



JORDAN

List of Issues

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Alkarama recalls that it concentrates its work on four priority areas: arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

Context

Jordan presented its third periodic report to the Human Rights Committee in March 2009, 15 years late. The Human Rights Committee will consider this report during its 100th session in October 2010.¹ The consideration of the second report took place in 1994.

The authorities highlight in their report « the progress towards human development in all its forms ». Without doubt, positive aspects should be noted, both on the legislative and practical levels. In particular, it seems that there has been progress in the penitentiary system. New prisons have been built and detainees are less exposed to poor conditions of detention and other mistreatment.

It must be noted, however, that certain positive aspects or improvements saw a deterioration following the events of 11 September 2001 and the launching of the war on terror at the international level.

In the framework of the upcoming consideration of the State party's periodic report, Alkarama would like to bring the Committee's attention to the insufficiencies observed in the protection of human rights; the objective being that the Government implements more fully its obligations and responsibilities. The questions suggested to the Human Rights Committee mainly concern the categories of violations that Alkarama deals with in priority, in particular torture, and arbitrary and secret detention.

Article 7 – Torture

1. The Jordanian authorities state that **the Convention against Torture, signed in 1991, has become part of Jordanian law**. "As soon as it was ratified and published in the Official Gazette, the Convention against Torture became part of Jordan's legal system and acquired the force of law. Hence, if a related case is laid before the domestic courts in Jordan, the definition set out in article 1 of the Convention against Torture is the one to which the courts must refer."
 - a) *Can victims and/or their defenders refer to all of the articles, without exception, of the Convention Against Torture before a court ?*
 - b) *Are there any examples of litigants who invoked the dispositions of the Convention before the courts, including before the State Security Court ?*
 - c) *How did the judges react?*
2. The Jordanian authorities refer to article 208 of the Criminal Code, which was amended to "bring it into line with the Convention against Torture. The article as amended reads as follows: " Anyone who subjects a person to any form of torture prohibited by law in order to extract a confession to or information about a crime shall be subject to a penalty of from six months to three years in prison."

The Jordanian Criminal Code does not consider torture a crime: the penalty provided for in legislation is a criminal penalty similar to what would be applied in the case of a misdemeanour, which is not in line with the spirit of article 1 of the Convention which considers torture a particularly serious crime.

The Special Rapporteur on Torture highlights that the definition of torture in article 208 of the Criminal Code makes no distinction between private actors and agents of the state; it does not cover, or only partially, the inflicting of mental suffering or pain; and it fails to impose sanctions which reflect the seriousness of the crime, which is considered a misdemeanour.²
3. The Jordanian authorities affirm that "according to article 159 of the Code of Criminal Procedures, **any evidence or proof obtained by means of physical or mental coercion** of any kind shall be deemed null and void and legally unsafe. Complainants may challenge statements taken down

¹ Third periodic reports of states parties, Jordan ; CCPR/C/JOR/3, 30 March 2009

² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Jordan, UNDoc., A/HRC/4/33/Add.3, 5 January 2007, para. 13.

by criminal investigators in the presence of a public prosecutor or in court, if the statements were obtained under duress or as a result of physical and mental coercion.”³

However, numerous people accused have stated before courts, and in particular the State Security Court, that security forces tortured them to extract confessions.

- a) *Do the courts take into consideration statements by accused persons alleging torture by the security services ?*
- b) *What measures are taken in order to ensure that evidence obtained through torture is not accepted by courts ? Are there any examples of this ?*

4. The periodic report of the State Party indicates that “the Department of General Intelligence has no evidence that any of its agents have been involved in acts of torture or ill-treatment.”⁴

The Special Rapporteur on Torture has, however, made reference to numerous cases of torture committed by agents of the intelligence services. Following his mission to Jordan from 25 to 29 June 2006, he wrote in his report that “in particular, it was alleged that torture was practised by the General Intelligence Directorate (GID) at their headquarters in Amman to extract confessions and obtain intelligence in pursuit of counter-terrorism and national security objectives, and at the Public Security Directorate Criminal Investigation Department in Amman to extract confessions in the course of routine criminal investigations.”⁵ However, he was not authorised to hold private meetings with detainees of the GID or the CID.

The GID is the main agency responsible for cases concerning national security. It is the main organ for the repression of people who are considered political opponents. This service is responsible for interrogating suspects during which forced “confessions” may be obtained.

- a) *Did the authorities order investigations into these allegations ?*
- b) *How do they explain the findings made by the Special Rapporteur on Torture and those made by NGOs as well as allegations made the victims themselves?*
- c) *What measures have been taken to avoid torture being perpetrated by GID agents?*

Article 9 – Arbitrary arrest and detention

1. Arbitrary arrest and detention is prohibited by law. **Article 114 of the Code of Criminal Procedure** provides for the Public Ministry to detain individuals for a period of 15 days, renewable, in order for charges to be laid. The Prosecutor can prolong this period of pre-trial detention “in the interest of the investigation”, on the condition that the extension does not extend beyond a maximum of six months in cases of serious crime, or two months in the case of a misdemeanour. Prolonged pre-trial detention is provided for legally, but in reality it is not always ordered by a magistrate.

- a) *Which authority is empowered, where appropriate, to inspect places of remand?*
- b) *Does this authority have access to all places of remand including those under the authority of the General Intelligence Directorate?*
- c) *Do people placed in pre-trial detention have access to their family and a lawyer?*
- d) *Is a medical visit provided for persons placed in remand and if so, when does this take place, and do they have the option of selecting their own doctor?*

2. **The General Intelligence Directorate (GID)** is headquartered in the district of Jandawil of Amman in Wadi. A detention centre is also located there. GID agents are part of the military. While being a military intelligence service, the GID is placed under the Prime Minister’s direct responsibility. Its Director is appointed by the King. The GID’s primary mission is the fight against terrorism, thereby placing the GID above other security agencies who must assist it if needed. This agency is responsible for the highest number of arbitrary detention.

³ CCPR/C/JOR/3, 30 March 2009, para. 37.

⁴ CCPR/C/JOR/3, 30 March 2009, para. 34

⁵ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Jordan, UNDoc., A/HRC/4/33/Add.3, 5 January 2007, para. 6.

The GID's prerogatives in terms of detention are defined by Law No. 17 which relates to the State Security Court. This law provides for the arrest of all individuals suspected of crimes against the security of the State falling under the Court's jurisdiction. Detention may last 7 days without charge or judgement, and may be prolonged by the Prosecution. In practise, this type of detention is prolonged for weeks or even months.

- a) *Are civil and judicial authorities informed of persons detained in GID buildings and can they intervene to ensure that agents of the intelligence service respect applicable laws?*
- b) *What measures have been taken to remedy this type of detention and guarantee that all accused are presented quickly before a magistrate?*
- c) *What measures have been taken to ensure that the accused can obtain the assistance of a lawyer as soon as they are placed in remand or detention?*
- d) *Is it possible for those accused to appeal the legality of their detention by the GID?*

3. **Administrative detention** is one of the most common forms of arbitrary detention in Jordan. Law No. 7 on the prevention of crime provides extended powers to the Police to make arrests. But this law bypasses all legal procedure as administrative detention may be ordered by the Governor against any person whom may be "about to commit a crime or assist in its commission".

Even if administrative detention is not, as such, a violation of international law, it must be authorised by a law which must limit the prescribed length and should only apply to people who present a real, flagrant and serious threat to society, and without there being any other means of managing this threat. If this case presents itself, the individual concerned must have the right to appeal his or her detention before a judge and the law must provide for compensation in cases where there has been a violation of any laws or procedures.

According to sources who all agree on this figure, in the past years, more than 10 000 people have been placed in administrative detention. Women who are the victims of honour crimes or retaliation from their families are particularly susceptible to this form of detention. The authorities justify their detention by arguing that it is in order to protect them from abuse and harassment by their families. However, they can be held in administrative detention for years without having committed any crime and without judgement or any way to appeal their detention.

- a) *How many women are currently being detained in administrative detention?*

The National Centre for Human Rights counted 11 870 Jordanian nationals and 1313 foreigners detained in administrative detention as of 31 August 2008.⁶ In its periodic report, the Jordanian Government stated that "the Government issued a circular to administrative court judges instructing them to end the practice of administrative detention; a large number of persons in administrative detention were subsequently released."⁷

- a) *How many people remained detained despite this circular ?*
- b) *Why is this circular considered as not applying to them?*
- c) *How many of these are women?*
- d) *What has the Government done to ensure protection for these women?*

4. Numerous suspects have been detained arbitrarily and in secret in the context of the "war on terror". Their arrests often took place in cooperation with other countries, particularly the United States. Individuals of various nationalities report having been detained in secret in GID centres, as well as being tortured before being transferred to American detention centres. Others who were

⁶ National Centre for Human Rights, Annual Report 2008, p.15, pt. 11, http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc

⁷ CAT/C/JOR/2, 5 octobre 2009, article 11, point 45. L'examen aura lieu lors de la 44^e session du CAT au printemps 2010. « The Government issued a circular to administrative court judges instructing them to end the practice of administrative detention; a large number of persons in administrative detention were subsequently released. »

arrested or sought for arrest in the United States were transferred to Jordan, where they were tortured.

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism is particularly concerned by the situation in Jordan where "the detention and interrogation powers of the intelligence services in counter-terrorism operations and investigations have no clear statutory basis. The arrest and detention of persons on grounds which are not clearly established in domestic law is a violation of article 9, paragraph 1, of the International Covenant on Civil and Political Rights. Without such a legal framework there is a danger that intelligence services arrest people on the basis of sheer assumptions, which might be based only on a 'guilt by association' pattern."⁸

a) Are the Jordanian authorities investigating allegations of arbitrary and incommunicado detention and torture of foreign nationals "transferred" to the country within the framework of international cooperation in the fight against terrorism?

Article 10 – Prisons

1. In its report to the Committee Against Torture, the Jordanian Government noted the progress made in relation to prison conditions but indicated that "although mistakes or isolated and exceptional violations do occur, those responsible for them are brought to book."⁹

In its report on the situation of Jordanian jails, the National Center for Human Rights reported 37 complaints of ill-treatment during 2008 (41 in 2007). In its 2008 annual report, the NCHR noted the persistence of individual complaints concerning inhuman and degrading treatment of detainees and the impunity of perpetrators.

a) What are the steps taken by the Government to provide inmates with protection against inhuman or degrading treatment; what guarantees are given to the plaintiffs with regards to the follow-up of their complaints of torture and/or inhuman or degrading treatment?

Article 14 – Justice

1. Article 97 of the Jordanian constitution guarantees **the independence of the judiciary**. A High Judicial Council is responsible for the nomination and promotion of judges and prosecutors. This board is not independent, since it is composed of representatives of the Ministry of Justice, and some high-level judges are appointed directly by the king.

a) What legal safeguards have been established to ensure compliance with the principle of independence of the judiciary and in particular to ensure security of tenure?

2. The State Security Court has jurisdiction in cases related to state security, financial crime and drug trafficking. It is composed of two military judges and one civilian judge. Judges may be revoked at any time by a decision from the Executive. The court may be regarded as a special tribunal; in 1995, the Committee against Torture and the Human Rights Committee recommended that the Jordanian authorities should "abolish the special tribunals such as the State Security Court", a recommendation for which there has been no follow up.

a) Does the Government intend to follow up on these recommendations and does it foresee the abolition of the State Security Court?

3. The Prosecutor of the State Security Court is the magistrate who lays charges against a suspect and decides on his or her detention or release. He represents the Public Ministry and is also an officer of the armed forces and therefore falls under the same administrative authority as agents of the intelligence service. He is therefore not independent.

⁸ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, A/HRC/10/3, 4 February 2009, point 40

⁹ CAT/C/JOR/2, 3 July 2009, point 7

a) *Is the jurisdiction of the Prosecutor of the State Security Court with regards to decisions of provisional detention compatible with Articles 9 and 14 of the Covenant?*

4. On 1 November 2006, the new **Prevention of Terrorism Act** was enacted. This law is contrary to international standards for the protection of human rights in the fight against terrorism as well as Resolution 1566 (2004) of the United Nations Security Council.

In effect, it gives such a broad definition of "terrorist activity" that, in practice, it allows the arrest and detention of people who have only peacefully expressed opinions regarding policy matters of the Kingdom. It criminalizes the direct or indirect support of terrorism without distinguishing between the intentions of the accused. Those who have, for example, contributed to or provided funding to a charity that has subsequently been reported by authorities as a "terrorist organization" are criminally prosecuted.

The already excessive powers of security forces to arrest and detain persons suspected of terrorist activities have been strengthened.

The Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism noted that the Law grants powers, namely to the State Security Court, which violate the right to freedom of movement, privacy and the presumption of innocence. It allows the continuous surveillance (domestic or otherwise) of a suspect, control over his communications, police searches and travel bans.

a) *Does the State party foresee the repeal or amendment of this Law in compliance with international standards for the protection of human rights in the fight against terrorism and with Resolution 1566 (2004) of the UN Security Council?*