

Jordan

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The Hashemite Kingdom of Jordan is a constitutional monarchy. On 7 February 1999, King Hussein bin Talal who had been the ruling monarch since 1952 passed away and was succeeded by his son, Abdullah bin Hussein. The Jordanian monarch is the head of state and shares executive power with the Prime Minister and other Cabinet members who are responsible to the parliament. The King appoints and dismisses the Prime Minister and the other Cabinet members. Islam is the state religion in Jordan.

The parliament consists of a 40-seat upper house, the Senate, and a 80-seat lower house, the Chamber of Deputies. Members of the Senate are appointed for four years by the King and the deputies are directly elected, also for a four year term. The King may convene, adjourn and suspend the lower house of the parliament.

Human Rights Background

Since 1989, significant improvement has been witnessed in Jordan. Parliamentary elections have been restored and martial law suspended. A greater margin of freedom has been installed.

Freedom of expression and freedom of the press are still infringed upon somewhat in Jordan, despite the 1999 amendments to the Press and Publications Law which removed some restrictions. Journalists remain a vulnerable group in Jordan and face harassment if they criticise the royal family. Harassment goes as far as arrest and conviction. Journalists are also pressured into conducting self-censorship.

Jordan has committed itself to live up to international human rights standards by becoming a state party to six major UN human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. With regard to the Convention on the Elimination of Discrimination against Women, the monitoring committee expressed its concern in January 2000 that although the Convention was ratified in 1992 and:

although the Convention acquired the force of law within the country upon ratification, it has still not been published in the Official Gazette, which is a prerequisite to it becoming legally binding.

Honour Killings

According to reports of the UN Special Rapporteur on Violence against Women, each year about 25-30 women are killed in Jordan in so-called "honour-killings", which refers to the murder of a woman by a family member for the perceived or presumed violation of family honour. Often the perpetrators receive only a mild sentence as the practice of honour-killings is socially accepted.

Jordan's first and second periodic reports were considered by the Committee on the Elimination of Discrimination against Women (CEDAW) in January 2000. During the presentation of the reports of Jordan a representative of the Jordanian Government referred to a number of proposed revisions to the Penal Code that were pending before parliament. These included amendments to provisions relating to the penalties for adultery and for violence against women, as well as rape and murder.

A proposal made by the government, supported by the royal family, to repeal Article 340 of the Penal Code, which exonerates a man for killing or injuring his wife or certain other female relatives in an adulterous situation, had also been placed before parliament. On 27 January 2000, however, the lower house of parliament did not accept this proposal to abolish Article 340. The Senate had, in fact, earlier voted to abolish it. In March 2000 the parliament was to vote again on the matter.

In its Concluding Observations the Committee expressed its concern:

- that cultural practices and the persistence of strong stereotypical attitudes about the roles and responsibilities of women and men affecting all spheres of life are impediments to the full implementation of the Convention;
- that several provisions of the Penal Code continue to discriminate against women. In particular, the Committee is concerned that Article 340 of the Penal Code provides a defence to a man who kills or injures his wife or his female kin caught in the act of adultery.

The Committee urged the government:

to provide all possible support for the speedy repeal of Article 340 and to undertake awareness-raising activities that make honour killings socially and morally unacceptable. It also urges the government to take steps that ensure the replacement of protective custody with other types of protection for women.

The Judiciary

The Constitution provides for the independence of the judiciary. However, the judiciary is sometimes subject to pressure from the executive branch in politically sensitive cases.

There are three types of courts in Jordan: civil, religious and special courts. The civil courts include Magistrate Courts, Courts of First Instance, Courts of Appeal, the Court of Cassation and the High Court of Justice. Magistrate courts, the lowest in the civil system, hear minor criminal and civil cases; more important cases go to Courts of First Instance. Decisions of these courts are subject to review by the Courts of Appeal. The Supreme Court of Jordan presides over cases against the state, hears appeals, and interprets the law.

Religious courts (Shari'a Courts) deal with personal status matters and rule on issues such as marriage and divorce for Muslims and inheritance cases involving both Muslims and non-Muslims.

State Security Court

The state of emergency and martial law, declared in 1967, were suspended in 1991 and a State Security Court was established. The court is comprised of three judges who may be either civilians or military officers, appointed by the Prime Minister. Lawyers have challenged the appointment of military judges to the State Security Court in civilian cases as a violation of the independence of the judiciary (see Attacks on Justice 1996).

The State Security Court has a broad range of competence, including jurisdiction over cases involving sedition, armed insurrection, financial crimes, drug trafficking, slandering the royal family, crimes involving the possession of weapons and explosives and conspiracy against state security.

Individuals to be tried before the State Security Court are usually held in pre-trial detention without access to lawyers until shortly before trial, which are frequently held in camera. Confessions extracted under duress have been accepted by the State Security Court, although the Court of Cassation has ruled that the State Security Court cannot issue death sentences based on such confessions alone. Sentences issued by the State Security Court may be appealed to the Court of Cassation and death penalties are automatically referred to it for review.

Judicial Council

Judicial affairs are administered by a Judicial Council. The Judicial Council is composed of ex-officio members: the Chief of the Court of Cassation, the Chief of the High Court of Justice, the Attorney General, the Secretary General of the Ministry of Justice, the Chiefs of the Courts of Appeal, the two most senior judges in the Court of Cassation, the most senior Inspector of the Ministry of Justice and the Chief of Amman's Court of First Instance.

The Council examines matters related to the judiciary and the Prosecutor's office. It then reports to the Minister of Justice with recommendations relating to improving the functioning of the courts and public prosecutions. Judges are appointed, transferred, or removed upon a decision of the Judicial Council, confirmed by the King. Article 24 of the Law on the Independence of the Judiciary states that judges may not be transferred from a judicial career to another profession without prior consent of the Judicial Council.

Article 30 of the Law on the Independence of the Judiciary provides that disciplinary action may be undertaken by the Public Prosecutor upon request of the Minister of Justice. The Judicial Council is only to be informed of the Minister's request. If the Public Prosecutor fails to submit a case against the judge within 15 days, the Council can initiate its own disciplinary procedures. The action should state all the charges and evidence against the judge. Grounds for disciplinary action include delays in the examination of cases or in the pronouncement of judgements and revealing state secrets. After it makes the necessary investigations and interrogates witnesses, the Judicial Council may decide to hold a hearing which is made public only on the request of the judge. The judge may present his or her position personally or be represented by a lawyer. The decision should include the reasons on which it is based and may be appealed before the Supreme Court.

Appointment, Promotion, Transfer and Dismissal

A committee whose members are appointed by the King decides about appointment, promotion, transfer and dismissal of judges. The Ministry of Justice has great influence over

a judge's career. There have been several allegations that judges have been reassigned temporarily to another court or judicial district in order to remove them from a particular case.

Security of Tenure

According to Article 43 of the Law on the Independence of the Judiciary, the age of retirement for a high judicial office, such as those of the High Court of Justice, the Court of Cassation and the presidency of the Courts of Appeal, is 72. All other judges may remain in service until they reach the age of 68.

As reported in the 1996 edition of Attacks on Justice, Article 14 allows the Judicial Council, upon the recommendation of the Minister of Justice, to require the retirement of any judge who has completed the period of service prescribed by the law on retirement. Consequently, judges may be forced to retire upon completion of 20 years of service or they may be suspended, in accordance with the Law on Civil Service, with half-pay, upon completion of 15 years of service. The Minister of Justice has used Article 14 in the past to recommend to the Judicial Council that senior and independent judges be forced to retire, as in the case of Judge Farouk Al-Kilani for example.

Government Interference

There have been several examples of government interference with the judiciary over recent years. A case is known about a judge who was pressured by the President of the Judicial Council to replace the bail he had set in a case by a legal guarantee. The judge resigned from his post.

In 1998 Judge Farouk Al-Kilani was forced to retire from the Supreme Court, allegedly because of his involvement in the High Court of Justice's decision that considered the May 1997 amendments to the Press and Publications Law unconstitutional.

Another example of government interference with the judiciary is the appointment of three judges for a tribunal specially established to deal with a case of child trade. The chosen court members considered and decided this case according to the wish of the Minister of Justice. The Ministry of Justice used its influence over the judiciary in this case to protect an influential person. In another case a judge gave a reception to celebrate the verdict of innocence of a politician. In addition, he was given a promotion afterwards.