of the estimates of the samples of those in charge of civil society institutions on the dimension of the legal framework governing the establishment of civil society institutions, their exercise of their activities and ultimately their dissolution came with a medium degree of agreement, which suggests the soundness of the legal framework for the establishment of civil society institutions, their exercise of their activities and ultimately their dissolution. The research team, however, finds that these findings conflict with the legal analysis, which showed that the legislation is not consistent with the international standards and best comparative practices, for the following reasons:

- The inconsistency of the legal framework with the standards contained in the human rights conventions and international best practices as regards the establishment procedures, and the granting of broad powers to the official bodies in this regard, so that civil society institutions cannot be established and exercise their work except with prior licensing by representatives of the executive authority.
- The inclusion in the legal framework governing the work of civil society institutions of provisions obstructing civil society institutions from obtaining the necessary financial support that enables the institutions to exercise their work and their role in serving the local community.
- The inclusion in the legal framework governing the work of civil society institutions of provisions placing civil society institutions in the grip of representatives of the executive authority, by granting them broad powers in the field of dissolving these institutions or relieving those in charge of their administration of the exercise of their responsibilities and appointing committees to carry out these tasks.

The estimates of the three samples differed regarding the items included in the dimension, and the research team attributes this to the following reasons:

- a. The multiplicity of the legislation governing the establishment of these institutions: there are three laws governing the establishment of these institutions, with differing establishment requirements for each of them, in addition to differences in the procedures followed, since the establishment of charitable associations is easier than that of the other institutions of various names.
- b. The difference in the tasks and duties entrusted to each institution: whereas professional associations seek to regulate the affairs of the professions practised by their members, in addition to defending their rights and providing social protection for them, labour unions seek to protect the rights of workers and provide social protection for them but do not exercise any role in the field of regulating the industries in which the workers work¹¹⁸.
- c. The multiplicity of the legislation and internal regulations regulating and governing the work and activities of these institutions.
- d. The difference in the cultures and experience of the human resources and in the specialisation of work among those in charge of these institutions.

¹¹⁸See Article 99 of the Labour Law.

Second: Findings relating to the second question, which provides: To what extent do civil society institutions enjoy freedom to manage their administrative and financial affairs?

Table No. (10) sets out the arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions generally, for all institutions, on the items of the dimension "the financial and administrative framework", composed of eight items (15-22), and on the dimension as a whole.

Table No. (10): Arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions in general and charitable associations in particular on the items of the dimension "the financial and administrative framework"

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
15	The institution enjoys freedom to lay down its internal bylaws itself	3.23	0.669	3.23	0.652
16	The members joining the institution enjoy freedom to elect its councils	3.50	0.542	3.49	0.541
17	The institution enjoys freedom to manage its funds	3.19	0.708	3.17	0.70
18	It is easy for the institution to obtain approval for domestic funding	2.28	0.863	2.77	0.802
19	It is easy for the institution to obtain approval for foreign funding	2.77	0.804	2.30	0.870
20	The institution obtains financial support from the competent governmental institutions to carry out its activities	2.64	0.833	2.66	0.809
21	The law obliges the bodies responsible for its application to state the reasons for refusing the institution's obtaining of foreign funding	2.63	0.834	2.66	0.827
22	The institution has never been dissolved for failing to submit administrative and financial reports to the competent governmental bodies	3.14	0.775	3.16	0.764
	The dimension as a whole	2.92	0.472	2.93	0.472

Table No. (10) shows that the arithmetic means of the estimates of the study sample on the dimension as a whole amounted to (2.92), with a low degree of agreement on those in charge of these institutions enjoying freedom to manage their financial and administrative affairs. Their estimates on the items of the dimension also show that item (16), which provides "The members joining the institution enjoy freedom to elect its councils", came first with an arithmetic mean of (3.50) and a high degree of agreement, followed by item (17), which provides "The institution enjoys freedom to manage its funds", with an arithmetic mean of (3.19) and a medium degree of agreement; while item (15), which provides "The institution enjoys freedom to lay down its internal bylaws itself", came in the lowest rank among the items of the dimension with an arithmetic mean of (2.23) and a low degree of disagreement - which clearly indicates the dissatisfaction of those in charge of civil society institutions with not being

granted a genuine and clear competence to lay down their internal regulations, which is consistent with the legal analysis¹¹⁹.

In the second lowest rank came item (18), which provides "It is easy for the institution to obtain approval for domestic funding", with an arithmetic mean of (2.28) and a low degree of disagreement - which confirms the existence of a genuine problem in civil society institutions obtaining funding, and which is consistent with what was contained in the first dimension, which affirmed the existence of legal restrictions on obtaining funding, and confirms the soundness of the legal analysis carried out by the study team, through which it showed these restrictions clearly.

The participants in the focus groups for the charitable associations attributed the high arithmetic mean of item 17, which provides "The institution enjoys freedom to manage its funds", amounting to (3.17), notwithstanding the existence of strict government oversight of funding and spending, to the following reasons:

- Most charitable associations do not receive foreign funding and therefore have greater freedom in managing their funds.
- Most presidents of associations are not aware of the provisions of the Associations Law and need to be educated in the provisions of this Law.

They indicated that reality points to the opposite of what the quantitative analysis reached, and proved this by the fact that members' subscription fees are deposited in the association's account and are subject to government oversight, in addition to the existence of strict restrictions on foreign funding - especially in the light of the new strict instructions that contravene the Associations Law.

The participants in the focus group also did not agree with the finding of the high arithmetic mean of item (15), which provides "The institution enjoys freedom to lay down its internal bylaws itself", amounting to (3.23), explaining that associations are unable to amend their internal regulations in complete freedom (that is, by a decision of the general assembly); rather, any amendment requires the approval of the Associations Registry Board and the ministry concerned. They added that there is close oversight by the Associations Registry of the procedures for amending the internal regulations of associations, that in most cases they do not approve the decisions of the general assembly to amend the internal regulations, and that in most cases the decision of the Associations Board refusing the requested amendment of the association's regulations is not justified - which is incompatible with the freedom of associations to lay down their internal regulations. By contrast, some pointed to the Government's adherence to the basic objectives as contained in the basic regulations of the association.

The participants in the focus group explained that the high arithmetic mean for the ease of obtaining foreign funding is attributable to the ignorance of some of those in charge of charitable associations of the concept of foreign funding: some regard a personal donation from persons working in the Gulf States, or from a national of one of those States, to certain

¹¹⁹¹¹⁹See p. (38) of this study.

associations as foreign funding¹²⁰ - especially since there are associations that receive personal donations from these persons directly, and the amount donated is paid to the person in charge of the association in his personal capacity. They also explained that some charitable associations receive funding from certain bodies not on the basis of clear objective bases but on the personal relationships of those in charge of the associations, which gives them the impression that foreign funding is easy to obtain.

The participants in the focus group also explained that the reason for the high arithmetic mean of the item indicating that the institution has never been dissolved for failing to submit administrative and financial reports is attributable to two reasons: the first being the commitment of associations to submitting reports on the specified dates, and the second being the failure of the competent governmental bodies to follow up associations, which is evident from their not visiting the premises of associations and not attending the meetings of the general assemblies.

Table No. (11): Arithmetic means and standard deviations of the estimates of the sample of those in charge of labour unions on the items of the dimension "the financial and administrative framework"

No.	Item	Arithmetic mean	Standard deviation
15	The institution enjoys freedom to lay down its internal bylaws itself	3.71	0.47
16	The members joining the institution enjoy freedom to elect its councils	3.71	0.47
17	The institution enjoys freedom to manage its funds	3.71	0.47
18	It is easy for the institution to obtain approval for foreign funding	1.82	0.63
19	It is easy for the institution to obtain approval for domestic funding	2.59	1.00
20	The institution obtains financial support from the competent governmental institutions to carry out its activities	2.47	1.28
21	The law obliges the bodies responsible for its application to state the reasons for refusing the institution's obtaining of foreign funding	1.94	0.55
22	The institution has never been dissolved for failing to submit administrative and financial reports to the competent governmental bodies	2.41	0.79
	The dimension as a whole	2.79	0.44

Table No. (11) shows that the arithmetic means of the estimates of the sample of those in charge of labour unions on the dimension as a whole amounted to (2.79), with a low degree of agreement on the ability of these institutions to lay down their internal bylaws and to obtain domestic and foreign funding. It is striking that those in charge of labour unions expressed a high degree of agreement, with the highest arithmetic mean, on item (15), which provides "The institution enjoys freedom to lay down its internal bylaws itself", amounting to (3.71), notwithstanding that the legal analysis showed that the law does not grant labour unions the right to lay down their internal bylaws, since the General Federation of Labour Unions performs this role¹²¹. Items (16 and 17), which provide for the freedom of the members of labour unions to elect their boards (the council of the union) and for labour unions enjoying the

¹²⁰¹²⁰The participants in the focus group indicated that a section of the charitable associations receives direct support from benefactors, whether citizens or persons from the Gulf States, in the form of alms or zakat, who ask those in charge of the charitable associations to distribute it to the needy among the members of their local communities.

¹²¹¹²¹See p. () of this study.

management of their funds, came in the same rank. It must be stressed that these three items are what raised the arithmetic mean of the dimension as a whole. By contrast, item (18), which provides "It is easy for the institution to obtain approval for domestic funding", came in the lowest rank with an arithmetic mean of (1.82) and a medium degree of disagreement, which indicates once again the existence of a problem in labour unions obtaining foreign funding. Those in charge of labour unions also affirmed the absence of sufficient guarantees against the arbitrariness of the administration in depriving labour unions of foreign funding: the arithmetic mean of item (21), which provides "The law obliges the bodies responsible for its application to state the reasons for refusing the institution's obtaining of foreign funding", amounted to (1.94).

The participants in the focus group explained the reason for the high arithmetic mean of the item concerning the institution enjoying freedom to lay down its internal bylaws itself (item 15) by saying that the representatives of the labour unions participating in the general conference of the labour unions are the ones who ratified the unified regulations, which means that the unions laid down their own regulations. They added that the unified regulations of the labour unions have been amended and now grant the unions greater freedom than under the previous regulations: they bind the unions to the rules regulating common matters, such as the ratification of administrative and financial reports and the conditions for the validity of meetings of the general and administrative bodies, while leaving the unions greater freedom in managing their own affairs, such as establishing branches and committees of the union, provided that they do not conflict with the unified regulations and the law.

As for the reasons for the affirmation by those in charge of labour unions that the members joining the union enjoy freedom to elect the councils of their union, notwithstanding the existence of reports by oversight bodies showing the opposite, the participants in the focus group explained that there are (17) labour unions, in some of which the members choose the administrative body by acclamation, which is one of the forms of democracy, explaining that this conduct occurs in unions characterised by a small number of members, while there are unions in which free and fair elections are held, witnessing genuine and strong competition among the candidates.

The participants in the focus group affirmed the independence of the labour union and that it has complete freedom to manage its funds in accordance with the law and under the oversight of the general assembly; what strengthens the financial independence of the union is its reliance on the subscription fees of the workers who are its members as one of the most important sources of funding for the union's activities.

Table No. (12): Arithmetic means and standard deviations of the estimates of the population of professional associations on the items of the dimension "the financial and administrative framework"

No.	Item	Arithmetic mean	Standard deviation
15	The institution enjoys freedom to lay down its internal bylaws itself	3.11	1.05
16	The members joining the institution enjoy freedom to elect its councils	3.78	.44
17	The institution enjoys freedom to manage its funds	3.67	.50
18	It is easy for the institution to obtain approval for foreign funding	1.89	1.17
19	It is easy for the institution to obtain approval for domestic funding	2.56	1.2

No.	Item	Arithmetic mean	Standard deviation
20	The institution obtains financial support from the competent governmental institutions to carry out its activities	2.00	.70
21	The law obliges the bodies responsible for its application to state the reasons for refusing the institution's obtaining of foreign funding	2.22	1.09
22	The institution has never been dissolved for failing to submit administrative and financial reports to the competent governmental bodies	2.56	1.24
	The dimension as a whole	2.72	.60

Table No. (12) shows that the arithmetic means of the estimates of the population of professional associations on the dimension as a whole amounted to (2.72), with a low degree of agreement on the ability of these institutions to manage their administrative and financial affairs. The arithmetic means of their estimates on the items of the dimension also show that item (16), which provides "The members joining the institution enjoy freedom to elect its councils", came in the highest rank with an arithmetic mean of (3.78) and a high degree of agreement; this is consistent with the settled impression in the minds of members of Jordanian society of the high level of internal democracy in the Jordanian professional associations and the existence of genuine competition for the leadership of the councils of these associations. Item (17), which provides for the institution enjoying the management of its funds freely, came in second rank with an arithmetic mean of (3.67) and a high degree of agreement. The research team finds these findings logical for the professional associations, whose laws allow them wide scope in this field. Those in charge of the professional associations agreed with those in charge of the associations and labour unions in the field of their obtaining financial support, whether foreign or from the Government: the arithmetic means of the items relating to it came in the lowest rank among their answers.

The participants in the focus group explained that there is a difference between the internal bylaws regulating certain internal affairs of the associations and the regulations issued by the Council of Ministers to regulate certain important matters in the work of the associations; they added that if the person completing the questionnaire meant the first type of bylaws they agree with this answer, and they do not agree with the answer if the second type of bylaws was meant. They explained that there is a difference among the associations in this regard: whereas the Bar Association regulates all its affairs under regulations issued by the Council of Ministers, the Press Association has broader powers to regulate its internal affairs in regulating the retirement fund and health insurance under internal bylaws adopted by the general assembly.

The participants in the focus group affirmed that the general principle is that professional associations should be independent in laying down their internal regulations under decisions issued by the general assembly, although some preferred that the regulations governing financial affairs be issued by the Council of Ministers - with the observation that the Council of Ministers usually approves these regulations as adopted by the general assembly.

The participants in the focus group agreed with the quantitative finding reached by those in charge of the professional associations, affirming the freedom of associations to manage their funds and explaining the role played by the council of the association under the supervision of the general assembly. The participants in the focus group also agreed with the quantitative

finding reached by those in charge of the professional associations and explained that the principle is that associations rely on the subscriptions of their members; at the same time they affirmed that linking the obtaining of financial support to the approval of the administrative bodies obstructs their right to obtain financial support. They affirmed that, notwithstanding that the principle requires that the general assembly be the authority competent to accept or refuse foreign funding, practical reality points to the necessity of obtaining the approval of the ministry concerned and the Council of Ministers; but they explained that there is a political dimension that prompts most associations not to accept support from foreign bodies, owing sometimes to a lack of trust in the supporting bodies, which respond to the political orientations of certain States. By contrast, some pointed out that certain associations accept foreign support, but on condition that it is from bodies affiliated to the United Nations or international organisations and not from States or bodies affiliated to them, and on condition that they do not receive cash amounts, but that the support takes the form of implementing training programmes.

In conclusion, the participants in the focus group explained that most associations do not need government financial support owing to their good financial situation, although this does not negate the need of certain associations for this support, with the affirmation that this support should be under the law, which preserves the independence of the associations.

Table No. (13): Arithmetic means and standard deviations of the estimates of the sample of those in charge of human rights associations on the dimension "the financial and administrative framework"

No.	Item	Arithmetic mean	Standard deviation
15	The institution enjoys freedom to lay down its internal bylaws itself	2.40	0.97
16	The members joining the institution enjoy freedom to elect its councils	3.40	0.69
17	The institution enjoys freedom to manage its funds	3.20	0.79
18	It is easy for the institution to obtain approval for foreign funding	1.80	0.63
19	It is easy for the institution to obtain approval for domestic funding	2.90	0.73
20	The institution obtains financial support from the competent governmental institutions to carry out its activities	1.70	0.82
21	The law obliges the bodies responsible for its application to state the reasons for refusing the institution's obtaining of foreign funding	2.00	0.81
22	The institution has never been dissolved for failing to submit administrative and financial reports to the competent governmental bodies	3.40	0.69
	The dimension as a whole	2.60	0.52

Table No. (13) shows that the arithmetic means of the estimates of the sample of those in charge of human rights associations on the dimension as a whole amounted to (2.60), with a low degree of agreement on the ability of these human rights associations to manage their administrative and financial affairs, and the extent of their ability to lay down their internal bylaws and work with them. The arithmetic means of their estimates on the items of the dimension show that items (22), which provides "The institution has never been dissolved for failing to submit administrative and financial reports to the competent governmental bodies", and (16), which provides "The members joining the institution enjoy freedom to elect its councils", came in the highest rank with an arithmetic mean of (3.40) and a medium degree of agreement. The study

team attributes these high proportions to the nature of the intellectual formation of those in charge of these associations and their appropriate legal qualification, which enables them to participate effectively in the election of the members of the administrative bodies and also to comply with the legislation regarding the submission of reports on the specified dates. In the same vein, and consistently with the professional and labour unions, those in charge of human rights associations affirmed the existence of difficulties in obtaining financial support, since items (18), (20) and (21) came with the lowest arithmetic means in this dimension.

The participants in the focus group agreed with the findings of the quantitative analysis, which showed the low arithmetic mean of the dimension "the financial and administrative framework" (2.6) compared with the other dimensions, and attributed this to the following reasons:

- The mere interference of the Government in approving the internal regulations of the association is regarded as interference in the right of the association to manage its own affairs.
- The low threshold of the association's budget that must be subject to a financial auditor constitutes indirect interference in the work of associations; they proposed raising this amount from (2,000) dinars to (5,000) dinars.

The participants in the focus group also agreed with the findings of the quantitative analysis of the views of those in charge of human rights associations on the existence of difficulties in obtaining the approval of the official bodies for foreign funding for these associations, and proved this with the following arguments:

- Interference in institutions obtaining funding, and especially foreign funding, prejudices the financial independence of the institutions.
- The existence of new complications for financial independence, namely the necessity of opening a special financial account for the amounts the institution obtains from the Associations Support Fund and the necessity of the signature of one of the employees of the ministry concerned.
- Banks are currently strict in opening financial accounts for associations.
- The renewal of the persons authorised to sign on behalf of the association has become annual, after previously being every two years.

The participants in the focus group also agreed with the findings of the quantitative analysis of the views of those in charge of human rights associations regarding the members joining the institution enjoying freedom to elect its councils, and explained that this is attributable to the following reasons:

- It is presumed that the institution is a human rights institution and reflects commitment to the law.
- There is renewal in the membership of human rights associations, which calls for the renewal of the elections of the administrative bodies.
- The reluctance of members of the general assembly to stand as candidates for membership of the administrative body.
- The presence of new blood in human rights associations.

- The establishment of new human rights associations.

The participants in the focus group explained the high arithmetic mean of item 22, which provides "The institution has never been dissolved for failing to submit administrative and financial reports to the competent governmental bodies", by the following reasons:

- The Ministry of Social Development reminds associations to submit reports.
- Associations are keen to submit reports in order to obtain support from the Associations Fund.

The conclusion of the second dimension (the financial and administrative framework) consists in the agreement of the estimates of the samples of the charitable associations, the labour unions, the professional associations, the human rights associations and the study sample as a whole on a low degree of agreement on the extent to which they enjoy the appropriate ability to manage their administrative and financial affairs. The research team attributes this finding to the following reasons:

- The difficulty for the institution of obtaining approval for domestic or foreign financial funding.
- The failure of the institutions to obtain financial support from the governmental bodies concerned and competent in this regard.
- The absence of an express provision in the laws obliging the administrative bodies that have the power to approve or not approve foreign funding to explain the reason for refusing the institutions' obtaining of foreign support and funding.
- The weak degree of freedom of the institutions to act in their work within their internal bylaws and regulations, which in the first place they are unable to lay down in complete freedom, in a manner incompatible with the international standards in this regard.

By contrast, the findings showed a high degree of agreement on the practice of democracy within these institutions in terms of the election of their councils and the right of everyone to choose in the event of joining.

Third: Findings relating to the question which provides: To what extent do those in charge of civil society institutions adhere to the values of internal democracy and good governance?

Table No. (14) sets out the arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions on the items of the dimension "internal democracy and good governance", composed of five items (23-27), and on the dimension as a whole.

Table No. (14): Arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions in general and charitable associations in particular on the items of the dimension "internal democracy and good governance"

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
23	The institution holds periodic elections for its councils	3.66	0.498	3.66	0.496

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
24	The general assembly reviews the financial and administrative reports periodically	3.61	0.512	3.61	0.514
25	The general and administrative bodies include women among their members	3.50	0.627	3.49	0.626
26	The administrative body of the institution is committed to implementing the institution's internal regulations	3.53	0.530	3.53	0.532
27	The institution amends its internal regulations democratically	3.48	0.574	3.48	0.574
	The dimension as a whole	3.55	0.432	3.55	0.433

Table No. (14) shows that the arithmetic means of the estimates of the study sample on the dimension as a whole amounted to (3.55), with a high degree of agreement on the commitment of civil society institutions to, and their practice of, the bases of internal democracy and good governance. Their estimates on the items of the dimension also show that item (23), which provides "The institution holds periodic elections for its councils", came first with an arithmetic mean of (3.66) and a high degree of agreement, followed by item (24), which provides "The general assembly reviews the financial and administrative reports periodically", with an arithmetic mean of (3.61) and likewise a high degree of agreement. Notwithstanding the bright picture shown by the arithmetic means of the estimates of the study sample regarding internal democracy and good governance within civil society institutions, the research team considers that there is excessive idealism in these findings, which the study team attributes to the completion of the questionnaire by those in charge of administering these institutions. This calls in future for work to evaluate this dimension by members of the general assembly and by the recipients of the services of these institutions, in order to arrive at the truth of the situation more comprehensively and accurately, since this rosy picture is not consistent with what is contained in oversight reports: some of these reports pointed to the ineffectiveness of internal management and governance, and described certain organisations as operating a "one-man show" system, in which the founder plays the role of both chief executive and chairman of the board and has relatives on the board of directors¹²².

The participants in the focus group of representatives of charitable associations did not agree with the findings of the quantitative analysis of the views of those in charge of charitable associations, which showed a high level of internal democracy and good governance in these associations, and attributed this to the following reasons:

- The mistaken understanding of the concept of democracy on the part of a large section of those in charge of charitable associations.

¹²²United States Agency for International Development, CSO Sustainability Index for the Middle East and North Africa 2013, p. 28, published at the link: https://www.usaid.gov/sites/default/files/documents/1866/2013MENA_CSOSI_ar.pdf ; the site was visited on 24 January 2018.

- The failure of many associations to adhere to democratic values; among the manifestations of this are the absence of records in some associations and the failure to submit administrative and financial reports¹²³.

- The distance of the ministries from these associations: the failure to provide financial support to associations and the absence of serious oversight reduce the enthusiasm of those in charge of associations to adhere to these values; some participants in the focus group linked [this] with the absence of the manifestations of democracy and good governance.

The participants in the focus group explained that associations hold periodic elections, but that these elections cannot be described as democratic, free and competitive elections, for the following reasons:

- Most associations resort to consensus in choosing the members of the administrative body, considering acclamation one of the forms of democracy.

- Acclamation is sometimes resorted to owing to the absence of a desire on the part of a large number of members of the general assembly for membership of the administrative body.

- The small number of members of the general assembly reduces the existence of free and fair elections.

- Among the manifestations of the unwillingness of members of the general assembly to activate free and fair elections is the non-payment of subscription fees; it is often the case that whoever wishes to stand for the presidency of the administrative body pays the subscription fees on behalf of the members of the general assembly.

- Among the reasons for the ineffective participation of members of the general assembly in elections is the inconsistency of the reality of some associations with their objectives - such as an association concerned with the concerns of young people being controlled by a group of elderly persons.

As for the presence of women in the general and administrative bodies and their proportion in those two bodies, the participants in the focus group explained that most of those in charge of associations are women, more than men, especially in rural areas, but that they do not participate in the activities carried out in the capital, which gives the impression of their small number; among the reasons for women's participation in associations is the higher unemployment rate among women than among men.

Table No. (15): Arithmetic means and standard deviations of the estimates of the sample of those in charge of labour unions on the items of the dimension "internal democracy and good governance"

No.	Item	Arithmetic mean	Standard deviation
23	The institution holds periodic elections for its councils	3.71	0.47
27	The general assembly reviews the financial and administrative reports periodically	3.71	0.47
25	The general and administrative bodies include women among their members	3.65	0.60

¹²³123. The participants in the focus group indicated that associations that maintain good relations with the security agencies have their shortcomings in submitting reports and in adhering to democratic values overlooked.

No.	Item	Arithmetic mean	Standard deviation
26	The administrative body of the institution is committed to implementing the institution's internal regulations	3.76	0.44
27	The institution amends its internal regulations democratically	3.65	0.60
	The dimension as a whole	3.69	0.42

Table No. (15) shows that the arithmetic means of the estimates of the sample of those in charge of labour unions on the dimension as a whole amounted to (3.69), with a high degree of agreement on the extent to which these institutions adhere to the values of internal democracy and good governance. Indeed, all the arithmetic means of all the items of the dimension came with a high degree of agreement (exceeding 3.50) - which is incompatible with what the oversight reports on the situation of labour unions indicate, showing the ineffectiveness of internal management structures and pointing to non-compliance with democratic standards as regards the holding of genuine periodic elections for the president and members of the council of the union. One report pointed to the absence of internal elections to the extent that only three unions out of seventeen held elections for their administrative bodies, and in only two unions were elections held for their presidents in the 2010 electoral cycle, which isolated the labour unions from their bases and made their General Federation a quasi-governmental institution, since the General Federation is funded entirely by the Ministry of Finance and social security funds. This does not negate the existence of a limited number of labour unions that were active in improving the working conditions of their members, namely the unions representing the workers of companies that were governmental or semi-governmental before their privatisation, whose members' subscriptions were, and still are, deducted directly from the workers' monthly salaries and transferred to the unions' funds¹²⁴. This finding also confirms the need to carry out a field study surveying the views of members of the general assembly of labour unions on the extent to which union councils adhere to the values of internal democracy and good governance.

The participants in the focus group (representatives of labour unions) affirmed that the reason for the high mean for the dimension of internal democracy and good governance among labour unions is attributable to the unions' adherence to the values of internal democracy and good governance on the basis of the desire of the Jordanian State to disseminate and adhere to these values; moreover, the adherence of the unions in all the items of the dimension leads to the high arithmetic mean of this dimension.

The participants in the focus group agreed with the quantitative finding of the views of those in charge of labour unions, which affirmed that the general assembly of the union reviews the administrative and financial reports periodically, and added that the general assemblies discuss the content of the administrative and financial reports seriously, these procedures taking place in the presence of the members of the general assembly and of a representative of the Ministry of Labour, and the reports are published in a daily newspaper. There is genuine oversight by

¹²⁴124 Phenix Center, Freedom of Labour Union Organisation in Jordan and the Controversy over Legitimacy, p. 8, report published at the link: <http://www.phenixcenter.net/ar/paper/153> ; the site was visited on 24 January 2018. See also: the National Assessment, p. 12.

the general assembly: the president of one of the labour unions referred to a case in which the general assembly did not ratify the administrative and financial report until after the union's financial report had been re-audited.

Table No. (16): Arithmetic means and standard deviations of the estimates of the population of professional associations on the items of the dimension "internal democracy and good governance"

No.	Item	Arithmetic mean	Standard deviation
23	The institution holds periodic elections for its councils	3.89	0.33
27	The general assembly reviews the financial and administrative reports periodically	3.89	0.33
25	The general and administrative bodies include women among their members	3.67	0.50
26	The administrative body of the institution is committed to implementing the institution's internal regulations	3.78	0.44
27	The institution amends its internal regulations democratically	3.67	0.50
	The dimension as a whole	3.78	0.35

Table No. (11) shows that the arithmetic means of the estimates of the population of professional associations on the dimension as a whole amounted to (3.78), with a high degree of agreement on their ability to carry out their administrative work and apply their internal regulations democratically and with good governance.

The study team finds that the finding reached by those in charge of the professional associations is closer to reality, especially since these associations carry out their work and hold their elections under the provisions of the laws governing them; more than that, all the acts of these associations are subject to challenge before the Jordanian administrative judiciary, which exercises review of legality over the acts and decisions of these associations¹²⁵.

The participants in the focus group agreed with the quantitative finding reached by those in charge of the professional associations, agreeing to a high degree that the general assembly reviews the content of the administrative and financial reports at the annual meeting of the general assembly, and explained that the councils of the associations distribute the two reports in advance, a sufficient period before the date of the meeting, for study by the members of the general assembly; but that the seriousness of the discussion and oversight differs from one association to another and from one term to another within the same association, for the following reasons:

- The extent of the representation of the members of the association (members of the general assembly) on the council of the association.
- The personal desire of the members of the general assembly for genuine participation in managing the affairs of the association.

¹²⁵See for example Article (46) of the Pharmacists Association Law, which provides: "The decisions of the general assembly and the council are subject to objection before the competent courts"; and Article (98) of the Bar Association Law, which provides: "The decisions of the general assembly of the Association, whether concerning elections or other matters within its competence, may not be challenged except before the Court of Justice, and by: (a) the President of the Public Prosecutions upon the order of the Minister of Justice within fifteen days from the date of receipt of the decision by his office; (b) or by a number of registered senior lawyers of not less than twenty-five senior lawyers within fifteen days from the date of issuance of the decision of the general assembly."

- The role of members with ideological and nationalist orientations in performing genuine oversight roles.
- The large number of members of some associations, which prevents everyone from being able to participate genuinely.

The participants in the focus group explained the importance of distinguishing between the membership of women in the general assemblies and in the councils of the associations: whereas this proportion is high in the general assembly owing to compulsory membership and the high level of education among females in the Kingdom, the proportion of women remains low in the councils of the associations - indeed, some councils do not contain any woman, and they explained that this is not only the case in the current councils but is a continuing situation in successive councils - although some associations witness stronger participation of women in the council of the association, such as the Press Association.

Finally, the participants in the focus group explained that the mechanism for amending the internal regulations of associations takes place upon a proposal of the council of the association, which submits its proposal to the general assembly; if adopted by the general assembly it is submitted to the Government for approval and issuance in its final form. They affirmed that the Government usually adopts what the general assembly approves, although this does not negate the Government's sometimes adopting regulations that are not fully consistent with what came from the general assembly.

Table No. (17): Arithmetic means and standard deviations of the estimates of the sample of those in charge of human rights associations on the dimension "internal democracy and good governance"

No.	Item	Arithmetic mean	Standard deviation
23	The institution holds periodic elections for its councils	3.50	0.71
27	The general assembly reviews the financial and administrative reports periodically	3.50	0.52
25	The general and administrative bodies include women among their members	3.50	0.70
26	The administrative body of the institution is committed to implementing the institution's internal regulations	3.20	0.42
27	The institution amends its internal regulations democratically	3.10	0.32
	The dimension as a whole	3.36	0.37

Finally, Table No. (17) shows that the arithmetic means of the estimates of the sample of those in charge of human rights associations on the dimension as a whole amounted to (3.36), with a medium degree of agreement on the extent to which those in charge of human rights associations adhere to the values of democracy and good governance while performing the roles required of them in serving the local community. The research team finds that those in charge of human rights associations were the closest to reality: the mean of their estimates on the dimension amounted to (3.36) with a medium degree of agreement, compared with the findings of the sample as a whole and the findings of the labour unions and professional associations.

The participants in the focus group explained that the reasons that prompted those in charge of human rights associations to consider "internal democracy and good governance" to be of a

medium degree of agreement, compared with a high degree of agreement for the other civil society institutions, are attributable to the following reasons:

- The small number of members of human rights associations, so that there are no political conflicts, unlike the professional associations.
- The understanding by those in charge of these associations and their members of the concept of internal democracy and good governance.
- The absence of regular meetings in these associations owing to the absence of sufficient numbers in the general assembly of the association.

The participants in the focus group also explained that the reasons that led those in charge of human rights associations to give item (27), which provides "The institution amends its internal regulations democratically", the lowest arithmetic mean in this dimension are the difficulties obstructing the amendment of the internal regulations of associations, namely the necessity of the approval of the ministry concerned for the amendment of the association's internal regulations, which must be adopted by a two-thirds majority of the members of the general assembly at an extraordinary general assembly meeting - which prompts associations not to amend their internal regulations despite their conviction of the need for amendment.

The participants in the focus group affirmed that the general and administrative bodies do in fact include women - indeed, there are human rights associations all of whose members are women. The participants estimated the proportion of women in associations generally at (33%), and attributed the low membership of women in the general and administrative bodies to the small number of members of the general assembly.

The conclusion of the third dimension (internal democracy and good governance) is the agreement of the estimates of the four samples with the principal sample of the study in terms of agreeing on the commitment of civil society institutions to, and their practice of, methods of internal democracy and good governance commensurate with the nature of the work of each institution; the study team attributes this to the following reasons:

- The institutions' holding of their elections and choosing of their councils periodically, which is required by the regulations, laws and internal regulations governing their work.
- Transparency and clarity as regards financial and administrative matters.
- The effective participation of the women's sector in terms of membership and administration.

Fourth: Findings relating to the question which provides: To what extent do those in charge of administering civil society institutions, while carrying out the institution's activities, adhere to the standards of transparency as set out in the international standards and best practices?

Table No. (18) sets out the arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions on the items of the dimension "transparency", composed of six items (28-33), and on the dimension as a whole.

Table No. (18): Arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions in general and charitable associations in particular on the items of the dimension "transparency"

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
28	The administrative body of the institution prepares periodic administrative and financial reports and submits them to the general assembly on the specified dates	3.58	0.536	3.58	0.539
29	The administrative body sends its financial and administrative reports to the competent bodies on time	3.49	0.564	3.50	0.552
30	The institution publishes its financial and administrative reports on its website and in the various media	2.42	0.812	2.43	0.817
31	The institution deposits its funds in a special account with an accredited bank	3.53	0.563	3.53	0.551
32	The institution keeps at its premises financial records that are continuously updated	3.55	0.540	3.55	0.530
33	The institution appoints a different auditor in each financial year	3.29	0.699	3.28	0.594
	The dimension as a whole	3.31	0.403	3.31	0.396

Table No. (18) shows that the arithmetic means of the estimates of the study sample on the dimension amounted to (3.31), with a medium degree of agreement on the financial and administrative work of the institutions enjoying transparency. Their estimates on the items of the dimension also show that item (28), which provides "The administrative body of the institution prepares periodic administrative and financial reports and submits them to the general assembly on the specified dates", came first with an arithmetic mean of (3.58) and a high degree of agreement, followed by item (32), which provides "The institution keeps at its premises financial records that are continuously updated", with an arithmetic mean of (3.55) and likewise a high degree of agreement. The research team finds that these findings came to show the idealism of the role of those in charge of these institutions, and that the principal reason for this is attributable to the important role imposed by the legislation that obliged civil society institutions, and specifically the administrative bodies, to prepare administrative and financial reports and submit them to the general assemblies of the institutions; indeed, the Associations Law requires associations to send all the details of the financial and administrative reports to the ministry concerned with following up the affairs of the association. By contrast, item (30), which provides "The institution publishes its financial and administrative reports on its website and in the various media", came with the lowest arithmetic mean of (2.42) and a low degree of disagreement. This is consistent with the reality of civil society institutions, a large section of which do not have websites owing to the insufficiency of their financial resources, which consequently deprives them of publishing these reports on websites. This conduct also reflects an insincere desire to express the transparency of the financial situation of these institutions; for the councils of these institutions informing the general assembly and the representatives of the executive authority of the financial and administrative situation of the institution routinely and temporarily does not dispense with the necessity of informing

everyone of this situation permanently and easily, so as to achieve accomplished transparency in this direction. This calls for thinking about collective action, either through one of the official bodies or the financially capable civil society institutions, to find the mechanisms enabling civil society institutions to publish these reports.

The participants in the focus group of representatives of charitable associations agreed with the finding reached by those in charge of associations of the low proportion of institutions that publish administrative and financial reports on the website, and attributed this to a number of obstacles, including:

- The absence of websites for associations.
- Fear of the inaccuracy of the reports.
- Fear of other associations learning the secrets of the support received by the association.
- The conviction of a section of those in charge of associations that publication is unnecessary, since the reports concern the general assembly and the ministry concerned and not the other associations and the public.

The participants in the focus group also agreed with the finding reached by those in charge of associations of not changing the association's auditor every year, for the following reasons:

- The financial obstacle, since associations do not have the amounts requested by a new auditor.
- The absence of auditors in a number of Jordanian cities, since the presence of auditors is confined to the main cities.

The participants in the focus group also explained that the reason for the adherence of those in charge of associations to items (28, 29, 30 and 31) is attributable to the following:

- Fear of legal accountability.
- To obtain funding. By contrast, the participants explained that those in charge of associations are not aware of the legal provisions governing financial matters and are in genuine need of education in this field.

Table No. (19): Arithmetic means and standard deviations of the estimates of the sample of those in charge of labour unions on the items of the dimension "transparency"

No.	Item	Arithmetic mean	Standard deviation
28	The administrative body of the institution prepares periodic administrative and financial reports and submits them to the general assembly on the specified dates	3.71	0.47
29	The administrative body sends its financial and administrative reports to the competent bodies on time	3.29	0.92
30	The institution publishes its financial and administrative reports on its website and in the various media	1.88	0.60
31	The institution deposits its funds in a special account with an accredited bank	3.47	0.94
32	The institution keeps at its premises financial records that are continuously updated	3.59	0.79
33	The institution appoints a different auditor in each financial year	3.41	1.00
	The dimension as a whole	3.22	3.83

In the details of the position of civil society institutions on this dimension, Table No. (19) shows the arithmetic means of the estimates of the sample of those in charge of labour unions on the dimension as a whole, which amounted to (3.22), with a medium degree of agreement on clarity and transparency in these institutions' exercise of their work. The study team observes the consistency of the findings of the labour unions with the general findings for all civil society institutions regarding the dimension as a whole; this consistency is confirmed by item (28), relating to the preparation of administrative and financial reports on the specified dates, occupying first rank with an arithmetic mean of (3.71) and a high degree of agreement, followed in order by item (32), which provides "The institution keeps at its premises financial records that are continuously updated", with an arithmetic mean of (3.59) and a high degree of agreement. The sample of workers' unions also agreed with the full sample regarding the item that occupied the lowest arithmetic mean, albeit with a lower arithmetic mean, namely item (30), relating to the publication of administrative and financial reports on the website, with an arithmetic mean of (1.88) and a medium degree of disagreement.

The participants in the focus group agreed with the finding reached by those in charge of labour unions, which affirmed that the administrative body is keen to prepare the administrative and financial reports and submit them to the general assembly, and explained that this is attributable to the following reasons:

- The desire of the members of the council of the union to show the achievements and successes realised by the union under the leadership of the administrative body.
- The affirmation by the council of the union of its commitment to the law and the internal regulations.
- The desire of the members of the council of the union to discharge their responsibility for the financial and administrative report.
- The ratification of the general assembly is a necessary condition for sending the reports to the Ministry of Labour and the General Federation of Labour Unions.

The participants in the focus group affirmed the correctness of the conclusion of the quantitative analysis regarding the low rate of publication of the administrative and financial reports on the union's website, and attributed this to the following reasons:

- The absence of websites for some unions.
- The weakness of the budget of some unions compared with unions in other countries, which makes them feel embarrassed and prompts them not to publish on the website.
- Not disclosing certain activities of the union, such as the travel of some members of the administrative body.
- There is no need to publish the financial report, as it is a private matter for the members of the union.

By contrast, one of the presidents of the unions indicated that they print the administrative and financial report in the form of a coloured booklet and distribute it as widely as possible.

The participants in the focus group did not agree with the finding shown by the quantitative analysis of the views of those in charge of labour unions, which showed that a changing financial auditor is appointed in each financial year, and affirmed that the general assembly is

the one that chooses the financial auditor, but that it is not required that the auditor be changed annually. In a positive step, some indicated that their union carries out electronic archiving of all the union's documents, including the administrative and financial reports.

Table No. (20): Arithmetic means and standard deviations of the estimates of the population of professional associations on the items of the dimension "transparency"

No.	Item	Arithmetic mean	Standard deviation
28	The administrative body of the institution prepares periodic administrative and financial reports and submits them to the general assembly on the specified dates	3.78	0.44
29	The administrative body sends its financial and administrative reports to the competent bodies on time	3.00	1.12
30	The institution publishes its financial and administrative reports on its website and in the various media	3.67	0.50
31	The institution deposits its funds in a special account with an accredited bank	3.78	0.44
32	The institution keeps at its premises financial records that are continuously updated	3.78	0.44
33	The institution appoints a different auditor in each financial year	3.78	0.46
	The dimension as a whole	3.63	0.41

Table No. (20) shows that the arithmetic means of the estimates of the population of professional associations on the dimension as a whole amounted to (3.63), with a high degree of agreement on the extent of clarity and transparency in the work of these institutions. It is observed that the findings of the professional associations for the dimension as a whole came higher than the arithmetic mean of each of the combined sample, the sample of charitable associations and the sample of labour unions, which came with a medium degree of agreement; they also differed from them in terms of the items that came in the highest rank, since items (31), which provides "The institution deposits its funds in a special account with an accredited bank", (32), which provides "The institution keeps at its premises financial records that are continuously updated", and (33), which provides "The institution appoints a changing auditor each financial year", came in the highest rank with an arithmetic mean of (3.78) and a high degree of agreement. The research team attributes the difference in these findings to the difference in the role of the professional associations from the role of both the associations and the labour unions: the professional associations provide social welfare and health insurance for their members, in addition to playing an important role in regulating the affairs of the professions in which their members work, which brings into their funds large amounts estimated in the millions and calls for dealing with them with high professionalism and transparency - quite apart from the high cultural and scientific level of their members, which enables them to follow up the financial affairs of the association and hold the council of the association accountable. The findings of the professional associations also differed from both the combined sample and the sample of labour unions regarding the item that came with the lowest arithmetic mean, namely item (29), which provides "The administrative body sends its financial and administrative reports to the competent bodies on time", with an arithmetic mean of (3.0), whereas item (30), relating to the publication of administrative and financial reports on the website, was the lowest among the other civil society institutions. The study team

attributes this to the financial and technical capacities possessed by the professional associations, but affirms that this finding indicates the full adoption by the professional associations of the principles of transparency by publishing the administrative and financial reports on the website of each association, unlike the other civil society institutions.

The participants in the focus group agreed with the quantitative finding reached by those in charge of the professional associations regarding placing the association's funds in an accredited bank account, and explained that the reasons prompting the associations to do so may be summarised as follows:

- Preserving the association's funds, which are in origin the funds of the members of the association.
- Preserving the principles of transparency to which the council of the association must adhere.
- Obtaining the confidence of the general assembly.

The participants in the focus group also agreed with the quantitative finding reached by those in charge of the professional associations regarding their keeping financial records at their premises and continuously updating them, and explained that the reasons prompting the associations to do so may be summarised as follows:

- Controlling work and showing the activities carried out by the council of the association.
- Readiness for the accountability to which the council of the association will be subjected by the general assembly.
- Compliance with the provisions of the laws in force.
- Meeting the requirements imposed by the ministry supervising the association.

The participants in the focus group affirmed that the professional associations publish the administrative and financial reports on the association's website, with the exception of the Medical Association, which distributes them in a printed booklet.

Table No. (21): Arithmetic means and standard deviations of the estimates of the sample of those in charge of human rights associations on the dimension "transparency"

No.	Item	Arithmetic mean	Standard deviation
28	The administrative body of the institution prepares periodic administrative and financial reports and submits them to the general assembly on the specified dates	3.40	0.52
29	The administrative body sends its financial and administrative reports to the competent bodies on time	3.20	0.42
30	The institution publishes its financial and administrative reports on its website and in the various media	2.50	0.53
31	The institution deposits its funds in a special account with an accredited bank	3.50	0.53
32	The institution keeps at its premises financial records that are continuously updated	3.20	0.42
33	The institution appoints a different auditor in each financial year	3.40	0.52
	The dimension as a whole	3.20	0.31

Finally, Table No. (21) shows that the arithmetic means of the estimates of the sample of those in charge of human rights associations on the dimension as a whole amounted to (3.20), with a medium degree of agreement on the extent of clarity and transparency in these institutions' exercise of their work. It is observed that the sample of those in charge of human rights associations agrees with the professional and labour unions and the combined sample in terms of the arithmetic mean of the dimension as a whole with a medium degree of agreement; the sample of those in charge of human rights associations also agreed with those in charge of the professional associations in item (31), which provides "The institution deposits its funds in a special account with an accredited bank", occupying the highest rank with an arithmetic mean of (3.77) and a high degree of agreement. The findings of those in charge of human rights associations also agreed with each of the combined sample, the sample of labour unions and the professional associations regarding item (30), relating to the publication of administrative and financial reports on the website, which occupied the lowest arithmetic mean, with an arithmetic mean of (2.77) and a low degree of agreement.

The participants in the focus group explained the real reasons for the commitment of human rights associations to depositing their funds in a special account with an accredited bank and to keeping at their premises financial records that are continuously updated, which may be summarised as follows:

- Compliance with the provisions of the Associations Law, which requires associations to carry out these obligations.
- Compliance with these obligations constitutes a principal requirement for obtaining foreign funding.
- Compliance with these obligations facilitates the process of accounting and financial auditing for those in charge of associations.
- The associations' commitment to depositing their funds in a special account with an accredited bank increases the confidence of funders in the association, since funders have greater confidence in institutions that deal by cheque.

The participants in the focus group also agreed with the finding reached by the quantitative analysis that the general assembly discusses the administrative and financial reports in actual discussion, and attributed this to the following reasons:

- The presence of a representative of the ministry concerned at the annual meeting obliges the general assembly to discuss the administrative and financial reports.
- The discussion of the two reports represents an expression of the seriousness of the annual meeting, which is evident through the provision of advice and guidance by the general assembly to the administrative body.
- The larger the number of members of the general assembly, the deeper and more serious the dialogue.
- The more numerous the association's programmes and the higher its funding, the deeper and more serious the dialogue of the members of the body.

But they pointed to a fact, namely the small size of the general assembly of most human rights associations, and explained that this was the result of the increase in the number of human rights associations, which reduced the members of the general assembly.

The participants in the focus group also affirmed the finding reached by the quantitative analysis, namely that associations do not publish reports on the institution's website, and attributed this to the following reasons:

- The absence of websites for many of these associations.
- The weakness of the activities carried out by these associations.
- To conceal the association's weak financial situation and its lack of activities.
- Owing to the effect of the weakness of the association's activities and the low value of its annual budget on obtaining foreign funding.

The conclusion of the fourth dimension (transparency) is the agreement of the estimates of those in charge of charitable and human rights associations and labour unions, with a medium degree of agreement, on the transparency of the work of the institutions in financial and administrative matters, while the estimates of those in charge of the professional associations were with a high degree of agreement. A study of the estimates of the members of the sample shows the commitment of those in charge of these institutions to the following:

1. Preparing financial and administrative reports periodically and on the specified dates.
2. Dealing accurately in keeping the institutions' funds with banks and accredited bodies.
3. Documenting material financial matters and keeping them in special records that can easily be referred to whenever necessary.
4. The commitment of those in charge of administrative work in terms of clarity and transparency by sending their financial and administrative reports to the competent bodies for review and audit.
5. Partial commitment to publishing the administrative and financial reports on the institutions' websites.

The study team attributes these high proportions to several reasons, foremost among them the legislation that obliges civil society institutions to carry out these procedures; moreover, the nature of the role entrusted to the professional associations, the large size of their membership and their high educational, cultural and professional level increase the commitment of those in charge of them to these principles. What confirms this conclusion is what the estimates showed of the failure of those in charge of these institutions to publish their financial and administrative reports in the media and on websites, since the legislation does not oblige these institutions to this practice. At the same time, the study team affirms the importance of expanding the study of this dimension through an independent study surveying the views of members of the general assemblies and the beneficiaries of the services of these institutions, in a manner showing the real situation of the commitment of civil society institutions to these standards.

Fifth: Findings relating to the question which provides: To what extent are civil society institutions able to exercise their service role and to give effect to the right of individuals to public participation?

Table No. (22) sets out the arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions on the items of the dimension "effectiveness", composed of five items (34-38), and on the dimension as a whole.

Table No. (22): Arithmetic means and standard deviations of the estimates of the sample of those in charge of civil society institutions on the items of the dimension "effectiveness"

No.	Item	Arithmetic mean - civil society institutions	Standard deviation	Arithmetic mean - charitable associations	Standard deviation - charitable associations
34	The institution has the qualified staff to achieve its objectives	3.29	0.728	3.28	0.725
35	The institution has sufficient equipment and apparatus to carry out its tasks	2.88	0.840	2.88	0.822
36	The institution's programmes respond to the needs of local communities	3.32	0.615	2.31	0.618
37	The institution receives local funding to implement its programmes	2.77	0.844	2.79	0.831
38	The local community interacts positively with the institution's programmes	3.28	0.705	3.28	0.701
	The dimension as a whole	3.10	0.552	3.10	.545

Table (22) shows that the arithmetic means of the estimates of the study sample on the dimension amounted to (3.10), with a medium degree of agreement on the extent of the effectiveness of the staff of the institutions in performing the roles required of them, and at the same time the extent of the efficiency and capacity of the equipment and apparatus to enable those in charge of these institutions to implement their programmes. Their estimates on the items of the dimension also show that item (36), which provides "The institution's programmes respond to the needs of local communities", came first with an arithmetic mean of (3.32) and a medium degree of agreement, followed by item (34), which provides "The institution has the qualified staff to achieve its objectives", with an arithmetic mean of (3.29) and likewise a medium degree of agreement. By contrast, item (37), which provides "The institution receives local funding to implement its programmes", came in the lowest rank with an arithmetic mean of (2.77) and a low degree of agreement, followed by item (35), which provides "The institution has sufficient equipment and apparatus to carry out its tasks", with an arithmetic mean of (2.88) and a low degree of agreement. These findings indicate that those in charge of civil society institutions attribute the medium degree of effectiveness of the institutions to the insufficiency of financial resources, while on the other hand they are convinced of the ability of the human resources to carry out the tasks hoped for from them in the service of the local communities they seek to serve; what confirms this finding is the high proportion for item (38), which affirms the positive interaction of the local community with the institution's programmes, the arithmetic mean of this item amounting to (3.28).

The participants in the focus group of representatives of charitable associations explained that the quantitative finding on the extent of the ability of associations and their programmes to respond to the needs of the local community involves a kind of exaggeration, affirming that the programmes of most associations do not respond to the needs of the local community. Only a small number of associations adhere to their own objectives; they explained that among the

reasons for this situation is the existence of a number of family associations, and that the ability of the association to respond to the needs of the local community depends on the number of members of the administrative body and the extent of their ability to oblige the general assembly to adhere to its objectives and provide services to the local community, and on the type of the association's activity. The participants in the focus group did not overlook the role of political circumstances in the sometimes-response of certain associations to the needs of the local community.

By contrast, some participants in the focus group explained that associations respond precisely to the needs of the local community, since there is commitment on the part of the charitable associations that provide financial assistance to the needy.

The participants in the focus group affirmed that many associations suffer from a shortage of equipment and apparatus, which is attributable to the weakness of the associations' financial resources, including government support; the participants proposed a number of solutions to this problem, the most important of which are:

- Increasing private-sector support for associations by deducting these donations from income tax.
- Strengthening and disseminating the concept that supporting associations serves the homeland.
- Motivating associations to merge; among the methods of motivation is increasing the value of support to associations as the number of members of the general assembly increases.
- Eliminating sham associations.
- Classifying associations and providing support on the basis of objective criteria, the most important of which are: the number of members, activities and achievements, the proportion of women in the total general assembly, and the proportion of young people in the total general assembly.

Regarding the manifestations of the local community's interaction with the programmes of associations, especially in the light of the decline in the number of participants in the association's activities, the participants in the focus group explained the necessity of distinguishing between charitable associations, whose services witness demand from citizens, and cultural and political associations, in respect of which - notwithstanding the small number of participants in their activities - the quality of the participants in these activities must be taken into account. They explained that among the reasons for individuals' reluctance to take part in the activities of associations is the weakness of the associations' financial resources, which calls for enabling civil society institutions to obtain funding, including foreign funding, and also for developing the capacities of those working in civil society institutions, qualifying them to work for local and international bodies.

The participants in the focus group also agreed with the finding of the quantitative analysis, which showed the weakness of qualified staff in associations, which does not help them achieve their objectives compared with the other items of the dimension. They affirmed that there are some qualified persons in associations, but only a small proportion of persons who are effective

in the work and activity of associations, and added that some of those in charge of associations and those working in them need further qualification and training to activate the work of associations, especially in the field of developing their capacities in the English language.

Table No. (23): Arithmetic means and standard deviations of the estimates of the sample of those in charge of labour unions on the items of the dimension "effectiveness"

No.	Item	Arithmetic mean	Standard deviation
34	The institution has the qualified staff to achieve its objectives	3.76	0.44
35	The institution has sufficient equipment and apparatus to carry out its tasks	3.47	0.94
36	The institution's programmes respond to the needs of local communities	3.76	0.43
37	The institution receives local funding to implement its programmes	2.59	1.00
38	The local community interacts positively with the institution's programmes	3.24	0.75
	The dimension as a whole	3.36	0.59

Table No. (23) shows that the arithmetic means of the estimates of the sample of those in charge of labour unions on the dimension as a whole amounted to (3.36), with a medium degree of agreement on the effectiveness of the supervising staff and the equipment and apparatus available to these institutions. This finding is thereby consistent with the finding of the combined sample, although the arithmetic mean of the dimension as a whole was higher by (0.26) in favour of the labour unions. The findings of the sample of labour unions were also consistent with the findings of the combined sample in that item (36), relating to the response of the institution's programmes to the needs of the local community, came in the highest rank with an arithmetic mean of (3.76) and a high degree of agreement; and the findings of the sample of labour unions were likewise consistent with the findings of the combined sample in that item (37), relating to the institution's receipt of local funding to implement its programmes, had the lowest arithmetic mean. But it differed from the combined sample regarding item (35), since the arithmetic mean of this item, amounting to (3.47), came to confirm that labour unions possess sufficient equipment and apparatus to carry out their tasks.

One of the participants in the focus group affirmed that there is an exaggeration in the proportion of the item concerning the response of the institution's programmes to the needs of local communities, explaining that the programmes of the unions do not respond to the needs of local communities to the degree reached by the quantitative analysis, while others pointed to the manifestations of service to the local community in the work of labour unions, which consist of the following:

- Helping some members of the local community obtain scholarships at certain universities outside the framework of the unified admission list, in addition to the union's quota.
- Participating in national celebrations and occasions.
- Helping certain civil society institutions communicate with official bodies.

As regards the extent of the availability of sufficient equipment and apparatus for labour unions to carry out their tasks, the participants in the focus group affirmed that the situation differs from one union to another: whereas one union affirmed that it did not have sufficient capabilities, another union affirmed that it possessed the competencies because it has among

its members various specialisations, affirming at the same time that this is not available to all unions; a third union explained that it appoints a number of employees specialised in the work required of the union, such as a legal adviser and a media adviser, affirming the weakness of some unions in this field.

Table No. (24): Arithmetic means and standard deviations of the estimates of the population of professional associations on the items of the dimension "effectiveness"

No.	Item	Arithmetic mean	Standard deviation
34	The institution has the qualified staff to achieve its objectives	3.78	0.78
35	The institution has sufficient equipment and apparatus to carry out its tasks	3.67	0.50
36	The institution's programmes respond to the needs of local communities	3.44	0.73
37	The institution receives local funding to implement its programmes	1.88	0.99
38	The local community interacts positively with the institution's programmes	3.22	0.67
	The dimension as a whole	3.22	0.41

Table No. (24) shows that the arithmetic means of the estimates of the sample of those in charge of the professional associations on the dimension as a whole amounted to (3.22), with a medium degree of agreement on the ability of the supervising staff and the available equipment and apparatus to carry out the tasks required of them effectively. The findings of the professional associations came similar to the findings of the labour unions compared with the findings of the combined sample, with the exception of the finding for item (37), which provides "The institution receives local funding to implement its programmes", which came strikingly low among the professional associations compared with the labour unions.

However, the participants in the focus group from among activists of the professional associations affirmed their incomplete satisfaction with the role of the associations in responding to the needs of the local community, contrary to what the quantitative analysis of the responses of those in charge of the professional associations concluded, but explained that some associations carry out certain activities aimed at serving the local community. The participants in the focus group also explained the most important activities carried out by the associations to serve the local community, such as awareness-raising, legal assistance, free medical days and the maintenance of homes for the needy members of the local community. They explained the most important fields in which the professional associations are active in supporting the local community to strengthen the right of individuals to public participation as follows: raising awareness of the importance of participating in parliamentary and local elections, monitoring the integrity and transparency of the electoral process, discussing laws of importance to the lives of citizens, helping refugees, and directing the media to examine issues of concern to citizens and to highlight the negative consequences of certain government decisions, such as the issue of raising prices.

Table No. (25): Arithmetic means and standard deviations of the estimates of the sample of those in charge of human rights associations on the dimension "effectiveness"

No.	Item	Arithmetic mean	Standard deviation
34	The institution has the qualified staff to achieve its objectives	2.60	0.70

No.	Item	Arithmetic mean	Standard deviation
35	The institution has sufficient equipment and apparatus to carry out its tasks	2.00	0.67
36	The institution's programmes respond to the needs of local communities	3.10	0.31
37	The institution receives local funding to implement its programmes	2.00	0.82
38	The local community interacts positively with the institution's programmes	2.80	0.79
	The dimension as a whole	2.50	0.42

Finally, Table No. (25) shows that the arithmetic means of the estimates of the sample of those in charge of human rights associations on the dimension as a whole amounted to (2.50), with a low degree of agreement on the extent of the ability and effectiveness of those in charge of these institutions and the available equipment to carry out the work required of human rights associations. It is observed that the findings of those in charge of human rights associations differ regarding the effectiveness of associations and their service to the local community, for they evaluate effectiveness to a lower degree than the professional and labour unions and the combined sample; they attributed this to several reasons, the most important of which are: (a) financial reasons and the non-availability of equipment and apparatus, since items (35) and (37), which deal with the provision of equipment and apparatus and their not receiving local funding, came in the lowest rank in terms of arithmetic means, amounting for both items to (2.0) with a low degree of disagreement; (b) the non-availability of qualified staff to achieve the institution's objectives, since the arithmetic mean of item (34), relating to the availability of qualified human resources, was (2.60). The study team finds this finding closer to logic in the light of the roles played by civil society institutions in serving the local community.

The participants in the focus group explained that the reason for the dimension of effectiveness as a whole obtaining the lowest proportion among human rights associations out of all the other civil society institutions is attributable to the following reasons:

- The shortage of funding leads to the ineffectiveness of associations.
- Allowing foreign organisations to carry out activities that associations could carry out.
- The existence of the National Center for Human Rights has weakened the work of human rights associations, whether in the field of election monitoring, receiving complaints, or awareness-raising and the dissemination of publications.

The participants in the focus group also explained the reasons preventing the availability of qualified staff in human rights associations as follows:

- The large number of associations has led to the dispersion of expertise.
- The decline of the concept of voluntary work in the light of the abundance of grants and funding, so that there are no longer human rights organisations that carry out voluntary work.

The participants in the focus groups agreed with the findings of the quantitative analysis of the responses of those in charge of human rights associations regarding the response of the programmes of human rights associations to the needs of local communities, which obtained the highest mean, and explained the manifestations of these responses and the indicators of sound response relied upon as follows:

- Volunteering by citizens to work within the association's activities and citizens' attendance at the associations' activities.
- The ability of some associations to contribute to the amendment of certain laws of concern to citizens and consistent with human rights standards.
- The carrying out by some institutions of studies and research of concern to the local community.

Some explained that the non-participation of citizens in the activities of human rights associations is attributable to the following:

- The difficult economic situation of citizens and the poor choice of the subject and timing of the activity.
- Counter-mobilisation by the Government against citizens participating in these activities.

The conclusion of the fifth dimension (effectiveness) is the agreement of the estimates of the samples of the labour unions and the professional associations with the estimates of the combined study sample, with a medium degree of agreement, on the ability of these institutions to serve their local community, while the estimates of the sample of human rights associations differed with a low degree of agreement in terms of the ability and effectiveness of those institutions to conduct their work through the available human resources, equipment and supplies, since the estimates indicate the dissatisfaction of the sample of those in charge of human rights associations with the available human resources and equipment. In all cases, the study team attributes the medium degree of agreement of civil society institutions on this dimension to the following reasons:

1. The lack of civil society institutions of sufficient equipment and apparatus enabling them to perform their programmes and their institutional work.
2. The weakness and scarcity of local funding in terms of financial and administrative matters and the equipment necessary for work.
3. The availability of qualified and trained staff for institutional work in a large part of these institutions, and especially the professional associations, which are regarded as genuine houses of expertise in the fields in which they specialise and which they follow.
4. The response of the institutions and their programmes to the needs of the local community.
5. The interaction of the segments of the local community with the work and programmes of the institution.

Chapter Four

Summary of the Most Important Findings and Recommendations

This study has addressed the extent to which Jordanians enjoy their right to public participation through the establishment of civil society institutions (associations and unions), and the extent to which these institutions are able to exercise their activities freely, transparently and effectively in a manner that strengthens the exercise by individuals of their right to public participation as a right guaranteed in the Jordanian Constitution and in the international human rights standards, enabling individuals to protect and defend their common interests. This study arrived at a number of findings and put forward several recommendations, which may be summarised as follows:

First: The Findings

1. As regards the extent to which civil society institutions enjoy their right to freedom of establishment and to exercise their activities, the findings of the quantitative analysis of the views of those in charge of civil society institutions (charitable associations, professional associations, labour unions and human rights associations) showed that individuals enjoy freedom of establishment and dissolution and freedom to exercise their activities with a medium degree of agreement, equivalent to (77%). A deeper examination of the quantitative analysis, however, shows that the weighted arithmetic mean for the professional associations, labour unions and human rights associations shows that individuals enjoy [this freedom] with a low degree of agreement, equivalent to (66%). This finding is the closest to what was shown by the participants in the focus groups, and is consistent with the legal analysis, which showed the existence of certain provisions conflicting with the right of individuals to establish civil society institutions, to dissolve them and to exercise their activities, which may be summarised as follows:

- a. The contravention by the Jordanian Constitution of the international instruments that guaranteed the exercise of the right to establish civil society institutions (associations and unions) to everyone, whether citizens or foreigners, and which affirmed the universality and comprehensiveness of this right; for Article (16) of the Constitution guaranteed the exercise of this right to Jordanians only, without extending it to foreigners present on the territory of the Kingdom.
- b. The Jordanian Associations Law linked the acquisition by associations of legal personality to the approval of the Registry Board, whose composition is predominantly governmental, and without this approval an association cannot commence its activities - which constitutes a clear violation of the international standards that require that an association acquire legal personality without prior permission from the public administration.
- c. The contravention by the Labour Law of the international standards that require that unions acquire legal personality without the need for prior permission or any measure liable to obstruct the establishment of the union: labour unions cannot be established and acquire legal personality except after obtaining the approval of the Registrar of

Unions and Employers' Unions at the Ministry of Labour. Moreover, the Labour Law entrusted in Article (98/d) thereof the determination of the occupations and industries in which unions may be established in accordance with the provisions of the Labour Law, and the determination of the occupations and industries in which more than one union may not be established owing to their similarity, to the tripartite committee - which constitutes in its content a violation of the principle of freedom of union work and its independence from any body.

d. Professional associations are established and acquire legal personality under a law issued for each professional association separately, which constitutes a contravention of the international standards that require that unions acquire legal personality without the need for prior permission or any other measure liable to obstruct the establishment of the union.

e. The method of dissolving associations under a decision issued by the Registry Board constitutes a clear violation of the international standards that affirmed the necessity of dissolving associations either by a decision issued by their general assembly or under a judicial judgment.

f. Some laws of the professional associations permitted the dissolution of the council of the association by a decision issued by the Council of Ministers for the requirements of security and safety, as is the case in the laws of the Medical Association, the Dental Association, the Pharmacists Association, the Association of Nurses, Male Nurses and Licensed Midwives, and the Geologists Association.

g. The Labour Law permitted the dissolution of labour unions under a decision issued by the Minister of Labour, which constitutes a violation of the international standards that require that unions not be dissolved under administrative decisions.

h. Article (19/a) of the Jordanian Associations Law granted the competent minister the right to encroach upon the composition of the elected general [administrative] body and to replace it with a temporary administrative body, which may lead to government control over the association; the Law also permitted the competent minister to take this measure without obliging him to address a notice or warning to the association.

2. As regards the extent to which civil society institutions enjoy freedom to manage their administrative and financial affairs, the findings of the quantitative analysis of the views of those in charge of civil society institutions (charitable associations, professional associations, labour unions and human rights associations) showed that those in charge of civil society institutions enjoy freedom to manage the administrative and financial affairs of the institutions with a low degree of agreement, equivalent to (73%), and all those in charge of civil society institutions agreed on the same rate. This finding agrees with what was confirmed by the legal analysis and the findings of the focus groups, which showed the existence of certain manifestations that led to low agreement on this provision, the most important of which are:

a. Article (3/a/1) of the Jordanian Associations Law prohibited the exercise of political activities falling within the scope of the work of political parties, which constitutes a

contravention of the international standards that require that associations be enabled to exercise the various activities, whether political or non-political.

b. Article (99) of the Labour Law specified exhaustively the objectives which the union must seek to achieve; accordingly, if the union achieves any other objective not contained in the text of Article (99), its conduct is regarded as unlawful, even if that conduct aims to regulate workers' occupational affairs.

c. The various laws of the professional associations - in particular those of the lawyers, engineers and teachers - specified exhaustively the objectives which the association must seek to achieve; accordingly, if the association achieves any other objective not provided for, its conduct is regarded as unlawful, even if that conduct aims to regulate the professional affairs with which the association is concerned.

d. The Jordanian Associations Law, in Article (7/b) thereof, obliged associations to include in their basic regulations a set of mandatory particulars which in their content constitute an obstacle to the exercise of the right to freedom of association - quite apart from the non-effectiveness of any amendment to the basic regulations except after the approval of the Associations Registry Board - which constitutes a contravention of the international standards that affirm the necessity of enabling associations to lay down and amend their basic regulations without interference by the public administration.

e. Article (100) of the Labour Law obliged labour unions to include in their internal regulations a set of mandatory particulars in a manner inconsistent with the international standards that affirmed the freedom of unions to lay down their internal regulations without interference from any body whatsoever. It is worth mentioning in this context that Article (103/b) of the same Law regarded any amendment to the internal regulations as effective merely upon its deposit with the Registrar of Unions and Employers' Unions, and this position is to the credit of the Jordanian legislator for its consistency with the relevant international standards.

f. The Law linked the obtaining by associations of foreign funding to the approval of the Council of Ministers, which constitutes a contravention of the international standards that require that associations be enabled to obtain funding whatever its source without the imposition of restrictions or obstacles liable to prevent the obtaining of this funding.

g. The various laws of the professional associations - in particular those of the lawyers, engineers and teachers - linked the obtaining by the association of gifts, subsidies and donations, whatever their source, to the approval of the Council of Ministers.

h. From an examination of the legislative reality of the various laws governing the work of professional associations, we find that they used one of two methods as regards laying down the basic regulations of the association: the first method, obliging the association to include in its basic regulations a set of mandatory particulars, as is the case with the Teachers Association; the second method, making the laying down of the basic regulations the competence of the Council of Ministers, as is the case with the Bar Association and the Engineers Association.

i. The Jordanian Labour Law subjected the funds of labour unions to the audit of the Audit Bureau, which obstructs the freedom of unions to dispose of their funds without interference by the public administration of the State.

3. As regards the extent to which those in charge of civil society institutions adhere to the values of internal democracy and good governance, the findings of the quantitative analysis of the views of those in charge of civil society institutions (charitable associations, professional associations, labour unions and human rights associations) showed that those in charge of civil society institutions adhere to the values of internal democracy and good governance with a high degree of agreement, equivalent to (88.75%). The participants in the focus groups, however, pointed to the inaccuracy of the findings of the quantitative analysis, which showed a high level of internal democracy and good governance in civil society institutions, and attributed this to a number of reasons, the most important of which are: the mistaken understanding of the concept of democracy on the part of a large section of those in charge of charitable associations; the failure of many associations to adhere to democratic values, among the manifestations of which are the absence of records in some associations and the failure to submit administrative and financial reports¹²⁶; and the lack of seriousness of the oversight of associations, which reduces the enthusiasm of those in charge of associations to adhere to these values.

4. As regards the extent to which those in charge of administering civil society institutions, while carrying out the institution's activities, adhere to the standards of transparency as set out in the international standards and best practices, the findings of the quantitative analysis of the views of those in charge of civil society institutions (charitable associations, professional associations, labour unions and human rights associations) showed that those in charge of the institutions adhere to the standards of transparency as set out in the international standards and best practices with a medium degree of agreement, equivalent to (82.75%); and were it not for the item concerning the institution's publication of its financial and administrative reports on its website and in the various media, which obtained a low degree of disagreement at a rate of (60.5), this dimension would have obtained agreement to a high degree. Notwithstanding this high finding, the focus groups showed the inaccuracy of some answers to certain items: the participants in the focus group, whether representatives of charitable associations or labour unions, affirmed that the financial auditor is not changed annually, and at the same time affirmed that the reason for adherence to preparing reports, sending them to the bodies concerned and depositing funds in the bank is not a genuine desire to adhere to the values of transparency, but reasons that may be summarised as follows: compliance with the provisions of the Associations Law, which requires associations to carry out these obligations; and because compliance with these obligations is a principal requirement for obtaining foreign funding.

5. As regards the extent to which civil society institutions are able to exercise their service role and to give effect to the right of individuals to public participation, the findings of the quantitative analysis of the views of those in charge of civil society institutions (charitable

¹²⁶126 The participants in the focus group indicated that associations that maintain good relations with the security agencies have their shortcomings in submitting reports and in adhering to democratic values overlooked.

associations, professional associations, labour unions and human rights associations) showed medium agreement on the content of this dimension, equivalent to (77%); it is observed that the quantitative findings of the responses of those in charge of human rights associations did not reach the same level but were with a low degree of agreement. Notwithstanding this relatively high finding, the focus groups showed the inaccuracy of some answers: the participants in a group of representatives of charitable associations explained that this finding is exaggerated, affirming that the programmes of most associations do not respond to the needs of the local community. Only a small number of associations adhere to their own objectives, and they explained that among the reasons for this situation are the existence of a number of family associations, as well as the small number of members of the administrative body and the extent of their ability to oblige the general assembly to adhere to its objectives and provide services to the local community, and the type of the association's activity - in addition to the role of political circumstances in the sometimes-response of certain associations to the needs of the local community. At the same time, those in charge of human rights associations showed, whether in the quantitative findings or in the focus groups, the non-provision of equipment and apparatus, their not receiving local funding and the non-availability of qualified staff to achieve the institution's objectives, which affects their ability to exercise their service role and give effect to the right of individuals to public participation.

6. The findings of the statistical analysis of the estimates of the labour unions, the professional associations and the human rights associations, each separately, showed agreement on some dimensions and disagreement on other dimensions; this is attributable to the difference in the tasks and duties entrusted to them, in addition to the difference in the culture and experience of the supervising human resources in a manner commensurate with the work of the institution.

Second: The Recommendations

A. Recommendations relating to the freedom of civil society institutions to establish themselves and exercise their activities

1. Amending Article (16) of the Jordanian Constitution by deleting the word "Jordanians" and replacing it with the words "every Jordanian and every person resident on Jordanian territory", consistently with the international standards that require that all individuals be enabled to exercise this right and the other rights contained in this provision - namely the formation of unions and political parties - whether they are citizens or foreigners.

2. Amending Article (3/a/1) of the Jordanian Associations Law by deleting the words "or to achieve any political objectives falling within the scope of the work and activities of political parties in accordance with the provisions of the legislation in force", so that the text of the article becomes as follows: "The word (association) means any legal person composed of a group of persons not fewer than seven in number and registered in accordance with the provisions of this Law, to provide services or carry out activities on a voluntary basis without aiming to make and share profit or to achieve any benefit for any of its members or for any specific person" - with the aim of enabling associations to exercise

all activities, whether political or non-political, in a manner consistent with the relevant international standards.

3. Granting associations freedom to lay down their basic regulations and to amend them in the manner they consider appropriate, and treating any amendment made to their basic regulations as effective merely upon its adoption by the general assembly of the association; and if the public administration objects to that amendment, it must have recourse to the judiciary.

4. Enabling associations to acquire legal personality merely upon the sending of notification to the Registry Board, so that associations commence the exercise of their activities merely upon the sending of that notification, while giving the public administration the right to have recourse to the judiciary if it becomes apparent to it that the establishment of a given association contravenes the provisions of the law.

5. Reconsidering the composition of the Registry Board so that it includes (49%) representatives of the Government and (51%) representatives of civil society, in order to guarantee the absence of arbitrary interference by the public administration in the affairs of associations; together with the necessity of working to enable unions to acquire legal personality without the need for prior permission or any other measure liable to obstruct the establishment of labour unions, while granting the public administration the right to object to the establishment of any union before the competent judiciary.

6. Working to enable professional associations to acquire legal personality without the need to issue a special law for each association established, and confining the matter to notification of the public administration, while granting the public administration the right to object to the establishment of any association before the competent judiciary - in order to achieve the principle of the acquisition by unions of legal personality without the need for prior permission from the public administration or any other measure liable to obstruct it.

7. Abolishing the text of Article (98/d) of the Labour Law, which gave the tripartite committee the right to determine the occupations and industries in which unions may be established in accordance with the provisions of the Labour Law, and to determine the occupations in which more than one union may not be established owing to their similarity; permitting the establishment of unions for the various types of occupations and permitting their plurality; and working to open the way for the establishment of various unions in all sectors of whatever type, with the necessity of enabling the public administration to object to the establishment of any union before the competent judiciary.

8. Increasing the knowledge and understanding of the members of civil society institutions of the content of the international human rights conventions relating to the right to establish and join civil society institutions and their right to manage their administrative and financial affairs, by the ministries concerned and the civil society institutions that have sufficient capabilities in this field, through holding specialised courses.

B. Recommendations relating to the freedom of civil society institutions to manage their administrative and financial affairs

1. Abolishing Article (19) of the Jordanian Associations Law, which gives the competent minister the right to appoint a temporary administrative body where the reasons set out in the Associations Law exist, and referring the matter to the judiciary if such reasons exist.
2. Amending the Associations Law so as to enable labour unions to lay down their basic regulations in the appropriate manner without interference from any body, in order to guarantee the independence and freedom of union work.
3. Amending Article (17/c/1) of the Jordanian Associations Law, which requires associations to obtain foreign funding with the approval of the Council of Ministers, so that it suffices to notify the Council of Ministers of the source of funding; and if the Council of Ministers objects to this funding, it must have recourse to the judiciary - provided that the associations disclose precisely the amounts of funding they have received, the sources of this funding and the ways in which it is used, supported by documentary evidence.
4. Amending the laws governing the work of civil society institutions (associations and labour and professional unions) to oblige all civil society institutions to publish their budgets, showing in detail the budget of the projects they implement with foreign support, and in a manner guaranteeing the accountability of whoever contravenes the provisions of the laws.
5. Amending the provisions on the dissolution of associations so that their dissolution is confined to a decision issued by their general assembly or under a judicial judgment; and if the reasons requiring the dissolution of the association under a decision issued by the Registry Board exist, the Board must have recourse to the judiciary requesting it to dissolve the association.
6. Amending the text of Article (99) of the Labour Law by adding a final paragraph to this article enabling unions to pursue any other objectives liable to lead to the regulation of workers' occupational affairs; the legislator would thereby have listed those objectives by way of example and not of limitation.
7. Abolishing Article (109) of the Labour Law, which subjects the funds of labour unions to the audit of the Audit Bureau.
8. Abolishing the text of Article (116) of the current Labour Law, which gives the Minister of Labour the right to issue a decision dissolving the union if certain reasons exist, and replacing it with the text of Article (116) of the Labour Law before its amendment to the current wording, which gives the Minister of Labour the right to bring an action before the judiciary requesting it to dissolve the union if certain reasons exist.
9. Reviewing the various provisions of the laws of the professional associations that set out exhaustively the objectives which the associations must seek to achieve, by adding a final paragraph to those provisions enabling the associations to pursue any other objectives liable to lead to the regulation of the professional affairs of each association; the legislator would thereby have listed those objectives by way of example and not of limitation, and the conduct of the association would not be unlawful if it achieved any other objective not provided for that is liable to lead to the regulation of the professional affairs of that association.

10. Working to enable professional associations to obtain subsidies, gifts and donations without the need for the approval of the Council of Ministers, while enabling the Council of Ministers to challenge the lawfulness of this funding before the competent judiciary, provided that the associations disclose precisely the amounts of funding they have received, the sources of this funding and the ways in which it is used, supported by documentary evidence.

11. Reviewing the various laws governing the professional associations and working to amend the provisions relating to the dissolution of the council, so that the council is dissolved either by a decision of the general assembly or under a judicial judgment, and that this measure be free from interference by the Council of Ministers.

C. Recommendations relating to strengthening the adherence of those in charge of civil society institutions to the values of internal democracy and good governance

1. Reviewing the various laws governing the work of the professional associations and working to enable the associations to lay down their basic regulations of their own will and without interference by the public administration of the State.

2. Motivating civil society institutions to strengthen democratic values, the most important of which is the holding of periodic, free and fair elections.

3. That the ministries concerned, the general federations of associations and unions, and likewise the supporting bodies, motivate civil society institutions to adhere to the values of internal democracy and good governance by publishing the names of the institutions that adhere to these values and making this one of the basic criteria for the provision of financial support.

4. Implementing further qualification and training programmes for those in charge of civil society institutions on the importance of adhering to the values of internal democracy and good governance, and on the importance of adhering to these values to preserve the positive image of the institution and to activate its role in serving its members and the local community.

5. Devoting a special study to the extent [of the adherence of] those in charge of civil society institutions to the values of internal democracy and good governance from the viewpoint of the members of the general assembly and the beneficiaries of the services of these institutions, in order to ascertain genuinely the extent to which the administrative bodies adhere to these values.

D. Recommendations relating to strengthening the adherence of those in charge of administering civil society institutions, while carrying out the institution's activities, to the standards of transparency

1. Stressing the necessity that civil society institutions publish their administrative and financial reports on their own websites; and where one of the institutions is unable to have its own website, a special icon should be allocated on the website of the ministry concerned for publishing on it the administrative and financial reports of the institutions affiliated to it.

2. Urging civil society institutions to change their financial auditor annually and encouraging financial auditors to open branches in all the governorates.
3. That the ministries concerned, the general federations of associations and unions, and likewise the supporting bodies, motivate civil society institutions to adhere to the values of transparency by publishing the names of the institutions that adhere to these values and making this one of the basic criteria for the provision of financial support.
4. Implementing further qualification and training programmes for those in charge of civil society institutions on the importance of adhering to the values of transparency, and on the importance of adhering to these values to preserve the positive image of the institution and to activate its role in serving its members and the local community.

E. Recommendations relating to strengthening the ability of civil society institutions to exercise their service role and to give effect to the right of individuals to public participation

1. That the ministries concerned and the general federations of labour unions and associations disseminate the culture of volunteering among citizens and encourage them to participate in the activities of associations, and at the same time raise awareness among workers of the necessity of participating in the activities of unions.
2. That the professional associations direct their members to organise activities in all regions of the Kingdom and encourage them to support the activities of associations and labour unions.
3. That both the Government and Parliament open the way for civil society institutions to contribute to the discussion of laws of concern to citizens, taking into account the recommendations of these institutions, especially those recommendations calling for strengthening democratic values, the principles of legitimacy and the rule of law, and those calling for the consistency of national legislation with human rights standards.
4. Implementing further qualification and training programmes for those in charge of civil society institutions to activate their role in the field of developing the capacities of those in charge of associations and labour unions, including raising their capacities in English-language skills and qualifying them to submit proposals for the projects the institutions wish to implement.
5. Increasing private-sector support for associations by deducting these donations from income tax, and strengthening and disseminating the concept that supporting associations serves the homeland.
6. Motivating associations to merge, one of the methods of motivation being to increase the value of support to associations as the number of members of the general assembly increases, and working seriously to eliminate sham associations.
7. Laying down legal rules that guarantee the classification of associations according to objective bases, the most important of which are: the number of members, activities and achievements, the proportion of women in the total general assembly and the proportion of young people in the total general assembly - and providing financial support on the basis of these criteria.

8. There must be a continuous dialogue between the leaders of associations and the ministry and the departments concerned to draw up a list of the activities that serve the local community and to set priorities for implementing these activities.

9. The carrying out by the official bodies - foremost among them the governorate councils and municipalities - and likewise by institutions, of studies and research to determine the needs of the local community.

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