



JORDAN

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Jordan

1. Background

Jordan is a constitutional monarchy where the king concentrates legislative and executive powers. He is the head of state, supreme commander of the armed forces and appoints the head of government and the council of ministers. The Constitution dates back to 1952 and was amended in 1992. The parliament consists of a senate composed of notables appointed by the king (Majles al-a'yan) and a chamber of 110 deputies elected by an electoral college (annuwwab Majles).

The current king of Jordan, Abdullah II acceded to the throne in 1999. Under the reign of his father, the state of emergency was lifted, martial law was abolished and the release of political prisoners took place in 1992. New laws on political parties, newspapers and publications were enacted at the same time authorizing the formation of opposition parties.

Jordan, which has ratified the International Covenant on Civil and Political Rights in 1975, has nevertheless not incorporated its principles into domestic law. The last periodic report was submitted to the Committee on Human Rights in 1992. Since then, it has not submitted a report, and thus has a delay of 12 years.

It also ratified the Convention against Torture in 1991 but did not recognize the competence of the Committee against Torture to examine individual complaints (article 22 of the Convention). Similarly it has not ratified the Optional Protocol to the Convention which allows for preventive visits to all places of detention. The last periodic report submitted to the Committee against Torture was in 1994, it also has a delay of more than 10 years.

Two weeks after the attacks of 11 September 2001 in the United States, the Jordanian authorities introduced amendments to the Penal Code: The definition of "terrorism" was enlarged, providing numerous but vague offences, restricting freedom of expression and extending the scope of capital punishment and life imprisonment. The law amending the Criminal Code came into force on October 2, 2001, while waves of arrests were in progress, particularly after three protests held in Amman and Zarqa. Many people were arrested and held incommunicado for long periods solely because of their political opinions and had neither called for, nor resorted to violence.

In the wake of bombings on 9 November 2005 in three hotels in Amman which killed 60 people and injured hundreds of others, the Jordanian authorities published a draft law on the prevention of terrorism. The new law, which came into force on 1 November 2006, does not conform to the country's international obligations.

The General Intelligence Directorate (GID - Da'irat al-Mukhabarat al'amma) is the main department responsible for internal security, and is, as such responsible for the arrest, detention and interrogation of persons suspected of terrorism or deemed political opponents. Its agents systematically resort to torture and act with total impunity.

The fight against terrorism is waged on an international level, notably in cooperation with the USA. In this context, Jordan plays a role of "subcontracting" by allowing suspects to be transferred to its detention centres and subjected to torture.

The Jordanian authorities have introduced a series of measures to show their willingness to respect human rights: the creation of a National Centre for Human Rights in 2002, authorized visits by the Red Cross in prisons and that the GID centre in Amman, the visit of the Special Rapporteur on Torture in 2006, but these measures have not brought a notable improvement in the human rights situation in the country.

2. Laws in the fight against terrorism

Two weeks after the attacks of 11 September 2001, amendments to the Penal Code and in particular the definition of "terrorism" were introduced. These reduce the freedom of expression and multiply the number of offences punishable by death. Most of these amendments became effective during 2003.

On 1 November 2006, the new law on the prevention of terrorism was enacted. This law is contrary to international standards on the protection of human rights in the context of the fight against terrorism and resolution 1566 (2004) Security Council of the United Nations.

It gives effect to a definition of "terrorist activities" so extensive that in practice, it allows for the arrest and detention of persons who have peacefully express opinions on the policy of the kingdom. It criminalizes direct or indirect support of terrorism without taking into account the real circumstances of the alleged offenses. Those who, for example, have made a contribution or have given funding to a charitable organization which has subsequently been declared by the authorities as a "terrorist organization" shall be criminally prosecuted.

The Terrorism Act also provides for persons to be arrested, tried and convicted for defaming the State officials or disseminating false or exaggerated information outside the country, which could affect the "dignity of the country."

Moreover, the text strengthens the power of the security services, which can arrest and remand in custody any person they suspect of terrorism, first and foremost, in the custody of the Directorate of Intelligence which is responsible for the interrogation of political suspects, and whose officers are systematically accused of using torture.

The Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism noted that the Act grants powers, notably to the State Security Court, which violate the right to freedom, free movement, privacy and the presumption of innocence. It authorizes the surveillance of the home and travels of a suspect, monitoring of his communications, searches and provides for a travel ban.

The Code of Criminal Procedure stipulates that a person arrested must be brought before a judge in the 24 hours that follow. In reality those arrested are often detained by the security services for a long time, sometimes months, before being brought before a judicial authority. When they are suspected of terrorist activities or of supporting them, they are generally held in the General Intelligence Directorate (GID) premises.

3. Lack of independence of the Judiciary

The State Security Court has jurisdiction in cases involving state security, financial crimes and drug trafficking. The latter is composed of two military judges and one civilian judge. Judges may be revoked at any time by a decision of the executive. The court may be regarded as a court of exception; the Committees against Torture and on Human Rights already, in 1995, recommended the Jordanian authorities "to abolish the emergency courts as the State Security Court", recommendation that has not been implemented.

The cooperation between the Directorate General of Intelligence and the State Security Court is very close. For example, the prosecutor is a military officer and his office is located within GID premises.

Interrogations by GID officers have the goal of obtaining "confessions" of suspects appearing before the State Security Court which then uses those "confessions" against them. Allegations of torture are not generally taken into account and trials before this court are often unfair. The extracted "confessions" constitute the basis of the conviction.

At hearings, those accused systematically complain of having been tortured during their interrogation; the Security Court has never ordered an investigation and has delivered death sentences solely on the basis of confessions extracted under torture. A report by Amnesty International has confirmed these practices.¹ Some testimonies even mention the extension of police custody when a detainee complains of having been tortured.

Judgments of the Security Court may be appealed at the Court of Appeal. Very often it confirms the passing of sentences without taking into account the allegations of torture. Even when the Court of Appeal has annulled a conviction for this reason, no investigation has been ordered to establish responsibility for these acts.

4. Arbitrary arrest and detention

The law prohibits arbitrary arrest and detention. In practice, they are common and are practiced by several departments, including the Public Security Directorate (PSD) which controls the functions of police and reports to the Minister of Interior.

But, again, it is mainly the General Intelligence Directorate (GID), which is a military intelligence service placed under the direct responsibility of the Prime Minister, that is responsible for the largest number of arbitrary detentions. Its main mission of the fight against terrorism places the GID above the other security services which must assist if necessary.

The prerogatives of the GID on detention are defined by the provisions of the law relating to the State Security Court. It authorizes the arrest of any person suspected of crimes against state security, which by their nature relate to this Court. Continued detention for a period of 7 days without charge or trial is provided for by this Act, which prosecutors may renew. In practice, this detention can be prolonged for weeks or months.

The new 2006 law on the Prevention of Terrorism provides for a term of custody for 2 weeks which may be extended by the Prosecutor without a reason.

The GID is the main department responsible for violations of political detainees' rights. Its members have extensive powers and act anonymously thus strengthening their impunity. Those detained in GID premises have no contact with the outside world, nor with their families or with a lawyer.

In 1994 already, the Committee on Human Rights recommended that places of detention under the control of the Central intelligence Services be placed under the strict supervision of the judiciary.

The Committee against Torture expressed regret in 1995 that "the headquarters of the General Intelligence service has become a official prison, that members of the armed forces are entitled to act as prosecutor, that they have the ability to place suspects, be they military or civilian, in incommunicado detention until the end of the interrogation, for periods of up to six months, and that detainees have no opportunity to see a magistrate, a lawyer or a doctor."

Reports continue to relate the existence of arbitrary detention in police stations and government buildings. According to Human Rights Watch, in 2006, governors of provinces kept 11 597 people in administrative detention without any charges being brought against them and without them being brought before a judge.²

Citizens are deprived of protection against arbitrary arrests since the prosecutor may initiate proceedings without judicial review. The charges are not subject to review by an independent tribunal during the investigation, and accusations are made in a particularly vague manner such as an "agreement between two or more persons to carry out a crime by specific means", thus opening the door to very serious abuses.

¹ <http://www.amnesty.org/ar/library/asset/MDE16/005/2006/en/dom-MDE160052006en.pdf>

² <http://hrw.org/englishwr2k8/docs/2008/01/31/jordan17607.htm>

Alkarama, on 17 April 2007, submitted a communication to the Working Group on Arbitrary Detention about Mr Issam Mohamed Tahar Al Barqaoui Al Uteibi. This theologian, known in Jordan and the Arab world, was arrested on 28 November 2002 with 11 other people accused of "conspiracy to commit terrorist actions." The arrest took place in the wake of public statements of a political nature. He was detained incommunicado for nearly a year and tortured on numerous occasions. He was deprived of the right to a lawyer of his choice and that of contesting the legality of his detention. When presented the State Security Court, he was acquitted by a judgement delivered on 27 December 2004. However, he was not released but detained again in solitary confinement for 6 months on GID premises from 27 December 2004 to 28 June 2005, during which he was again tortured on several occasions.

Liberated on this latter date, he gave an interview to Al Jazeera satellite channel on 4 July 2005 in which he expressed his condemnation of the U.S. military occupation in Iraq. He was rearrested the following day, 5 July 2005. He has never been tried and his most fundamental rights have been violated. The Working Group issued an opinion in November 2007, considering his detention arbitrary. Mr Al Uteibi was finally released on 12 March 2008 nearly three years after his last arrest.³

5. Torture

The Jordanian penal legislation has not adopted a definition of torture consistent with Article I of the Convention against Torture.

Many testimonies and reports of the use of torture, particularly during the period spent in custody. Even the national human rights institution reported cases of torture. For the period from June 2003 to December 2004, it claims to have received 250 complaints of "abuse". The UN Special Rapporteur on torture, meanwhile, paid a visit to Jordan in June 2006. In his final report, he asserts that "torture is systematically practised" by the Directorate of Intelligence.

Practices most commonly used by GID agents are beatings, beatings with cables, ropes, plastic pipes, riding-crops, etc. all over the body, on feet soles (falaqa), the forced maintaining in painful positions over long periods of time, sleep deprivation, injections causing states of extreme anxiety, humiliation, threats of rape of the victim and members of his family, electric shocks, and prolonged isolation.

Abuses are even more prevalent within the GID due to the close collaboration with the judges of the State Security Court and to the time of secret custody being extendable for up to six months (article 114.1 of the Criminal Procedure Code). This provision is inconsistent with the need for an independent judicial oversight of arrest and detention.

6. The fight against terrorism in the international context

Jordan maintains close cooperation with the United States in the fight against terrorism. This cooperation was further intensified after the attacks of 11 September 2001. In this context, Jordan has played an important role in the transfer and detention of persons suspected of terrorist activities. These persons have often been imprisoned in Wadi Sir, the GID headquarters, and subjected to torture. Those transferred are not necessarily of Jordanian nationality or regarded as a threat to Jordan. In fact, Jordan has played the role of subcontractor for the CIA, particularly in the early years following the attacks in the USA.

Alkarama brought the case of Mr Djamel Ahmed Khalifa to the attention of the Working Group on Arbitrary Detention. Mr Khalifa, a Saudi national, was arrested in San Francisco, USA, because of his parental relationship with Osama bin Laden, and secretly transferred to

³ http://en.alkarama.org/index.php?option=com_content&task=view&id=57&Itemid=43

Jordan after four months in prison where he was brutally tortured for two months before being deported to Saudi Arabia. Later, he was murdered in Madagascar.⁴

Many testimonies of former prisoners report that prisoners transferred by the United States to Jordan had been systematically hidden during visits of the GID premises by the International Red Cross.

7. Recommendations

The Jordan should comply with the recommendations made by the Committees on Human Rights (10/08/1994, CCPR/C/79/Add.35) and Against Torture (26/07/1995 A/50/44) including:

- By abolishing the State Security Court and the exceptional laws governing it.
- By placing all departments of State Security and primarily the General Intelligence Directorate (GID) under the sole authority of the Attorney General, and establishing an independent audit of these services.
- By limiting the powers of the GID and ensuring a separation of powers, in law and practice, between the authorities responsible for detention of suspects and those responsible for preliminary investigations.

Consequently, Jordan is expected in the immediate future:

- To end the practice of incommunicado detention by placing all places of detention, without exception, under the strict control of the judicial authorities.
- To immediately place under the protection of the law all persons currently held incommunicado, and allow them to appeal to an impartial and independent tribunal to examine the legality of their detention.
- Transfer all persons whose continued detention is deemed necessary by an independent tribunal to a detention centre where they would enjoy full rights and guarantees consistent with the obligations of Jordan on human rights.
- End the practice of administrative detention and carry out the immediate release of those all persons detained by the governors of provinces that have not had any charges have been brought against them, and not having been presented before a judge.
- Establish guaranteed access, for all detainees, to a lawyer of their choice without delay.
- To investigate promptly and independently all allegations of torture or other ill-treatment and bring to justice the perpetrators of such acts, and to exclude from criminal proceedings any evidence or statements obtained by torture.
- End the participation of Jordan in renditions and other secret transfers of prisoners subjected to enforced disappearance, and make public the names and other details of all persons who have been detained or transferred by Jordan in this context.

At the normative level:

- Bring its domestic legislation in conformity with its obligations under the international instruments it has ratified including amending the Criminal Procedure Code and the repeal of any provision contrary to the Covenant.
- The state should make the declaration under Article 22 of the Convention against Torture and ratify the Optional Protocol entered into force on 22 June 2006 and commit to allowing independent monitoring of all places of detention in accordance with the provisions of the protocol.

⁴ http://en.alkarama.org/index.php?option=com_content&task=view&id=31&Itemid=32