

## *Rule of Law Quick Scan Jordan*



The Rule of Law in Jordan:  
Prospects and Challenges

# **Rule of Law Quick Scan**

## **Jordan**

### **Prospects and Challenges**

#### **HiiL Rule of Law Quick Scan Series**

This document is part of HiiL's Rule of Law Quick Scan Series. Each Quick Scan provides a brief overview of the status of rule of law in a country.

July 2012

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## Foreword

This document is part of Hiil's *Rule of Law Quick Scan Series*. Each Quick Scan provides a brief overview of the status of rule of law in a country.

The Quick Scan Series is primarily meant for busy practitioners and academics who want to have a snapshot of the rule of law in a country, particularly with a view to understanding what the main trends and challenges regarding the rule of law are and where local and international stakeholders can possibly make a positive difference.

Each Quick Scan is written by a reputable rule of law expert from academia and/ or practice, who is either from the concerned country or has spent many years living and working there.

The Quick Scan Series aims to be neutral and balanced. To achieve this aim, the authors have consulted sources from a wide range of stakeholders, including the government, (inter)national NGOs, academia, and international organizations. They present differences of opinion or analysis, but do not pronounce judgment on which view is correct. In the context of their work on the Quick Scan they have visited the country and talked to different stakeholders, presented drafts and revised in view of the comments they received.

All Quick Scans have the same format. Part A describes relevant historical, social, political and economic context. Part B analyses positive trends and challenges. Part C is an overview of relevant indicators on rule of law. To identify relevant trends and challenges in rule of law, the Quick Scans are guided by the conception of the rule of law developed by the World Justice Project Rule of Law Index.

This Quick Scan on the rule of law in Jordan has been prepared in partnership with the Arab Center for the Development of the Rule of Law and Integrity (ACRLI). In particular, ACRLI organized national level meetings to generate input and feedback from a wide variety of stakeholders. ACRLI's outstanding professionalism in identifying and committing stakeholders, leading the workshops, assisting the authors and organizing outreach activities has been invaluable.

The Series is made possible by generous funding of the Dutch Ministry of Economic Affairs for the Innovative Rule of Law Initiative.

The Hague,

Ronald Janse  
Hague Institute for the Internationalisation of Law

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# Rule of Law in the Hashemite Kingdom of Jordan

## Introduction

The study of the rule of law typically focuses on the judiciary. This is because an independent judicial system is viewed as the guardian of the rule of law, as a guarantee of equality before the law, and as the protector of basic human rights and freedoms. The judiciary interprets laws and enforces their application. It also monitors the use of power and ensures that such use is in accordance with the law. A good judiciary also ensures the facilitation of litigation, prevents delays in this process, and makes the courts available to all on an equal basis.

However, the judiciary is only one of three powers on which many government systems are based. The judiciary does not function in isolation from the legislative and executive branches. Its relation to these two powers is governed by a system of checks and balances that ensures the separation of powers and ensures that none of branches encroach upon another's competence. Such balance is the safeguard of the rule and supremacy of the law. Without this balance, the rule of law is undermined. Therefore, a rule of law crisis in any state is in effect a democracy crisis. This is because law can only rule within the framework of a democratic system. If the system fails, law cannot rule.

In order for the rule of law to endure, the judiciary must be independent and capable of exercising some control over the other branches of power: the executive branch must be subject to liability and accountability, and the legislature must be capable of exercising its control over the executive. The constitutional system of any state determines the form of the state, the political system, the powers of three branches of government, and the basic rights of individuals. So long as the constitutional system is capable of achieving a balance between powers, it is immaterial whether it is based on a presidential or parliamentary system, and the rule of law remains a reflection of the health and observance of the constitutional system.

Jordan is no exception. The state of the rule of law suggests a malfunction in the democratic system, as there is an imbalance between the powers in favor of the executive. The executive monopolizes authority and encroaches upon the judiciary and the legislature. In this context, a crisis of the rule of law in Jordan is inevitable.

This report seeks to provide a quick scan of the state of the rule of law in Jordan. This report has two main parts. The first part is an overview of the situation in Jordan including the constitutional system and the legal system. This overview sheds light on the constitutional and legal provisions that undermine the judiciary. It also sheds light on the provisions and practices that restrain the transition of power and shield the executive from liability, and thus, render the legislature incapable of properly exercising its legislative and supervisory role. This first part also highlights the laws and the stakeholders that contributed to divesting the Jordanian political system of the core characteristics of a democracy. This has led to a system lacking strong public institutions that are accountable to the law and that have independent supervisory entities with the power to enforce the rule of law.

Despite the existing challenges and negative influences, one cannot say that there is an absolute absence of the rule of law in Jordan as is the case in the so-called failed states. The second part of this report points out a number of positive trends affecting the rule of law as well as some of the challenges in Jordan.

## Part A: Overview of the Rule of Law in Jordan





# 1. Overview

Jordan is a relatively small country with an area of 88,778 km<sup>2</sup> that is mostly composed of desert land.<sup>1</sup> It has a population of 6,113,000.<sup>2</sup> The country, which is poor in natural and financial resources, has lived in a complex and tense geopolitical condition since its establishment. This is mainly due to the fact that Jordan is surrounded by countries with varying political, economic, and security conditions: Syria to the North; Iraq and Saudi Arabia to the East and South; and Israel and the West Bank to the West. Jordan is mainly dependent on US and European financial aid as well as oil grants from Arab Gulf states, which employ a large number of Jordanian citizens. While most of the Arab Gulf States, especially Saudi Arabia which shares a long border with Jordan, are largely autocratic states that adopt standards far from international standards for the rule of law, Jordan's eligibility for US and European aid is based on the international and regional political positions of Jordan, as well as other practices by the Jordanian government related to the rule of law and democracy.

The Jordanian Constitution of 1952 set up a parliamentary system of English origin. Additionally, many of its provisions are derived from the Belgian Constitution, which is based on a constitutional monarchy in which the Monarch is exempt from liability and responsibility for government acts. Such liability and responsibility is instead borne by the ministers.<sup>3</sup> This arrangement means that the government bears responsibility before the House of Representatives on behalf of the Monarch for all actions of the executive branch. The Jordanian Constitution provides for a parliamentary system of government with a hereditary monarchy, meaning that the nation is the source of all power and that the Monarch is immune from all liability and responsibility<sup>4</sup> and assumes executive power through the ministers.<sup>5</sup>

However, the reality in Jordan is quite different. The Monarch has exercised extensive government powers for many years. Effectively, the Monarch issues orders for holding elections and dissolves the House of Representatives as he wishes, and keeps the country without parliamentary representation for as long as he deems appropriate, sometimes extensively. The Monarch also appoints and dismisses governments without providing justification. All of this results in a lack of clear democratic transition of power because the Monarch's appointment and dismissal of ministers is not the result of general parliamentary elections through which political parties arrive at power and hand that power over to each other.<sup>6</sup>

Throughout the history of Jordan, only one parliamentary government was formed, in 1956, when the Monarch entrusted the leader of the parliamentary majority with forming a coalition cabinet. However, this government was short-lived. The Monarch dismissed it within months of its formation, after which political parties were dissolved and then prohibited until the early 1990s.<sup>7</sup>

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<sup>1</sup> Website of the Jordanian Department of Statistics, [http://www.dos.gov.jo/dos\\_home\\_a/main/jorfig/2010/2\\_1.pdf](http://www.dos.gov.jo/dos_home_a/main/jorfig/2010/2_1.pdf) (date last accessed: March 9, 2012).

<sup>2</sup> Website of the Jordanian Department of Statistics [http://www.dos.gov.jo/dos\\_home\\_a/main/jorfig/2010/3\\_1.pdf](http://www.dos.gov.jo/dos_home_a/main/jorfig/2010/3_1.pdf) (date last accessed: March 9, 2012).

<sup>3</sup> Mohammad Hammouri, *Rights and Freedoms Between Political Whims Constitutional Requisites, First Edition* (2010), p. 197.

<sup>4</sup> *Jordanian Constitution of 1952*, as amended, published on p. 3 of Issue No. 1093 of the Official Gazette dated 8 January 1952, Article 30.

<sup>5</sup> Jordanian Constitution, Article 26.

<sup>6</sup> During the year 2011, Prime Ministers Samir Rifai and Marouf Al-bakhit were dismissed and Oun Khassawneh was appointed.

<sup>7</sup> This was the government formed by Suleiman Nabulsi, leader of the National Socialist Party, after that party won the largest parliamentary block in the 1956 elections. Prime Minister Nabulsi formed the coalition government with a number of other political parties that won parliamentary seats.

This situation continues to bring to the forefront the issue of accountability. Because the ministers are subject to all forms of constitutional accountability including being subject to trial, votes of no-confidence, and questioning by parliament, the ministers and Prime Minister sometimes face responsibility for actions that are not the result of their own decisions. The Monarch having the final word in government is in sharp contrast with the basics of democratic rule whereby the party that exercises power must bear responsibility for its actions. The lack of accountability by the Monarch for actions of the Monarch has become the norm in Jordan by virtue of successive constitutional amendments that strengthened the powers of the Monarch and the government at the expense of the judiciary and the legislature.

This in turn has led to a steady pattern of disrespect for constitutional provisions that pertain to the transition of power and to basic rights and freedoms, sometimes through the interpretation of these provisions and their application in a manner that contradicts the original objectives behind such provisions, and other times through the enactment of legislations that strip these provisions of their strength. This demonstrates a blatant disregard for the foundational political system which the Constitution defines as a parliamentary system. The same is true for use of the regulatory constitutional provisions that pertain to the election, to dissolving and convening the House of Representatives. These powers have been used for the purpose of dissolving parliament for extended periods of time during which the Monarch and the government have ruled the country without real supervision. Only once in the history of Jordan has the Jordanian Parliament completed its full constitutional term (the Parliament elected in 1956).<sup>8</sup> Between the years 1974 and 1984, the Jordanian parliament totally ceased to exist.<sup>9</sup> Due to this weakened oversight over the executive, parliamentary elections were rigged several times in Jordan. Despite reports issued by credible local and international entities exposing the fixing of elections,<sup>10</sup> none of the ministers or officers of the Ministry of Interior or directors or officers of the General Intelligence Department ("GID") who were responsible for manipulating the elections were ever held accountable. Also, given the immunities that the constitutional and legal provisions grant ministers and security officials, the judiciary was unable to punish any ministers or military personnel.

Following the dissolution of the House of Representatives in 2001, the government under which the Parliament was dissolved issued over two hundred provisional laws. Provisional laws are laws that are issued by the government in the absence of the House of Representatives and remain in force until the Parliament convenes and reviews them. These laws are deemed unconstitutional by most independent Jordanian jurists.<sup>11</sup>

This absence of accountability allowed for corruption in dealings with public property, which could not be controlled by the weakened judiciary and the fixed parliament. Additionally, the public debt and budget deficit increased to an extent that it crippled the government's ability to function. It is no surprise that when the so-called Arab Spring reached Jordan, it gave rise to a popular movement that continues to demand political reform and action against corruption. Pressure from this movement forced the Monarch to allow for amendments to the Constitution. A Royal Commission was formed to draft amendments, which were subsequently ratified by the bi-cameral parliament in the fall of 2011.<sup>12</sup> The amendments introduced provisions to the Constitution that, to a certain extent, reinforced the chapter related to the rights of Jordanians, but did not address the Monarch's powers.

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<sup>8</sup> Website of the Jordanian National Assembly, available at [http://www.representatives.jo/App/Public/Member/ViewA.asp?Company\\_ID=292](http://www.representatives.jo/App/Public/Member/ViewA.asp?Company_ID=292) (date last accessed: 9 March 2012).

<sup>9</sup> Website of the Jordanian National Assembly, available at [http://www.representatives.jo/App/Public/Member/Category\\_ListA.asp?LanguageAction=Arabic](http://www.representatives.jo/App/Public/Member/Category_ListA.asp?LanguageAction=Arabic) (date last accessed: 9 March 2012).

<sup>10</sup> *Report of the National Center for Human Rights on the 2007 Parliamentary Elections*, available at <http://www.nchr.org.jo/Arabic/ModulesFiles/PublicationsFiles/Files/electionMonitor2007.pdf> (date last accessed: 9 March 2012).

<sup>11</sup> This took place in June 2001 during the term of the government of Prime Minister Ali Abu Al-Ragheb.

<sup>12</sup> *Amended Jordanian Constitution of 2011*, published on p. 4452 of Issue No. 5117 of the Official Gazette dated October 1, 2011.

The amendments did make some adjustments to the section on ministers by providing for their trial before regular courts for crimes resulting from the performance of their ministerial functions (as opposed to the previous practice of trial before a special court). Furthermore, the amended Constitution provides for the establishment of a Constitutional Court and for an independent electoral commission. The amendments also shifted the authority to determine the validity of parliamentary elections from the House of Representatives to the judiciary and introduced a new level to the administrative judiciary, which was previously assumed by one court rendering final decisions. Additionally, the amendments restricted the authority of the government to issue provisional laws in the absence of the House of Representatives and limited the crimes for which civilians may be tried before military judges to five crimes only.

Under pressure from the popular movement, the government also felt compelled to refer a number of corruption cases to the courts, which resulted in widely endorsed accusations against a large number of current and former ministers and officials. These cases are still pending at the time of the writing of this report.

## 2. Fundamental Rights and Powers in the Constitution

### 2.1 Fundamental Rights<sup>13</sup>

The provisions of the Jordanian Constitution safeguard the fundamental rights of individuals in Jordan in a manner that is substantially consistent with the standards imposed by international conventions. The Constitution guarantees equality amongst all Jordanians and protects personal freedoms in general. It also guarantees rights related to the physical being of humans, as it prohibits arbitrary detention, imprisonment or restraint of personal freedom, and protects rights of movement and residence, in addition to guaranteeing confidentiality of communications and correspondence of whatever means.

The Constitution also provides a guarantee of the economic rights of individuals; namely, the right to ownership, prohibition of expropriation except for in exchange for just compensation, the right of work, and freedom of trade and manufacture.

The constitutional provisions also contain protections for intellectual freedoms, including freedom of opinion, expression, journalism, printing and publication, as well as freedom of belief and the exercise of religious rites along with the right to, and freedom of, education. It also safeguards social freedoms and rights, such as the right of assembly and association, the right to form political parties and the right of political participation.

### 2.2 The Monarch<sup>14</sup>

The Constitution provides that the Monarch is the head of the state and the supreme commander of the armed forces. The Monarch declares war, concludes and ratifies treaties/agreements, orders the holding of parliamentary elections, convenes, adjourns and prorogues the National Assembly, dissolves the House of Representatives, appoints and dismisses the Speaker and Members of the Senate, and ratifies laws after they are passed by the House of Representatives and the Senate. The Monarch also appoints, dismisses and accepts the resignation of the Prime Minister and ministers. The two significant constitutional clauses provide that the Monarch is immune from all liability or responsibility and that he exercises his powers by virtue of royal decrees signed by the Prime Minister and competent minister(s). The Monarch expresses his consent to the content of the decree by affixing his signature over the signature(s) of the Prime Minister and ministers. This process indicates that the content of a royal decree is prepared and drafted by the ministers and that the Monarch exercises symbolic powers and expresses these powers through royal decrees. Additionally, the chapter of the Constitution on the powers of ministers provides that the verbal and written orders of the Monarch do not release ministers from their responsibilities. This arrangement reinforces the importance of connecting accountability with power, by placing the decision-making power in the hands of the person who is subject to liability and accountability, rather than in the hands of the Monarch who is exempt from liability/accountability.

### 2.3 Council of Ministers<sup>15</sup>

The Constitution gives executive powers to the Monarch, provided that the Monarch uses it through his ministers. The Council of Ministers is comprised of the Prime Minister and other ministers and is in charge of the administration of all internal and foreign affairs of the state. The Prime Minister and ministers are jointly responsible before the House of Representatives for the public policy of the state and for the actions in their ministries. All entities of the executive branch, including the security and military services, report to the Council of Ministers. The Constitution permits members of the House of Representatives and of the Senate to become Prime Minister or minister.

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<sup>13</sup> *Jordanian Constitution*, Chapter Two: Rights and Duties of Jordanians, Articles 5-23.

<sup>14</sup> *Jordanian Constitution*, Chapter Two: The King and his Rights, Articles 28-40.

<sup>15</sup> *Jordanian Constitution*, Chapter Two: Ministers, Articles 41-57.

However, if a sitting minister wishes to run for the House of Representatives, he or she must resign sixty days prior to the election. Also, if the House of Representatives is dissolved, the Prime Minister is obliged to resign within a week of the dissolution and may not form the next government.

## 2.4 Legislative Power<sup>16</sup>

The Constitution provides that legislative power is vested in the National Assembly and the Monarch. The National Assembly is comprised of the House of Representatives and the Senate, whose members enjoy parliamentary immunity from detainment and trial for as long as the National Assembly is convened.

Members of the House of Representatives are elected by secret ballot in a general direct election once every four years and under the supervision and administration of an independent commission constituted by virtue of a law. In addition to the legislative powers and the right to address questions and interpellations to ministers, the House of Representatives casts a vote of confidence in any government when it is formed. It is also empowered to pass a vote of no confidence with regard to the government as a whole or to one of the ministers. Accordingly, the House of Representatives is the entity that possesses the power of political oversight over the government.

Members of the Senate are appointed by the Monarch for a term of four years. The number of senators may not exceed half of that of the members of the House of Representatives. The Senate convenes simultaneously with the House of Representatives and its sessions are suspended in case of dissolution of the House of Representatives. The powers of the Senate are restricted to participating in the legislative process and addressing questions and interpellations to ministers. The Senate does not have the power to grant or deny confidence in the government.

## 2.5 The Judiciary<sup>17</sup>

The Jordanian Constitution provides that the judiciary is an independent power, and that this power is vested in the courts and judgments are pronounced in the name of the Monarch. It also states that judges are independent and that nothing governs the exercise of their functions other than the law. The Constitution also provides that courts are open to all and are immune from any interference in their affairs. The court system in Jordan is based on the principles of equality of litigants before the courts, public trials and adequate reasoning for judgments. The public prosecution office is considered part of the judiciary, and thus, its members are considered judges.

The Constitution divides courts into three types: regular courts, religious courts, and special courts. Accordingly, the laws on court regulation distribute the administration of justice among a large number of regular, *Shari'a*, and special courts. However, the fact that these courts report to diverse authorities negatively impacts judicial unity, prejudices the independence of the courts, and distorts the separation of powers through the establishment of courts that are not subject to the judiciary because their judges are appointed and directed by the executive branch.

In order to give a clearer picture of the Jordanian judicial system, it is important to examine the group of laws that govern the judicial structure:

**Law No. 15 of 2001 on the Independence of the judiciary:** This law governs regular courts in terms of the composition of the Judicial Council. The Judicial Council is vested with the authority to appoint, promote, discipline, removal, and dismiss judges. The Judicial Council also has the power to introduce legislative proposals pertaining to the judiciary, the public prosecution, and litigation procedures.

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<sup>16</sup> *Jordanian Constitution*, Chapter Two: The Legislative Power, Articles 62-96.

<sup>17</sup> This section is based on: *Jordanian Constitution*, Chapter Two: The Legislative Power, Articles 97-110; Attorney Abdul Ghaffar Freihah, 'The Judiciary in Jordan', in Arab Centre for the Development of the Rule of Law and Integrity (ed.), *The Judiciary in Arab States, Jordan-Lebanon-Morocco-Egypt, Observation and Analysis*, p. 119.

**Law No. 17 of 2001 on the Composition of Regular Courts, as amended:** This law governs the various types and levels of regular courts that have competence to hear civil and criminal cases that fall within their jurisdiction. These courts are: Conciliation, First Instance, Appeal, and Cassation Courts.

**Law No. 12 of 1992 on the High Court of Justice:** This is the administrative judiciary court that has the competence to consider objections filed against resolutions or procedures that fall within its jurisdiction. The administrative judiciary operated with only one level until the introduction of constitutional amendments that provided for the establishment of an administrative judiciary with two levels. These amendments, however, have still not been implemented.<sup>18</sup>

**Law No. 19 of 1972 on the Composition of Shari'a Courts, as amended:** This law regulates Shari'a Courts. According to this law, the Shari'a Courts Council is responsible for appointing, promoting, disciplining, removing, and dismissing Shari'a judges. The Shari'a Courts Council is also responsible for overseeing the Shari'a courts of first instance and appeal.

**Law No. 22 of 1938 on Councils of Non-Muslim Religious Denominations:** Courts pertaining to non-Muslim religious communities were established by virtue of this law and are known as religious denominations councils. These religious courts have responsibility for hearing and deciding cases arising between individuals of the same religious group with respect to all their personal status issues.

There are a number of other laws establishing a variety of specialized courts that will not be addressed in full. These laws include: *Law No. 19 of 1986 on the Superior Criminal Court*, *Law No. 25 of 1964 on Income Tax* (established the Income Tax Court of Appeal), *Law No. 14 of 1961 on the State Property Court*, *Law No. 17 of 1959 on the State Security Court, as amended*, *Law No. 23 of 2006 on the Composition of Military Courts*, *Law No. 40 of 1952 on Land and Water Settlement*, *Law No. 38 of 1965 on Public Security*, *Law No. 34 of 2008 on The Gendarmerie*, and *Law No. 24 of 1064 on the General Intelligence Department* (established the Military Council that has competence to try members of the General Intelligence Department).

**The Superior Criminal Court:** Judges of this court are subject to the same rules and conditions that are applicable to regular judges. This court has the jurisdiction to hear cases of murder, rape, indecent assault and criminal abduction as well as all such crimes' attempts.

**Income Tax Appeals Court:** This court considers challenges submitted against assessment and re-assessment decisions of the Income Tax Assessment Officer.

**State Property Court:** According to the interpretive memorandum of the Law on the Preservation of State Land and Property the justification for the establishment of this court is that **"the slow court proceedings as well as the fact that courts do not give cases of assault on state property a special importance has facilitated continuous assaults on such property. Moreover, courts issued easy judgments against assaulters and such judgments were not being enforced."**

**Customs Courts:** These courts look into customs related crimes and disputes arising from the Customs Law and the General Sales Tax Law.

**Settlement Court:** This court has the jurisdiction to hear disputes related to land and water rights in addition to water claims related to irrigation.

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<sup>18</sup> *Jordanian Constitution*, Article 100, as amended.

**State Security Court:** This court was established by virtue of the State Security Court Law. The court is constituted by the Prime Minister and some of its areas of jurisdiction are also determined by virtue of a resolution issued by the Prime Minister. Despite the fact that Article 3 of the above-mentioned law defines the crimes that fall within the jurisdiction of this court, paragraph 11 of the same Article grants the Prime Minister the authority to refer any case to this court if the Prime Minister deems the case is related to an economic security crime. The public prosecution at this court is appointed by the Chair of the Joint Chiefs-of-Staff at the Jordanian Armed Forces.

Judges of the State Security Court are appointed by the Prime Minister upon the recommendation of the Minister of Justice with regard to civilian judges and that of the Chair of the Joint Chiefs-of-Staff at the army with regard to military judges. The court is normally presided over by a military judge and has the authority to conduct trials behind closed doors if it deems it dictated by public interest. Due to the military character of its judges and public prosecution officers, the independence of judges at this court is questionable since these are officers who are normally subject to military discipline rules and who abide by the orders of those who are higher in rank. This has in fact been established in practice, as the Court of Cassation has in a number of occasions reversed the rulings of the State Security Court while clearly indicating that the said court lacked independence and did not provide fair trial guarantees to the defendants who were being tried before it.<sup>19</sup> In addition to that, numerous reports indicated that the public prosecution at the State Security Court issued previously prepared warrants and provided them to the General Intelligence Department as cover for the detainment of persons without proper judicial decisions.<sup>20</sup>

**Military courts:** These courts have the competence to try members of the military for crimes committed during military service.

**Police Court:** This court looks into crimes committed by members of the Public Security Department. It is constituted, by virtue an order issued by the Director of the Public Security Department, of officers who hold a college degree in law.

**Gendarmerie Forces Court:** This court has the jurisdiction to hear cases related to crimes committed by members of the Gendarmerie Forces or any member thereof whose service has ended at the force if the crime was committed during the term of service. This court is constituted, by virtue an order issued by the Director of the Gendarmerie Forces, of Gendarmerie officers who hold a college degree in law.

**The Military Council of the General Intelligence Department:** In accordance with Law No. 24 of 1964 on the General Intelligence Department ("GID Law"), the Director of the General Intelligence Department appoints members of the Military Council and ratifies its decisions that pertain to officers and members of the General Intelligence Department. Judgments of the said Council are considered as final and are not open to any means of contestation.

**The Court for the Trial of Ministers:** This is the "High Tribunal" that the Constitution provided for prior to the constitutional amendments and that was vested with the jurisdiction to try ministers and interpret constitutional provisions. This court has been canceled by virtue of the constitutional amendments that gave the regular courts the jurisdiction to try ministers for crimes resulting from the performance of their functions,<sup>21</sup> while the interpretation of constitutional provisions was assigned to a constitutional court that the amendments provides for establishing.

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<sup>19</sup> See *Decision No. 74/1994* of the Court of Cassation issued on 13 March 1995 in relation to a decision by the State Security Court that convicted a group of army cadets of conspiring to murder the late King Hussein Bin Talal, where the Court of Cassation reversed the said decision and acquitted the convicts on the grounds that their confessions were abstracted by men of the General Intelligence Department under torture and without any objection from the State Security Court prosecutor, which is a defense that the State Security Court did not take into consideration during the trial.

<sup>20</sup> United States Department of State, *Human Rights Practices Report: Jordan*, (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100598.htm> (date last accessed: 9 March 2012).

<sup>21</sup> *Jordanian Constitution*, Article 55, as amended.

The interpretation of the Constitution was previously carried out by the High Tribunal upon a request from the Council of Ministers or a decision taken by the absolute majority of the House of Representatives or the Senate.<sup>22</sup> The constitutional amendments have also cancelled the right of the House of Representatives to accuse ministers and its assumption of the functions of the public prosecution before this special court. Instead, the House of Representatives has been given the right to vote on referring ministers to the public prosecution, provided that the majority of the House members shall pass the referral decision and that justifying causes for such a decision are stated.<sup>23</sup>

To summarize, there are three main types of courts: regular, religious, and special courts. Regular courts possess the general jurisdiction civil and criminal jurisdiction and may also decide disputes between public law institutional and private entities over administrative contracts. The Religious Courts are *Shari'a* courts for Muslims, but there are also non-Muslim Religious Denomination Councils that are responsible for considering matters of personal status pertaining to non-Muslim religious communities that are recognized by the government. As for Special Courts, part of these courts are under the Regular courts in accordance with the Law on the Independence of the judiciary, while the other part fall under military and non-judicial authorities.

## 2.6 A Hybrid System

Although the Jordanian constitutional and legal systems have a good theoretical base, and the Jordanian Constitution follows models from the most democratic states of the world, and Jordan has a set of laws that were in part enacted in accordance with proper legislative practices, the Jordanian political system is difficult to classify. This hybrid political system has a special character that does not conform to textbook models of political systems and cannot be fully equated with models of democratic states. The Jordanian political system is not clearly parliamentary because a majority government is not regularly ruling subject to parliamentary and judicial review, but rather there is a strong presence of a head of state with powers not always clearly subject to parliamentary and judicial oversight. The Jordanian political system is also not clearly presidential. In reality, it is a presidential monarchy where the Monarch exercises actual political power and other entities bear the political and legal responsibility on the Monarch's behalf. This situation negatively impacts the rule of law.

To further complicate matters, there are certain influential stakeholders in the Jordanian legal equation who exercise their functions outside the reach of the law and who are not subject to its rule. Besides the Monarch, who is immune from responsibility and review, there is also the General Intelligence Department that operates ubiquitously and whose actions and those of its members are difficult to subject to the rule of law. Additionally, laws such as the *State Security Court Law* and the *Economic Crimes Law* have provisions that directly violate basic human rights. Similarly, the legislation on parliamentary elections and political parties do not conform to the Constitution and obstruct the democratic transition of power despite the theoretical framework in Jordan of a parliamentary system founded on parliamentary elections and political parties.

## 2.7 Exceptional Stakeholders of Special Influence

Certain actors improperly influence the Jordanian political system by transgresses the purposes of their office or by assuming completely new powers. In both cases, such actors have a negative impact on the rule of law. The most significant of the exceptional actors is the General Intelligence Department (GID).

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<sup>22</sup> *Jordanian Constitution*, Article 122, prior to the amendments.

<sup>23</sup> *Jordanian Constitution*, Article 56, as amended.



## 2.8 The General Intelligence Department<sup>24</sup>

The *General Intelligence Department Law* gives the GID the role of carrying out intelligence operations in order to protect the security of the state. However, the GID also performs internal security operations. In this additional role, the GID plays the role of a law enforcement agency with all the associated investigative powers, including collecting evidence, pursuing suspects, detaining suspect, and tapping telephones. It must be noted that the GID runs its own detention center on its premises. The GID also intervenes in print and electronic media and asserts extra-legal powers such as prior approval by the GID for governmental and non-government appointments, entrance visas, publication licenses, acquisition by non-Jordanians of real estate, establishment of certain companies, and arms licenses. Over the years, such exceptional influence has undermined the legislature and the judiciary, and has significantly hurt freedom of expression.

The GID also performs an intelligence function related to combating administrative and financial corruption/bribery. By virtue of a resolution from the Prime Minister, a special unit was added to the GID in 1996 called the Anti-Corruption Directorate. The purpose of the Anti-Corruption Directorate is to follow-up on hidden administrative and financial corruption cases that are not detectable by the government's audit and review agencies.<sup>25</sup> In accordance with the official correspondence leading to the establishment of this body, the Anti-Corruption Directorate was vested with the responsibility of "combating administrative and financial corruption, bribery, bureaucracy, routine, favoritism, factionalism and clientelism".<sup>26</sup>

A general prosecutor from the Ministry of Justice and other officers from the Public Security Department, all of whom are considered to be members of the law enforcement establishment, were seconded to the Directorate in order to give it the legal capacity to prosecute crimes within its jurisdiction.<sup>27</sup> In reality, the Anti-Corruption Directorate of the GID considers itself a governmental supervisory body that is entitled to exercise a supervisory role over governmental agencies. In some instances, the Directorate also gave to itself the power to mediate between investors and government bodies under the pretext of eliminating obstacles hindering investment. In other cases, the Directorate participated in workshops on simplifying governmental procedures for investors and facilitating economic functions.<sup>28</sup>

Connecting authority with responsibility re-surfaces as an issue in the relationship of the GID with the government. The *General Intelligence Department Law* provides that the GID is a governmental agency that reports directly to the Prime Minister and is subject to his instructions,<sup>29</sup> but in reality it is the Monarch who commands the Director of the GID and issues direct orders to him.<sup>30</sup> More importantly, the GID influences the Constitution and the operation of government. For example, it may even place the Prime Minister and ministers under its surveillance. This effectively means that the government is responsible to the House of Representatives is divided. Meanwhile, the GID is answerable to the Monarch and not to the government or parliament because the Monarch is not answerable to anyone.

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<sup>24</sup> The General Intelligence Department was established in 1964 by virtue of *Law No. 24 of 1964 on the General Intelligence Department* published on page 1290 of issue No. 1790 of the Official Gazette issued on 16 September 1964.

<sup>25</sup> *Letter No. 16/5/1/1322 addressed by the Prime Minister to the Director of the GID*, 24 February 1996.

<sup>26</sup> *Letter of the Prime Minister to the Director of the GID*, 19 March 1996.

<sup>27</sup> *Letter of the Prime Minister No. 16/5/3004*, 25 March 1996.

<sup>28</sup> Mohammad Adayleh (former Director of the Anti-Corruption Directorate at the GID), "Transparency and Anti-Corruption", paper presented at the "Towards a Transparent Jordan" conference held on 22 May 2000 at Amra Hotel in Amman, Jordan.

<sup>29</sup> *General Intelligence Department Law*, Articles 2, 8 and 10.

<sup>30</sup> Ali Mahaftha, *Restrained Democracy – The State of Jordan: 1989-1999, First Edition* (Centre for Arab Unity Studies, 2001), p. 90.

Subjecting the GID to judicial accountability is also difficult. Although the *General Intelligence Department Law* stipulates that its members should be tried for crimes they commit during the performance of their official functions, such trials can only occur before the military court of the GID and these trials must be presided over by an officer with a higher rank than the accused officer. Also, judgments rendered by this court are not open to challenge before any other court.<sup>31</sup> Accordingly, if the Director of the GID were to be tried for a crime, (such as rigging elections), he cannot be sent to trial until after he is interrogated by the military public prosecution at the GID, the officers of which are his subordinates. Thereafter, the GID Director is referred to the GID military court, which must be chaired by an officer with a higher rank than that of the Director, which is practically impossible. This arrangement leads to effective immunity for the GID Director. The arrangement is also a legal obstruction to judicial control of the General Intelligence Department's actions. Thus, the GID, as part of the executive branch, is not subject to any effective accountability or liability.

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<sup>31</sup> Freihat, 'The Judiciary in Jordan', at p. 202.

## Part B: Positive Trends and Challenges Regarding the Rule of Law



# 1. Challenges to Rule of Law

## 1.1 Vulnerable Fundamental Rights

Although the Constitution provides for the protection of fundamental rights in accordance, to a large extent, with the major international conventions of human rights, critics believe that the laws governing such fundamental rights and their implementation create a substantial gap between the Constitutional requirements and the reality in Jordan.

### a. Discrimination and Inequality

Article 6-1 of the Constitution provides that Jordanians shall be equal before the law and that there shall be no discrimination between them with regards to their rights and duties on grounds of race, language, or religion.

- One of the most egregious violations of the spirit of Article 6-1 is imbedded in the election laws in Jordan. Since the establishment of the Jordanian state, all election laws, including the current *Elections Law*,<sup>32</sup> have classified Jordanians according to their social and economic patterns, religion, and race. *The Law of Elections* allocates special electoral districts to specific Bedouin tribes by name. Also this law allocates seats in certain districts for Circassians, Chechens, and Christians, and allocates seats for women under a quota system.<sup>33</sup> Accordingly, the law prevents members of Bedouin tribes from running for office in districts not allocated to their tribes. By the same token, the law prevents those who do not belong to a Bedouin tribe from running in a Bedouin district, even if they reside there. Ironically, this law prevents one of the former Prime Ministers, a decedent of a Bedouin tribe, from running in any of the capital districts. This man was born in the Capital, resided in it, and served as Prime Minister.<sup>34</sup> By the same token, a Jordanian Christian citizen is not allowed to run for elections in those districts for which the *Elections Law* has not allocated Christian seats. This also applies to Circassian and Chechenian Jordanians who can only run in districts with Chechenian and Circassian seats. This is conspicuous discrimination, and it violates the constitutional principle of equality before law between Jordanians. The *Elections Law*, which effectively identifies citizens by tribal, religious, or racial affiliation, naturally encourages loyalty to tribes or racial and religious sects at the expense of loyalty to the state.
- Another violation to the principle of equality is the exception made in criminal proceedings before the State Security Courts. The *State Security Court Law* allows law enforcement members to detain an accused person for seven days before referring him to the State Security Courts Prosecutor.<sup>35</sup> This contradicts the *Criminal Procedure Law*, which is the general law governing criminal procedures, and provides that law enforcement members must refer any accused person or persons to the General Prosecutor within twenty-four hours from the time of detention at a police station.<sup>36</sup> This arrangement gives greater protection to accused persons who are subject to investigation by the General Prosecutor and tried before regular courts. On the other hand, those subject to investigations by the State Security Court Prosecutor and who are tried before State Security Court enjoy weaker protection and fewer constitutional rights. This arrangement undermines the principle of equal protection under the law, and undermines the goal of consistently interpreting the content of those basic rights available to all persons.

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<sup>32</sup> *Provisional Elections Law for the House of Representatives No. 9 of 2010*, published on p. 2938 of Issue No. 5032 of the Official Gazette dated May 19, 2010.

<sup>33</sup> *Regulation for Electoral Districts No. 26 of 2010*, published on p. 2964 of Issue No. 5033 of the Official Gazette dated May 20, 2010, issued by virtue of Elections Law.

<sup>34</sup> Faisal Al Fayez was appointed as a Prime Minister on 25/10/2003. He belongs to the Bani Sakher tribe that comprises the electoral district of central Bedouins.

<sup>35</sup> *State Security Court as amended No. 17 of 1959*, published on p. 529 of Issue No. 1429 of the Official Gazette dated 1 July 1959, Article 7-b-1.

<sup>36</sup> *Criminal Procedure Law as amended No. 17 of 1961*, published on p. 311 of Issue No. 1539 of the Official Gazette dated March 16, 1961, Article 100-1-b.

## **b. The Right to Privacy Needs Further Protection**

The Jordanian Constitution guarantees personal freedom. Article 6 of the Constitution provides that personal freedom is guaranteed and that the law shall penalize all violations of privacy.

The Constitution also guarantees the secrecy of personal communications. Article 18 provides: "All postal, telegraphic and telephonic and other communications means shall be treated as secret and as such shall not be subject to censorship, sight, suspension or confiscation except by a judicial order in accordance with the law." The *Criminal Procedure Law*<sup>37</sup> authorizes the General Prosecutor to intercept private communication only under certain conditions, namely when a crime is under investigation and interception is necessary to reveal the truth.<sup>38</sup> Thus, to be lawful, surveillance of telephonic communications must: related to a crime under investigation, seek to uncover the truth, and have a warrant from the General Prosecutor.<sup>39</sup> Despite these requirements, the General Intelligence Department routinely uses surveillance without these conditions being met and in violation of privacy.

There are two factors that facilitate this. The first factor is that the relevant penal statutes provide inadequate protection for privacy. The legislature has been cautious when handling the privacy of phone conversation by avoiding expressly prohibiting unwarranted surveillance. For example, Jordanian penal law prohibits the disclosure of the content of a phone conversation only when the disclosure is done by employees of phone companies. However, the act of wiretapping itself is not generally criminalized.<sup>40</sup> The *Telecommunications Law* provides that the secrecy of personal communications is subject to legal liability,<sup>41</sup> but it does not explain what type of liability, despite the fact that it provides for penalties for disclosing and recording of phone conversations by certain employees.<sup>42</sup>

The second factor is that the wiretapping by the GID is clandestine, which makes it difficult to prove in court. This is true even in countries with a strong rule of law. The fact that GID officers are not subject to regular courts, but rather to an internal special court comprised of GID officers, increases the difficulty of accountability for illegal wiretapping. According to human right reports by the United States Department of State, Jordanians widely believe that intelligence officers monitor telephone conversations, internet communication, and private correspondence without court orders.<sup>43</sup>

## **c. Freedom of Expression Needs More Protection**

The Jordanian Constitution guarantees freedom of opinion and speech in all forms. It also guarantees freedom of the press, of publication, and of printing. Moreover, the Constitution prohibits suspension of newspapers and other media and the revocation of their permits without a judicial order.<sup>44</sup> Nevertheless, there are official practices and laws place restrictions on the press, audio, and visual media and thus undermine freedom of opinion and speech.

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<sup>37</sup> Criminal Procedure Law, Article 88.

<sup>38</sup> Farouq Kailani, *Lectures on Criminal Procedure Law (Jordanian and Comparative), Part Two, 2nd Edition* (1985), p. 464.

<sup>39</sup> Ibrahim Bakr, *Human Rights in Jordan between Rule of Law and Judicial Independence*, 1st Edition, p. 857.

<sup>40</sup> *Penal Law No. 16 of 1960*, as amended, published on p. 374 of Issue No. 1487 of the Official Gazette dated 11 May 1960, Article 356.

<sup>41</sup> *Telecommunications Law No. 13 of 1995*, as amended, published on p. 2939 of Issue No. 4072 of the Official Gazette dated 1 October 1995, Article 56.

<sup>42</sup> *Telecommunication Law*, Article 71.

<sup>43</sup> United States Department of State, *Human Rights Practices Report: Jordan*, (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100598.htm> (date last accessed: 9 March 2012).

<sup>44</sup> *Jordanian Constitution*, Article 15.

- **Law of Publication and Press**<sup>45</sup>

This law governs the domain of media and has led to censorship of a variety of media including books and internet publications.<sup>46</sup> Printing companies, publication and distribution houses, centers of studies, research and polling, translation establishments, and advertising agencies are all subject to this law. This law authorizes the Director of the Publication and Press Department to confiscate and prohibit books after seeking a court order.<sup>47</sup>

The law provides for offenses that are not unambiguously, narrowly, and precisely drawn so as to enable individuals to predict with reasonable certainty in advance the legality of a particular action. For example, writers have a duty to abide to "accuracy, impartiality and objectivity in presenting journalistic material and abstention from publishing all that is contrary to the principles of freedom, national responsibility, human rights and the values of the Arab and Islamic nation."<sup>48</sup>

The penalty for this offense is a fine between five hundred and two thousand Jordanian Dinars (700 – 2800 US Dollars).<sup>49</sup>The law further provides for a penalty of twenty thousand Jordanian Dinars (28,000 US Dollars) for contempt of prophets, profanity, and agitation of religious feuds.<sup>50</sup> The law also provides that the chief editor is jointly responsible along with writers for the content of articles.<sup>51</sup> In other words, a chief editor could be penalized if a published article is deemed to be in violation of the law, without ever having contributed to it. As a matter of fact, this provision essentially forces editors to impose significant censorship on writers, effectively limiting freedom of speech.

- **Penal Law**

There are provisions in the Jordanian penal law that are used to undermine freedom of speech. The most famous of these provisions is the *lèse-majesté*, or defamation of the Monarch.<sup>52</sup> Jordanian penal law provides for punishment of up to three years of imprisonment for defaming the Monarch. This crime is still tried before the State Security Court despite the constitutional amendments that excluded this crime from the jurisdiction of the State Security Court. The government regularly sends individuals to the State Security Court based on the charge of *lèse-majesté*. This is especially troubling because the Monarch in Jordan exercises actual powers, and thus, should be publicly accountable for the decisions he makes.

During January 2012, a young man expressed his anger by burning a picture of the Monarch that hung on one of the official buildings in a Jordanian city. He was charged with defaming the Monarch and sentenced to two years imprisonment within two weeks of the trial before the State Security Court.<sup>53</sup> After serving one month of his sentence, the young man was released after the Monarch issued a special amnesty.<sup>54</sup>

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<sup>45</sup> *Law of Publications and Press No. 8 of 1998*, as amended, published on p. 3162 of Issue No. 4300 of the Official Gazette dated 1 September 1998.

<sup>46</sup> See *Decision No. 1729/2009* of the Court of Cassation (Criminal) issued on 10 January 2010, published by Adalah Center.

<sup>47</sup> *Law of Publications*, Article, 35-b.

<sup>48</sup> *Law of Publications*, Article 5.

<sup>49</sup> *Law of Publications*, Article 45-a.

<sup>50</sup> *Law of Publications*, Articles 38 and 46.

<sup>51</sup> *Law of Publications*, Article 23-c.

<sup>52</sup> *Penal Law*, Article 195.

<sup>53</sup> <http://alrai.com/article/19271.html> Website of Al Rai' daily newspaper dated January 27, 2012, (date last accessed: March 9, 2012).

<sup>54</sup> <http://alrai.com/article/212152.html> Website of Al Rai' daily newspaper dated February 29, 2012, (date last accessed: March 9, 2012).

Another crime provided for in the Penal Law is “harming relations with a foreign country” with a punishment of not less five years of imprisonment.<sup>55</sup> The government used this provision in February of 2010 after a journalist and an activist for the opposition criticized the GID and the Jordanian Army for cooperating with the CIA in Afghanistan. They were initially referred to the State Security Court, but because the State Security Court did not have jurisdiction, the two were then sent to a regular court.<sup>56</sup>

- **Undue Influence by the Government<sup>57</sup>**

International reports indicate that the Jordanian Government exercises direct and indirect censorship of media. This includes editing articles prior to publication, planting informants in newsrooms, instructing journalists by phone, paying bribes, extending special invitations to journalists, and helping some of their relatives with scholarships. Reports also indicate that this undue influence on journalists causes self-censorship in a way that seriously undermines freedom of speech.

The government also tries to influence the appointment of chief editors at the major daily newspapers. The government does this through holding a majority stake in one major newspaper<sup>58</sup> and a minority stake in another.<sup>59</sup> It is worth noting that the holder of the government’s stake in those newspapers is the Social Security Corporation, which manages the savings of the Jordanian citizens. Although the government does not hold any shares in the other newspapers, GID officers exercise undue influence by calling journalists and chief editors and then directing them to cover certain events and not report on other events.

The government also controls official television and radio stations that were established by a special law.<sup>60</sup> This special law authorizes the government, through the Audiovisual Commission, to arbitrarily grant, amend, renew, cancel, or abstain from granting broadcasting permits without having to provide any reasons.<sup>61</sup> This amounts to governmental control over all broadcast opinions and thoughts, and limits the opposition’s ability to express its opinion and reach the public.

- **Influence of the General Intelligence Department**

The General Intelligence Department performs certain activities that are beyond its legal mandate. Such activities undermine the freedom of speech of a large number of persons. The GID summons people to its offices and questions them on their political views. This violated their personal freedoms and their rights of free expression and freedom of conscience.

The GID runs a detention center within its walls in which people are detained. They exercise these powers without seeking judicial orders. In certain cases, the GID depends on warrants issued by military officers working as State Security Court prosecutors to detain persons for periods that vary from one week to one year, sometimes even in solitary confinement.

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<sup>55</sup> *Penal Law*, Article 118.

<sup>56</sup> United States Department of State, *Human Rights Practices Report: Jordan*, (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100598.htm> (date last accessed: 9 March 2012).

<sup>57</sup> United States Department of State, *Human Rights Practices Report: Jordan*, (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100598.htm> (date last accessed: 9 March 2012).

<sup>58</sup> The government owns 55% of the shares of Al Rai’ daily newspaper through the Social Security Corporation: <http://www.mubasher.info/portal/ASE/companyDetails.html?companyId=1255&goToHomePageParam=true> (date last accessed: March 9, 2012).

<sup>59</sup> The government owns 30% of the shares of Al Dostour daily newspaper through the Social Security Corporation: <http://www.mubasher.info/portal/ASE/companyDetails.html?companyId=1255&goToHomePageParam=true&stockId=5820> (date last accessed: March 9, 2012).

<sup>60</sup> *Jordanian Corporation for Television and Radio No. 35 of 2000*, as amended, published on p. 3616 of Issue No. 4455 of the Official Gazette dated 17 September 2000.

<sup>61</sup> *Provisional Law of Audio and Visual Media No. 71 of 2002* published on p. 5941 of Issue No. 4576 of the Official Gazette dated 16 December 2002, Article 18.

According to credible national and international organizations, some detainees might have been subject to humiliation and torture.<sup>62</sup>

Other sources note that the GID gives itself powers that are beyond its mandate. For example, the GID issues so-called Certificates of Good Behavior. This is a document that some of the foreign embassies in Jordan request from Jordanians applying for work or study entry visas. Practically speaking, this document is a certificate of political 'good' behavior. In other words, the GID keeps a political record of individuals and determines whether they exercise good political behavior or not. The authority to issue such a certificate provides the GID with a means of influencing people, given that the GID is able to abstain from issuing this certificate at its discretion and without stating any reason. Needless to say, the very existence of such a document undermines freedom of speech and places undue, albeit indirect, limitations on public expression of opinion.<sup>63</sup>

Furthermore, the GID authorizes itself to issue approvals for various official transactions without any legal basis. Approvals are issued on appointments in certain governmental and nongovernmental positions: entry visas; publication permits; acquisition of real estate by foreigners; corporation of certain types of establishments; and weapons permits. Although the law does not require the government entities responsible for those transactions to ask for approval from the GID, these entities are accustomed to waiting for GID approval. Abstention by the GID from issuing approvals negatively impacts the interests of the parties concerned and further increases the GID's influence.

## 1.2 Corruption

In its most basic form, corruption can be defined simply as the misuse of public power for the purpose of personal gain.<sup>64</sup> Jordanian penal law criminalizes many forms of corruption, as seen in prohibitions on violating a professional duty, bribery, mis-use of public office, and other crimes that fall in the jurisdiction of judiciary.

Corruption is one of the major challenges to the rule of law in Jordan and the main impetus behind ongoing demonstrations for reform in the Kingdom. News about corruption related to public funds occupies the media on daily basis.

Unlike in poor countries where corruption is seen in small bribes and the like, corruption in Jordan manifests itself in the wasting of the state's wealth, land, and other public resources. It was recently disclosed that the deeds for wide areas of public land were transferred to the Monarch personally.<sup>65</sup> Further, general budgets in recent years have demonstrated that the military budget amounts to two thirds of the general budget, and further demonstrated unwarranted increases in military expenditure, particularly given that the state is not at war. Military expenditures have reached 9% of the GDP, one of the highest percentages in the world.<sup>66</sup> The *Global Militarization Index* produced by the Bonn International Center for Conversion indicates that militarization as a share of GDI places Jordan among the top ten most militarized countries in the world.<sup>67</sup>

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<sup>62</sup> National Centre for Human Rights, *The Seventh Annual Report on Human Rights Situation In Jordan For 2010*, (Amman: 2011), at p. 19, available at <http://www.nchr.org.jo/arabic/الاصدارات/تقارير بحالة حقوق الإنسان في المملكة/الاصدارات.aspx> (date last accessed: 9 March 2012); Human Rights Watch, *Suspicious Sweeps: The General Intelligence Department and Jordan's Rule of Law Problem*, (19 September 2006), available at <http://www.hrw.org/node/11158/section/5> (date last accessed: 9 March 2012).

<sup>63</sup> United States Department of State, *Human Rights Practices Report: Jordan*, (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100598.htm> (date last accessed: 9 March 2012).

<sup>64</sup> Susan Rose-Ackerman, *Corruption and Government, Causes, Consequences and Reform, 1st Arabic Edition*, (2003), p. 167.

<sup>65</sup> <http://alrai.com/article/7249.html> Website of Al Rai' daily newspaper dated 5 December 2011, (date last accessed: March 9, 2012).

<sup>66</sup> [http://www.alarabalyawm.net/pages.php?articles\\_id=17096](http://www.alarabalyawm.net/pages.php?articles_id=17096) Website of Al Arab Al Yawm daily newspaper dated 24 September 2011, (date last accessed: March 9, 2012).

<sup>67</sup> [http://www.bicc.de/uploads/pdf/publications/papers/occ\\_paper\\_07/occasional\\_paper\\_VII\\_02\\_11\\_eng.pdf](http://www.bicc.de/uploads/pdf/publications/papers/occ_paper_07/occasional_paper_VII_02_11_eng.pdf) (date last accessed: 9 March 2012).



Due to popular pressure and weekly demonstrations that began more than a year ago in Jordan, the government has referred a few corruption cases for investigations. One of these cases revealed the involvement of a former GID Director in money laundering, and the General Prosecutor decided to detain the former GID Director in prison.<sup>68</sup> Another corruption case regarding Mawared, a public institution specialized in investing Army funds, has only been covered in the news intermittently and without any substantive details.<sup>69</sup> Furthermore, the General Prosecutor investigated the former mayor of Amman and detained him for violating job duties. The case is still pending.<sup>70</sup>

The main reason behind the pervasiveness of corruption is the weakness and lack of independence in institutions overseeing the executive. The National Assembly is ineffective because of the frequent dissolution of parliament, the rigging of elections, and the de facto immunization of ministers and GID officers. This leaves the door open for uncontrolled corruption. The statutory and regulatory framework also undermines the ability of the judiciary to fight corruption and hinders the media in exposing it.

#### **a. Regulation of the Fund of Development and Investment Projects of the Armed Forces and Security Apparatuses<sup>71</sup>**

The *Regulation of the Fund of Development and Investment Projects of the Armed Forces and Security Apparatuses* is a regulation issued by virtue of the *Armed Forces Law* establishing an investment fund for the benefit of the Jordanian Army and security apparatuses. The fund is managed by a committee presided over by the Chair of the Joint Chiefs-of-Staff at the Jordanian Armed Forces. The members of the committee include the Director of Public Security, a GID delegate, and the director of the public army investment institution Mawared. The fund enjoys the same sort of tax exemptions and facilities provided to the Army, the GID, and the Public Security Department. The committee managing the fund prepares an annual report on the fund's activities, financial statements, and annual closing. The report is sent to the Prime Minister for review.<sup>72</sup>

In addition to the fact that this fund and its related activities are in violation of the Constitution, which confines the duties of the Armed Forces to the defense of the country and its safety,<sup>73</sup> this fund is not subject to any kind of independent oversight by the National Assembly. The only person to review its financial statements and accounts is the Prime Minister, and this is done without the Council of Ministers participating. This same arrangement also applies to investments made by the General Intelligence Department.

#### **b. Economics Crimes Law<sup>74</sup>**

In a violation to the principle of separation of powers, the Economics Crimes Law empowers the Prime Minister to refer any "economic crime" to the State Security Court.<sup>75</sup> Further, this law violates a basic constitutional right, the presumption of innocence, because it allows the State Security Court and the general prosecution to ban the ancestors, descendants, and the spouse of an individual accused of an economic crime from travel and to seize their assets.

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<sup>68</sup> Detainment of the former GID Director General Mohammed Dahabi, Website of Al Rai' daily newspaper dated 9 February 2012, <http://www.alrai.com/article/22501.html> (date last accessed: 9 March 2012).

<sup>69</sup> *National Resources Investment and Development Corporation Law No. 37 of 2000*, as amended, published on p. 3980 of Issue No. 4457 of the Official Gazette dated 1 October 2000.

<sup>70</sup> <http://alrai.com/article/9169.html> Website of Al Rai' daily newspaper dated 13 December 2011, (date last accessed: 9 March 2012).

<sup>71</sup> *Regulation for the Fund of Development and Investment Projects of the Armed Forces and Security Apparatuses* No. 67 of 2004, published in the Official Gazette dated 1 June 2004.

<sup>72</sup> Regulation for the Fund, Articles 4, 5, 11 and 12.

<sup>73</sup> *Jordanian Constitution*, Article 127.

<sup>74</sup> *Economic Crimes Law, No. 11 of 1993*, as amended, published on p. 722 of Issue No. 3891 of the Official Gazette dated 17 April 1993.

<sup>75</sup> *Economic Crimes Law*, Article 6.

Although the accused himself has the right to enjoy the presumption of innocence, this law strips the relatives of the accused of this presumption is thus in violation of their constitutional right to personal freedom.<sup>76</sup>

The most dangerous part of this law, is the authority it grants to the general prosecution to settle cases, provided the accused returns any funds and assets that were acquired as a result of the crime. In addition to the fact that this provision contradicts the legal system in Jordan, which does not recognize settlements in criminal cases, it emboldens people to encroach upon public funds because they know their offences will likely end in a settlement.<sup>77</sup>

Adding insult to injury, the law provides the Council of Ministers with the authority to allocate part of the money returned as part of the settlement to cover “administrative and judicial expenses and fees.” This provision violates the principles of impartiality and integrity of the judiciary, which should not have a financial interest in the resolution of cases. This provision increases the risks of corruption and the appearance of corruption within the judiciary.<sup>78</sup>

### **c. Anti-Corruption Commission Law**

The *Anti-Corruption Commission Law* established the Anti-Corruption Commission, an entity designed to combat financial and administrative corruption.<sup>79</sup> The *Anti-Corruption Commission Law* defines corruption by referring to the *Penal Law*, the *Economic Crimes Law* and the international anti-corruption conventions to which Jordan is a party.<sup>80</sup> By virtue of the *Anti-Corruption Commission Law*, the Commission reports directly to the Prime Minister<sup>81</sup> and its members are granted the status of law enforcement officers for the purpose of conducting inquiries and investigations, collecting evidence and taking administrative and legal measures for the seizure of property, prevention of travel, and requests to the relevant authorities to suspend the suspects from work and to stop payment of their salaries.<sup>82</sup> The law also entitles the Commission to request any information or documents from any entity whatsoever.<sup>83</sup> The Chair of the Commission, who directly reports to the Prime Minister, is also entitled to request public prosecutors to work with the Chair.<sup>84</sup>

It is worth noting that corruption, as defined by the Anti-Corruption Commission Law, covers of a number of crimes that are penalized under the *Penal Law* and other criminal laws, and ought to be subject to public prosecution at a competent court. It is therefore inconceivable that a commission that belongs to the executive branch should be granted judicial powers for the prosecution of crimes, along with rights that pertain to the most intricate details of personal freedom, such as the rights of prevention from travel, seizure of private property, and suspension from employment.

### **d. State Security Court Law**

As was noted earlier, various factors serve to undermine the independence of the State Security Court. One of these factors is the fact that the State Security Court judges are appointed by the Prime Minister. This is problematic because it is also the Prime Minister who has the discretion to refer any economic crime to the State Security Court. Several cases of corruption are referred to this court.

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<sup>76</sup> Attorney Abdul Ghaffar Freihat, *Jordanian Constitution and Personal Freedoms*, unpublished paper quoted with the author's permission.

<sup>77</sup> *Economic Crimes Law*, Article 9.

<sup>78</sup> *Economic Crimes Law*, Article 11.

<sup>79</sup> *Anti-Corruption Commission Law No. 62 of 2006* published on p. 4534 of Issue No. 4794 of the Official Gazette dated November 30, 2006.

<sup>80</sup> *Anti-Corruption Commission Law*, Article 5. Jordan ratified the United Nations *Convention Against Corruption* of 2004 by virtue of *Law No. 28 of 2004* published on p. 3719 of Issue No. 4669 of the Official Gazette dated 1 August 2004.

<sup>81</sup> *Anti-Corruption Commission Law*, Article 3.

<sup>82</sup> *Anti-Corruption Commission Law*, Article 7.

<sup>83</sup> *Anti-Corruption Commission Law*, Article 17.

<sup>84</sup> *Anti-Corruption Commission Law*, Article 14.

#### e. Freedom of Information Law<sup>85</sup>

The *Freedom of Information Law* has existed since 2007, but largely in name only. The most important criticism of this law is that it empowers the government to deny almost any information request.

Though the text of the law does indeed provide that any Jordanian has the right to obtain information provided that s/he has a legitimate interest or reason,<sup>86</sup> it also provides a very long list of reasons for denying requests. The list is as follows:

1. Secrets and documents that are protected by other laws.
2. Documents classified as secret and protected which are obtained by virtue of an agreement with another State.
3. Secrets related to national defense, state security, and foreign policy.
4. Information that contains analyses, recommendations, suggestions, and consultations provided to a decision-making official, before the decision has been made.
5. Information and personal files related to medical, educational, and professional records; accounts, wire transfers, or professional secrets.
6. Correspondence of a secret and personal nature within governmental departments, whether postal, telephonic, telegraphic or through any technology.
7. Information the disclosure of which leads to the influencing of negotiations between Jordan and any State or party.
8. Investigations undertaken by the general prosecution, law enforcement, or security departments in connection with any crime or case within its jurisdiction, as well as investigations undertaken by competent authorities to uncover fiscal, banking, and customs offences, unless authorized by said authorities.
9. Information of commercial, industrial, financial, or economic nature; information about tenders and scientific or technical research the disclosure of which would infringe on copyright, intellectual property, or fair and legal competition, or would lead to illegal profit or loss to any person.<sup>87</sup>

An example of a denial by the government of an information request comes from the author of this report. An application was submitted to the Prime Minister requesting information regarding a major corruption case related to a casino permit that was granted by the government despite the fact that gambling is prohibited. The reason for the request was that the applicant is a taxpayer with a legitimate interest in public funds, and is willing to sue the government and relevant parties for causing damages to the Jordanian Treasury.<sup>88</sup> The request was denied for lacking legitimate interest/reason, and for violating situations listed above in points 4, 7, and 9.<sup>89</sup>

Tellingly, local and international reports indicate that 58% of journalists in Jordan do not know that the *Freedom of Information Law* exists; 85% of journalists do not know that they have the legal right to request information; 50% of journalists who requested information described the government's response as insufficient; and 13.8% of them indicate that their requests were countered with verbal abuse.<sup>90</sup>

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<sup>85</sup> *Freedom of Information Law No. 47 of 2007* published on p. 4142 of Issue No. 4831 of the Official Gazette dated 17 June 2007.

<sup>86</sup> *Freedom of Information Law*, Article 7.

<sup>87</sup> *Freedom of Information Law*, Article 13.

<sup>88</sup> The application was submitted on 6 May 2008, in accordance with Articles 7 and 8 of the *Freedom of Information Law*.

<sup>89</sup> A letter from the Prime Minister dated June 4, 2008, under No. 20-13-3-10128.

<sup>90</sup> <http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154464.htm> Human Rights Practices Report, Jordan, 2010, website of the US State Department (date last accessed: March 9, 2012).

A corruption trial in 2010 demonstrates how the weak oversight and absence of information facilitates corruption. And involves the *Laws of State Security Court, Anti-Corruption Law* and *Law on Economic Crimes*.<sup>91</sup> The *Anti-Corruption Commission* undertook the investigations and the General Prosecutor decided to detain the accused, who challenged the detention decision before the Court of First Instance. The Court decided to release the detainees on bail. On the same day that the decision allowing the posting of bail was taken, the Prime Minister decided to use his authority as provided for in the *State Security Court Law* and transferred the case from the ordinary court to the State Security Court, which denied bail and detained the accused. The accused were tried in a secret trial before the State Security Court and each was sentenced to three years.

### **1.3 Transition of Power Does Not Occur in Accordance with Law**

Peaceful transition of power according to clear legal rules and in a democratic manner is one of the most important indicators of the rule of law. In Jordan, power is not transferred in accordance with clear democratic rules. Real power is in the hands of the Monarch who appoints and dismisses governments without transparent criteria governing such decisions. Despite the fact that the Constitution provides for a parliamentary system of government, the monarchy controls the parliament, and not vice versa. The way parliamentary elections are handled indicates that the system is not parliamentary. Furthermore, laws that govern power transition, such as elections and political party laws, hinder the development of political parties and democratic transition of power. Additionally, elections are frequently rigged.

Since his accession to the throne in 1999, King Abdullah II has appointed eight Prime Ministers who formed twelve governments.<sup>92</sup> These appointments were done without regard to the results of elections. During this period, a government falling was never the result of a parliamentary no confidence vote. Rather, each government fell at the discretion of King Abdullah II. All the parliaments during this period were dissolved before the expiry of their constitutional term. Moreover, the prime minister who was dismissed after the elections of 2007, which was reported as rigged, was reappointed in 2011 after the dismissal of the government in acquiescence to popular pressure. The newly formed government lasted eight months before it too was dismissed under popular pressure. In the year 2011 alone, Jordan had three different governments and three different prime ministers.

Other than the clear reference to the parliamentary character of the political system in the Constitution, no law expressly identifies the criteria that the Monarch should use when appointing the Prime Minister. Article 35 of the Constitution provides that the Monarch appoints the Prime Minister and may dismiss Prime Minister or accept the Prime Minister's resignation. Similarly, the Monarch appoints the other ministers and may dismiss them or accepts their resignations upon the recommendation of the Prime Minister. Despite the fact that the standard for selecting a prime minister in a parliamentary system is majority support in parliament, this has only happened once in Jordanian political history. There have been many demands to amend Article 35 so that it expressly provides for entrusting the majority leader of parliament with forming the government in order to stop the circumvention of the parliamentary system via the appointing of prime ministers at the discretion of the Monarch. These demands have been ignored and Article 35 remains as it is.

In 2001, the Monarch dissolved parliament and did not order new elections until 2003. Subsequently, the newly-elected parliament was dissolved prior to the expiry of its term. The election of 2007 brought a parliament that was dissolved in 2009, two years before the expiration of its term. A new parliament was elected in 2010, but the Monarch has already proclaimed that there will be new elections this year.<sup>93</sup>

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<sup>91</sup> The court case related to the tender of expansion of Jordan Petroleum Company in 2010.

<sup>92</sup> [http://www.pm.gov.jo/arabic/index.php?page\\_type=pages&part=1&page\\_id=156](http://www.pm.gov.jo/arabic/index.php?page_type=pages&part=1&page_id=156) Website of the Jordanian Prime Ministry (date last accessed: 9 March 2012).

<sup>93</sup> <http://alrai.com/article/24787.html> Website of Al Rai' daily newspaper dated 19 February 2012, (date last accessed: 9 March 2012).

According to an express admission by the incumbent Prime Minister, the last few parliamentary elections were fixed.<sup>94</sup> The National Center for Human Rights, an institution established by virtue of a special law and mainly financed by the government, also reported that the elections of 2007 were brazenly rigged. Despite the fact that the manipulation of elections has become public knowledge, no one has ever been charged with the crime of rigging elections. Again, the constitutional and legal provisions that protect ministers and security officers from accountability before the judiciary prevent such accountability.

To clarify the impossibility of subjecting those responsible for manipulating elections to accountability, the following scenario is instructive. Assume the elections are supervised and managed by the Minister of Interior, and further assume that the GID has interfered in the voting process and taken other prohibited actions, in cooperation with the Minister of Interior. In order to refer the Minister of Interior to the general prosecution for investigation, the Constitution provides that the parliament, which is assembled by the Minister of Interior, must vote to allow any investigation of the Minister. As for the GID, the Director, according to the *GID Law*, can only be prosecuted by the GID military prosecution and tried before the special court of the GID, the members of which are military officers who all report to the GID Director. Furthermore, the *GID Law* provides that any tribunal adjudicating an officer should be presided over by an officer of a higher rank.

Despite the fact that any electoral law designed for a democratic system must be compatible with the laws relating to political parties, the *Elections Law* does not refer in any way to political parties or any political coalition, and not designed to recognize political parties competing for seats in the parliament.

The *Political Parties Law*<sup>95</sup> violates the Constitution and hinders the progress of political parties. Though Article 16/2 in the Constitution states that the formation of political parties is one of the fundamental rights of Jordanians, the *Political Parties Law* does not recognize the transition of power between political parties or the possibility that any of such parties would someday assume executive power. To the contrary, the *Political Parties Law* considers political parties to be in constant confrontation with the executive, which indicates that the concept of transition of power was not an issue for the maker of this law. In this context, the following remarks on the *Political Parties Law* are worth noting:

- The Law leads to the liquidation of current political parties and impedes the establishment of new ones.<sup>96</sup> The Law stipulates not only that the minimum number necessary to establish a political party is five hundred people, but also that these five hundred must be comprised of people who are permanent residents of five different Governorates, with a minimum of 10% representation in each Governorate. Consequently, thousands of persons from four Governorates would not be qualified to form a political party if a minimum of fifty persons from a fifth Governorate were not among them.<sup>97</sup>
- Despite of the fact that political parties laws generally aim to organize and facilitate the functioning of political parties and serve as an important tool for the democratic transition of power, the *Political Parties Law* in Jordan uses a punitive approach.<sup>98</sup> The Law includes penal provisions to facilitate the prosecution and dissolution of political parties. The provisions describe offences without reasonable precision: "noncompliance with political pluralism in thought, opinion, and organization" and "noncompliance with equal opportunity between citizens upon assuming or exercising responsibility."<sup>99</sup>

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<sup>94</sup> Interview with Prime Minister Oun Khassawneh, (21 February 2012) Al Ghad daily newspaper, available at [http://alghad.com/index.php/afkar\\_wamawaqef/article/28563.html](http://alghad.com/index.php/afkar_wamawaqef/article/28563.html) (date last accessed: March 9, 2012).

<sup>95</sup> *Political Parties Law No. 19 of 2007* published on p. 2234 of Issue No. 4821 of the Official Gazette dated 16 April 2007.

<sup>96</sup> Hammouri, *Rights and Freedoms*, p. 132.

<sup>97</sup> *Political Parties Law*, Article 5.

<sup>98</sup> Hammouri, *Rights and Freedoms*, p. 140.

<sup>99</sup> *Political Parties Law*, Articles 25 and 26.

- *The Political Parties Law* includes provisions that violate the constitutional principle of equality by minimalizing the number of political parties.<sup>100</sup> For instance, the *Law* limits the establishment of political parties to individuals who have held Jordanian citizenship for at least 10 years.<sup>101</sup>
- The *Political Parties Law* accords the government absolute power in granting or denying state funding to political parties.<sup>102</sup> The *Law* provides that the government shall determine the rules and conditions governing the granting and denial of funding to political parties as well as the mechanisms used the disbursement of funds.<sup>103</sup>

## 1.4 Executive Power is Not Effectively Limited

### a. Government Powers Are Not Effectively Limited by the Constitution

The Constitution grants executive powers without sufficient limitations and oversight. Likely, many of these powers need to be altogether shifted to the legislature.

- **The Constitution Cannot be Amended Without the Monarch's Approval**  
Article 91 of the Constitution provides for the stages through which any draft law must pass. A draft law needs to be drafted by the government, ratified by the House of Representatives and the Senate, and then ratified and promulgated by the Monarch. If the Monarch does not see fit to ratify a law, the Monarch may refer it back to National Assembly within six months with a statement showing the reasons for withholding ratification. If the National Assembly insists on its position and passes the law by two-thirds of its members, the law shall be promulgated. If the Monarch does not ratify the law within the six-months period, the law is deemed promulgated and effective. However, the Constitution excludes draft constitutional amendments from the forgoing provision. Thus, if the Monarch refers a constitutional amendment back to the National Assembly without ratification, or retains it for more than six months, the amendment may not be promulgated or implemented regardless of the position of the National Assembly
- **Government Exercises Legislative Powers**  
The Constitution authorizes the Council of Ministers to enact regulations related to the implementation of laws.<sup>104</sup> Assuming that regulations are necessary for implementing laws, which is the duty of the executive branch, and that such regulations are not laws but rather practical details related to the implementation of laws, the drafting and enactment of regulations can be properly entrusted in the executive branch. The forgoing nature of the regulations notwithstanding, the Constitution also gives the executive branch powers to issue regulations related to financial matters, to the administrative division of the country, and to the rights of public servants with the approval of the Monarch, and without referring to the National Assembly. The Council of Ministers is empowered to issue regulations for the control of appropriations and expenditures of the public funds and the organization of government warehouses.<sup>105</sup> Furthermore, the Constitution authorizes the Council of Ministers to issue regulations to determine the administrative divisions of Jordan, the establishment of governmental departments, the modus for the appointment of civil servants, their dismissal, their discipline, their supervision and the limits of their competence.<sup>106</sup> Because these regulations have a substantial impact on public funds and the rights of civil servants, the power to draft these regulations should be shifted to the legislative branch.

<sup>100</sup> Hammouri, *Rights and Freedoms*, p. 143.

<sup>101</sup> *Political Parties Law*, Article 5-a-2.

<sup>102</sup> Hammouri, *Rights and Freedoms*, p. 145.

<sup>103</sup> *Political Parties Law*, Article 19.

<sup>104</sup> *Jordanian Constitution*, Article 31.

<sup>105</sup> Important regulations are issued by virtue of Article 114 of the Constitution, such as the *Regulation for Financial Supervision No. 3 of 2011*.

<sup>106</sup> Several important regulations were issued by virtue of Article 120 of the Constitution including the *Regulation for Establishment of Ministries and Government Departments No. 6 of 2012* and the *Civil Service Regulation, No. 30 of 2007*, as amended.

## b. Government Powers Not Effectively Limited by the judiciary

- **Ministers Are Not Tried Before the Judiciary Without the Approval of Parliament**

As a result of the constitutional amendments, ministers became subject to prosecution and trial before the judiciary. The amendments gave the House of Representatives the right to refer ministers for prosecution via a majority vote of the members of the House of Representatives. In practice, giving this right to the House of Representative undermines judicial powers and makes the power of the general prosecution to investigate ministerial crime subject to political voting by the House of Representatives. Personal or political reasons could unduly influence voting and dictate which ministers should be referred to prosecution and which should not, based on non-legal reasons. A case in point is a recent corruption case involving a collective decision by the Council of Ministers to grant a casino permit despite the fact that gambling is prohibited. Paradoxically, the House of Representative referred only the Tourism Minister for prosecution and acquitted the Prime Minister.<sup>107</sup>

- **Special Courts**

Article 99 of the Constitution divides courts into regular, religious, and special courts. A substantial number of special courts were established and have exercised judicial functions at the expense of regular courts. Special courts engender harsh criticism for their adverse impact on the unity of judiciary, which is determined by the Constitution to be an independent power parallel to the executive and legislative powers. The most important example of a special courts is the State Security Court which lacks independence because it is formed by the Prime Minister who also has the authority to appoint army officers as judges.<sup>108</sup>

## c. Government Powers Are Not Effectively Limited by the Legislature

There are constitutional provisions that limit the effectiveness of the legislature's ability to oversee the use of executive powers.

- **Undermining the Independence of Senators**

When the Constitution was issued in 1952, the Monarch had no powers to dissolve the Senate or dismiss any of the Senators. Despite the fact that Senators are appointed and not elected, the immunity of the Senate from dissolution and from dismissal was designed to bolster the independence of Senators so that they could perform their legislative duties without pressure from the executive. In 1974 the Constitution was amended, giving the Monarch the power to dissolve the Senate and dismiss any Senator at will.<sup>109</sup> The Jordanian parliamentary records indicate that the Monarch has exercised this power multiple times in modern Jordanian history.<sup>110</sup>

- **Limiting the Effectiveness of House of Representatives**

The effectiveness of House of Representatives is limited by various means, the most important of which is the constitutional power granted the Monarch to dissolve the House of Representatives at will.<sup>111</sup> The parliamentary record in Jordan indicates that only one parliament completed its constitutional term (the parliament elected in 1956).<sup>112</sup> The record also indicates that the House of Representatives totally ceased to exist for ten years, from 1974 until 1984.<sup>113</sup>

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<sup>107</sup> The Casino Case where the House of Representative accused the Minister of Tourism Ussama Dabbas, and at the same time acquitted Prime Minister Marouf Al-bakhit. See the coverage by Al Rai' daily newspaper (28 June 2011), available at <http://www.alrai.com/article/471672.html> (date last accessed: March 9, 2012).

<sup>108</sup> Freihah, 'The Judiciary in Jordan', at pp. 149-153.

<sup>109</sup> *Jordanian Constitution*, Article 34-4 as amended.

<sup>110</sup> Website of the Jordanian Senate, <http://www.senate.jo/content/السابقة-المجالس> (date last accessed: 9 March 2012).

<sup>111</sup> *Jordanian Constitution*, Article 34-3.

<sup>112</sup> Website of the Jordanian House of Representative, [http://www.representatives.jo/App/Public/Member/ViewA.asp?Company\\_ID=292](http://www.representatives.jo/App/Public/Member/ViewA.asp?Company_ID=292) (date last accessed: 9 March 2012).

<sup>113</sup> Website of the Jordanian House of Representative, (date last accessed: 9 March 2012).

## 2. Positive Trends

Certain positive trends in rule of law in Jordan are developing. However, these developments not immune to criticism because, overall, the constitutional and political history of Jordan indicates that the executive has been very dominant. Therefore, most of the positive trends also have associated challenges.

### 2.1 Trend for More Limitations to Executive Powers

#### a. Trial of Ministers Before Regular Courts

Constitutional amendments now provide that ministers shall be tried by the ordinary courts for offences that they commit in the course of the performance of their duties. Prior to the amendments, the Constitution provided for a special court for ministers (the High Tribunal) that consisted of five Judges from the Court of Cassation along with three Senators and was presided over by the Speaker of the Senate.<sup>114</sup> Furthermore, before the amendments, the House of Representatives acted as general prosecutor before the High Tribunal.<sup>115</sup> In this previous arrangement, the judiciary had no power to adjudicate the Prime Minister or ministers for offences they would commit in the course of the performance of their ministerial duties. This undermined the status of the judiciary and left the executive virtually unbridled for a significant period of time, during which the High Tribunal was never convened, and therefore never indicted a minister. Additionally, the only time that the House of Representative accused a minister of a crime related to ministerial duties, an amnesty law was issued that prevented that minister from facing trial before the High Tribunal.<sup>116</sup>

Amending the Constitution has meant that ministers should be tried before regular courts for crimes related to their ministerial duties.<sup>117</sup> Furthermore, the powers of investigation and prosecution were given to the General Prosecution office. The House of Representatives retained the power to vote, by majority, on referring ministers for investigation by the General Prosecution office.<sup>118</sup> The amendment also provides for the suspension of the minister accused by the general prosecution until a final judgment is issued by the court.<sup>119</sup> In this respect, the constitutional amendment strengthens the judiciary and limits executive powers.

#### b. The Judiciary Should Determine the Validity of Parliamentary Elections

By virtue of constitutional amendments, the authority to determine the validity of parliamentary elections became part of judiciary's jurisdiction. Prior to these amendments, the Constitution provided that the parliament itself had the competence to determine the validity of electing any of its members. The election of any of the members could not be invalidated without a vote of two-thirds of the members of the House.<sup>120</sup> In other words, instead of reviewing the validity of the election of House members by the judiciary as an independent branch of power, the House itself determined the validity of the election of its own members.

The Constitution has been amended to give the right to any voter in an electoral district to challenge the validity of the election of a specific member of parliament. The challenge must be submitted to the Court of Appeal within fifteen days of the publishing of election results in the Official Gazette. If the Court of Appeal decides that the election of the subject representative-elect is invalid, the House must declare such invalidity along with the name of the winning representative.

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<sup>114</sup> *Jordanian Constitution*, Article 55, prior to the amendments.

<sup>115</sup> *Jordanian Constitution*, Article 56, prior to the amendments.

<sup>116</sup> *Amnesty Law No. 36 of 1992* published on p. 2378 of Issue No. 3863 of the Official Gazette dated 15/11/1992.

<sup>117</sup> *Jordanian Constitution*, Article 55, as amended.

<sup>118</sup> *Jordanian Constitution*, Article 56, as amended.

<sup>119</sup> *Jordanian Constitution*, Article 57, as amended.

<sup>120</sup> *Jordanian Constitution*, Article 71, prior to the amendments.



Moreover, if the Court of Appeal finds, during its examination of the challenge, that elections in the district in question were not in accordance with law, then the Court may declare the whole election in that district invalid.<sup>121</sup>

### **c. Establishing an Independent Body to Supervise Elections**

Prior to the constitutional amendments, the Ministry of Interior was responsible for the administration of parliamentary elections. Considering that the Minister of Interior was not subject to judiciary control for offences pertaining to the elections, and that challenges to the validity of elections were under the jurisdiction of the parliament itself, the administration of elections was never subject to judicial review. The amendments introduced a new supervisory body to be established by virtue of a special law, an independent entity responsible for the supervision and administration of elections.<sup>122</sup> Although the law is still making its way through the legislative process, the idea of authorizing an independent entity instead of the government, to supervise and run the electoral process is a good step toward clean and fair elections.

### **d. Reinforcement of Parliament Effectiveness**

Since the issuance of the Constitution in 1952, several constitutional amendments have been made that undermined the House of Representatives. However, recent amendments brought changes that could reinforce the effectiveness of the House of Representatives. These amendments provide for:

- Revoking the Monarch's power to postpone elections based on alleged force majeure.<sup>123</sup>
- Within one week from the date of dissolution of the parliament, the government under which the parliament is dissolved must resign, and its prime minister shall not form the succeeding government.<sup>124</sup>
- A minister who wishes to run for election must resign sixty days prior to the date of the election. Prior to the amendments, the period was only fifteen days.<sup>125</sup>
- The ordinary session for the parliament is extended to six months instead of four months.<sup>126</sup>
- Restricting the authority of the government to issue provisional laws when parliament is dissolved. The authority to issue provisional laws is now confined to situations of catastrophe, war, emergencies, and to expenditures not feasibly postponable.<sup>127</sup>

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<sup>121</sup> *Jordanian Constitution*, Article 71, as amended.

<sup>122</sup> *Jordanian Constitution*, Article 67-2, as amended.

<sup>123</sup> *Jordanian Constitution*, Article 73, as amended.

<sup>124</sup> *Jordanian Constitution*, Article 74/2, as amended.

<sup>125</sup> *Jordanian Constitution*, Article 74/3, as amended.

<sup>126</sup> *Jordanian Constitution*, Article 78, as amended.

<sup>127</sup> *Jordanian Constitution*, Article 94, as amended.

### **e. Challenging the Administrative Judiciary Decisions**

With the introduction of recent constitutional amendments, judicial administrative decisions became subject to challenge. Prior to those amendments, the Constitution provided that the High Court of Justice was the only administrative court in Jordan.<sup>128</sup> The High Court of Justice was established by virtue of a special law that established its jurisdiction.<sup>129</sup> The Court operates on one degree with final decisions not subject to challenge before any other judicial body.

In light of the compromised independence of the judiciary, confidence in the administrative judiciary declined, especially amongst lawyers where there prevailed a strong impression that the High Court of Justice was prone to favoring the government in its verdicts.

The amendment provides for establishing an administrative judiciary based on two levels of litigation.<sup>130</sup> Though a law has yet to be enacted to implement the amendment, it is nonetheless considered to be a positive trend towards increasing the effectiveness of judicial review over governmental administrative decisions.

### **f. Narrowing the Jurisdiction of State Security Court**

The constitutional amendments contain a provision that indirectly narrows the jurisdiction of the State Security Court. The provision prohibits the trial of civilians in criminal cases before courts whose judges are not all civilians. However, this prohibition does not apply the crimes of treason, espionage, terrorism, drugs, and banknote counterfeiting.<sup>131</sup>

Even though they narrowed the jurisdiction of the State Security Court, the amendments are not immune to criticism. The crimes of treason, espionage, terrorism, drugs, and banknote counterfeiting are serious, but that does not warrant depriving the accused of their right to a fair trial. Thus, the amendment indirectly solidified the State Security Court as a special court, instead discontinuing the use of this type of court altogether.

All in all, the amendment is not yet in force, and the government still refers civilians to the State Security Court for crimes other than those five crimes on the narrow list. This is done under the pretext that the constitutional amendments provide that all laws affected by the amendments remain in force for three years unless those laws are amended or cancelled.

## **2.2 Private Property Expropriated Only with Adequate Compensation**

Protection of private property is derived from the Jordanian Constitution. Article 11 of the Constitution provides: "No property of any person may be expropriated except for purposes of public utility and in consideration of a just compensation, as may be prescribed by law." Additionally, Article 12 of the Constitution provides: "No loans may be forcibly imposed and no property, movable or immovable, may be confiscated except in accordance with the law." These provisions clearly mandate that expropriation of private property be carried out after two conditions are met: for public utility and with adequate compensation.

The legislature regulates immovable property expropriation procedures in the *Expropriation Law*.<sup>132</sup> The *Expropriation Law* governs, among other things, the basis for compensation and the procedure for challenging the expropriation and proposed compensation before regular courts.

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<sup>128</sup> *Jordanian Constitution*, Article 100, prior to the amendments.

<sup>129</sup> High Court of Justice Court, No. 12 of 1992.

<sup>130</sup> *Jordanian Constitution*, Article 100, as amended.

<sup>131</sup> *Jordanian Constitution*, Article 100/2, as amended.

<sup>132</sup> *Expropriation Law No. 12 of 1987*, as amended, published on p. 655 of Issue No. 3468 of the Official Gazette dated 1 April 1987.

The *Expropriation Law* underscores the importance of adequate compensation by imposing a 9% annual rate of interest on the compensation amount if it is not paid within one month of its due date.<sup>133</sup> Furthermore, the *Expropriation Law* provides that expropriation claims are to be adjudicated on an expedited basis. According to the *Expropriation Law*, the proceedings shall be concluded not later than one year from the date on which the claim is filed.<sup>134</sup>

Judicial decisions show respect for the Constitutional and legal provisions related to private property. In one of its decisions, the Court of Cassation affirmed the illegality of conveying the title of an expropriated property prior to the actual payment of the adequate compensation.<sup>135</sup> In another decision, the Court of Cassation declared that the Public Water Agency had trespassed onto private land through an act of extortion and ordered the return of the property to its owner along with the payment of damages.<sup>136</sup>

As to the public utility condition provided by the Constitution and included in the *Expropriation Law*, there is a long practice by the government of expropriating private property only for public utility. However, during the last decade the government started a new practice of expropriating property for investment purposes claiming that this for public utility. This practice by the government was supported by an interpretational decision by the High Tribunal that found that the payment of adequate compensation and completion of the expropriation procedures severs the property from its owner completely thereby giving the Counsel of Ministers the right to make use of the property as it deems fit for public utility.<sup>137</sup> This interpretational decision is considered a circumvention of the constitutional provisions protecting private property.

### 2.3 Establishing a Constitutional Court

The constitutional amendments set up a Constitutional Court in the form of an independent judicial body, the chair and members of which are to be appointed by the Monarch.<sup>138</sup> As explained in the first part of this report, the High Tribunal, which consisted of senators and judges presided over by the Speaker of the Senate, previously interpreted constitutional provisions. This arrangement did not lead to public confidence in its decisions.

The amendments authorized the new Constitutional Court to review the constitutionality of laws and to interpret the constitutional provisions upon the request of the Council of Ministers, the Senate, or the House of Representatives.<sup>139</sup> The amendment confines the right to challenge the constitutionality of laws to the Council of Ministers, the Senate, or the House of Representatives, and gave the courts the discretion to refer any constitutional pleas submitted by litigants to the Constitutional Court.<sup>140</sup>

Several aspects of the amendment related to the Constitutional Court have received criticism. First, the amendment extends the Monarch's powers by giving the Monarch the power to appoint the members of the Constitutional Court. Also, the Constitutional Court has narrow standing requirement by confining the right to challenge the constitutionality of laws to the parties that drafted and ratified these laws, thus depriving citizens, political parties, civil society organizations, and other stakeholders of the right to challenge laws that affect their interests directly. All of that notwithstanding, the establishment of a Constitutional Court could be considered an improvement to the rule of law.

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<sup>133</sup> *Expropriation Law*, Article 14.

<sup>134</sup> *Expropriation Law*, Article 22-b.

<sup>135</sup> See *Decision No. 1427/2005* of the Court of Cassation in its full chamber issued on 13 September 2005, published by Adalah Center.

<sup>136</sup> See *Decision No. 682/1998* of the Court of Cassation issued on 22 July 1998, published by Adalah Center.

<sup>137</sup> *Interpretational Decision No. 1 of 2003* (unanimous) dated 20 February 2003, published on p. 1286 of Issue No. 4589 of the Official Gazette dated 16 March 2003.

<sup>138</sup> *Jordanian Constitution*, Article 58, as amended.

<sup>139</sup> *Jordanian Constitution*, Article 59, as amended.

<sup>140</sup> *Jordanian Constitution*, Article 59, as amended.

## 2.4 Laws are Easily Accessible

The legislative process in Jordan starts with the drafting of a law by the government, which then sends it to the House of Representatives for discussion and ratification by voting. The House has the right, in an open session, to ratify, amend, or reject the draft law. The draft law then passes through the same process in the Senate.<sup>141</sup> If the law is ratified by the House and by the Senate, it then must be submitted to the Monarch for ratification, promulgation, and publication in the Official Gazette.<sup>142</sup>

Draft laws are prepared and drafted in the Legislation and Opinion Bureau, which is a department in the Office of the Prime Minister. The Legislation and Opinion Bureau publishes all Jordanian legislation on its website,<sup>143</sup> which also allows the public to review and comment on the draft laws.<sup>144</sup>

Laws are discussed by the House of Representatives and Senate in sessions open to the public.<sup>145</sup> The publishing of laws in the Official Gazette is the last step in creating a law. The hard copy of the Official Gazette is distributed to government departments and subscribers. A soft copy of the Gazette is published on the website of the Office of the Prime Minister.<sup>146</sup> The spread of computers and the internet has made ratified laws widely accessible to Jordanians.

In general, laws are drafted in simple language that a layperson can comprehend and legislation usually does not contain unnecessarily complicated terms.<sup>147</sup> The limited size of the Jordanian legal body and the fact that the Jordanian legal system is based on codified law only, also make the laws easy to access. Nevertheless, in recent years, as a result of an increase and acceleration in the issuance of provisional laws in the absence of an assembled legislature, Jordanian laws have started to lack consistency and stability.

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<sup>141</sup> *Jordanian Constitution*, Article 91.

<sup>142</sup> *Jordanian Constitution*, Article 93.

<sup>143</sup> <http://www.lob.jo>

<sup>144</sup> [http://www.lob.jo/List\\_LawsLegislations\\_Public.aspx](http://www.lob.jo/List_LawsLegislations_Public.aspx) (date last accessed: March 9, 2012).

<sup>145</sup> *Internal Regulations of the House of Representatives of 1996*, as amended, published on p. 694 of Issue No. 4106 of the Official Gazette dated 16 March 1996, Article 84.

<sup>146</sup> [http://pm.gov.jo/arabic/index.php?page\\_type=gov\\_paper&part=1](http://pm.gov.jo/arabic/index.php?page_type=gov_paper&part=1) (date last accessed: March 9, 2012).

<sup>147</sup> *Jordanian Constitution*, Article 94, as amended.

## Part C: Relevant Indicators in Rule of Law



## 1. World Justice Project, 'Rule of Law Index 2011 Report'

The WJP Rule of Law Index is the most comprehensive source of data on countries' adherence to the rule of law in practice. It measures the extent to which countries adhere to the rule of law, focused on practical consequences of the rule of law status on the daily lives of people. All variables are expressed in a scale from 0 (low adherence to the rule of law) to 1 (high adherence to the rule of law) and aggregated into factors and sub-factors. Each factor represents one of the following nine dimensions of the rule of law: limited government powers; absence of corruption; order and security; fundamental rights; open government; effective regulatory enforcement; access to civil justice; effective criminal justice; and informal justice. Those are further divided into 52 sub-factors, corresponding to outcomes that rule of law that societies seek to achieve. The conceptual definition of each factor is linked to the individual questions in the survey administered to samples representative of the general public and of local experts in each of the 66 studied countries.

Jordan has been assessed as of 2009.<sup>148</sup> In the most recent 2011 report, it occupies the second place within the MENA region, with its main strengths being the efficient public institutions and a high level of order and security. It scores relatively high with respect to civil and criminal justice (respectively 0.60 and 0.55, ranking 22 and 30 out of the total 66 countries), absence of corruption (0.65, ranking 27), and regulatory enforcement (0.63, ranking 21). With respect to these categories, Jordan comes first within the lower middle income group to which it belongs. Jordan's system of human rights protection is, however, according to the Index, one of the worst in the world (ranking 56 out of 66 countries and below the regional and income-group average), especially as regards labour rights (below 0.4) and discrimination (below 0.5). Since 2009, there has been a slight improvement in terms of order and security, and protection of fundamental human rights. On the contrary, there has been a dramatic decrease in the openness of the government. Corruption and effectiveness of criminal justice have noticeably deteriorated.

See Annex, page 49.

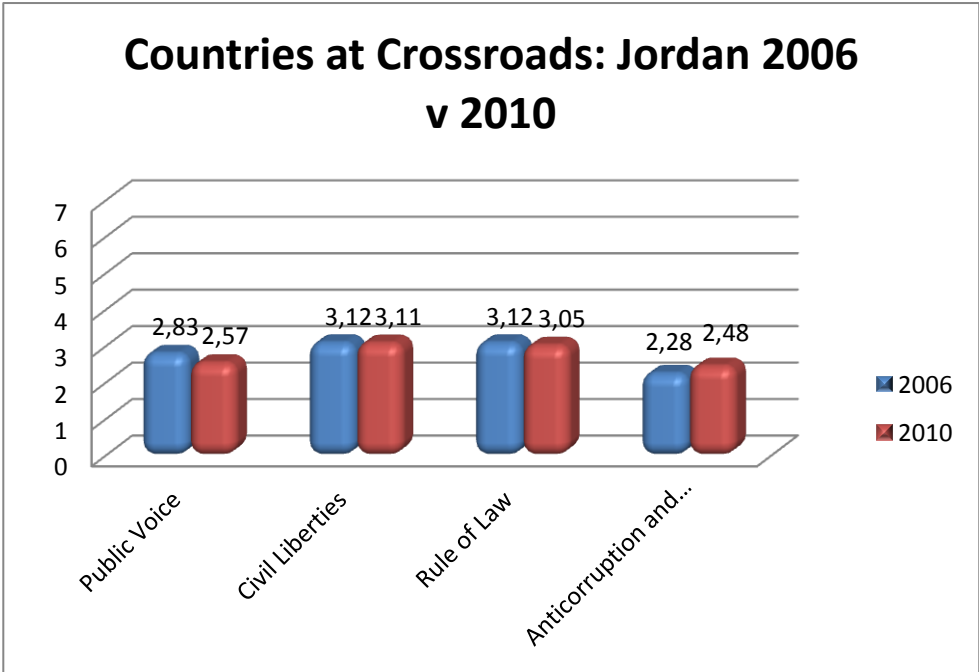
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<sup>148</sup> However, only the 2010 and 2011 reports can be accurately compared because they operated with the same categories. In 2009, only 4 factors, each including 4 sub-factors, were used. Their scope hardly matches that of the two subsequent reports.

## 2. Freedom House, 'Countries at the Crossroads 2010: Country Report Jordan'

The influential Freedom House index, used widely in the works of international and academic organizations, is composed by regional experts who review an extensive collection of data, primarily newspaper reports as well as analysis by think-tanks and NGO's. The index measures the quality of democratic governance reflected by 4 core categories – Accountability and Public Voice, Civil Liberties, Rule of Law, and Anticorruption and Transparency. The rule of law is measured with respect to four sub-areas of government performance: independent judiciary; primacy of rule of law in civil and criminal matters; accountability of security forces and military to civilian authorities; and protection of property rights. On the basis of this information, separate reports are written for individual countries, which subsequently lead to a score on the Freedom House indicators.

The Freedom House report is based on numerical rating on a scale from 1 to 7, assigned to each country, where 1 stands for a free society and 7 for the lowest regard for civil and political freedoms. Jordan has been covered by the index in 2006 and 2010. With the average score of 3.12 in 2010, it came third among five MENA countries covered by the index, after Yemen (2.50) and Saudi Arabia (1.47). Over four years, Jordan's scores remained fairly steady, with the scores averaging 2.8. This result points to a generally poor quality of governance whose particularly weak points are the absence of public voice, ineffective anticorruption and lack of transparency. The rule of law has been rated below medium grade. The judiciary appears as far from independent, with regular government interference in politically sensitive cases. Regarding civil and criminal matters, there is a significant discrepancy between rule of law guarantees in law and in practice. Security forces remain practically unaccountable to civilian authorities for abuse. Finally, property rights, while guaranteed in law and largely in practice, are curtailed by royal landgrabs.

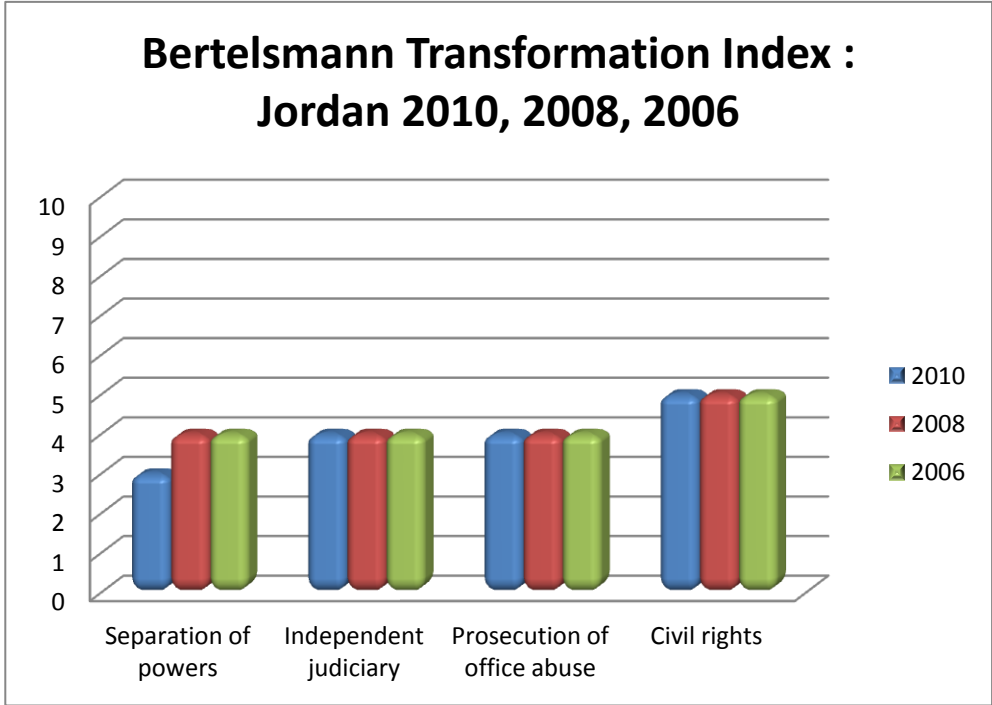


### 3. Bertelsmann Transformation Index

The Bertelsmann Transformation Index measures the progress of 128 countries towards full democracy based on the rule of law and a market economy protected by sociopolitical safeguards. It has been calculated for years 2003, 2006, 2008 and 2010. In contrast to minimalist definitions of electoral democracy, the BTI's understanding of democracy includes the rule of law and representativeness. It focuses on 3 dimensions: democracy, market economy and political management. The composite index relates to both a description of their democratic and market economic state and the country's leadership management performance to steer it on a course of solid transformation.

For 128 states, individual reports are written by a country expert, which is then subject to peer review by another expert. This narrative report deals with the whole chain of issues mentioned above. Subsequently, scores (1-10) are given by country experts on 49 questions. For the present purpose, the political transformation dimension of the index is particularly useful, with a focus on the rule of law sub-category.

Since 2003, Jordan has obtained consistently low scores on the rule of law factor.



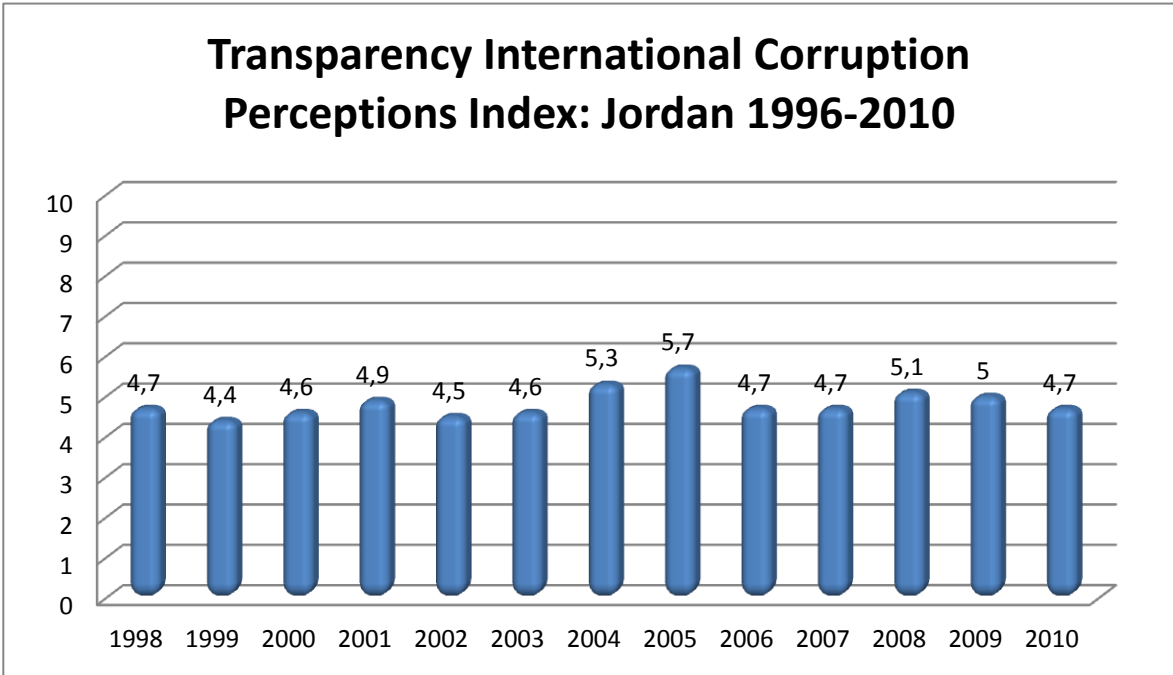


# 4. Transparency International: Corruption Perceptions Index

The Corruption Perceptions Index (CPI) indicates the perceived level of public-sector corruption in a country or territory. The CPI table indicates a country's ranking compared to other countries in the index. The index is based on data from 13 independent surveys and 10 independent institutions.<sup>149</sup> These sources measure the prevalence of corruption in the public and political domains. This assessment is carried out for virtually all of the world's countries.

The index includes a country's ranking and score, the number of surveys used to determine the score, and the confidence range of the scoring. Scores range between 1 to 10, with 1 indicating the highest perceived level of corruption and 10 the lowest. The rank shows how one country compares to others included in the index. The reliability of the CPI scores is determined by the confidence range.

Jordan has been featured in CPI reports since 1998 scoring consistently in the middle level, with a medium popular perception of corruption in public and political life. The data spanning the past 12 years shows slight fluctuations, with a the top score in 2005 (5.7). The 2010 score of 4.7 shows a noticeable deterioration over the past 5 years. While being the sixth score out of 19 in the MENA region, it shows that there is still much room for improvement in terms of anti-corruption enforcement.

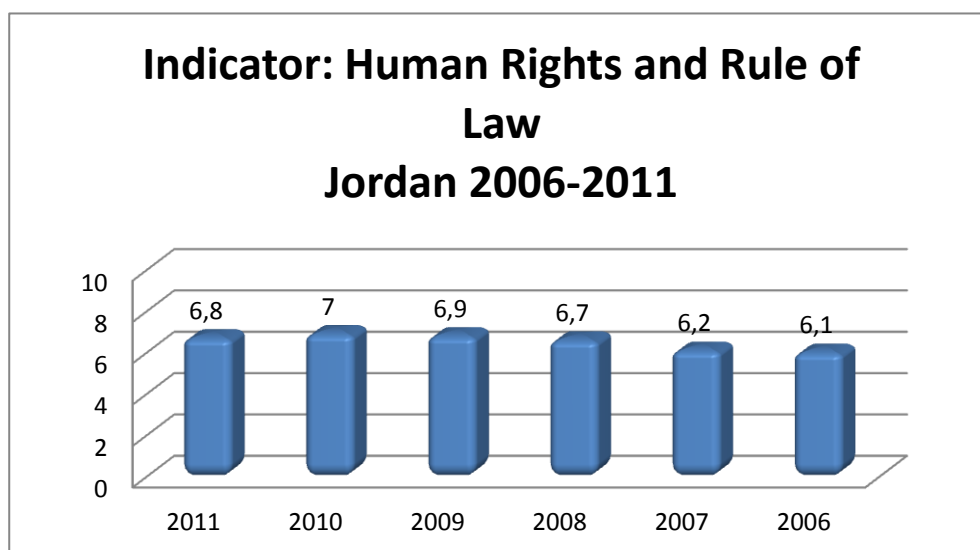
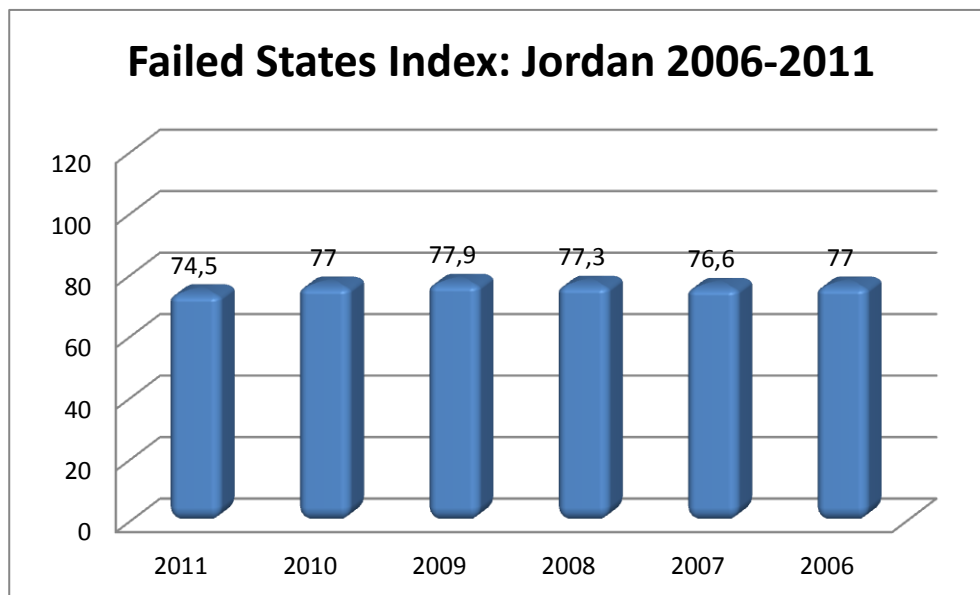


<sup>149</sup> Not all surveys include all countries.

## 5. Failed States Index

Published since 2005 by the Fund for Peace and the magazine Foreign Policy, the Failed States Index is composed of twelve indicators of vulnerability to collapse or conflict over 3 distinct dimensions (social, political and economic). The indicators include: Demographic Pressures, Refugees/IDPs, Group Grievance, Human Flight, Uneven Development, Economic Decline, Delegitimisation of the State, Public Services, Human Rights and the Rule of Law, Security Apparatus, Factionalised Elites, and External Intervention. For each indicator, the ratings are determined on the basis of computer-based quantitative analysis of publications and newspaper articles on a scale of 0 to 10 (where 0 indicates the highest degree of stability and 10 the lowest). The total country score is the sum of the 12 indicators and ranges from 0 to 120.

Jordan's score over 5 years averaged 76, placing it in the category of medium vulnerability to collapse. With very little fluctuation, the score has shown only very slight improvement from the score of 77 in 2006 to 74.5 in 2011. A similar slow but steady increase has been noted with respect to the rule of law, rising from 6.1 in 2006 to 6.8 in 2011. Overall, the index shows that the latter category remains a weak aspect of democratic governance in Jordan.

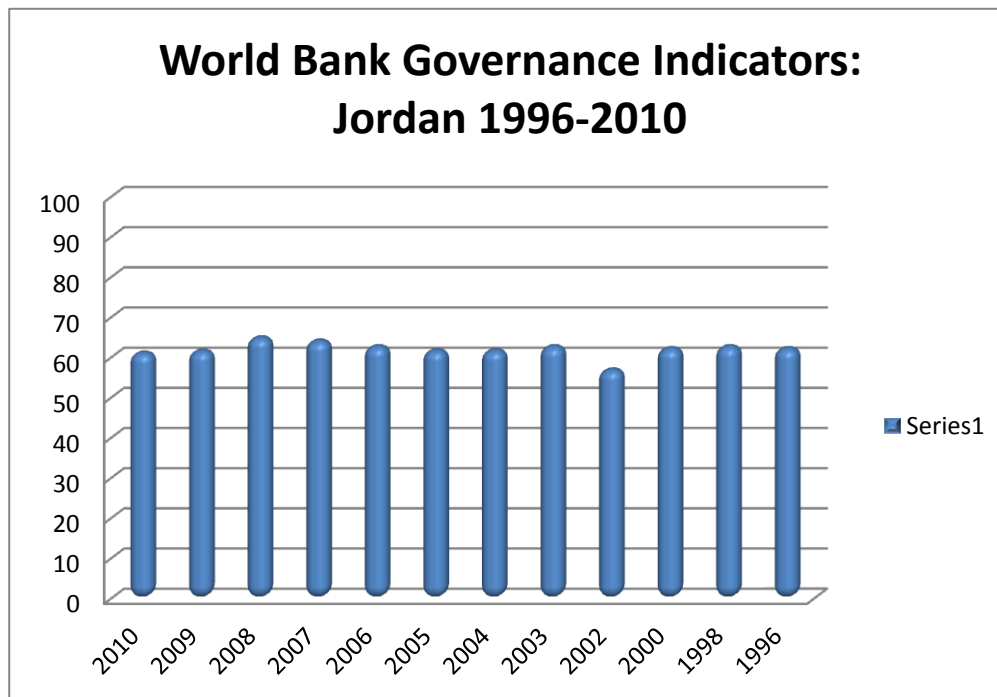


## 6. World Bank Governance Indicators

An authoritative scientific indicator in the field of law and governance is the World Bank Governance Indicators. Instead of working with its own data, the World Bank Governance Indicators Project compiles statistics from various other indices (among which are some of the indicators used in this study). Data are statistically rescaled to a score from 0 to 1, with a score of 0 indicating a low result on a particular variable. Six different dimensions are measured; (1) voice & accountability, (2) political stability and lack of violence/terrorism, (3) government effectiveness, (4) regulatory quality, (5) rule of law, (6) control of corruption.

The World Bank Governance indicators result in a percentile rank on each of the six dimensions. Thus, a percentile rank of 20 on any certain dimension means that only 20% of the world's countries have a worse score. Likewise, when a state scores 90, only 10% of the world's countries do better. Therefore, a high percentile rank indicates better government performance.

With respect to the rule of law, between 1996 and 2010, Jordan's percentile rank averaged ca. 62.04 without much fluctuation over the years, demonstrating stability rather than improvement. One considerable drop was marked in 2002 and another, slighter one in 2009-2010. In the former case, the reason may have been the undemocratic suspension of the parliament by king Abdullah in the years 2001-2003.<sup>150</sup> The cause of the decline in 2009 may have been an amendment to Political Parties Law that took effect in 2008 and whose restrictive criteria drastically reduced the number of political parties.<sup>151</sup> In relative terms, in 2010, Jordan with the (61.1<sup>st</sup> percentile rank) performed well above the regional average (48.1<sup>st</sup> percentile rank) and the income group average (50,9<sup>th</sup> percentile rank).



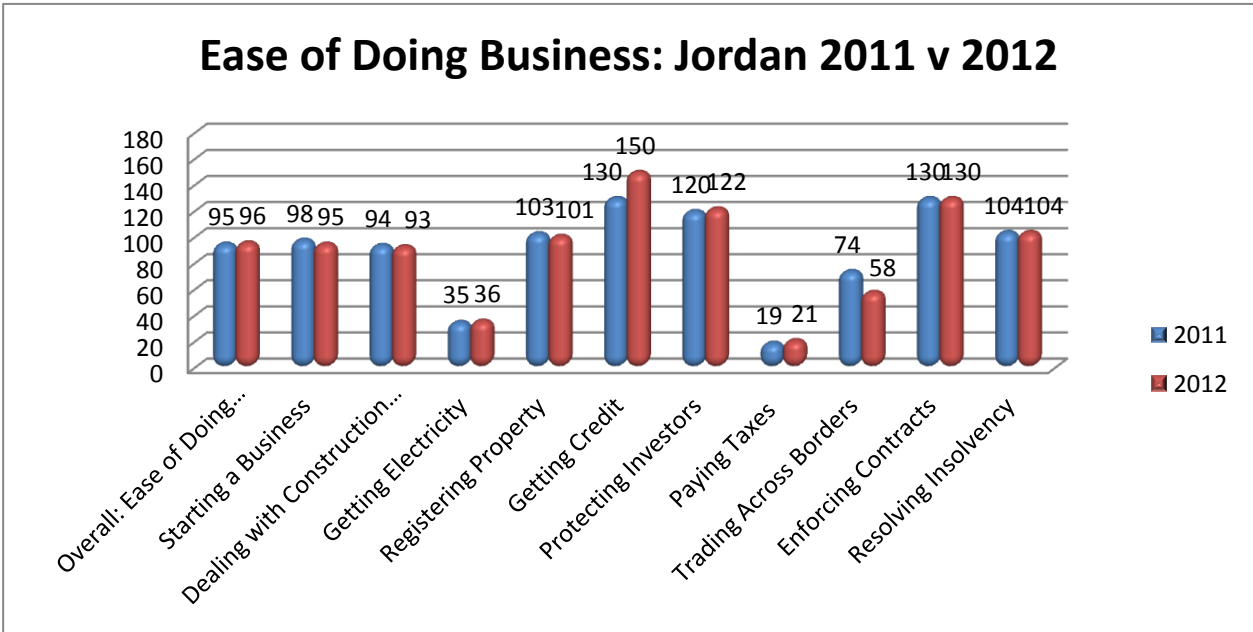
<sup>150</sup> Over that period, the king ruled by decree, enacting about 250 temporary laws. The parliament suspension ran counter to general expectations of democratic change under King Abdullah, in power since 1999.

<sup>151</sup> The amendment has, among others, raised the number of members required for a party to register, and maintained the restrictive licensing of parties with the Ministry of Interior. In 2008, 24 out of 36 existing did not meet the new criteria and were forced to dissolve or merge.

## 7. World Bank (Doing Business)

The World Bank’s “Ease of Doing Business” index ranks 183 economies on 10 categories: starting a business; dealing with construction permits; registering property; getting credit; protecting investors; paying taxes; trading across borders; enforcing contracts; resolving insolvency; and getting electricity. Each country’s ranking is calculated as the simple average of the percentile ranking on each of the categories. The higher the country’s ranking, the simpler its regulations and the stronger its protection of property rights, which results in a more favourable business climate. Although the index has no immediate bearing on the rule of law, transparent and efficient regulation as well as effective implementation enable businesses to operate within the rule of law and benefit from protections and opportunities provided by the law.<sup>152</sup>

Jordan has been covered by the index in 2011 and 2012, ranking around the middle of the table in the overall category (on the 95<sup>th</sup> and 96<sup>th</sup> place respectively). Over two years, its scores on individual dimensions have not changed much, most of the time showing only a slight improvement. The country scored relatively high with respect to getting electricity (ranking 36<sup>th</sup> in “Doing Business 2012”) and paying taxes (ranking 21<sup>st</sup>). A noticeable deterioration has been observed for getting credit (from 130<sup>th</sup> to 150<sup>th</sup>), while the ease of trading across borders has significantly improved (from 74<sup>th</sup> to 58<sup>th</sup>). Despite the middling overall result, Jordan’s score on the following dimensions is way towards the low end of the ranking: getting credit (ranking 150<sup>th</sup> in 2012), protecting investors (ranking 122<sup>nd</sup>) and enforcing contracts (ranking 130<sup>th</sup>).



<sup>152</sup> World Bank Group, “Doing Business 2011 – Making a Difference for entrepreneurs”, World Bank Publications, 2010, [www.doingbusiness.org], last visited on November 14, 2011.

## 8. Cingranelli-Richards (CIRI) Human Rights Dataset

One of the largest human rights data sets in the world, the CIRI consists of standards-based quantitative data for years 1981-2009 on government respect for 15 internationally recognized human rights in 195 countries. The covered human rights are categorized into 3 sets.

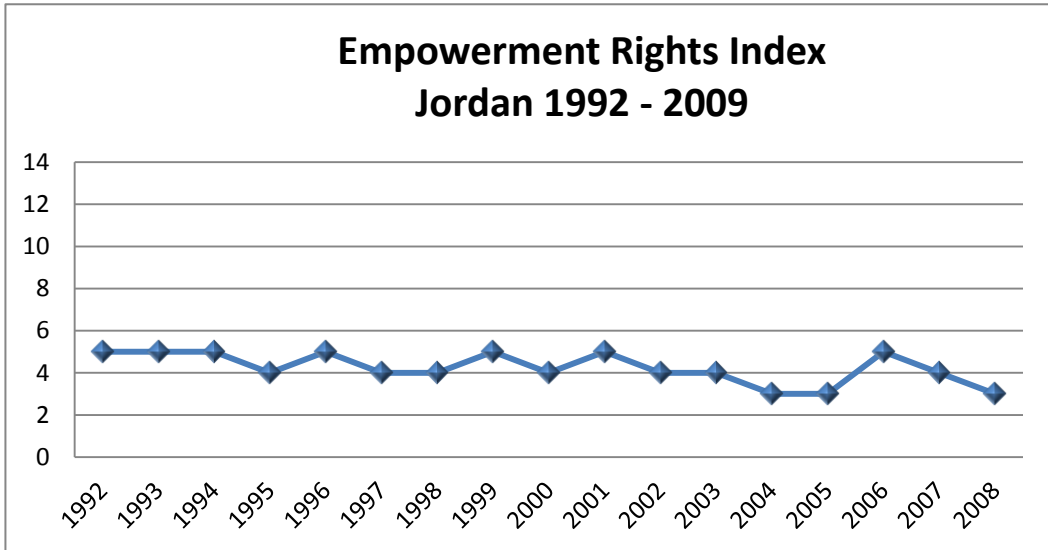
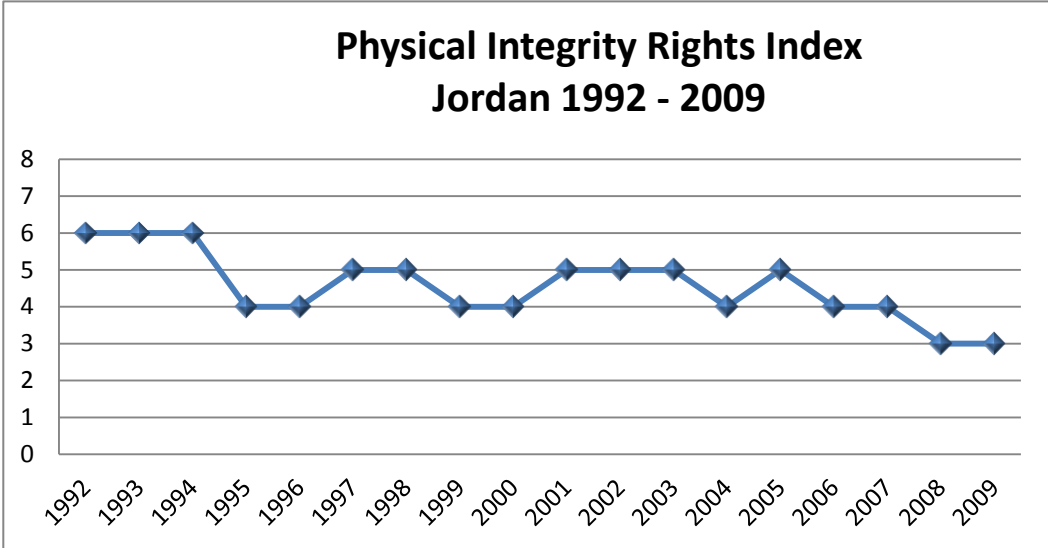
The first set, physical integrity rights, included the rights not to be tortured, summarily executed, disappeared, or imprisoned for political beliefs. Country performance is measured for each of these on a scale 0-2 (where 0 signifies the least observance and 2 virtually no violation of a right in a given year), and for the overall respect for the set of rights on scale 0-8 (where 0 represents no government respect for the four rights and 8 stands for high level of government respect for the four rights).

The second set, empowerment rights, include that to free speech, freedom of association and assembly, freedom of movement, freedom of religion, and the right to participate in the selection of government leaders. Alike the previous category, countries score on each separate right on a scale 0-2, as well as on the entire set of rights – here a scale ranges from 0 (no government respect for these seven rights) to 14 (full government respect for these seven rights).

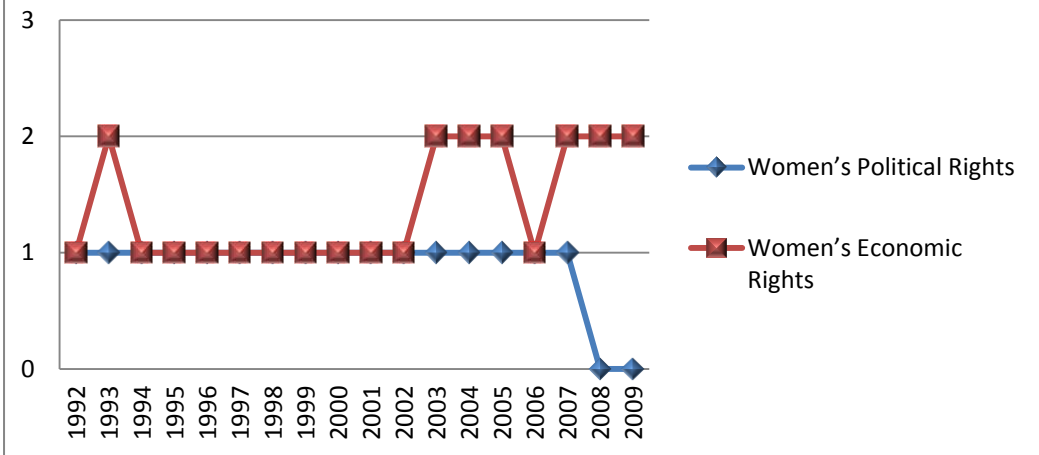
Another set includes women’s rights to equal political, economic, and social treatment, evaluated on a scale from 0 to 3. A score of 0 indicates that a given women’s right was not enshrined in the law or that the law was characterized by discrimination based on sex. A score of 1 means that while recognized in the law, a given right lacked effective enforcement. A score of 2 indicates that although the government effectively enforced a given women’s right recognized under law, women would continue to experience a low level of discrimination. Lastly, a score of 3 stands for a full realization of a given right, protected by law and enforced by the government in practice, by nearly all women.

Finally, like the rights included in the first two sets, the remaining workers’ rights and independence of the judiciary are measured with scores 0-2.

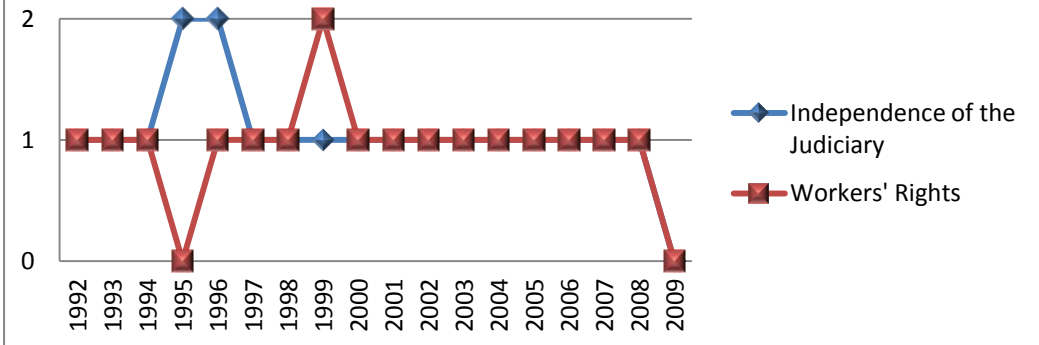
Jordan has been covered in the dataset for years 1992-2009. Interestingly, over the years, the country’s performance on most included human rights has remained persistently poor and on some it has consistently deteriorated. The score on physical integrity rights has declined from 6 in 1994 to 3 in 2009. Likewise, the empowerment rights score has dropped from 5 in 2006 to 3 in 2009. After a 15-year period in which women’s political rights were evaluated as lacking enforcement but recognized in the law, in 2008 they were given the lowest possible mark meaning lack of either enforcement or a legal basis. Workers’ rights and women’s social rights have been assessed consistently as severely restricted, and the judiciary as partially independent. Since 2007, Jordan’s women’s economic rights have received a higher grade of 2, indicating effective enforcement.



### Women's Political / Economic Rights: Jordan 1992-2009



### Independence of the Judiciary / Workers' Rights Jordan 1992 - 2009



# ANNEX (original graphs and tables from reports):

World Justice Project, 'Rule of Law Index 2011 Report'

## Jordan

Amman, Az Zarqa, Irbid

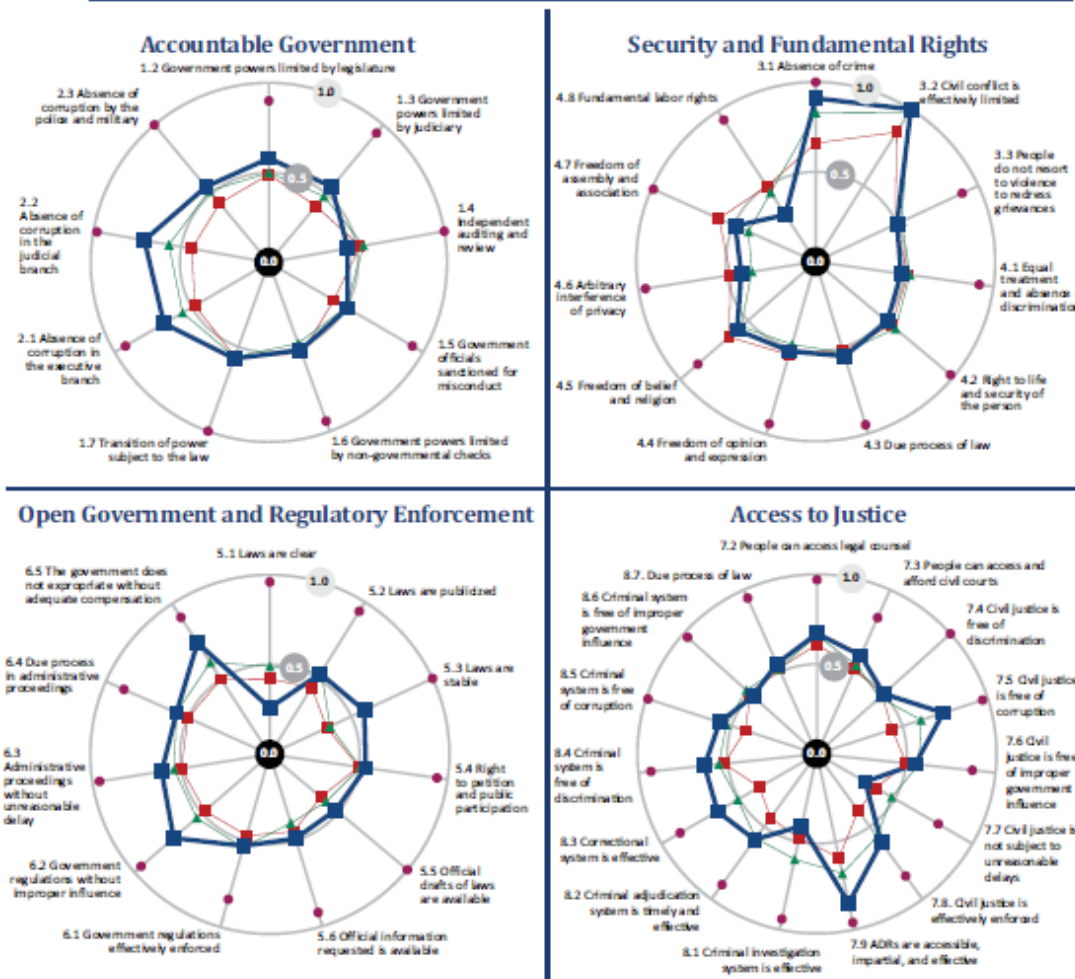
### 1. WJP Rule of Law Index

Income	WJP Rule of Law Index Factors	Score	Global Ranking	Regional Ranking	Income Group Ranking
Lower Middle	Factor 1: Limited Government Powers	0.53	36/66	2/5	6/16
Region	Factor 2: Absence of Corruption	0.65	27/66	2/5	1/16
Middle East & North Africa	Factor 3: Order and Security	0.80	26/66	2/5	3/16
Population	Factor 4: Fundamental Rights	0.48	56/66	3/5	12/16
6m (2010)	Factor 5: Open Government	0.48	32/66	2/5	4/16
79% Urban	Factor 6: Regulatory Enforcement	0.63	21/66	2/5	1/16
29% in three largest cities	Factor 7: Access to Civil Justice	0.60	22/66	2/5	1/16
	Factor 8: Effective Criminal Justice	0.55	30/66	2/5	4/16

### 2. Scores for all WJP Rule of Law Index sub-factors

In each graph, a sub-factor is represented by a radius from the center of the circle to the periphery. The center of each circle corresponds to the lowest possible score for each sub-factor (0.00); the outer edge of the circle marks the highest possible score (1.00).

Key: ■ Jordan ● Top Score ■ Lower Middle Income ▲ Middle East & North Africa





## Middle East and North Africa

Country	Factor 1: Limited Government Powers	Factor 2: Absence of Corruption	Factor 3: Order and Security	Factor 4: Fundamental Rights	Factor 5: Open Government	Factor 6: Regulatory Enforcement	Factor 7: Access to Civil Justice	Factor 8: Effective Criminal Justice
Iran	5/5	3/5	5/5	5/5	3/5	3/5	3/5	3/5
Jordan	2/5	2/5	2/5	3/5	2/5	2/5	2/5	2/5
Lebanon	3/5	4/5	3/5	1/5	5/5	5/5	5/5	4/5
Morocco	4/5	5/5	4/5	4/5	4/5	4/5	4/5	5/5
United Arab Emirates	1/5	1/5	1/5	2/5	1/5	1/5	1/5	1/5

## Lower Middle Income

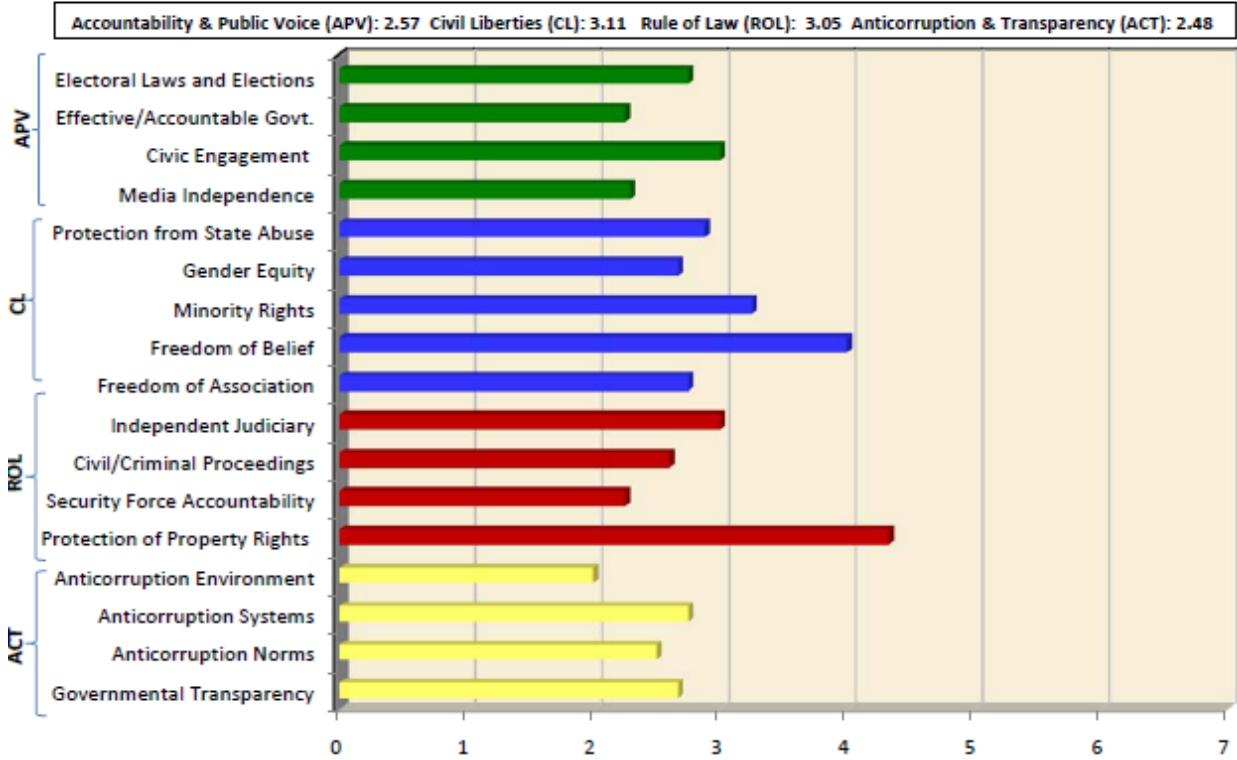
Country	Factor 1: Limited Government Powers	Factor 2: Absence of Corruption	Factor 3: Order and Security	Factor 4: Fundamental Rights	Factor 5: Open Government	Factor 6: Regulatory Enforcement	Factor 7: Access to Civil Justice	Factor 8: Effective Criminal Justice
Bolivia	13/16	14/16	12/16	9/16	5/16	12/16	12/16	16/16
Cameroon	15/16	15/16	10/16	13/16	15/16	14/16	14/16	13/16
China	7/16	3/16	2/16	16/16	2/16	8/16	6/16	2/16
El Salvador	4/16	4/16	11/16	3/16	10/16	2/16	3/16	12/16
Guatemala	12/16	8/16	13/16	7/16	6/16	9/16	10/16	9/16
India	2/16	10/16	15/16	4/16	1/16	13/16	8/16	6/16
Indonesia	1/16	9/16	7/16	1/16	3/16	3/16	4/16	3/16
Jordan	6/16	1/16	3/16	12/16	4/16	1/16	1/16	4/16
Morocco	8/16	13/16	5/16	14/16	11/16	10/16	7/16	14/16
Nigeria	10/16	11/16	14/16	11/16	13/16	11/16	2/16	11/16
Pakistan	14/16	16/16	16/16	15/16	16/16	15/16	16/16	15/16
Philippines	3/16	5/16	9/16	6/16	9/16	5/16	13/16	8/16
Senegal	11/16	7/16	6/16	5/16	14/16	6/16	5/16	7/16
Thailand	9/16	2/16	8/16	2/16	8/16	4/16	11/16	1/16
Ukraine	16/16	12/16	4/16	8/16	12/16	16/16	15/16	10/16
Vietnam	5/16	6/16	1/16	10/16	7/16	7/16	9/16	5/16

## Scores for 2010:

Factor 1:	Limited Government Powers	0.51	22/35	1/2	7/12
Factor 2:	Absence of Corruption	0.76	12/35	1/2	1/12
Factor 3:	Clear, Publicized, and Stable Laws	0.53	15/35	1/2	3/12
Factor 4:	Order and Security	0.76	15/35	1/2	2/12
Factor 5:	Fundamental Rights	0.43	31/35	2/2	12/12
Factor 6:	Open Government	0.17	35/35	2/2	12/12
Factor 7:	Regulatory Enforcement	0.64	12/35	1/2	1/12
Factor 8:	Access to Civil Justice	0.59	17/35	1/2	3/12
Factor 9:	Effective Criminal Justice	0.68	15/35	1/2	2/12

# Freedom House Index 2010

## Countries at the Crossroads 2010: Jordan



	2006	2010
Public Voice	2.83	2.57
Civil Liberties	3.12	3.11
Rule of Law	3.12	3.05
Anticorruption and Transparency	2.28	2.48

## Bertelsmann Transformation Index

Rule of Law	Separation of powers	Independent judiciary	Prosecution of office abuse	Civil rights	
4.0	3	4	4	5	2010
4.3	4	4	4	5	2008
4.3	4	4	4	5	2006

## World Bank Governance Indicators

### Individual Indicators used to construct Rule of Law

Code	Source	Website	1996	1998	2000	2002	2003	2004	2005	2006	2007	2008	2009	2010
ADB	African Development Bank Country Policy and Institutional Assessments	<a href="http://cpia.afdb.org/About.aspx">http://cpia.afdb.org/About.aspx</a>	..	..	..	..	..	..	..	..	..	..	..	..
AFR	Afrobarometer	<a href="http://www.afrobarometer.org">http://www.afrobarometer.org</a>	..	..	..	..	..	..	..	..	..	..	..	..
ASD	Asian Development Bank Country Policy and Institutional Assessments	<a href="http://www.adb.org/">http://www.adb.org/</a>	..	..	..	..	..	..	..	..	..	..	..	..
BPS	Business Enterprise Environment Survey	<a href="http://www.worldbank.org/eca/governance">http://www.worldbank.org/eca/governance</a>	..	..	..	..	..	..	..	..	..	..	..	..
BTI	Bertelsmann Transformation Index	<a href="http://www.bertelsmann-transformation-index.de/">http://www.bertelsmann-transformation-index.de/</a>	..	..	..	0.25	0.43	0.43	0.43	0.43	0.40	0.40	0.40	0.40
CCR	Freedom House Countries at the Crossroads	<a href="http://www.freedomhouse.org">http://www.freedomhouse.org</a>	..	..	..	..	NP	NP	NP	NP	NP	NP	NP	NP
EIU	Economist Intelligence Unit	<a href="http://www.eiu.com">http://www.eiu.com</a>	0.56	0.56	0.56	0.47	0.47	0.50	0.50	0.50	0.50	0.50	0.50	0.50
FRH	Freedom House	<a href="http://www.freedomhouse.org">http://www.freedomhouse.org</a>	..	..	..	..	..	..	..	..	..	..	..	..
GCS	World Economic Forum Global Competitiveness Survey	<a href="http://www.weforum.org">http://www.weforum.org</a>	0.50	0.62	0.71	0.63	0.73	0.75	0.73	0.72	0.75	0.78	0.73	0.68
GII	Global Integrity Index	<a href="http://www.globalintegrity.org/">http://www.globalintegrity.org/</a>	..	..	..	..	..	..	..	..	0.67	0.67	0.42	0.42
GWP	Gallup World Poll	<a href="http://www.gallupworldpoll.com">http://www.gallupworldpoll.com</a>	..	..	..	..	..	..	..	0.88	0.87	0.87	0.81	0.81
HER	Heritage Foundation Index of Economic Freedom	<a href="http://www.heritage.org">http://www.heritage.org</a>	0.70	0.70	0.70	0.50	0.50	0.50	0.50	0.50	0.55	0.55	0.55	0.55
HUM	Cingranelli-Richards (CIRI) Human Rights Database	<a href="http://www.humanrightsdata.com">http://www.humanrightsdata.com</a>	1.00	0.50	0.50	0.50	0.50	0.00	0.50	0.50	0.50	0.50	0.00	0.00
IFD	IFAD Rural Sector Performance Assessments	<a href="http://www.ifad.org">http://www.ifad.org</a>	..	..	..	..	..	0.61	0.61	0.61	0.63	0.75	..	..
IPD	Institutional Profiles Database	<a href="http://www.cepii.fr/">http://www.cepii.fr/</a>	..	..	..	..	..	..	..	0.64	0.64	0.64	0.60	0.60
LBO	Latinobarometro	<a href="http://www.latinobarometro.org">http://www.latinobarometro.org</a>	..	..	..	..	..	..	..	..	..	..	..	..
PIA	World Bank Country Policy and Institutional Assessments	<a href="http://www.worldbank.org">http://www.worldbank.org</a>	..	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
PRS	Political Risk Services International Country Risk Guide	<a href="http://www.prsgroup.com">http://www.prsgroup.com</a>	0.67	0.67	0.67	0.67	0.67	0.67	0.67	0.67	0.67	0.67	0.67	0.67
TPR	US State Department Trafficking in People report	<a href="http://www.state.gov/q/tp/tip/rfs/tiprpt">http://www.state.gov/q/tp/tip/rfs/tiprpt</a>	..	..	..	..	..	..	0.67	0.67	0.33	0.67	0.67	0.67
VAB	Vanderbilt University Americas Barometer Survey	<a href="http://www.lapopsurveys.org">http://www.lapopsurveys.org</a>	..	..	..	..	..	..	..	..	..	..	..	..
WCY	Institute for management & development World Competitiveness Yearbook	<a href="http://www.imd.ch">http://www.imd.ch</a>	..	..	..	..	0.62	0.63	0.62	0.62	0.61	0.63	0.58	0.48
WMO	Global Insight Business Conditions and Risk Indicators	<a href="http://www.globalinsight.com">http://www.globalinsight.com</a>	0.63	0.63	0.63	0.69	0.69	0.65	0.69	0.69	0.75	0.69	0.69	0.69

Country	Sources	Year	Percentile Rank (0-100)	Governance Score (-2.5 to +2.5)	Standard Error
JORDAN	14	2010	61.1	+0.22	0.14
	14	2009	61.6	+0.30	0.14
	15	2008	64.9	+0.49	0.14
	15	2007	64.1	+0.48	0.15
	14	2006	62.7	+0.43	0.15
	12	2005	61.7	+0.41	0.16
	11	2004	61.7	+0.39	0.16
	10	2003	62.7	+0.39	0.17
	8	2002	56.9	+0.17	0.18
	7	2000	62.2	+0.38	0.16
	7	1998	62.7	+0.38	0.19
	6	1996	62.2	+0.30	0.21

Country	Sources	Year	Percentile Rank (0-100)	Regional Average, Percentile	Governance Score (-2.5 to +2.5)	Standard Error
JORDAN	14	2010	61.1	48.1	+0.22	0.14

Country	Sources	Year	Percentile Rank (0-100)	Income Average, Percentile	Governance Score (-2.5 to +2.5)	Standard Error
JORDAN	14	2010	61.1	50.9	+0.22	0.14

### Transparency International

- 1998 - 4.7
- 1999 - 4.4
- 2000 - 4.6
- 2001 - 4.9
- 2002 - 4.5
- 2003 - 4.6
- 2004 - 5.3
- 2005 - 5.7
- 2006 - 4.7
- 2007 - 4.7
- 2008 - 5.1
- 2009 - 5.0
- 2010 - 4.7

## Failed states index

			Demographic Pressures	Refugees and IDPs	Group Grievance	Human Flight	Uneven Development	Poverty and Decline	Legitimacy of the State	Public Services	Human Rights and Rule of Law	Security Apparatus	Factionalized Elites	External Intervention	TOTAL SCORE
2011	177	<b>96</b>	6.4	7.6	6.7	4.7	6.9	5.8	5.7	4.9	<b>6.8</b>	6.0	6.3	6.8	<b>74.5</b>
2010	177	<b>90</b>	6.8	7.9	6.9	4.8	7.2	6.2	5.9	5.2	<b>7.0</b>	5.9	6.5	6.7	<b>77.0</b>
2009		<b>86</b>	6.7	7.9	6.8	5	7.4	6.5	6	5.4	<b>6.9</b>	6	6.5	6.8	<b>77.9</b>
2008		<b>82</b>	6.7	7.8	6.5	4.7	7.5	6.6	6	5.6	<b>6.7</b>	6	6.5	6.7	<b>77.3</b>
2007		<b>82</b>	6.2	6.8	6.5	5	7.7	6.6	6.2	5.6	<b>6.2</b>	6.4	6.5	6.9	<b>76.6</b>
2006		<b>74</b>	6	6.8	6	5	7.6	6.5	6.8	5.8	<b>6.1</b>	6.8	6.6	7	<b>77</b>

## MIDDLE EAST AND NORTH AFRICA

RANK	REGIONAL RANK	COUNTRY / TERRITORY	CPI 2010 SCORE	90% CONFIDENCE INTERVAL		SURVEYS USED
				LOWER BOUND	UPPER BOUND	
19	1	Qatar	7.7	6.6	8.6	7
28	2	United Arab Emirates	6.3	5.4	7.3	5
30	3	Israel	6.1	5.7	6.6	6
41	4	Oman	5.3	4.1	6.4	5
48	5	Bahrain	4.9	4.1	5.7	5
50	6	Jordan	4.7	4.0	5.5	7
50	6	Saudi Arabia	4.7	3.3	6.0	5
54	8	Kuwait	4.5	3.3	5.9	5
59	9	Tunisia	4.3	3.0	5.6	6
85	10	Morocco	3.4	2.9	3.9	6
91	11	Djibouti	3.2	2.1	4.7	3
98	12	Egypt	3.1	2.9	3.4	6
105	13	Algeria	2.9	2.6	3.2	6
127	14	Lebanon	2.5	2.0	2.9	4
127	14	Syria	2.5	2.1	2.8	5
146	16	Iran	2.2	1.6	3.1	4
146	16	Libya	2.2	2.0	2.4	6
146	16	Yemen	2.2	2.0	2.5	4
175	19	Iraq	1.5	1.2	1.9	3

## Cingranelli-Richards (CIRI) Human Rights Dataset

Right	Scale	Index range	Description
Physical Integrity Rights Index	1	0 - 8	Score = 0; no government respect for these four rights, Score = 8; full government respect for these four rights.
Disappearance	1	0 - 2	Score = 0; disappearances have occurred frequently in a given year, Score = 1; disappearances occasionally occurred, Score = 2; disappearances did not occur in a given year.
Extrajudicial Killing	1	0 - 2	Score = 0; extrajudicial killings were practiced frequently in a given year, Score = 1; occasionally, Score = 2; such killings did not occur in a given year.
Political Imprisonment	1	0 - 2	Score = 0; there were many people imprisoned because of their religious, political, or other beliefs in a given year, Score = 1; a few people were imprisoned, Score = 2; no persons were imprisoned for any of the above reasons in a given year.
Torture	1	0 - 2	Score = 0; torture was practiced frequently in a given year, Score = 1; torture was practiced occasionally, Score = 2; torture did not occur in a given year.
Empowerment Rights Index	1	0 - 14	Score = 0; no government respect for these five rights Score = 10; full government respect for these five rights.
Independence of the Judiciary	1	0 - 2	Score = 0; not independent, Score = 1; partially independent, Score = 2; generally independent.
Freedom of Domestic Movement	1	0 - 2	Score = 0; this freedom was severely restricted, Score = 1; the freedom was somewhat restricted, Score = 2; unrestricted freedom of domestic movement.
Freedom of Foreign Movement	1	0 - 2	Score = 0; this freedom was severely restricted, Score = 1; the freedom was somewhat restricted, Score = 2; unrestricted freedom of foreign movement.
Freedom of Speech	1	0 - 2	Score = 0; government censorship of the media was complete, Score = 1; there was some government censorship of the media, Score = 2; there was no government censorship of the media in a given year.
Electoral Self-determination	1	2-Jan	Score = 0; the right to self-determination through free and fair elections did not exist in law or practice during the year in question, Score = 1; political participation was moderately free and open, Score = 2; political participation was very free and open during the year in question and citizens had the right to self-determination through free and fair elections in both law and practice.
Freedom of Religion	1	0 - 1	Score = 0; government restrictions on religious practices are severe and widespread, Score = 1; such practices are moderate, Score = 0; such practices are practically absent.
Worker's Rights	1	0 - 2	Score = 0; workers' rights were severely restricted, Score = 1; workers' rights were somewhat restricted, Score = 2; workers' rights were fully protected during the year in question.
Freedom of Assembly and Association	1	0 - 2	Score = 0; citizens' rights to freedom of assembly or association were severely restricted or denied completely to all citizens, Score = 1; these rights were limited for all citizens or severely restricted or denied for select groups, Score = 2; these rights were virtually unrestricted and freely enjoyed by practically all citizens in a given year.

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