



Jordan Shadow report

**Report submitted to the Committee against Torture in the
context of the third periodic review of Jordan**

Alkarama Foundation – 23 October 2015

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1. Introduction

The third periodic report of Jordan (CAT/C/JOR/3) was submitted to the Committee against Torture in July 2014, in a timely manner, and will be reviewed by the Committee at its 56th session in November 2015.

Alkarama hereby submits this shadow report in which it evaluates the implementation of the Convention against Torture (CAT) in Jordan, highlighting its main concerns and addressing recommendations to the State party. This report is based on first hand testimonies gathered by Alkarama, provided by the victims themselves, their families and lawyers.

Since its last review in 2010, Alkarama has received accounts of torture and other ill-treatments in Jordan, especially at the hand of the General Intelligence Directorate (GID) – the intelligence services which are directly controlled by the King – which systematically arrest, detain *incommunicado* and torture individuals arrested or accused of “terrorism” and opposition figures, as well as peaceful protestors and media workers. They are then prosecuted and often sentenced to heavy penalties by the State Security Court (SSC) – a special court that tries “acts of terrorism” – on the basis of confessions extracted under torture by the GID. Torture is practiced in complete impunity by the GID, since none of its members has even been prosecuted for such acts.

Alkarama hopes that the Committee’s constructive dialogue with the State party will allow it to tackle this issue of torture in the country.

2. Background

Following its independence from the British administration in 1946, the Hashemite Kingdom of Jordan was ruled by King Hussein after the abdication of his father, King Talal, in 1952, until his death in 1999. In 1989, he resumed parliamentary elections and gradually permitted political liberalisation, lifting the state of emergency and abolishing the martial law. At the same time, new laws on political parties, newspapers and publications were enacted, allowing the formation of opposition parties.

In February 1999, following his father’s death, King Abdallah II assumed the throne. Since then, he has consolidated his power and gradually continued the reforms initiated by his father, which, however remained superficial and have therefore not changed the authoritarian nature of the regime.

Indeed, despite promises of reform given in 2011, following a wave of protests that demanded a constitutional monarchy and electoral reforms, the King still retains wide legislative and executive powers. The King has the power to sign and veto all Jordanian laws and appoints the Prime Minister as well as the members of the Senate. He can also dissolve the House of Deputies – the only political organ that is directly elected by the Jordan citizens through universal adult suffrage, with the power to initiate legislation and enact laws with the assent of the Senate – at any time, meaning that the King holds *de facto* the executive and legislative power. In addition, two constitutional amendments were approved by the Parliament in August 2014 gave the King the power to name both the Chief of the Armed Forces and that of the General Intelligence Directorate.

At the political level, the country remains in a situation of *status quo*. The early Parliamentary elections held in January 2013 were won by pro-government candidates but boycotted by the main opposition party, the Islamic Action Front, following which a new government was sworn in. However, the reforms introduced since fell short of the expectations, since the Jordanian civil society continues to suffer the consequences of the multiple draconian laws such as the Anti-Terrorism Law or the Law on the Press and Publications. In 2012, the latter was amended as to require an administrative authorisation for any website, giving the State the means to exercise control over the news relayed by the media. Following this, the Media Commission shut down 300 websites in 2013 and nine others in June 2014.

Although in 2011 the Law on Public Gatherings was amended as to allow the organisation of a demonstration upon simple notification – rather than upon authorisation of the competent authorities –, the authorities systematically crackdown on dissent by prosecuting political opponents under the pretext of the “fight against terrorism” as well as human rights activists. Several opposition figures have been arrested and detained for having expressed their opinions, especially after the scope of the Anti-Terrorism Law was extended in June 2014 to include acts aimed at “disturbing the public order”, which can be interpreted broadly.

3. The practice of torture

3.2 Definition, absolute prohibition and criminalisation of torture

Since the last review of Jordan by the Committee against Torture, the prohibition of torture has been enshrined in article 8(2) of the Jordanian Constitution following an amendment in 2011. Moreover, torture is defined and criminalised under article 208¹ of the Jordanian Penal Code (PC), which was amended in January 2014 to remove the term “illegal torture”, as recommended by the Committee in 2010. However, this provision remains incompatible with the Convention, since article 4 of the Convention against Torture prescribes that torture must be “punishable by appropriate penalties which take into account their grave nature”. Indeed, under article 208 PC, the perpetrators of torture face a sentence of six months up to three years of imprisonment, penalties that would usually be attached to a misdemeanour and that cannot be considered appropriate, nor have a deterrent effect.

In addition, Jordanian law does not explicitly mention that no exceptional circumstance of any kind, be it a state of war or the threat of war, internal political instability or any other state of emergency, can justify the use of torture as required by article 2(2) CAT. In a country where the fight against terrorism is systematically used as a justification for human rights abuses – especially to silence dissenting voices –, such a provision should be incorporated into the law as a matter of priority.

Finally, to guarantee that torture allegations are effectively investigated, the absolute character of the prohibition of torture implies that no statute of limitation can be applied to such an offence. However, there is no provision in the Penal Code that would exclude the crime of torture from statutes of limitations, and Jordan’s report make no of the existence of such a provision when it comes to investigation, prosecution and punishment of the crime of torture.

Recommendations:

1. Review its legislation in order to ensure that the definition of torture is in full compliance with the Convention, ensuring that the penalties fixed in the law are commensurate with the gravity of the crime – i.e. a criminal offence and not a misdemeanour – and that no statute of limitation applies to cases of torture;
2. Incorporate into Jordanian legislation a provision stating that no exceptional circumstance may be invoked as a justification of torture.

3.3 Violations of the legal safeguards related to the deprivation of liberty

¹ “Article 208 (Obtaining Information by Force)

1. Subjecting a person to any kind of torture in order to obtain confession to a crime or any information thereon shall be punishable by imprisonment from 6 months to 3 years.

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

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

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

In Jordan, arrested and detained persons are not always provided with the basic fundamental guarantees from the outset of the deprivation of liberty, despite legal guarantees enshrined in domestic law. In all the cases documented by Alkarama and those presented throughout the report, the suspects were held for days without being presented before a judicial authority – often in a situation of *incommunicado* detention – and were denied access to a lawyer and their family, time during which they were subjected to torture and other ill-treatment.

Under the law, arrests must be conducted on the basis of a warrant² and anyone who is arrested must be brought before a judicial authority within 24 hours.³ However, there is no provision according to which the detention would then become arbitrary, except for persons arrested on the basis of a subpoena and who remain at the police station for more than 24 hours.⁴

A fortiori, when being brought before the Public Prosecutor, there is no mention under domestic law of whether the latter evaluates the legality of the detention or, if so, has the power to release the defendant. Jordan's report only mentions that the right to *habeas corpus* is "guaranteed to all citizens", but does not indicate any legislation providing for such a remedy nor who is to rule on *habeas corpus* requests.⁵

In addition, there is no provision that prescribes the right to contact one's family. On the contrary, article 66 of the Criminal Code of Procedure (CCP) provides that the Public Prosecutor may decide to prohibit the detained defendant from contacting others, apart from his lawyer, for a renewable period of ten days, i.e. indefinitely. Although in their national report, the Jordanian authorities affirm that "the Public Security Directorate has issued instructions to all police stations and specialized security departments that in the event of an arrest, the person arrested should be allowed to make a telephone call to his family to inform them of his whereabouts",⁶ in the absence of a legal obligation, this right of suspects cannot be upheld. Alkarama has documented cases of arrest by the Public Security Directorate in which indeed, the suspect was allowed to contact his family; however, in all cases of arrest by the General Intelligence Directorate, they were systematically denied access to their relatives.

Moreover, a person held in custody has no right to speak to his lawyer before being brought before the Prosecutor, i.e. when the person is being detained by the Public Security or the GID, which can last several days, in some cases weeks. Even then, the Prosecutor can interrogate the suspect without the presence of a lawyer "in case of urgency" and until the completion of the investigation, which is vested with this authority.⁷ In its report, Jordan also affirms that in correction and rehabilitation facilities, specific days have been allocated, "on which lawyers may meet with inmates,"⁸ which imposes a restriction, since lawyers should be able to meet with their client at any time, as well as access their clients' file without any restrictions.

Finally, no right to an independent medical examination is enshrined in the Jordanian legislation. Despite mentioning in its report that "no person showing signs of any kind of injury may be admitted to a place of detention or rehabilitation centre without first being examined by a forensic physician"⁹ and that "no detainee may be admitted to a detention wing in a security facility until the state of health has been ascertained",¹⁰ Jordan does not indicate any legislation that provides for these guarantees or presents any case exemplifying this practice. Testimonies gathered by Alkarama show that individuals who have been tortured or ill-treated by the General Intelligence Directorate are never granted access to a doctor to establish that they have been subjected to such acts, and this despite repeated requests from their lawyers, who are therefore never able to obtain forensic reports.

² Article 103 of the Criminal Code of Procedure.

³ Articles 100 and 112 of the Criminal Code of Procedure.

⁴ Article 113 of the Criminal Code of Procedure.

⁵ National report, para. 14.

⁶ National report, para. 12.

⁷ Article 64 of the Criminal Code of Procedure.

⁸ National report, para. 11.

⁹ National report, para. 8.

¹⁰ National report, para. 13.

Moreover, the suspects are then usually transferred from custody to prison once their wounds have disappeared.

Finally, after having charged the suspect, the Public Prosecutor can place the detainee in pre-trial detention for a renewable period of 15 days, as per article 114 CCP. This period must not exceed two years in the case of a crime punishable by imprisonment and six months for a felony. However, this can be renewed indefinitely if the crime ascribed to the defendant is punishable by life in prison or the death penalty "in the interest of the investigation", which can clearly lead to abuses, since such penalties are provided for numerous crimes, including for "acts of terrorism", which are defined broadly.

In conclusion, these legal shortcomings pertaining to the deprivation of liberty are conducive to torture but also make it difficult for defendants who have been tortured and/or forced to confess a crime to say or prove so. These flaws surrounding the procedures of custody systematically lead to the extraction of the detainees' first "confessions" while interrogated in police custody or at the GID premises, in complete impunity.

Recommendations:

1. Ensure, in law and in practice, that all detainees are afforded all fundamental safeguards from the moment of their arrest, including the right to access to a lawyer in private, the right to an independent medical examination, to notify a relative, as well as to appear expeditiously before a judge;
2. Amend the provisions related to pre-trial detention to ensure that its length is not excessive.

3.4 A prevailing impunity for acts of torture

In Jordan, acts of torture remain largely unpunished due to the loopholes in the complaint mechanisms in place, which lack the necessary independence, as well as the provisions in national legislation allowing for the use of the defence of superior order in case of prosecution for acts of torture.

3.4.1 Deficient complaint mechanisms

As explained in Jordan's report,¹¹ prisoners alleging having been victims of torture can theoretically submit their complaint through several mechanisms, which however, cannot be considered as independent and hence effective.

The Public Security Directorate (PSD) – which comprises the police, prison and border services and fall under the authority of the Ministry of Interior – has appointed "public prosecutors" who are to receive complaints in correction and rehabilitation centres. Nevertheless, this mechanism being internal, it lacks impartiality since these prosecutors may not be willing to actively investigate allegations of abuses by fellow colleagues. Moreover, they wear the same uniform as prison guards and report to the same authority,¹² which discourages any sense of trust from the prisoners. What is more, the boxes in which prisoners file their complaints are installed in the detention centre and supervised by the Office of Grievances and Human Rights in the PSD.¹³ Reports affirm that not only this Office holds the boxes' keys, but also the prison guards, meaning that they can read the complaints and eventually retaliate against those who have submitted them.¹⁴

Other mechanisms include the National Centre for Human Rights (NCHR), the Jordanian national human rights institution, which can receive complaints directly from victims through the online

¹¹ National report, para. 17.

¹² Human Rights Watch, *Jordan - Torture and Impunity in Jordan's Prisons – Reforms Fail to Tackle Widespread Abuse*, 8 October 2008 p. 39.

¹³ National report, para. 17

¹⁴ Human Rights Watch, *Jordan - Torture and Impunity in Jordan's Prisons – Reforms Fail to Tackle Widespread Abuse*, 8 October 2008, pp. 37-38.

complaint form, by phone and through the 24-hour complaints-receiving hotline. However, we wish to point out that in May/June 2015, Alkarama has submitted to the attention of the NCHR the cases of Bassem Al Rawabedah and Thabet Assaf,¹⁵ arrested on 16 January 2015 for having organised and participated in a peaceful demonstration, and the case of Ghassan Mohammed Salim Duar,¹⁶ arbitrarily detained since 29 October 2014 because of his support to the Palestinian cause. We did not receive any response following our submissions. Similarly, in 2013 the Global Detention Project submitted a request for information to the NCHR, but it never received a response either.¹⁷

In addition, the NCHR 2014 annual report affirms that the Commission received 87 complaints for torture in security detention centres, and 11 others for torture suffered in prisons. It is then affirmed that out of the 87 cases, 11 were "closed upon request of the complainant", 11 were closed for allegedly having been proven that they were "not acts of torture". Only one case was referred to the Police Court and the remaining cases are still said to be pending.¹⁸ It is particularly worrisome to note that the torture cases eventually referred to prosecution are referred to the Police Court which does not afford the guarantees of independence and impartiality, while 11 were closed because they were "proven as non violent acts", which demonstrate that the NCHR is not applying a definition of torture compliant with the Convention against Torture.¹⁹

It is therefore questionable how such a mechanism is being effective in filing complaints of torture and referring them to the competent authorities as to ensure that perpetrators are prosecuted and the victims obtain redress.

3.4.2 Impediments to prosecution of acts of torture

Several impediments to prosecution of those responsible for acts of torture lead to lack of accountability in the country. First, the Public Security Law allows "unit commanders" such as prison directors to discipline subordinates for misdemeanours without trial, police prosecutors proceeding to trial only where incontrovertible forensic medical reports indicating injuries consistent with physical torture exists.²⁰ Since medical examinations are never carried out and that victims never manage in practice to obtain evidence that they were subjected to torture, it makes it impossible for victims to ensure that investigations are opened.

Moreover, the complaints received by the PSD are "considered by public prosecutors from the Department of Legal Affairs", who, according to the Jordanian authorities, "enjoy full independence in decision-making and are overseen only by the public prosecutor in the Public Security Directorate."²¹ Nevertheless, these "public prosecutors" are not overseen by the judiciary but by the PSD itself, it is therefore clear that investigation and prosecution by peer colleagues hinders any proper accountability and cannot be qualified as an "independent" mechanism.

In the event that these public prosecutors within detention centres hand down a decision in respect of a torture allegation, the case is then referred to the Police Court, which is competent to deal with cases in which the defendant works for the Public Security Directorate.²² Indeed, according to Public

¹⁵ Alkarama, *Jordan: Arbitrary Detention of Two Activists for Participating in Peaceful Demonstration*, <http://en.alkarama.org/jordan/1673-jordan-arbitrary-detention-of-two-activists-for-participating-in-peaceful-demonstration>, 28 April 2015 (accessed on 22 October 2015).

¹⁶ Alkarama, *Jordan: Arbitrary Detention Targets Supporter of Palestinian cause*, <http://en.alkarama.org/jordan/1650-jordan-arbitrary-detention-targets-supporters-of-the-palestinian-cause>, 10 April 2015 (accessed on 22 October 2015).

¹⁷ Global Detention Project, *Jordan Detention Profile* <http://www.globaldetentionproject.org/countries/middle-east/jordan/introduction.html> .

¹⁸ National Centre for Human Rights, التقرير السنوي الحادي عشر لحالة حقوق الإنسان في الأردن لعام 2014، المركز الوطني لحقوق الإنسان ، http://www.nchr.org.jo/arabic/Portals/0/Upload%20Folder/2015/NCHR_report2014.pdf (accessed on 21 October 2015).

¹⁹ National Centre for Human Rights, التقرير السنوي الحادي عشر لحالة حقوق الإنسان في الأردن لعام 2014، المركز الوطني لحقوق الإنسان ، http://www.nchr.org.jo/arabic/Portals/0/Upload%20Folder/2015/NCHR_report2014.pdf (accessed on 21 October 2015).

²⁰ Human Rights Watch, *Jordan - Torture and Impunity in Jordan's Prisons – Reforms Fail to Tackle Widespread Abuse*, 8 October 2008, p. 41.

²¹ National report, para. 18.

²² National report, para. 17.

Security Act No. 38 of 1965 as amended “the Police Court is competent to consider offences stipulated in the Military Code and in the Criminal Code and other laws if such offences are committed by any member of the public security forces”,²³ ordinary courts therefore do not have jurisdiction over the acts of torture committed by members of the Public Security forces.

This Police Court is regulated by the Public Security Act of 1965, which was amended respectively in 2010, 2013 and 2015. The 2010 amendment provided for the participation of ordinary court judges in the Police Court, with at least one judge appointed by the head of Jordan’s Judicial Council – the judiciary’s highest administrative body –, whereas all the remaining judges are appointed by the Director of the Public Security Directorate. The successive amendment of 2013 provided for the creation of a judicial directorate within the Public Security Directorate to include the Police Court as well as a General Prosecution and a Court of Appeal. However, the General Prosecutor is appointed by the Director of the Public Security Directorate, thus clearly undermining the independence of these bodies. Finally, the Police Court Bill, passed on 11 February 2015, provides for creation of a Police Court of Appeal.²⁴

With regards to the prosecution of members of the General Intelligence Directorate, it is difficult to assess which jurisdiction is vested with the investigation and prosecution of GID members for acts of torture, due to a very complex and opaque legal regime. Article 7 of Law No. 24 on the General Intelligence Department of 1964 affirms that GID members are to be prosecuted before the “Military Tribunal of the GID”, composed by GID personnel, which shall have the same powers as those granted to the State Security Court, but only for crimes that would fall under the jurisdiction of the SSC. It would therefore mean that such a tribunal does not have competence over the crime of torture, over which the SSC does not have jurisdiction, according to article 3 of the State Security Court Law.

On the other hand, as members of the GID are considered military personnel (article 5 GID Law), the Military Code of Criminal Procedure (Act No. 34 of 2006) should be applied. According to its article 3, “the Military Prosecutor shall investigate cases in which any of the defendants is a member of the military”, while its article 8 establishes that military court has jurisdiction over crimes defined by the Military Penal Code and the Penal Code, among which torture.

However, no member of the GID has even been prosecuted and sentenced by the Special Tribunal of the GID or a military court, which in any event cannot be considered independent. Indeed, a general lack of oversight gives the GID room to interpret and ignore the law without being held accountable. Indeed, as military personnel, the GID is under the command and control of the King, who is ultimately immune from prosecution himself.

Finally, another impediment to prosecution is represented by the possibility to invoke a superior order as a possible defence for acts of torture. Indeed, article 61 of the Jordanian Penal Code provides that “a person shall not be held criminally liable [...] while obeying an order issued by a competent authority that must be obeyed by law, unless that order is illegal.”²⁵ This provision remains too vague and the Jordanian legislation should explicitly state that superior orders cannot be invoked as a justification for acts of torture.

As a consequence, allegations of acts of torture rarely lead to the prosecution and never to the sentencing of those responsible. To date, no police or intelligence officer has ever been convicted for acts of torture under article 208 of the Penal Code.²⁶ The State report refers that four members of the Public Security Directorate have been brought before the Police Court on charges of torture in 2013, the case being currently “pending”.²⁷ It is also concerning to note that out of the 428 cases of “ill-

²³ National report, para. 21.

²⁴ See: <http://www.ammonnews.net/article.aspx?articleno=219573> (accessed on 19 October 2015).

²⁵ National report, para 61.

²⁶ Dignity, Danish Institute Against Torture, *Karama aims at improving the treatment of detainees at prisons and temporary detention centers*, 8 September 2015, <https://www.dignityinstitute.org/news-and-events/news/2015/karama-multiple-strategies-for-fighting-torture/al-rai-newspaper-article/> (accessed on 20 October 2015).

²⁷ National report, para. 101.

treatment” by police of civilians and prisoners reported by the authorities, only 29 (7%) were referred to the police court, while 261 (60%) are still “pending”.²⁸ The number of cases provided in the State report is particularly revealing since only few victims are able to complain about the acts they were subjected to.

3.4.3 Monitoring of places of detention

In Jordan, visits to detention centres can be carried out by different institutions which theoretically include the National Centre for Human Rights, the National Preventive Mechanism (NPM) established under its mandate, the human rights directorate within the Ministry of Interior and Ministry of Justice as well as an internal committee established by the Public Security Directorate.²⁹ The State report, however, fails to provide any statistics on the complaints filed by the detainees during these visits and how they were followed up upon.

In addition, article 106 of Jordan’s Code of Criminal Procedure provides that “the head of public prosecution, attorney general, and the head of first instance courts and the courts of appeal may visit the public prisons and the places of arrest in the centres that fall within the area of their jurisdiction, and [...] contact any detained and hear any complaint that he would like to express.” However, the main issue is that torture is mainly practiced by the General Intelligence Directorate in its detention centre, which does not fall under the country’s law on prisons, and that it therefore does not fall under the jurisdiction of any Court, and remains completely unsupervised.

Moreover, the Jordanian authorities only refer to the NCHR when questioned about the issue of a national system to monitor and inspect all places of detention.³⁰ However, we believe this institution not to be fully independent as its members are nominated by the executive. In particular, its 21 members are appointed by Royal Decree upon recommendation of the Prime Minister, while its Commissioner General – who monitors human rights violations, receives complaints and follows up on them –³¹ is appointed by decision of the Council of Ministers coupled with a Royal Decree.³²

The NCHR nevertheless works according to a very broad mandate which include activities in the area of education, training, public outreach and advocacy, as well as monitoring, inquiring, investigating and reporting on human rights violations, including through handling individual complaints. The NCHR may also request any information necessary for the realisation of its objectives from the concerned parties, which shall respond without delay to such requests, implying that the government and any public institution shall collaborate with the NCHR.³³ The NCHR has also the authority to make regular visits to all places of detention, at times of their choosing and preferably with minimal notice,³⁴ visits which are well publicised in the media. For example, in early January 2012, the Jordan Times³⁵ reported that a task force of the NCHR visited the Jweideh Correctional and Rehabilitation Centre to inquire on the prisoners’ decision to go on hunger strike.³⁶ However, no information concerning the recommendations issued by NCHR at the time has ever been provided.

In addition, according to a recent report on the issue of detention in the country,³⁷ the NCHR claims that it could visit 123 temporary detention facilities at municipal and regional police headquarters and

²⁸ National report, para. 100.

²⁹ National report, para. 17.

³⁰ National report, paras 63 and following.

³¹ Article 17.b and Article 17.d Law No. 51 of 2010.

³² As per the Law on the National Centre for Human Rights No. 51 of 2006.

³³ As per Article 8 of Law No. 51 of 2006.

³⁴ Article 10 of Law No. 51 of 2006 ensures that the JNCHR has the mandate to visit “reform and rehabilitation centres, detention centres and juvenile care homes”.

³⁵ The Jordan Times, *NCHR taskforce visits Jweideh, hears inmates’ complaints*, 4 January 2012, <http://www.jordantimes.com/news/local/nchr-taskforce-visits-jweideh-hears-inmates%E2%80%99-complaints> (accessed on 22 October 2015).

³⁶ The Jordan Times, *NCHR taskforce visits Jweideh, hears inmates’ complaints*, 4 January 2012 <http://www.jordantimes.com/news/local/nchr-taskforce-visits-jweideh-hears-inmates%E2%80%99-complaints> (accessed on 22 October 2015).

³⁷ National Centre for Human Rights تقرير حول اوضاع اماكن التوقيف المؤقت في المملكة لعام 2013 اعداد المحامية نسرين صخر
الجنائي العدالة وحدة رئيس زريقات,

at criminal investigation, preventive security, and narcotics facilities, contradicting the claim contained in the national report that the NCHR would have visited the very same amount of facilities in the course of a month.³⁸ Nevertheless, the protocol of visits is not described and no further information is provided for example on eventual interviews with detainees who may have been subjected to torture.

Finally, the NCHR 2014 annual report also claims that the NCHR could make unannounced visits to detention centres, confirming the information provided in Jordan's report.³⁹ However, the GID headquarters, which operate as a detention centre, are never mentioned as a place of detention which had been visited by the NCHR, at least during the entire years of 2013 and 2014.⁴⁰ We conclude from this that even though the NCHR may be formally allowed to visit the GID – where torture is practiced in a systematic manner –,⁴¹ there is however no confirmed information on its actual ability to visit it.

Recommendations:

1. Ensure the independence of the complaint mechanisms, ensuring they be placed under the jurisdiction of the Ministry of Justice instead of the Public Security Directorate, that complainants are protected from acts of retaliation and that all allegations are referred to investigation and prosecution to the relevant ordinary courts – in public trials – and are not left to the discretion of the Public Security Directorate, which falls under the authority of the Ministry of Interior;
2. Ensure that the complaints received by the NCHR are treated in observance with the CAT definition of torture and that they are forwarded to Ministry of Justice for prosecution;
3. Repeal or amend article 61 of the Jordanian Penal Code to ensure that superior orders cannot be invoked as a justification for acts of torture;
4. Allow the NCHR to carry out visits at the premises of the GID, without prior notification;
5. Ratify the Optional Protocol to the Convention against Torture.

3.5 The abuses committed under the Anti-Terrorism framework

3.5.1 The Anti-Terrorism Law

Jordan's Anti-Terrorism Law No. 55 of 2006 – also called the Prevention of Terrorism Act – has been widely criticized for having opened the door to abuses, due to its broad definition of terrorism, and often allows the authorities to bring any person who exercises its fundamental rights to freedom of opinion and expression or peaceful assembly before the State Security Court. The 2006 Law was amended on 1 June 2014, as requested by the Committee against Torture in its recommendations, but was not brought into conformity with international human rights standards. Indeed, the definition of a terrorist act was broadened as follow:

"[A]ny deliberate act or abstention of an act, or threat of an act, regardless of its causes, uses, or means committed to carry out a criminal act collectively or individually that could jeopardize the safety and security of society; or cause disorder by disturbing public order or causing terror among the people, or intimidating them, or jeopardizing their lives; or cause harm to the environment, or facilities, or public or private property, or facilities of international or diplomatic missions, or occupy any of them; or jeopardize national resources, or pose economic risk; or to

<http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/NCHR%20Detention%20report%202013.pdf> (accessed on 22 October 2015).

³⁸ National report, para 95.

³⁹ National report, para 88.

⁴⁰ National Centre for Human Rights, تقرير حول اوضاع اماكن التوقيف المؤقت في المملكة لعام 2013 اعداد المحامية نسرين صخر زريقات, رئيس وحدة العدالة الجنائي <http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/NCHR%20Detention%20report%202013.pdf> (accessed on 22 October 2015); National Centre for Human Rights, التقرير السنوي الحادي عشر لحالة حقوق الإنسان في الأردن لعام 2014, المركز الوطني لحقوق الإنسان http://www.nchr.org.jo/arabic/Portals/0/Upload%20Folder/2015/NCHR_report2014.pdf (accessed on 22 October 2015).

⁴¹ National report, paras. 87 and 89.

force the legitimate authority or an international or regional organization to do any work or abstain from it, or disable the application of the constitution, laws, or regulations".⁴²

This broad and vague definition can and is being used to criminalise acts not envisaged as terrorism, which should remain circumscribed to precise threats and type of attacks. Moreover, the law provides for a minimum sentence of five years in prison with hard labour to life in prison and the death penalty. In fact, the Jordanian authorities have been using this law to prosecute individuals under charges of terrorism for allegedly "disturbing the public order", an accusation that is usually applied against people demonstrating peacefully or expressing their opinion publicly. The law also applies to acts that have "disturbed relations with a foreign country", which again can be a window for interpretation and allow to shut any political criticism or exposure. In fact, several journalists, human rights defenders and political opponents are currently facing trial before the State Security Court under such terrorism charges.⁴³

It should also be noted that the amended Anti-Terrorism Law states that using media or publishing material related to terrorist acts can characterise an act of terrorism *per se*, which tighten freedom of press to an unprecedented level as it prevents journalists from reporting acts of terrorism for fear of being prosecuted. In fact, the use of the words "promote their [terrorist] ideas" is vague enough for the authorities to be able to consider that media reporting terrorist attacks are themselves promoting terrorism. For example, on 8 July 2015, the authorities arrested Ghazi al-Marayat,⁴⁴ a journalist working for al-Rai newspaper, alleging that he violated a media gag order by publishing details about a foiled terrorism plot. They held him for four days for investigation under a provision of the Anti-Terrorism Law, and then released him on bail; however, he could still face criminal charges.

3.5.2 The General Intelligence Directorate: *Incommunicado* detention and the extraction of confessions under torture

In Jordan, torture especially occurs against individuals who find themselves detained *incommunicado* by the General Intelligence Directorate to extract confessions, which will later be used to charge the suspect and constitute incriminating evidence during trials before the State Security Court.

Established by the Law on General Intelligence No. 24 of 1964, the General Intelligence Department ("Da'irat al-Mukhabarat al-'Amma") – the country's intelligence agency – is normally vested with the investigation of threats to the national security, which fall under the jurisdiction of the State Security Court. The GID director is appointed directly by the King and reports to the Prime Minister, while all its officers are considered members of the armed forces. Moreover, the GID headquarters in Amman's Jandawil district in Wadi Sir also operate as a detention centre, but does not fall under the country's law on prisons, therefore remaining unsupervised.⁴⁵ Although the GID does not constitute *per se* a law enforcement agency and therefore holds no power of arrest or detention, it exercises in practice powers of arrest and detention, without any oversight.⁴⁶

As a consequence, torture and other ill-treatment are commonly practiced against detainees by the GID, as a means to extract confessions which are then used to charge the suspect and constitute incriminating evidence that is used in trials before the State Security Court.

Indeed, the SSC Act allows the GID to detain a suspect for seven days before his presentation before the SSC General Prosecutor, during which the detainees are denied access to their family or lawyers, so that nobody can witness their treatment and conditions of detention. Moreover, the Prosecutor may order a detention of 15 days, renewable for the purpose of the investigation, which should not exceed

⁴² Unofficial transcription from the Arabic version.

⁴³ <http://www.7iber.com/2015/07/charges-under-anti-terrorism-law-jordan/> (accessed on 20 October 2015).

⁴⁴ Human Rights Watch, *Jordan: Journalists, Writers Facing Terrorism Charges*, 15 July 2015, <https://www.hrw.org/news/2015/07/15/jordan-journalists-writers-facing-terrorism-charges> (accessed on 9 October 2015).

⁴⁵ Human Rights Watch, *Suspicious Sweeps – The General Intelligence Department and Jordan's Rule of Law Problem*, 18 September 2006, p. 40.

⁴⁶ Human Rights Watch, *Suspicious Sweeps – The General Intelligence Department and Jordan's Rule of Law Problem*, 18 September 2006, p. 14.

two months.⁴⁷ In practice, and as shown by testimonies collected by Alkarama, this means that individuals are often detained *incommunicado* by the GID for one week up to two months. Finally, it is noteworthy that although the power of investigation is normally vested with the SSC General Prosecutor once charges are formally laid, the latter systematically delegates this responsibility to GID officers, who then continue to detain suspects for several months – during which they are tortured – before being either transferred to another prison or released.

Alkarama has identified the methods of torture most commonly employed by the GID as beatings – including with cables, ropes, plastic pipes and whips – all over the body including the soles of the feet (“falaqa”), stress positions, sleep deprivation, injections that cause states of extreme anxiety, humiliation, threats of rape against the victim and members of his family and electric shocks. In addition, the GID systematically places detainees in solitary confinement for prolonged periods of time, a practice that amounts to torture.

Amer Jamil Jubran,⁴⁸ an activist for the Palestinian cause and an anti-war advocate, was arrested on 5 May 2014 by officers of the General Intelligence Directorate. After his arrest, Mr Jubran was kept in secret detention for almost two months at the GID headquarters, during which he was subjected to torture. In particular, he was subjected to threats against his family members, long interrogations lasting 72 hours, sleep deprivation, severe beatings and was forced him to urinate on himself in front of prison guards.

The torture was inflicted in order to extract confessions that he was not allowed to read before signing, which were used to charge him in August 2014 with a series of terrorism-related offences which included conducting “acts that threaten to harm relations with a foreign government”. On 29 July 2015, Mr Jubran was sentenced to 10 years in prison with hard labour, following an unfair trial conducted by the State Security Court and during which forced confessions were used as the sole evidence against him. In its ruling, the Court affirmed that it was “not obliged to discuss the defence’s evidence presented by the attorneys since accepting the prosecution’s evidence automatically implies the rejection of defence’s evidence.” Today, his appeal is pending before the Court of Cassation.

Such abuses with regard the extraction and admission of confessions under torture are partly due to a weak legal framework that does not comply fully with the requirements of article 15 of the Convention, which in turn provides more scope for torture and ill-treatment of suspects.

Indeed, except from a Constitutional provision according to which “any statement obtained from any person by means of torture or the use of harm or threats shall be deemed invalid”,⁴⁹ no other provision addressing this issue refers to the term “torture” *per se* but instead to “coercion”. In particular, article 159 of the Code of Criminal Procedure states that “any evidence or proof obtained by means of physical or moral coercion of any kind is deemed inadmissible and legally invalid” and that “a defendant has the right to appeal to the public prosecutor and the court in the event that his statement was obtained by law enforcement officials by means of physical or moral coercion.”

In this regard, it is concerning to note that the Jordanian authorities are affirming that 254 complaints filed in 2013 regarding confessions extracted under torture are still pending, and that only 37 have been taken into account, which amounts to only 13% of the lodged complaints.⁵⁰

3.5.3 The State Security Court

The competent tribunal to prosecute cases of terrorism is the State Security Court, which is composed of two military and one civilian judge, while its General Prosecutor is a military officer – currently

⁴⁷ Article 7 of the State Security Court Law No. 17 of 1959.

⁴⁸ Alkarama, *Jordan: Human Rights Activist Sentenced to 10 Years in Prison After Unfair Trial Before State Security Court*, 5 October 2015, <http://en.alkarama.org/component/k2/1896-jordan-human-rights-activist-sentenced-to-10-years-in-prison-after-unfair-trial-before-state-security-court?Itemid=> (accessed on 7 October 2015).

⁴⁹ Under article 2(2) of the Constitution.

⁵⁰ National report, para. 110.

Captain Military Judge Amer Al Alwan –, who is under the same administrative authority as the intelligence officials.⁵¹ This Court cannot be considered an independent court, as it is directly linked to the executive branch and its members are appointed by the Prime Minister and can be replaced anytime by executive decision. In addition, the Prime Minister can refer cases to this court, regardless of the charge, and the defendants have no right of appeal against this decision.

As stated above, the GID and SSC work together and the Court systematically admits as evidence confessions extracted under torture during trials. What is more, the SSC General Prosecutor sits at the GID premises, which makes it difficult for a detainee to complain about torture he may have been subjected to for fear of reprisals, and knowing that his allegations will unlikely be taken into account or lead to the opening of an investigation.

Despite previous recommendations by the Human Rights Committee and the Committee against Torture, the Jordanian authorities continue to refuse to abolish the State Security Court. In their national report, the authorities affirm that since the entry into force of the 2006 Prevention of Terrorism Act, there has been no criminal prosecution under this Law.⁵² However, Alkarama has documented several cases of individuals who have been tried under this Law, particularly freedom of expression advocates and political opponents.

Ghassan Mohammed Salim Duar,⁵³ a 56-year-old civil engineer, a well-known supporter of the Palestinian cause, author of several articles and books on this issue, was arrested on 29 October 2014 by members of the General Intelligence and the Public Security who raided his house. He was taken to the GID headquarters in Amman, Jandawil district, where, during the first 15 days of his detention, he was beaten up, subjected to threats, sleep and food deprivation and psychological stress. Moreover, during the three months he spent held in the GID premises, he was detained in solitary confinement and denied access to his family or lawyer, who was not allowed to contact him nor access his file during the whole investigation stage.

On 11 November 2014, Mr Duar was informally accused by the General Prosecutor of the State Security Court, who sits at the GID headquarters, of “manufacturing explosive materials and threatening the public order and the regime” before being formally charged three months later, on 26 February 2015, with “threatening the public order, joining an armed group and recruitment of people into an armed group,” under article 3 of the Anti-Terrorism Law. As a consequence, on 29 July 2015, the State Security Court sentenced him to five years of imprisonment. Since December 2014, he remains detained in Jweideh Prison.

3.5.4 Torture and judicial harassment in relation with the right to freedom of expression

Since a wave of protests for the respect of fundamental rights and freedoms hit the country in 2011-2012, the authorities arrested, prosecuted and in some cases tortured and mistreated several political opponents and activists, under the pretext of the “fight against terrorism”. Systematically arrested and detained by the GID during the “investigation”, the activists are later prosecuted before the State Security Court, either on the basis of the Anti-Terrorism Law or on the basis of article 149 of the Criminal Code, which criminalises acts that would “encourage the contestation of the political system” or “aim at changing the fundamental structure of society”.

Both the GID and the State Security Court occupy a central role in the repression established by the authorities to suppress any dissident voice, by means of systematic judicial harassment, torture and other ill-treatment.

⁵¹ Human Rights Watch, *Suspicious Sweeps – The General Intelligence Department and Jordan’s Rule of Law Problem*, 18 September 2006, p. 18.

⁵² National report, para. 114.

⁵³ Alkarama, *Jordan: Arbitrary Detention Targets Supporter of Palestinian Cause*, 10 April 2015, <http://en.alkarama.org/component/k2/1650-jordan-arbitrary-detention-targets-supporters-of-the-palestinian-cause?Itemid=> (accessed on 19 October 2015).

Eyad Qunaibi⁵⁴ is a 40-year-old pharmacologist, who is very active on social media through his Facebook and Twitter accounts, which he uses to spread his opinions and pieces of writing about the current developments in the Middle East. On 10 June 2015, Dr Qunaibi posted on Facebook an article titled "Jordan heading for the abyss" criticising Jordan's ties with Israel as well as the westernisation of Jordanian society.

Following his publication, Dr Qunaibi was summoned several times at the General Intelligence Directorate (GID) and interrogated on issues related to his publications on social media. On 15 June 2015, Dr Qunaibi was again summoned by the GID at their Amman-based headquarters and was immediately arrested. On 18 June, he was transferred to the Muwaqqar II prison after having been informally accused by the SSC Prosecutor of "incitement against the political regime". On 8 August 2015, he was officially charged with "undermining the political regime in the Kingdom or incitement against it", under article 149(1) of the Jordanian Penal Code.

Since 18 June 2015, i.e. more than four months at the time of writing of this report, Dr Qunaibi remains detained in the high security Muwaqqar II prison in solitary confinement, which, according to the Special Rapporteur on Torture amounts to torture or cruel, inhuman or degrading treatment or punishment, which is sometimes used as an extortion technique during pre-trial detention and also as a form of reprisals against dissenting voices. His family is allowed to visit him once a week.

Recommendations:

1. Amend the Anti-Terrorism Law to bring it into conformity with international human rights standards;
2. Place all state security services, especially the General Intelligence Directorate, under the sole authority of the General Prosecutor as to ensure a separation of power between those responsible for the arrest and detention of suspects and those responsible for the preliminary investigation;
3. Enforce the legal framework to ensure that confessions obtained under torture and the subsequent proceedings are declared null and void; investigate and prosecute all officials who are responsible for extracting such confessions;
4. Abolish the State Security Court and cease the prosecution of political opponents, peaceful protestors and critical voices;
5. Open an investigation into the torture Amer Jamil Jubran, Ghassan Mohammed Salim Duar and Eyad Qunaibi were subjected to and prosecute those responsible.

4. Conclusion

Despite several positive steps taken by the Jordanian government since its last review by the Committee against Torture in 2010, in particular by strengthening the absolute prohibition of torture at the legislative level, several setbacks have to be highlighted.

Especially since the wave of protests that erupted in 2011, the Jordanian authorities have been cracking down on all forms of dissent, the security forces using excessive force to disperse peaceful gatherings, arresting and prosecuting journalists, human rights activists and political opponents. In 2014, legal reforms gave the King the power to name the chief of the General Intelligence Directorate, while the scope of the Anti-Terrorism was broadened to include acts falling under the right to freedom of expression and opinion, leading to the prosecution of several individuals under trumped up charges.

Alkarama is concerned to see that intelligence services are given a free hand by the executive to arrest, detain and torture with impunity, and work closely with the State Security Court which admits as evidence confessions extracted under torture by the GID. The authorities must be reminded that

⁵⁴ Alkarama, *Jordan: Professor Charged With "Incitement Against the Political Regime" for a Facebook Post*, 28 August 2015, <http://en.alkarama.org/component/k2/1842-jordan-professor-charged-with-incitement-against-the-political-regime-for-a-facebook-post?Itemid=> (accessed on 19 October 2015).

considerations of “national security” can never justify departure from the absolute prohibition of torture or cruel, inhuman or degrading treatment nor be used as a tool of repression against those who only peacefully express their views.

Although during its last Universal Periodic Review held in 2013, the Jordanian authorities accepted recommendations aiming at taking measures to ensure that there is no torture on places of detention and prosecute those responsible. However, they only “noted” recommendations calling upon them to ratify the Optional Protocol to the Convention against Torture and make a declaration under article 22 CAT, which we believe demonstrate a mild political will to truly eradicate this practice in the country,

Alkarama hopes that the concerns raised in this report will be addressed constructively during the dialogue between the Committee against Torture and the representatives of the State party in order to put an end to torture and miscarriages of justice.