

The Euro-Mediterranean Network for Human Rights
Study on “Freedom of Assembly and Association”
(Jordan Country Report)

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Preamble

This report comes under the framework of the Euro-Mediterranean Network for Human Rights work program, which aims to devise a comprehensive study on the freedom of association in the Mediterranean region. This study will include an examination of the democracy and human

rights situations in the countries under study, in accordance with international standards on human rights in general and the freedoms of assembly and association in particular. This project aims to focus on the interaction and overlap between the freedom of assembly and democracy and other human rights (civil, political, social, economic and cultural).

The methodology followed in the report is twofold:

I. The documentation, which relies on:

- Reviewing information and statistics on the number of associations, their types, goals and geographical representation.
- Examining legislation on the formation of associations in Jordan, as well as on the ways to monitor and dissolve them.
- Illustrating examples and practices of violation cases.
- Reviewing the available judicial decisions relating to the establishment and dissolution of associations.

II. The analysis, which relies on:

- Reviewing international and regional declarations and covenants on the freedom of association and indicating the extent of their conformity with the situation in Jordan.
- Outlining the legislative obstacles "de jure" or implementation obstacles "de facto" that prevent the Jordanian society from enjoying the rights of assembly and association.
- Demonstrating the level of conformity of Jordanian laws with international standards.

The report is divided into an introduction and three chapters. The introduction tackles the situation of the Jordanian civil society and the political, social and economic environments including the situation of human rights in Jordan. The first chapter discusses the emergence of the Jordanian civil society and its progress and contribution to supporting the development of the society in general. In addition, this chapter includes a statistical analysis of the number of associations, their types, goals and geographical representation. The third chapter deals with the legislation, including the Constitution, laws and administrative and judicial decisions related to the formation of associations. The current situation of Jordanian legislation will be compared with the international standards, and recommendations based on this comparison will be included in the conclusion of this report.

Introduction

The Jordanian civil society can be considered nascent given the youth of the Hashemite Kingdom of Jordan considering its independence in 1946. As is the case in other parts of the region, political factors and frequent wars in the region played a major role in shaping the civil society in Jordan, which was characterized by "relief" work at its inception. This was a result of the Israeli occupation of Palestine and the migration of large numbers of Palestinians to Jordan where many charities were formed to provide support and social aid for Palestinian refugees.

That era was also characterized by instability and the absence of the rule of law, especially in light of the lack of enforcement of Ottoman law that was applicable in the country at that time.

With the progression of the political situation in Jordan, successive governments worked to enact laws regulating the operation of associations that were formed as needed to meet necessities without any reference or legal controls. Those laws could be listed as follows:

The Associations Law of 1936

The Charitable Societies Law No. (12) of 1956

The Associations and Social Entities Law (No. 7) of (1965)

The Law No. (33) of 1966 amended by Law No. 2 of 1995. This law is currently in force.

One could argue that the role of associations was restricted in the beginning to charity and relief work. However, their role developed with the evolution of social life to cover various aspects of social and cultural affairs. The religious and ethnic diversity of the demographic composition of the Jordanian society, which contains ethnic minorities of Circassians and Chechens, a segment of Palestinian refugees, as well as a Christian minority of about 12%, led to diverse forms and goals of social work and consequently to multiple types of associations aiming to fulfill the interests of those distinct groups.

Jordan's accession to international charters and conventions starting with the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights increased awareness among various segments of the Jordanian society about human rights concepts, including the right of association. As awareness grew about the role of associations as essential partners of the government in developing the society and formulating policies on economic, social and cultural affairs,, and their transition from organizations providing relief and services exclusively to effective partners of government -- the elements of the civil society began to crystallize and became an active and influential actor in the Jordanian arena.

Presently, Jordan provides an appropriate environment for the work and development of civil society organizations as the Kingdom is experiencing a state of political, economic and social stability in comparison with other countries in the region. The moderate approach, the centrist politics, and the development process adopted by Jordan ensure the provision of adequate space for social activity, as well as a margin for freedom and democracy that will strengthen the presence of these organizations. However, the reforms currently adopted by Jordan that seek its integration into the global economy and attachment to global development plans through joining the World Trade Organization, subjecting the Jordanian economy to privatization programs that entail subordination to the International Monetary Fund and the World Bank and enacting or amending laws and legislation commensurate with that attachment – have reflected negatively on the country's social infrastructure as well as limited public freedoms in accordance with the "new world order" on the one hand, and the so-called "war on terror" on the other hand. The laws relating to the right of association were amended, giving the Ministry of the Interior more control over the freedom of assembly. The government enacted new laws including the Anti-Terrorism Law, which gives the government powers to monitor and interfere with the work of civil society organizations. Restrictive articles of legislation were introduced in the Political Parties Law to limit such parties' freedom of action. In addition, there have been attempts to amend the Professional Associations Law so as to enable the government to restrict the work of those associations.

It is noteworthy that the government constantly proclaims the principle of the rule of law even though the laws that are being legislated contain provisions contradicting the principles and standards contained in the international charters and conventions ratified by Jordan. Moreover, such laws contravene the spirit of the Constitution. This approach has been reflected in the judiciary, rendering recourse to justice concerning practices of the executive authority useless so long as the judiciary is committed to the application of pure legal texts.

These details will be outlined in this report as follows:

I. Political, democratic and human rights specific contexts

The Hashemite Kingdom of Jordan is a constitutional monarchy that was ruled by the late King Hussein from 1952 until his death in February in 1999 when his eldest son Abdullah ascended the throne. The executive authority in Jordan is assigned to a Council of Ministers appointed by the King and is held accountable to the Lower House and the Senate. The King appoints the 55 members of the Senate, while the 110 members of the Lower House are elected under the Parliamentary Elections Law. The Constitution defines the rights and duties of Jordanian citizens and guarantees the freedoms of worship, opinion, the press, private property and association. After martial law was lifted in 1989, all elements of the Jordanian political spectrum returned to democratic life, and the participation of ordinary citizens in Jordanian civil life was revitalized. The lifting of martial law contributed to creating more institutional stability essential to building the society.

Regarding Jordan's international commitments concerning human rights, Jordan is among the top countries in terms of the number of accessions to and ratifications of international conventions on human rights. The Kingdom has ratified the majority of such conventions starting with the International Bill of Human Rights; the Universal Declaration of Human Rights (10/12/1948); the Covenant on Economic, Social and Cultural Rights (16/12/1966); the International Covenant on Civil and Political Rights (16/12/1966); and finally the Statute of the International Criminal Court.

Below is a detailed account of the international human rights agreements ratified by Jordan:

1. The International Covenant on Economic, Social and Cultural Rights; signed by Jordan on 30/6/1972, and ratified on 28/5/1975.
2. The International Covenant on Civil and Political Rights; signed by Jordan on 30/6/1972, and ratified on 28/5/1975.
3. The Convention on the Prevention and Punishment of the Crime of Genocide; approved by Jordan on 3/4/1950.
4. The International Convention on the Suppression and Punishment of the Crime of Apartheid; approved by Jordan on 30/5/1974.
5. The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; approved by Jordan on 13/11/1991. However, Jordan has not ratified the Additional Protocol to the Convention.

7. The International Convention against Apartheid in Sports; approved by Jordan on 16/5/1986, and ratified on 26/8/1987.
 8. The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; signed by Jordan on 29/8/1990, and ratified on 24/5/1991.
 9. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; approved by Jordan on 27/9/1957.
 10. The Convention on the Rights of the Child; ratified by Jordan in 1991 with reservations on articles (14-20-21) therein.
- The International Convention on the Elimination of All Forms of Discrimination; signed by Jordan on 5/6/1974, and ratified in 1992 with reservations on articles (2/9), (4/15) and (16/c-d-g) therein.

Jordan ratified three agreements concerned with the promotion of women's rights and women's equality with men prior to this Convention. Those agreements are:

- The Convention on the Political Rights of Women; without reservations.
 - The Convention on the Nationality of Married Women of 1975; without reservations.
 - The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1964; without reservations.
11. The Convention concerning Minimum Age for Admission to Employment, (No. 138) 1973; ratified by Jordan in 1997.
 12. The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, (No. 132) 1999; ratified by Jordan in 2000.
 13. Jordan has not ratified the international treaties relating to refugees.
 14. Jordan has not ratified the Convention on Freedom of Association and Protection of the Right to Organize (No. 87).

As for regional pacts, Jordan approved the "Cairo Declaration on Human Rights in Islam", issued in 1990 by the Islamic Conference of Foreign Ministers. The Declaration is a guiding document that does not require ratification. Jordan also ratified the amended "Arab Charter on Human Rights " adopted by the Arab Summit in Tunisia in May 2004.

The international instruments ratified by the Jordanian government are considered national laws only after they are endorsed by the Lower House and the Senate and ratified by the King as stipulated in the Jordanian Constitution in Article 91: "The Prime Minister shall refer to the Chamber of Deputies any draft law, and the Chamber shall be entitled to accept, amend, or reject the draft law, but in all cases the Chamber shall refer the draft law to the Senate. No law may be promulgated unless passed by both the Senate and the Chamber of Deputies and ratified by the King."

These instruments become effective laws only after they are promulgated by the King, and after a lapse of 30 days from the date of their publication in the Official Gazette in accordance with article 93/II: "A law shall come into force after its promulgation by the King and the lapse of thirty days from the date of its publication in the Official Gazette unless it is specifically provided in that law that it shall come into force on any other date."

Although Jordan endorsed the majority of international instruments and conventions on human rights, most of these agreements have not been presented before the National Assembly for discussion and endorsement. The Jordanian parliament ratified the two International Covenants in 2006, after more than 30 years of the government's endorsement of them. Also, the Parliament ratified the Convention on the Rights of the Child in 2006.

Legislation in Jordan is constantly being reviewed by various formal and informal entities, as well as civil society organizations that undertake the organization of national campaigns to amend legislation on the protection of the rights of women, children, youth, persons with special needs, refugees and others. Furthermore, there are several local, regional and international symposiums and conferences held in Jordan on upgrading legislation to conform to the international conventions on human rights, and to lobby for greater protection of civil, political, economic, social and cultural rights.

As for special groups in the society, the Jordanian Constitution and national laws reiterate the right to non-discrimination among Jordanians. The Constitution of Jordan of 1952 ensures a set of principles and rights for all Jordanians, whom the document deems equal before the law. Article 6/I of the Constitution states that "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion." However, this text is lacking in that it is limited to non-discrimination based on race, language or religion excluding non-discrimination based on ethnicity, color, political or other opinions, national or social origin, property, birth or other status as stipulated in Article (2) of the International Covenant on Economic, Social and Cultural Rights.

However, in spite of the constitutional provision on the principle of non-discrimination, practices on the ground show cases of discrimination based on political opinion. The National Center for Human Rights has received complaints indicating that some members of the Islamic Action Front were denied employment and their appointments were not approved because of their party affiliation upon directives from the General Intelligence Department (GID). There have also been complaints about the dismissal of some members of the People's Unity Party from work upon GID directives, the delaying of other members of the Party's political bureau at border points, and their detention for several hours at the Ghuwairiya Police Station in Zarqa Governorate for distributing leaflets issued by the Party regarding fuel price increases. A Party member was summoned by the intelligence department in Zarqa Governorate and questioned about his activities with the Party's youth bureau.¹

In addition, there are a number of laws that discriminate against women and do not grant men and women equal rights. Such laws include the Penal Code, the Personal Status Law, and the Social Security Law. Moreover, the Universities Law does not allow the formation of student unions and tasks the university president's office with the appointment of half of the student council members while the remaining half is elected by the students. This practice contradicts the basic principles of the foundation of bodies and associations.

Several national bodies and NGOs work on monitoring discrimination in national legislation, as well as assessing the conformity of domestic legislation with international human rights conventions. One prominent actor is the Jordanian National Commission for Women, which is considered the umbrella for the organizations involved with women's affairs. Another important

¹ The National Center for Human Rights Report for 2006

organization is the National Council for Family Affairs whose most important achievements in the field of legislation monitoring are a project conducted in 2002 on involving analysis of national legislation and the identification of positive and negative effects on families, as well as the National Strategy for the Jordanian Family in 2004. A third example of such vital organizations is the National Center for Human Rights, which monitors violations and works with other stakeholders to avoid the recurrence of such violations,² in addition to many other NGOs concerned with women and children's rights, human rights, the rights of persons with special needs, cancer patients, AIDS patients and others. Declared and permitted civil action has not tackled the issue of sexual orientation in Jordan, as there is no society or body with legal status in Jordan involved with the interests of "gay people" because of the conservative nature of the Jordanian society that considers such a phenomenon a contradiction of customs, traditions and religion.

The real problem, however, is related to the rights of refugees. To begin with, Jordan has not signed the UN conventions and protocols relating to refugees including the 1951 Convention relating to the Status of Refugees and the 1976 Protocol relating to the Status of Refugees. Nonetheless, the Jordanian government signed a cooperation agreement with the High Commission for Refugees (UNHCR) on 30/7/1997 to facilitate the latter's work in assisting refugees fleeing Iraq following the 1990 war with the US and residing on Jordanian territory. The number of these refugees is estimated at about 300,000.. Following that agreement, the government signed an MoU on April 5, 1998 to enhance the institution of asylum in Jordan and enable UNHCR to carry out its duty to provide international protection for people under its jurisdiction. The agreements involved a commitment not to expel refugees seeking asylum in the Kingdom when their lives or freedoms are threatened because of their race, religion, language, nationality, and affiliation with a particular social group or political opinion. The MoU also granted refugees the freedom of religious observance and religious education of their children, the right to litigation before courts, the right to work for themselves and take on freelance work, and exemption from fines for exceeding residency terms and from the departure tax. The document also enabled the UNHCR to provide living expenses such as accommodation, food and treatment to refugees in accordance with UNHCR standards.

Refugees in Jordan fall into two categories. The first is the Palestinian refugees, whose numbers are estimated at about 1,639,718 in total, 287,951 of whom reside in ten camps recognized by the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) which was founded in 1948 following the 1948 war with Israel that resulted in the displacement of nearly 4.5 million of the Palestinian people. About 1.5 of them are in Jordan distributed among ten refugee camps in the Kingdom: Wehdat, Talbiya, Jabal Al-Hussein, Baqa'a, Hattin, Souf, Gaza, Husn, Irbid, and Zarqa refugee camps. It is noteworthy that there are three other camps: Prince Hassan, Madba and Sokhna refugee camps that are not recognized by UNRWA.

UNRWA is a United Nations agency carrying out relief and works programs. Unlike the UNHCR, UNRWA's founding resolution did not state that the agency is mandated to work to

² The number of complaints received by the National Center for Human Rights regarding subjection to torture and cruel and inhumane treatment totaled 57 in 2004. They also included one complaint regarding the prevention of voting, candidacy and participation in public life, four complaints regarding the dissolution and prevention of the creation of associations and membership in them, and three complaints regarding the prevention of union membership. National Center for Human Rights Report for 2004

reinstate refugees to their homeland. This matter was left to other resolutions to settle. UNRWA is entrusted with providing education and health services through its health centers and schools to the refugees inhabiting the camps. However, UNRWA's budget deficit resulted in the decline of many health and education services. In addition, the frightening overcrowdedness of the refugee camps created an unhealthy living environment, which prompted the Jordanian government to provide about \$300 million to support the infrastructure of the 13 camps. The Department of Palestinian Affairs is also working to provide all the means for a decent life to refugee camps residents.

The government embarked in 1999 on implementing a social security package in those camps where projects are included under the framework of an integrated national strategy developed in 1997 to combat poverty and unemployment and raise the economic and social status of the least fortunate segments in the society at a cost of JD150 million. The largest share of funding is provided by foreign loans and grants. The projects of the social security package include the development of infrastructure in 15 shanty towns at a cost of JD18 million. Those projects are not aimed at integrating refugees in the communities where they reside as much as they are aimed at providing decent livelihoods including infrastructure, education and health services to refugees.³

The second category of refugees in Jordan is comprised of Iraqi refugees and refugees of other nationalities who fled to Jordan as a result of the US war against Iraq in 2003. The UNHCR assumes care for these refugees. The Jordanian government refused to allow them into the Kingdom and set up two camps on the Jordanian-Iraqi border in the Ruweished area: the "Ruwaishid" Camp for refugees who obtained residency in a third country and whose transfer to that country is pending, and "Al Azela" Camp which is mainly comprised of Iranian Kurds who have official documents and who fled Iran during the 1979 Islamic Revolution.. The UNHCR settled 886 refugees from this camp in Sweden in 2004, and 23 others in Ireland.

II. Civil Society Landscape

Firstly, civil society refers to the group of free and voluntary organizations that operate in the public domain between the state and society. These organizations are formed through the free will of their founders and membership in them is optional. They rely in their work on their legal status and on the services they offer to others by defending their interests, and they do not seek profit. The activities of civil society organizations are voluntary in nature, and aim to promote the values of tolerance, respect for the opinion of others. In Jordan, civil society organizations are divided into 11 categories: social organizations, professional associations and trade unions, associations, cultural associations, sports and youth clubs, human rights organizations, organizations committed to the defense of liberties and the consolidation of democracy, and political parties, in addition to all of the women's organizations, employers' organizations and societies for the environment, protection and health care.

The majority of civil society work in Jordan is based on the voluntary efforts of organizations' members who do not receive any wages or salaries for their administrative activities except for

³ According to UNRWA statistics

their logistical efforts, in contrast to organizations established under the Company Law "civil companies", whose directors and staff usually receive wages and salaries for their work. It is unfortunate that the associations and social entities do not adopt regulations specific to voluntary work that would define the nature of the activities as well as the hierarchical relationship within the organizations. Such regulations would also set up a framework for accountability in case of negligence or harm done to the organization at the hands of any of the volunteers.

It must be noted that the political and legislative environment that Jordan has experienced, including the absence of democracy, the imposition of martial law and emergency laws and weakness in the rule of law over a period of decades, has reflected negatively on the development of civil action in Jordan. Further, the declaration of the state of emergency after the 1967 war as a result of the Israeli occupation of the West Bank and parts of Jordanian territory that led to the disruption of parliamentary life, the dissolution of Parliament, the ban on the practice of declared and free political activity, and the suspension of licenses both for party activities and for the establishment of parties had a negative impact on civil action. Political parties were operating but they were banned, and publicizing political parties did not take place until after the return to democratic life and the end of the state of emergency in 1989, the subsequent reconciliation between the regime and the opposition and the introduction of political reforms under the National Charter. These reforms included the registration of political parties and the provision of a wider margin for forming and organizing the work of unions and civil organizations.

The absence of political activity had a clear impact on the development of NGOs' work, number and the diversity of their goals and objectives as an alternative to party organizations and political activities. These organizations worked to increase awareness of civil, political, social and economic rights, in addition to spreading a culture of human rights. Specialized organizations were also established to protect the interests of certain groups such as women, children and persons with special needs, in addition to associations focused on minorities like the Chechens and Circassians, as well as societies concerned with Christian segment of the population.

With the growing community awareness of the importance of the right of association as a constitutional and a human right in accordance with the international conventions on human rights, the concept of association (civil action) has become broader and more comprehensive. Such associations have also become linked with various government ministries, depending on the goals and objectives of the society or civil entity in question. Some organizations are linked to the Ministry of Labor (trade unions), while some are linked to the Ministry of Social Development (charitable societies and cooperative associations), and others are linked to the Ministry of the Interior (Jordanian Women's Union). There are also organizations that are linked to a special law (professional associations), and some that are linked to the Ministry of Trade and Industry and the new Company Law of 1997, which contained articles relating to civil companies and non-profit companies (Article 7, Sections C1 and 2 and Section D), in addition to provisions of the Civil Law relating to companies.

In spite of these developments, the legal framework and regulations relating to the organization of the work of civil society in Jordan contains provisions that restrict the right of association and the right to join associations as well as limit the freedom of civil organization. These regulations often contain restrictions and constraints that are unjustified and unacceptable because they prevent the associations from achieving their goals and do not provide adequate safeguards to

ensure respect for the right of association and the right to join associations. These regulations facilitate the executive authority's interference in the activities of the associations and its influence on their performance. They are also unacceptable and unjustified because they do not support the initiatives of individuals and groups to organize themselves as groups, but rather subject such individuals and groups to exaggerated accountabilities.⁴

For example, as a result of the strained and fragmented relationship that is lacking in trust between the professional associations and some of the opposition parties on the one hand and the government on the other, the government continues to ban the right to organize unions among a segment of citizens, specifically public servants. Teachers are still included in this ban based on the decision of the Higher Council for the Interpretation of the Constitution No. (1) of 1994 that stipulated that constitutional provisions do not permit the issuance of a law for a union of teachers who are public servants. This ruling prompted teachers to demand a private federation for themselves rather than a union. Likewise, the workers for Jordanian pharmaceuticals factories, whose numbers exceed 5,000 working in 25 factories, have been trying for many years to create a special branch for themselves within the framework of the General Union of Workers in the Petrol and Chemical Industries without being permitted to do so.⁵

In 2004 the government took a series of measures restricting union activity. The most prominent of these measures was the subjection of union activity to the provisions of the Public Meetings Law, which requires unions to obtain the approval of the administrative governor for any activity they wish to hold, even within their headquarters. The security agencies forcibly prevented a number of activities.⁶ In 2006, the security agencies conducted a number of arrests and restricted the freedom of a number of professional association members, including professional association member and Deputy Ali Abu Al-Sukkar, Engineer Turki Al-Jawarneh and Engineer Tareq Abu Khalaf, because they expressed their political stands regarding the events the Arab region was experiencing.

In addition, 2006 witnessed many instances of harassment and security prosecution of many party members. Security agencies have arrested a number of cadres and members of the Islamic Action Front Party based on a case known as "smuggling of weapons to the Palestinian Hamas Movement." Although the detainees were released, some of their wrongful detentions lasted more than five months without their being charged, and they experienced inhuman conditions as they were held in solitary confinement. The leftist parties also did not escape the harassment of the security agencies, as a number of their members were detained and arrested on the basis of participation in and calling for rallies and popular actions to support the resistance in Palestine, Lebanon and Iraq. For example, the security agencies surrounded and monitored the house and clinic of the secretary general of a leftist party, namely the Jordanian Communist Workers (Al Shaghileh) Party, searching and preventing patients from reaching his clinic.⁷

⁴ Lawyer Asma Khader, "Legal Frameworks and Interanal Regulations Relating to the Work of Civil Organizations in Jordan" working paper, 1998.

⁵ National Center for Human Rights' report for 2006

⁶ National Center for Human Rights' report for 2004

⁷ National Center for Human Rights' report for 2006

Furthermore, the Minister of the Interior and the Governor of the Capital denied licensing a number of the activities and festivals marking Land Day and those supporting the resistance in Palestine, Lebanon and Iraq. Likewise, the security forces prevented some of the festivals and rallies by force, including a rally the opposition parties and professional associations called for in the Professional Associations Complex to support the Lebanese resistance in confronting the Israeli aggression.

A. Outline of the various categories of organizations

At the close of 2006, the number of labor unions had reached 17. All of these unions operate under the umbrella of the General Federation of Labor Unions (GFLU). The size of the labor force in Jordan is about 1,200,000 workers according to GFLU estimates. However, the total number of Jordanian members of these unions does not exceed 9% that is approximately 100,000 workers only. There are 13 professional associations, and their membership at the end of 2006 stood at nearly 143,000 affiliates, given that membership in the professional associations is compulsory in order to practice the profession concerned.⁸

At the end of 2005, the number of societies registered with the Ministry of Social Development reached 982, of which 60 of these societies were registered during 2005. There were 223 societies registered with the Ministry of the Interior at the end of 2005, 43 of which were registered during 2005.

As for cultural organizations registered with the Ministry of Culture, they numbered 261 at the end of 2005, of which 23 bodies were registered in 2005. There are 45 centers for studies, research, training, and social and psychological counseling in addition to over 35 foreign NGOs working in Jordan since the 1940s. There are currently about 23 parties, some of which were united under a unified framework.⁹

These organizations are characterized by geographical distribution and diversity. Statistical indicators reveal that 32.8% of these institutions are located in Amman, the political center of the country, while 12.8% are in Irbid, 6% are in Balqa, 8% are in Zarqa, 7% are in Mafraq, 5% are in Karak and 4% are in Ma'an, Ajloun, Tafileh and Madaba.¹⁰

It is possible to identify the outlines of civil society organizations by referring to the Associations and Social Entities Law, which restricts the work of societies and organizations to providing social services, defined as "any service or activity delivered voluntarily and by choice that improves the level of citizens in the community, whether culturally, educationally, spiritually, socially, technically or in terms of health or athletics." The legal status of civil society organizations differs in accordance with the law as follows:

⁸ National Center for Human Rights' report for 2006

⁹ Ali Al-Balawneh, "The Role of Civil Society Institutions in Comprehensive Development", Studies and Public Opinion Polls Department

¹⁰ Ali Al-Balawneh, "The Role of Civil Society Institutions in Comprehensive Development", Studies and Public Opinion Polls Department

Charitable societies: Bodies composed of seven or more individuals and providing social services to citizens without aiming to profit financially or achieve personal gains or political ends.

Social organizations: Any organization composed of seven or more individuals that provides social services, whether practical or charitable services or training. These include social centers, provided that their aim is to provide social services without earning material profit or achieving any personal interests or political goals.

Ordinary organization or entity: Any organization composed of seven or more individuals that aims to provide social services to citizens or groups of citizens.

Foreign Societies: Any social organization or charitable society whose main headquarters are located outside the borders of the Hashemite Kingdom of Jordan, or half of its administrative body members are not Jordanian.

There are also institutions that were established by special laws and assumed the status of NGO's such as the Queen Alia Fund for Social Development, the National Center for Human Rights, the National Council for Family Affairs, and the Noor Al-Hussein Foundation.

The government agencies involved with the organization of the work of these associations have become numerous. For instance, charitable societies fall under the jurisdiction of the Minister of Social Development, while the ordinary societies, including sports, cultural and social clubs as well as scouting and guiding clubs, are linked to the Minister of the Interior and the Minister of Culture and Youth.

Human rights organizations

Most types of institutions concerned with human rights exist in Jordan, from national institutions to parliamentary committees and human rights NGOs. At the parliamentary level there is a Public Freedoms and Citizens' Rights Committee in the Lower House that carries out important initiatives to follow up on cases of prisoners and detainees with the security agencies, as well as on the cases of Jordanian prisoners in Israel.

NGOs working in the field of human rights cover a wide range of concerns. Some work in the fields of promotion and protection, such as "the Arab Organization for Human Rights in Jordan" (1987) and "the Jordanian Society for Human Rights" (1996), while some specialize in the promotion of human rights such as "the Arab Center for Human Rights Training" (1998), "Amman Center for Human Rights Studies" (1999), or in a specific aspect of freedoms, such as: "the National Society for Enhancement of Freedom and Democracy" (1993), and the "Center for Defending Freedom of Journalists" (1999).

There are also organizations that specialize in writing annual reports about the human rights situation in the Kingdom, some of the most prominent of which are the Arab Organization for Human Rights, the Jordanian Organization for Human Rights, and the National Center for Human Rights.

There are many organizations specializing in human rights which were established under the Company Law as civil not-for-profit companies, including the Jordanian Organization for

Human Rights, the Law Center for Human Rights, Adalah Center for Human Rights, and the Center for Development and the Rule of Law. These organizations work to achieve general and specific goals. Their general goals focus on raising awareness and disseminating a culture of human rights, as well as providing counseling and legal aid services in general and amending legislation in accordance with international standards. As for the specific goals, these depend on the objectives of each organization. There are some that are concerned with preparing cadres of trainers in the field of human rights, while some are involved with monitoring violations wherever they occur and addressing those responsible for the violations in order to limit or abolish them, as well as defending the rights of the victims. As for torture, there is no specific organization working to combat torture, in spite of the fact that the two annual reports for 2005 and 2006 issued by the National Center for Human Rights indicated a degraded situation of human rights in Jordanian prison facilities, including cases of torture and the extracting of confessions by force. In general, organizations depend in their work on methods of observation, dissemination and defense.

Further, there are many organizations targeting specific groups in the society such as women and children, the sick, and persons with special needs. Among the organizations that work to defend women's rights is the National Committee for Women's Affairs, which is the umbrella for women's organizations and works to raise awareness of the rights of women, to amend legislation that discriminates against women and to provide programs for training and empowering women. Other organizations are the National Forum for Women and the Jordanian Women's Union, a public organization under the jurisdiction of the Ministry of the Interior that works to organize women's forces in order to advocate for their rights, increase awareness and amend legislations that discriminate against women, and provides an assistance program and a shelter for women victims of domestic violence. Such organizations also include the Sisterhood is Global Institute, the Jordanian Society for the Protection of Victims of Domestic Violence, and the Women's Center for Legal Aid and Counseling that specializes in providing legal services and assistance to women in the city of Zarqa.

With regard to the protection of children's rights, a number of organizations and societies exist in Jordan that are concerned with protecting this vulnerable group, such as Save the Children/Jordan, the Jordanian Women's Union which operates the "Children Guesthouse" program that provides an appropriate place to enforce the rulings of Shari'a courts regarding child visitation, instead of in police stations, court halls or public parks. The organization also works to restore familial relationships that are broken as a result of divorce and to provide family counseling services to integrate children into the community. Additionally, the Coast Quest Society works to protect children from economic exploitation in the labor market and aims to curb the phenomenon of child labor, which began increasing in some cities due to the worsening economic situation of many families in those cities and regions.

As for associations serving particular groups, the significant breakthrough in social perceptions that Family Health International (IMPACT) is achieving must be noted. This organization works to protect the rights of carriers of Acquired Immune Deficiency Syndrome / AIDS, despite the social stigma society places on this population segment.

There are also a number of organizations in Jordan involved with culture, such as the Jordanian Writers' Association established in 1974 and the Theater Association established in 1977, as well as the Artists Association established in the same year. Further, there are the Pen Club, the Abdel Hamid Shoman Foundation, and many forums and institutions dealing with culture, thought and

dialogue. There are also a number of organizations in Jordan concerned with the protection of the environment, including the Environmental Protection Society, the National Environment and Wildlife Society, and the Jordan Society to Combat Desertification. All these societies work on monitoring environmental violations and ways to avoid them, developing environmental awareness among citizens and providing greater protection of the environment. The Environmental Protection Society has played a large role in the establishment of a "recycling" project for a number of paper products and products made from tin and aluminum.

There are also many associations and entities in Jordan that have a religious nature, whether Islamic or Christian, and that work to protect the interests of their members and to provide them with services. A council was formed to include all of the Islamic societies called the "Council of Islamic Organizations", whereas Christian associations work within a sectarian framework following their ecclesiastical denomination. The law regulates the work of these societies under Article 12, which stipulates that "the formal religious bodies and congregations in the Kingdom are entitled to provide social services in the public interest to the needy without seeking financial profit, and without charging fees from the beneficiaries that exceed one tenth of the recurrent expenses." The law requires the approval of the Minister in order to establish and administer these, and the placement of such services under the supervision of his Ministry. They are therefore subject to inspection in order to ensure that such supervision is achieved and that such services accomplish their goals and work in the public interest. This supervision is limited to the institution or the organized social service without affecting the religious entity or the congregation that it emanates from.

Finally, most entities working within the scope of civil action can be considered among NGOs, with the exception of organizations of a mixed nature. Such organizations claim that they are non-governmental even though they are established by the government and their boards appointed by the government, or they are headed by a royal family member. These organizations are known as Governmental Non-Governmental Organizations (GONGO's) that were established under special laws or regulations and whose boards are often headed by various members of the royal family, such as the Noor Al-Hussein Foundation, the National Council for Family Affairs, the National Committee for Women's Affairs, the King Abdullah Fund for Development, and the Higher Population Council. Those institutions provide development-related projects and administration for small projects in order to raise the status of the Jordanian family in rural and remote areas. However, they cannot be considered an effective mechanism for monitoring violations of human rights or lifting restrictions on public freedoms.

III. Legislation

The Jordanian Constitution reiterated the rights of assembly and association in Article (16) by stating that " (i) Jordanians shall have the right to hold meetings within the limits of the law. (ii) Jordanians are entitled to establish societies and political parties provided that the objects of such societies and parties are lawful, their methods peaceful, and their by-laws not contrary to the provisions of the Constitution. (iii) The establishment of societies and political parties and the control of their resources shall be regulated by law."

The Constitution of 1952 also ensures in Article (16/I) the right to form political parties and to be affiliated to them.

The National Charter confirms this constitutional right in Article 10 of Chapter V under the Social Aspect section by stressing that “voluntary work must be based on the concept of national commitment and social partnership. Attention must be paid to the establishment of voluntary societies and clubs and providing them with incentives conducive to effective participation, to strengthening the positive values of Jordanian society and to rejuvenating the Arab and Islamic traditions of partnership, amity and altruism.”

Although the right of association is a constitutional right, the Constitution vested the power of regulating this right in the law. The Associations and Social Entities Law No. (33) of 1966 amended by Law No. (2) of 1995 is concerned with regulating the work of associations. The Political Parties Law No. 32 of 1992 is concerned with regulating partisan action. The Political Parties Law defines a political party as "every political organization composed of a group of Jordanians in accordance with the Constitution and the provisions of the law that aims to participate in political life and to achieve specific goals related to political, economic and social affairs, and works through authorized and peaceful means." It is noteworthy that the new draft political parties law includes positive points, specifically the inadmissibility of harming or questioning citizens or holding them accountable or prejudicing their constitutional rights because of their party affiliation. Among the other positive points of this draft law are allowing the utilization of official media outlets and the opening of public facilities for partisan activities.

However, regulation of the work of civil society is not solely dependent on the Associations and Social Entities Law, the Political Parties Law, and the Trade Unions and Professional Associations Laws; there are rather a number of laws and other regulations linked substantively to the work of civil society organizations including the Public Meetings Law No. (7) of 2004, the Labor Law, which regulates the activities of union workers, the Cooperative Societies Law, the Political Parties and Associations Law, and the new Company Law of 1997.

Formation and Incorporation

The Associations and Social Entities Law requires a number of conditions in order to approve the registration of a society such as a minimum of seven founding members and the submission of a request for registration to the Ministry with the statutes attached, which should include the following specific information:

- Name of the charity, social entity or union
- Addresses of the society's headquarters and branches
- Names, professions, ages and places of residence of the founding members who must not be under 21 years of age
- Detailed account of the purposes and goals for which the society was created
- Membership requirements, fees and ways to revoke membership.
- Method for electing the governing body tasked with conducting the business of and overseeing the entity's affairs.

- Convention and dissolution of the entity
- Monitoring and managing the financial affairs of the entity
- Disposal of the entity's funds in case of dissolution.

The Law only allows the formation of any association or body after its founders obtain a written permission or authorization from the Minister and in accordance with the provisions of Article (10) of the Law which states that "1 - if a period of three months has elapsed since the receipt of the request by the Ministry or the Prime Ministry and the applicants have not yet received a notice of the decision, a request for essential information or of the presence of legal deficiencies in the application or the statutes presented, then they can then commence their activity as if the association or entity were properly registered."

Court opinions confirmed this provision by indicating that "according to the provisions of Articles (5, 6, 7 and 12) of the Associations and Social Entities Law, the lapse of a period of three months since the Interior Ministry's receipt of the request to register an ordinary association and without the applicants receiving a notice of the decision, a request for additional information or of the presence of deficiencies in the association's submitted application or its statutes, gives them the right to commence their activity instantly, as if the association were registered properly. Accordingly and pursuant to the provisions of Article 2/16 of the Constitution, the association will become legally present since its documentation did not indicate that its objectives were not lawful. The adversary of the association and the applicants as considered founders also becomes lawful. According to the provisions of Article 11 of the Associations and Social Entities Law, the association, which becomes legally present, has the right to obtain a certificate of registration and to publish this certificate in the Official Gazette. "¹¹

The law also considers any association with no proper license to be unlawful and legally accountable under the Penal Code, which describes non-licensed associations as "malicious or unlawful associations". Article 159 of the Penal Code provides that "an unlawful association is any group of people required by law to report their statutes to the government that delays reporting or continues to hold meetings after its dissolution."

However, court opinions established that the failure to report the statutes to the government is considered a misdemeanor only and not a felony, asserting that "according to Article 159 of the Penal Code, affiliation to an unlawful group does not constitute a felony in all cases. Such affiliation is only considered a felony if the objective of the unlawful group is to undermine the Kingdom's Constitution through a revolution or topple the constitutional government by force, or the vandalism or destruction of state funds in accordance with the terms of the first passage of Article 159 of the Penal Code. If the unlawful group's only violation was its failure to communicate the statutes to the government, affiliation to this group constitutes a misdemeanor pursuant to the provisions of the second passage of the aforementioned Article 159."¹²

¹¹ Cassation Court ruling No. 209/1992

¹² Cassation Court ruling No. 240/1991

Moreover, the law grants the Minister the right to consult the governor and agree in writing to the licensing request within a maximum period of 30 days in order to ensure the soundness of the establishment of the association or entity. On the whole, the Ministry of the Interior denied the licensing of four associations in 2006, as their founding bodies failed to obtain security approval and the Ministry of the Interior disapproved their statutes. Although the denial of registration is often attributed to security considerations or in order to achieve a public interest or maintain public order, it can be concluded that reasons for the denial are primarily undisclosed political ones.

In terms of judicial applications, the Cassation Court upheld the Minister of the Interior's decision to reject an application to register a family-based association in order to maintain public order. The Court stated that "according to Article 2 of the Associations and Social Entities Law No. 33 of 1966 amended by Law No. 9 of 1971, the second passage of Article 7 of the same law, the authority of the Minister of the Interior who registers ordinary associations is a discretionary authority that entitles the Minister to register any association consistent with the public interest, and therefore, the refusal to register a family-based ordinary association falls within the Minister's discretion if the association's project or its proposed statutes aggravate tribalism and familial disputes, and divide loyalty between the homeland and the family leading to intolerance and abhorrent tribalism as well as repulsion among members of the same society."¹³

The Cassation Court also upheld the Minister of the Interior's decision to reject approval of the registration of the "National Association for the Defense of Public Freedoms" based on the Governor's opinion. In a decision issued in 1998, the Court rejected an appeal submitted by the National Association because the "appellants submitted a request to the Minister of the Interior on March 5, 1997 to approve the registration. The Minister in turn consulted the Governor of the Capital who made a recommendation of rejection on grounds that there were other associations already registered with the Ministry of the Interior serving the same goals."

Registration applications are usually characterized by short processing times, simplicity and low costs. Except for in a limited number of cases that entail greater security procedures, the opinion of the concerned governor or the General Intelligence Department and security apparatus. After obtaining the approval decision, the association or entity becomes legally independent and capable of undertaking legal actions within the scope of its goals and objectives. Members of the association or entity are also entitled to resort to the judiciary to challenge the legality of the General Assembly election, to claim compensation for any damage caused to them, or to demand to dissolve the Association in case of a violation of the conditions stipulated by the law. In the event of rejection, applicants requesting the foundation of an association are entitled to appeal this administrative decision before the concerned court, the Cassation Court, under the second paragraph of Article 10 of the Law, which states that "if a response of rejection was received during the period mentioned, applicants are entitled to appeal the decision before the Cassation Court within a period of fifteen days from the date they were notified of the decision." They also have the right to seek compensation before regular courts.

¹³ Cassation Court ruling No. 54/1999

Dissolution and Suspension of Associations

The Law empowers the Minister to dissolve any charity, social organization or federation in specific cases under Article 16 of the Associations and Social Entities Law:

1. Should the Minister be convinced that the association in question has breached its statutes, has not implemented the goals set forth in its statutes, has stopped working for six months or displayed shortcomings in its work, has refused to allow officials to attend its meetings, inspect its premises, documents or records, has expended its funds for purposes other than those specified, has submitted to concerned official authorities incorrect data, generally violated any provision of this Law, or if one third of its General Assembly members who are entitled to vote voted in favor of its dissolution.

One could argue that the reasons and motives for dissolving associations are undeclared similar to the reasons for denial of registration. The dissolution is often justified by and attributed to "undermining the objectives or legal violations." NCHR reports that the number of associations dissolved by the Ministry of Social Development reached nine by the end of 2005 because, according to Ministry sources, they deviated from the goals they were founded to pursue or their statutes contravened the Associations and Social Entities Law No. 33 of 1966.¹⁴ In 2006, five associations were dissolved for violating the Associations and Social Entities Law No. 33 of 1966, or for failure to achieve their general goals or to rectify their conditions or because they did not implement the objectives set forth in their statutes, stopped working for six months or displayed shortcomings in their work.

There were two cultural bodies dissolved in 2005 because their governing bodies' work halted. Three others were denied licensing because of the Ministry of Culture's lack of jurisdiction over issuing the licenses required. The Ministry of Culture dissolved two cultural entities in 2004; the first was the Cultural Creativity Forum / Zarqa due to the governing body's inability to organize any serious activities, while the second was Al Fajr Club / Irbid because of its inability to rectify its financial situation. A number of licensing requests were rejected for their failure to meet the conditions contained in the Associations and Social Entities Law.

Although the reasons cited by the law may exist in many associations and entities due to their governing bodies' lack of experience in management and administrative matters and their inability to become familiar with accounting accepted methods, associations targeted for dissolution are restricted to those with political or ideological orientations opposing that of the government such as fundamental Islamic associations, or those associations whose founders include individuals with a partisan history of opposition to government policies. Those targeted have included Leith Shbeilat in the past, Ali Abu Sukkar, Deputy Toujan Faisal because of her writings in opposition to government policies. Currently they include members of the Islamic Action Front, and Communist parties such as the "Ashaghila" who have been arrested and investigated.

The Law allows association founders to resort to the judiciary in order to challenge the dissolution decision before the Cassation Court. On 4/7/2007, the Cassation Court overruled

¹⁴ NCHR report for 2006

a decision issued by the Minister of Culture ordering the dissolution of the "Al-Kitaab and the Reformist Sunnah Association" and withdrawing its license issued by the Ministry of Culture late last April. The Court indicated that the dissolution procedures were flawed in form and substance.

Organization and Operation

The legal basis stipulated in the Constitution and endorsed by law provides the freedom to join or leave associations or entities, and the freedom of an association or entity to administer its operations and activities in accordance with the provisions of the law. The statutes approved by the members are considered the basic reference for the work of an association. However, this freedom is not absolute since the law grants the Minister broad powers to interfere with and restrict the work of associations or entities.

Manifestations of this intervention include:

Despite the fact that Article 12 of the law provides that "the Ministry's relationship with associations and social entities is based on cooperation and partnership in providing and upgrading the level of social services," the same Article gave the Minister or any Ministry employee commissioned by the Minister the right to visit the premises of any association or social entity to search and examine its records and credentials in order to ensure that its funds are expended for the designated purposes, and that it is conducting its work in accordance with the requirements of this law, in harmony with its established goals, and in cooperation with the concerned ministry.

Article 15 stipulates that it is the duty of the association or entity to inform the Ministry of Social Affairs and Labor of the election day of its governing body at least 15 days before the set date. According to the same article, the Minister retains the right to commission a Ministry employee to attend the meeting in order to verify that the election is conducted in accordance with the statutes.

Article 16 lists the reasons for dissolving an association or entity and appointing an interim governing body to assume the powers vested in the governing body under the statutes in the following cases:

"A. Should the number of the governing body members become inadequate to properly convene because of resignation, death or failure to attend three consecutive meetings without excuse, and the failure to fulfill the sufficient number of members in accordance with the provisions of the statutes.

B. Should the governing body violate the provisions of statutes related to the reelection of its members or to summoning the General Assembly to convene, or to accepting memberships, and fail to rectify the violation within a month from the date of the Minister's written warning. The interim governing body shall summon the General Assembly within sixty days from the date it was formed, and present a detailed report the Assembly on the situation of the concerned association. The General Assembly shall elect in this session a new governing body."

According to Article (14/4), the association or entity must, upon receipt of the dissolution order, halt all activities unless it objects to the matter before the Cassation Court. In case the Court overrules the objection, the association or entity must suspend its operations from the date it is informed of the decision. Article 20 states that anyone who, individually or in complicity with other person or persons, violates any of the aforementioned article provisions shall be punished, upon conviction, by paying a fine not exceeding JD50, or imprisonment for a period not exceeding three months, or both punishments.

Another manifestation of the restriction is contained in the Public Meetings Law, which requires in Article 3 the submission of a request to the concerned administrative governor to obtain a prior written approval in order to hold public meetings or to organize marches. The Law also makes it obligatory to submit such request at least three days before the set date in order to carry out either event, and provide names, addresses and signatures of the applicants, the goal of the meeting or march as well as the location and the time set for either event.

Article 8 holds those requesting permission to hold a meeting or organize a march responsible for any damages in the event of a breach of public security or order or damages inflicted on others or on public or private funds during the meeting or a march. Whoever who violates the provisions of this law shall, under penalty of law, be imprisoned for a minimum period of one month and a maximum period of three months or fined a minimum amount of JD200 or a maximum amount of JD1,000, or receive both punishments. Following the issuance of the Public Meetings Law, the Minister of the Interior issued additional regulations on meetings and rallies through which he prohibited "the use of slogans, expressions, songs, drawings or pictures that are detrimental to the state's sovereignty, national unity, security or public order."

The Lower House of Jordan recently endorsed the Anti-Terrorism Law of which Article 4 states that the Public Prosecutor of the State Security Court (SSC) may, in the case of "suspecting that one is associated with a terrorist activity, a suspicion built on a justifiable basis, issue any of the following decisions: order surveillance on the suspect's residence; movements and communications; ban the individual from travel; search the place where the suspect is residing and impound any item relevant to terrorist activity; confiscate any funds suspected to be linked to terrorist activities for three months extendable for a similar period by the SSC." The article allows the suspect to file a "grievance" against these decisions before the same SSC by challenging them "within three days from the date the individual was informed" of the decisions. If the complaint was rejected by the SSC Public Prosecutor or extended for the period as provided above, the individual may appeal before the Cassation Court the decisions. The Cassation Court's decisions in this case are final.

The legislations do not contain any special restrictions on women joining associations. Women enjoy significant presence and representation in many organizations, charities and social entities. The situation is different in terms of their participation in political parties, professional associations and trade unions, where it can be noted that women have a low participation level in governing bodies due to dominant social perceptions and patterns that promote women's presence in charitable activities and diminish it in political circles, parties and associations.

Associations are free to hold meetings at their headquarters and centers without obtaining permission or even notice, but need to notify the concerned administrative governor and obtain a written approval when organizing any activity outside their headquarters and

centers. There are no legal restrictions on the freedom to communicate or deal with the media, or to publish on websites except in the case of violation of the law. However, there is strict security monitoring of communication means, particularly websites. A number of persons were arrested on grounds of electronic crimes (such as publishing articles harmful to the authority of the State). There is no blatant interference in associations' activities and projects as long as they are within the goals and objectives set forth in the statutes, and loyal to the government. However, opposition associations are subject to dissolution and interference such as the Jordanian Women's Union, which was dissolved twice since its inception because of its political positions.

As for cooperation among associations, there are no any legal provisions banning cooperation or local, regional or international networking among associations. Recent years have witnessed the establishment of several networks and coalitions in 2007 such as the "Jordanian Coalition for Civil Society Organizations" which comprises the Arab Organization for Human Rights in Jordan, Amman Center for Human Rights Studies, the Association of Jordanian of Jurists, Center for Child Rights "Haq", the Jordanian Society for Human Rights, Arab Women Organization, and the Jordanian Youth Forum. Coalition founders left the door open for the membership of Jordanian civil society organizations. The coalition endorsed a code of honor citing the international legitimacy of human rights among its references, and considered itself an integral part of the Arab and international society and the anti-globalization movement. In July 2006, the "Arab Network for the Monitoring of Elections" was established in Amman at the initiative of the Amman Center for Human Rights Studies (ACHRS). The Network comprises 45 civil society organizations.¹⁵ However, most of these networks are fleeting and temporary, and are terminated once the goal or task for which they were established is achieved. Discontinuity is a feature that characterizes networks and coalitions in Jordan.¹⁶ There are a number of challenges to building and sustaining networks in Jordan. These include:

1. The ineffectiveness of legislation and laws that contribute to building and sustaining networks such as the Public Meetings Law and the Right of Access to Information Law.
2. Lack of acceptance of collective action and the dominance of individualism at work.
3. Competition among organizations rather than integration and agreement.
4. Limited experience of associations' governing bodies.
5. Limited funding sources.

The government consults and converses with some associations and organizations when taking some decisions relevant to the public interest such as personal status laws, employment and development projects especially with regard to the Millennium Development Goals, and when writing country reports on its commitment to international human rights conventions like the reports submitted to the CEDAW Committee or the Committee on the Rights of the Child. Nevertheless, the government often enacts laws

¹⁵ UNDP, Human Rights in the Arab Countries / Jordan, 2007

¹⁶ Ali Al-Khawaldeh, "Establishment of Networks and Coalitions in Jordan; Challenges and Mechanisms", a working paper presented in "Arab Reformists and the Building of Networks and Coalitions" workshop organized by Al Quds Center for Political Studies on March 24-25, 2007

independently and without consultation with civil society, particularly with regard to political and economic affairs such as the Political Parties, Elections, and the Income Tax Laws.

A number of activists and heads of organizations and committees concerned with freedoms and human rights held what they termed the "security mentality" responsible for what they saw as disregard and neglect on the behalf of successive governments of their demands, memoranda and reports pointing out the absence of a genuine will to prompt true changes in the situation of human rights in the Kingdom. Some analysts attribute the government's refusal to deal with human rights organizations to the accusations directed against such organizations of acting in accordance with a foreign agenda and for foreign governments, as well as accusations that their reports are "subjective".¹⁷

Funding and Financial matters

The Constitution established a special condition on the control of associations' resources as essential in paragraph (III) of Article 16: "the establishment of societies and political parties and the control of their resources shall be regulated by law." The laws have laid down many restrictions that limit the right of associations to acquire or own property and funds or use property other than those licensed. Article 14 empowers the Minister to order the dissolution of any association or social entity if convinced that the association in question has expended its funds on purposes other than those specified, or submitted incorrect statements to the concerned formal authorities.

The new definition of terrorism according to Article 2/147 of the new Penal Code considers any act linked to a banking transaction, particularly the deposit of funds in a bank or financial institution in the Kingdom or the transfer of such funds by a terrorist organization as an act of terrorism "provided that the funds are found to be suspicious and connected with terrorist activity." The new Anti-Terrorism Law allows the government to control the bank accounts of associations, and punishes them for donating to charities suspected of supporting the legitimate resistance in Palestine, Lebanon and Iraq. The government issued a decision that obliges professional associations to subject their accounts and general budgets to the scrutiny of the Audit Bureau, which allows the government to interfere in the freedom of associations to manage their financial affairs and their own resources.

As for obtaining foreign funding, it is a fact that Jordan is a country of limited resources and possibilities, and the funds allocated to support social and charitable work in the general budget are very limited, which obliges civil society organizations to resort to international donors for funding. The most important sources of funding include the United Nations agencies, the European Union and international organizations of different nationalities. The government does not limit access to foreign funding for associations or entities as long as they submit documents proving that these funds have indeed been spent to implement their programs and activities.

The Ministry of Administrative Development decided that financing of civil society organizations must be administered by the Ministry. Following this ruling, donor countries

¹⁷ Assabeel Weekly Newspaper, 27/7/2004

provide funds to the Ministry, which in turn finances the projects of associations and entities applying for funding using applications specifically designed for this end. However, the Ministry is not objective in the disbursement of these funds and has the option to deprive associations of funding based on its own criteria, which makes many associations and organizations reluctant to request funding from the Ministry and resort to donor parties directly instead.

Civil society organizations enjoy tax exemption for being volunteer non-profit organizations. A number of allied organizations receive exemptions from customs or taxes accrued on property. Concerned departments are strict when granting such exemptions to the "less fortunate" organizations.

Oversight, Governance and Transparency

Under Article 14 of the Associations and Social Entities Law, the Minister assumes oversight over the different types of charities, social bodies and federations, while the Minister of Youth and Culture assumes oversight over sports clubs and cultural entities. The Minister or the commissioned employee keeps a register of the names, activity centers and goals of all licensed charities, social bodies and federations as well as any information deemed necessary for inclusion by the Minister.

Article 15 outlines the obligations of the governing body of any charity, social organization or federation as follows:

1. Maintains its correspondence in the headquarters and branches in organized folders and files containing the following information:
 - A. The statutes and names of the governing body's members during each election cycle and the date of their election.
 - B. The names of all members, their identification information, age and date of affiliation.
 - C. Minutes of meetings of the General Assembly in sequence.
 - D. Minutes of meetings of the governing body in sequence.
 - E. Detailed income and expenditure accounts.
 - F. Supplies and assets.
2. Notifies the Minister, through the Office of Social Affairs and Labor located in the vicinity of the association's area of operations, of every modification to its headquarters, amendment to its statutes or partial or entire change of its governing body. The following conditions apply:
 - A. The amendments to the statutes shall only take effect after obtaining a written approval from the Minister after consulting with the concerned federation.
 - B. The change in the governing body, whether partial or entire, shall only take effect after obtaining a written approval from the Minister after consultation with the governor.

3. Every charity, social entity or federation must submit, through the Office of Social Affairs and Labor located in the vicinity of the association's area of operations, two copies of its annual report outlining its activities, the overall amount spent to achieve its goals, sources of income, and any other information requested for submission in accordance with the form prepared by the Ministry. A copy of the report must be sent to the concerned federation.
4. A charity, social entity or federation must obtain a certificate from a licensed auditor who audits the entity's accounts, including those of the branches, at least once a year. The charity, social entity or federation with JD500 may request the Minister to commission an employee to audit its accounts and issue the required certificate at no cost. The entity must in any case send two endorsed copies of the certificate to the Minister and another to the concerned federation within one month from the date of the certificate's issuance.

If the provisions of this article are not adhered to, the Minister retains the right to order the dissolution of any charity, social entity or federation after consulting with the concerned federation if convinced that the entity in question violated in general any provision of this law.

Conformity of Jordanian Laws with International Standards

An important factor in building civil society and maintaining its stability is the existence of a legislative framework harmonious with the fundamental principles of human rights found in the Universal Declaration of Human Rights (UDHR), the two International Covenants and other international conventions on the protection of oppressed groups. All of the international documents reiterated the right of association and the right of assembly to be practiced freely without any form of restriction. Article 15 of the UDHR that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Article 20 of the UDHR stipulates that "(1) everyone has the right to freedom of peaceful assembly and association, and (2) no one may be compelled to belong to an association."

This principle is also reiterated in Article 8 of the International Covenant on Economic, Social and Cultural Rights which stipulates that "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."

Moreover, Article 21 of the International Covenant on Civil and Political Rights establishes that "the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the 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". Article 22 also states:

- "1. 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. 2. 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.”

The Declaration of Principles and Criteria Relating to the Freedom of Association in the Arab Countries establishes in its first article that "every natural or corporeal person enjoys the right to freely participate in the formation and management of associations, and to freely adhere thereto and withdraw therefrom, in order to achieve one or more purposes that do not seek the distribution of profits. The association, in turn, shall enjoy the right to benefit from an independent legal personality enjoying rights and freedoms,” and that “this right shall not be restricted except by provisions stipulated expressly by law and as required in a democratic society. These restrictions shall not be interpreted except restrictively and limitatively; in the event of ambiguity, the principle of freedom shall prevail.”

Although Jordan endorsed all of these charters and declarations on human rights, the Jordanian legislature, on the one hand, has not addressed clearly the question of the relationship between international and domestic laws, and whether there is a priority to apply international law over domestic law or vice versa. On the other hand, the Jordanian Constitution lacks any provision giving priority for the application of international treaties over domestic legislation. This is manifested in Article (33) of the Constitution, which stipulates that the King is the authority with the right to enter into treaties, with the requirement of the Jordanian National Assembly’s ratification of certain types of those treaties.

According to Article 33 of the Jordanian Constitution, the King declares war, concludes peace and ratifies treaties and agreements. In addition, “treaties and agreements which involve financial commitments to the Treasury or affect the public or private rights of Jordanians shall not be valid unless approved by the National Assembly. In no circumstances shall any secret terms contained in any treaty or agreement be contrary to their overt terms.” The international treaties and agreements indicated in Article 33 fall into two categories:

Treaties and agreements that do not require ratification by the National Assembly.

Treaties and agreements that require ratification by the National Assembly in order to become binding because this category of treaties and agreements involves financial commitments to the Treasury or affects the public or private rights of Jordanians.

Therefore, Article 33 of the Jordanian Constitution did not expressly establish the compulsory nature of international agreements and treaties signed and ratified in accordance with domestic constitutional procedures. Furthermore, the Constitution did not identify the priority these treaties receive in the domestic legal system, especially in the event of a conflict between the provisions of these treaties and applicable national legislation in the State. The Higher Council for the Interpretation of the Constitution interpreted Article (33) of the Constitution as follows: "Since the word (treaties) denotes, in its general sense, agreements between two or more countries whether related to political, economic or other interests, and denotes, in its specific sense, important international agreements of a political nature such as peace treaties, treaties of alliance and similar agreements. In contrast, the documents states sign in non-political affairs are termed by the international jurisprudence conventions or agreements. Hence, the agreements in

question in this article refer to the agreements held between two or more signatory countries and are related to non-political affairs".¹⁸

Although it is understood from the aforementioned interpretation that human rights conventions are agreements that involve financial commitments to the Treasury and therefore must be presented before the Jordanian National Assembly for approval (ratification), the absence of a constitutional provision giving international treaties priority in application over domestic legislation does not exempt Jordan from its responsibilities. For the Jordanian government to fulfill its international commitments in this regard, it must amend the current Jordanian Constitution so as to include explicit text establishing the predominance of international treaties over domestic law, and the obligation to publish them in the Official Gazette. Moreover, it does not exempt the Hashemite Kingdom of Jordan from its obligation to meet the international commitments of these treaties since Jordan agreed voluntarily to join them. The principle to which the government should adhere is the obligation to implement this Charter, which stipulates the principle of respect for the obligations arising from treaties and other sources of international law.

“Ratification of international agreements alone does not mean de facto implementation of those agreements, nor does it necessarily mean that the country has committed to the agreements it has ratified because lack of de facto and direct implementation often continues despite international regulations.”¹⁹ Likewise, the lack of implementation of commitments contained in any international agreement is equal to lack of ratification. In fact, it is more detrimental because the practice of making exceptions on the ground despite ratification means that the will of the state in question to implement the agreement it has ratified is not genuine and dishonest. The true will in this case is embodied in the lack of desire to provide legal, social, economic and political protection. Lack of amendments to domestic legislation commensurate with ratified agreements reveals lack of real commitment, and lack of enforcement of the provisions of those agreements as law before national courts reveals another type of lack of commitment. Furthermore, the absence of serious effort towards providing social and educational programs to eliminate prevailing social perceptions and cultural patterns belies another type of lack of serious commitment.

Jordan’s lack of commitment to the international human rights agreements and documents it has ratified in the field of the right of association and the right of assembly has the following manifestations:

- I. The Associations and Social Entities Law requires that such bodies obtain a written authorization from the Minister as a prerequisite for their establishment. This practice is not consistent with Article 4 of the Declaration of Principles and Criteria Relating to the Freedom of Association in the Arab Countries, which asserts that “The fundamental principle, on which the freedom of Association is based, is the right to form associations without the need to obtain a prior permit or license. Thus, associations are formed by the agreement of their founders; their formation can be made public by a previous

¹⁸ Dr. Mohammad Olwan “the Binding Force of International Treaties and Conventions on Human Rights,” series on women’s and children’s rights, UNICEF, Amman Office - Jordan

¹⁹ Arab Women’s Committee of the Arab Lawyers Union “The Development of Global Discourse on Women: A Critical Arab Perspective,” portfolio of research papers of the 19th Conference of the Arab Lawyers Union, 1997, page 8

information/notification, but may not be subject to any previous intervention by the public administration or the judiciary.”

- II. Jordanian law allows the Minister to seek the opinion of the administrative governor (administrative and security agencies) before granting approval for the establishment of an association or organization. This practice contradicts the principle in Article 5 of the Declaration of Principles and Criteria Relating to the Freedom of Association in the Arab Countries, which rules against the use of an association’s objectives, regulations, founders or their number or affiliations, as reasons for restricting the establishment of that association regardless of its field of work or category.
- III. The law allows the Minister to interfere in the administration of associations and in the organization of their elections to the point of appointing an interim governing body in place of their original governing body. This practice contradicts Article 8 of the Declaration, which outlines the right of association founders to administer their associations freely and without interference.
- IV. The Associations and Social Entities Law, the Penal Code and the Anti-Terrorism Law deem it admissible to search the headquarters of associations and organizations and monitor their funding sources on grounds of suspicion only. This practice contradicts the provisions of Article 13 of the Declaration, which outline the associations’ right to develop their financial resources without constraint.
- V. The Public Meetings Law places constraints on the right of associations to organize rallies, sit-ins and demonstrations, contradicting the principles contained in the Two International Covenants.
- VI. The Associations and Social Entities Law permits the dissolution of any association or organization. This is not in accordance with Article 17 of the Declaration of Principles and Criteria Relating to the Freedom of Association in the Arab Countries, which provides that the public administration does not have the right to dissolve associations, and that associations may not be dissolved except by a resolution passed by their own governing bodies or by a final and enforceable decision of a court.
- VII. The Associations and Social Entities Law imposes penalties that restrict freedoms (imprisonment) on the members of an association if they violate the provisions of the law, contradicting the Declaration of Principles and Criteria Relating to the Freedom of Association in the Arab Countries which stipulates that no criminal punishment may be applied to the civil activities of associations or their members.
- VIII. Article 13/B of the Labor Law grants labor inspectors the right to inspect the registers of trade unions, which is considered interference in the affairs of the unions and diminution of their independence in the administration of the affairs of their members, in contradiction with Article 2 of the Freedom of Association and Protection of the Right to Organize Convention (No. 87).

Finally, the work, development and stability of civil society organizations are dependant on the provision of an appropriate legislative environment and open administrative procedures. Therefore, harmony and agreement between these legislations must be achieved so as to avoid any conflict between them in order to provide the appropriate environment for the work of civil organizations. This harmony is absent in Jordanian legislation related to the work of associations.

For example, it is not logical for the Political Parties Law to encourage people to be engaged in political parties while the Public Meetings Law places prohibitive constraints on the organization of political party activities. Neither is it logical to have a “modern” law for the establishment of associations while the Anti-Terrorism Law permits searching the headquarters of associations and arresting their members simply on suspicion of the presence of a connection to a “terrorist” group. Furthermore, it is not appropriate for Jordan to ratify international documents and conventions on human rights while it violates what it has committed to in reality.

Therefore, the Jordanian government must implement the principles it has committed to under international documents on human rights in general, and the right of association and the right to assemble in particular. The government must also provide an appropriate legislative environment that contributes to revitalizing the role of civil society organizations as essential partners in the processes of development and policy making. The government is also obliged to limit the administrative obstacles built on the security mentality in its dealings with civil society organizations and to work to provide the right climate for the work of those organizations so that we can prove that Jordan is truly “a state of law and institutions.”