

£JORDAN

@Legal safeguards needed to eradicate torture

1. Legal procedures which increase the risk of torture

1.1 Lack of access to lawyers

Amnesty International is concerned that under Jordanian law an arrested person may remain indefinitely in the custody of the police or the General Intelligence Department (GID) without access to lawyers. The Human Rights Committee, which examined Jordan's periodic report in 1994, was "particularly concerned at conditions of detention in the GID headquarters". Amnesty International has received a number of reports of detainees held in the GID for up to six months; some detainees have been transferred to other prisons and have remained without charge for more than a year. According to the Jordanian Code of Criminal Procedure (CCP), public prosecutors may renew indefinitely the detention of suspects for periods of up to 15 days at a time. With respect to detainees held by the GID, the prosecutors who renew the detention orders appear to be serving officers of the GID who are granted the capacity of prosecutors. Detainees have said that sometimes the very officers who have carried out the interrogation of a suspect are those who renew the detention order.

Article 63 of the Jordanian Code of Criminal Procedure allows public prosecutors to interrogate suspects in the absence of defence lawyers, but stresses that this may only be done "in a situation of urgency". Similarly, Article 64 allows the public prosecutor to prevent access to lawyers, but only "in a situation of urgency when it is feared that evidence could be lost".

However, almost all detainees under interrogation by the GID appear to be denied access to defence lawyers. Thus a situation which is permissible under Jordanian law only in exceptional circumstances appears to have become the norm.

In 1994, the Human Rights Committee expressed its concern about the "denial of access of detainees to legal counsel". Amnesty International has also urged the Jordanian Government to reform this practice and to ensure that Jordanian law is brought in conformity with international standards which require that detainees "shall have prompt access to a lawyer, and in any case not later than 48 hours from the time of arrest or detention" (Article 7 of the United Nations Basic Principles on the Role of Lawyers).

1.2 Lack of access to independent doctors

Amnesty International has welcomed the introduction in 1992 by the **GID** of regular medical examinations of detainees. An Amnesty International delegate was shown some such records in 1993. In 1995, other delegates were informed by the **GID**'s medical officer that a doctor was always on call to respond to any request for treatment and that he, personally, had received no complaint except of normal illnesses. He also stated that medical records were included in the case file for each detainee. At the same time, officials at the **GID** insisted that no independent doctors chosen by detainees would be allowed to examine detainees within the building.

However, medical control by **GID** doctors alone cannot provide the safeguards necessary to ensure that torture does not occur. Amnesty International continues to receive allegations that detainees have been tortured. It has raised with the **GID** allegations of beatings and *falaqa* (beatings on the soles of the feet), made by detainees in two recent security cases, the "Mu'ta Case" and the "Arab Afghans Case" (see below). Defendants in both these cases alleged that confessions were extracted by torture. Independent doctors were not allowed to examine detainees and traces of injuries on some detainees reported by doctors were neither properly investigated nor apparently taken into account by the judges in the State Security Court. Some lawyers also stated that no medical record from the prison was found in the detainees' file. It is all the more important to ensure that procedures are in accordance with international standards when, as in these cases, detainees face the death penalty.

Regular medical examinations by independent doctors and full access to family members and medical doctors of their choice would not only help to protect detainees against torture and ill-treatment, but would also protect the authorities against false accusations of torture and ill treatment.

1.3 Lack of access to judges

Detainees held by the **GID** are almost invariably held in prolonged incommunicado detention for weeks and months. Typically, they have no access to a judge until their interrogation is over and a confession, if required, is taken. The practice by which prosecutors, who may be serving members of the **GID** and who may have carried out the interrogation, are given the authority to renew detention orders subverts the pre-trial right to an independent review by a judicial authority. This practice contravenes the International Covenant on Civil and Political Rights (ICCPR), ratified by Jordan. Article 9 (4) of the ICCPR requires that any detainees be allowed access to a court "in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful". The Human Rights Committee expressed its concerns that the guarantees in Article 9 of the ICCPR "are not fully complied with" and recommended that "the detention

premises controlled by the Central Intelligence Department be placed under close supervision of the judicial authorities".

2. Continuing evidence of torture

Although in recent years Amnesty International has received fewer allegations than previously of torture by the GID, on occasion detainees have alleged that they have suffered beatings and falaqa, both from the GID and from the police.

In 1993, for example, the eight detainees who were later tried by the State Security Court on capital charges in the "Mu'ta University case" (Case No. 75/93) were arrested between April and May and initially interrogated by the GID, without access to lawyers or judges until August, when they were moved to Zarqa military prison and brought to trial. They all gave confessions to the military prosecutor of the State Security Court while still held by the GID and in the absence of lawyers. Later in court they retracted their confessions saying they had been extracted under torture with methods including *falaqa* and threats of sexual assault. One of them, Husayn al-Jidi, sustained an injury over his left eyebrow, requiring sutures, which he said was caused by beatings, while the prosecutor suggested it was the result of an attempt at suicide by banging his head against his cell door. The court does not appear to have investigated this incident.

Even after their interrogation defendants did not have access to doctors of their own choice; however, in September 1993 four of the detainees were examined by doctors of the Ministry of Health who noted injuries "less than six months old" on all four.

All defendants were convicted by the State Security Court. Isma'il Wahwah, a businessman, was sentenced to death, as were two defendants tried *in absentia*. The other defendants were sentenced to between 15 years' and life imprisonment.

On 13 March 1995 the Jordanian Court of Cassation reversed the verdicts and released all defendants. The Court of Cassation's judgment stated, among other points, that confessions obtained from the 10 defendants were illegal because they were extracted under duress. Amnesty International welcomed this decision, in keeping with Article 15 of the Convention against Torture.

In another case tried before the State Security Court, the so-called "Arab Afghan case", 25 defendants were charged with plotting to overthrow the government and with carrying out bombings and other violent acts. At least 16 of the accused retracted their confessions during their trial, alleging that they had been extracted as a result of "physical pressure". They had been arrested between January and March and held in incommunicado detention by the GID for up to six months. In December 1994, 11 defendants (three of them tried in

absentia) were sentenced to death, seven were given prison sentences ranging between seven years' and life imprisonment and seven were acquitted. However, in March 1995, the Court of Cassation overturned the judgments and returned the cases for a retrial, which has not yet taken place.

Ten students, including four women, alleged that they were arrested by the police after a student demonstration within the Yarmuk University precincts on 25 October 1994. They stated that they were beaten and subjected to verbal abuse and threats while they were being held for over two hours in Irbid South Police Station. They were then handed over to the GID and released. Medical certificates dated 26 October 1994 state that four male students suffered bruises and cuts. Amnesty International is not aware whether any formal complaint was made to the authorities or whether any investigation was carried out into these allegations.

Taher Amin Muhammad Nasser was arrested around the beginning of March 1995 and reportedly held for five weeks by the GID before being released without charge. He alleges that during this time he was beaten. A medical certificate states that marks were visible on his leg and right hand. Amnesty International does not know whether any complaint has yet been made against the GID.

3. Refoulement of asylum seekers in danger of torture

Over the past two years the Jordanian Government has forcibly returned asylum seekers to places where they may be at risk of torture or ill-treatment.

In 1993 at least four detainees were expelled from Jordan to countries where Amnesty International feared they were at risk of human rights violations such as torture or ill-treatment. They included Muhammad Salah 'Abd al-'Aziz al-Masri Bilbaisi, a Palestinian with a Jordanian passport, handed over in July 1993 to the Israeli authorities at the King Hussein (Allenby) Bridge. He had been arrested during a visit to Jordan from Saudi Arabia where he was working, after having left Israel and the Occupied Territories in 1987. According to a statement he made later, he was beaten by the Israeli soldiers who took him over at the bridge on 17 July. He was then held for three days in isolation, blindfolded and tied hand and foot, which caused one of his legs to swell to the extent that he was unable to walk. He says he was also deprived of food and drinking water, though water was occasionally splashed on his face. He was then taken to Tulkarem Prison and interrogated for 10 days, allegedly by Palestinian "collaborators" and Israeli interrogators, until he gave a confession. He was later tried in connection with bomb attacks in Israel in 1985 and 1986 attributed to the Democratic Front for the Liberation of Palestine.

In November 1993 three Sudanese nationals were forcibly returned (subjected to refoulement) to Khartoum. Joseph Tombak, Nelson Mabio and Rulla Samuel Madraj are

Sudanese Christians who had left Sudan apparently because of the civil war and arrived in Jordan in mid-1993. Two of them illegally crossed to the West Bank in November, apparently with the intention of seeking asylum in Israel, but were returned to Jordan by the Israeli authorities several days later. All three were then expelled from Jordan despite an intervention by the Amman office of the United Nations High Commissioner for Refugees and last-minute appeals by Amnesty International. Their subsequent fate is unknown.

Reports of Iraqi asylum-seekers deported to Jordan from third countries continued in 1994. In March 1995 an Iraqi national was forcibly returned to Iraq where he was at grave risk of torture, "disappearance", imprisonment as a prisoner of conscience or imprisonment after an unfair trial, execution or extrajudicial execution. 'Adnan Karam Taoma had reportedly been active in the Iraqi opposition and many members of his family, including his father and several of his brothers, were said to have been executed for their activity with political opposition parties. 'Adnan Karam Taoma had fled to Indonesia to seek asylum and was returned to Jordan by the Indonesian authorities on 13 March 1995. Upon his arrival in Amman, Jordanian airport authorities are reported to have contacted the Iraqi Embassy. Arrangements were made between the Jordanian authorities and the Iraqi Embassy for his return to Iraq and a deportation order was issued on 20 March. He was said to have been tried in Jordan on 23 March on charges of possessing false documentation. The outcome of the trial is not known.

The Amman Branch Office of the United Nations High Commissioner for Refugees (UNHCR) contacted Jordanian authorities about 'Adnan Karam Taoma on 25 March. The authorities informed UNHCR representatives that they would be given access to Mr Taoma on 27 March at 10am. On 25 March, the same day that UNHCR were given permission to interview 'Adnan Karam Taoma, the Jordanian authorities deported him to Iraq.