

# JORDAN

## @Human Rights Reforms: Achievements and Obstacles

### I. THE GRADUAL PACE OF REFORM: AN OVERVIEW

Successive governments and the Jordanian Parliament, under the leadership of King Hussein bin Talal, have been implementing a program of important political and human rights reforms since the national parliamentary elections of November 1989. The Jordanian Parliament, which sits for four years, is composed of an elected 80-member House of Representatives and a 40-member Senate appointed by the King. The King also appoints the Prime Minister and the Cabinet.

The 1989 elections, in which candidates ran as individuals since political parties had not yet been authorized, were held in the wake of riots in April 1989. Protesters' demands at the time included increased political participation. No national parliamentary elections had been held in Jordan since 1956. The 1989 elections were held throughout the country with the exception of the West Bank, the Palestinian territory annexed by Jordan in 1950 and occupied by Israel in 1967: in 1988 Jordan had announced the "severance of legal and administrative links" with the West Bank, confirming the primary role of the Palestine Liberation Organization in determining the future status of the territory.

On the initiative of King Hussein, a National Charter was drafted by a 60-member royal commission and adopted in June 1991 at a special meeting attended by some 2,000 citizens. The precise legal status of this document remains unclear, but it has been officially described as complementary to the 1952 Constitution. The National Charter outlines general principles relating to political, economic and social life in Jordan. It includes a commitment for all Jordanian authorities "to protect the rights, dignity and basic freedoms of the individual, the basis of which were laid out by Islam and confirmed by the Universal Declaration of Human Rights and all international covenants and treaties issued in this respect by the United Nations".

Within the framework set out by the National Charter, a new Law on Political Parties was adopted in 1992 paving the way for the resumption of legal party political activity. Also in 1992, the state of emergency, in force since 1939, was fully lifted. The national parliamentary elections of November 1993 were thus the first in which political parties were formally allowed to participate and the first not held under state of emergency provisions.

Earlier in February 1993 King Hussein had charged a 20-member royal committee

with the task of establishing a Centre for Studies on Freedom, Democracy and Human Rights in the Arab World. In October the committee completed a draft law setting out the Centre's aims and working methods. These included investigating human rights violations in Jordan, making relevant recommendations and reporting annually to the King, Parliament and Cabinet. The Centre's draft law is currently before the Parliament. Amnesty International hopes that it will fully conform to the 1992 United Nations (UN) *Principles relating to the status of national institutions*, which set out basic minimum guidelines for the establishment of national institutions for the promotion and protection of human rights.

In addition to the resumption of parliamentary life and the changes in legislation, repressive practices such as the confiscation of passports and restrictions on employment have been abandoned or curbed. Political prisoners have been released in a number of amnesties, the most sweeping of which was the royal pardon of November 1992 under which about 50 political prisoners and detainees, virtually all those held at the time, were released with over 1,400 other prisoners.

Official speeches, particularly those of King Hussein, have regularly stressed the importance of respecting human rights and for Jordan to be a regional example in this regard. Emphasis has been put on the need to develop institutional support for democracy and human rights and lessen dependence on the monarch or other personalities. Programs of human rights education for children and adults are being devised by educational authorities, also with the involvement of Amnesty International members in Jordan.

Amnesty International welcomes the progress in human rights reforms since 1989. It also appreciates the access it has been given throughout this period by the Jordanian authorities at all levels, including the General Intelligence Department (GID) and the military judiciary. However, it believes that important human rights safeguards are still missing and should urgently be introduced to bring Jordan more fully into compliance with the international standards to which it is a state party.

In May 1990, following extensive discussions with the Jordanian authorities, Amnesty International published a report, *Jordan: Human Rights Protection After the State of Emergency* (AI Index: MDE 16/02/90). The report gave an overview of Amnesty International's concerns in the country and the government's program of human rights reforms. It also contained specific recommendations in a number of areas aiming at full implementation of relevant international human rights standards. The following sections look at the extent to which Amnesty International's main recommendations have been implemented and outline areas in which changes are still urgently needed.

## II. SPECIFIC HUMAN RIGHTS REFORMS: AN ASSESSMENT

## **A. The lifting of the state of emergency**

Until April 1992, when the state of emergency was fully lifted, Jordan was governed under a dual set of emergency provisions provided for by the Constitution. One was based on a 1935 Defence Law, in force since 1939, and the other on martial law, in force since 1967. These provisions gave the executive authorities sweeping and often overlapping powers of arrest and indefinite administrative detention without charge, trial or judicial review. They also provided for trials by a Martial Law Court, established in 1967, with no right of appeal.

In 1990 Amnesty International recommended that in reviewing emergency legislation the government ensured that any state of emergency that may be declared in the future would comply fully with the relevant provisions of the International Covenant on Civil and Political Rights (ICCPR). Article 4 of the ICCPR allows state parties to take measures derogating from their obligations under the treaty in "time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed". Such measures may derogate from the ICCPR only "to the extent strictly required by the exigencies of the situation". No derogation is allowed from specific rights, including the right to life and the right not to be subjected to torture or ill-treatment.

Amnesty International also stressed that emergency measures should not be introduced or maintained to suppress human rights, particularly the non-derogable rights referred to in the ICCPR. It recalled General Comment 5/13 of the Human Rights Committee, set up under the ICCPR, which stated that "in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogations can be made."

The National Charter states that, "in order to secure the democratic structures of the Jordanian state and society", it is necessary, among other things, to "unify the legislation relating to the two states of emergency ... referred to in the Constitution" and to "make the decisions of the Council of Ministers relating to the declaration of either state of emergency and their duration subject to the approval of the Parliament". These proposals have not been implemented: the relevant constitutional provisions have not been reviewed and the new Defence Law assigns no role to Parliament.

### *The Defence Law*

A new Defence Law drafted by the government and passed by Parliament was promulgated in March 1992, abrogating the 1935 Defence Law and all the Regulations issued on its basis.

To enter into force, the Defence Law requires a royal decree based on a decision of the Council of Ministers, in accordance with Article 124 of the Constitution. Article 2 of the Defence Law specifies that such decree is issued "if necessitated by the defence of the nation in the event of an emergency threatening national security or public safety". The decree should "include a statement of the circumstances which cause the bringing into force of the Law, specify the regions in which it is to be applied and the date in which it is to come into force", but there is no requirement for a time limit.

Among the powers granted to the Prime Minister under Article 4 of the Defence Law is the power to "place restrictions on people's freedom of assembly, movement and residence, and arrest and detain suspects or those endangering national security and public order". Article 8 allows those subjected to administrative detention to appeal against their detention before the High Court of Justice. The court should rule on the appeal "promptly".

In case of rejection, further appeals may be presented as long as the detention continues. This provision is an improvement over the previous Defence Law, which provided no appeal. However, Amnesty International remains particularly concerned that the new law, like the previous one, still provides for administrative detention without charge or trial of security suspects and sets no time limits on the duration of detention orders.

As in the previous law, violations of the new Defence Law and the regulations issued on its basis are within the jurisdiction of the regular courts. Punishment is a maximum of three years's imprisonment unless the offence is punished more severely by another law. Article 9 provides for the right to request compensation for anyone who has been "the subject of any measure under this law". The Prime Minister is to determine the amount of the compensation, but the applicant has recourse to the judiciary if not satisfied with the Prime Minister's decision.

### *Martial law*

Martial law, declared in 1967 when a Martial Law Court was also established, was officially "frozen" by the government in December 1989. In January and July 1990 new martial law directives greatly reduced the jurisdiction of the Martial Law Court. In July 1992 martial law directives giving the executive authorities sweeping powers of arrest and administrative detention were repealed. In April 1992 martial law was finally lifted

and the Martial Law Court abolished, thus concluding Jordan's gradual march towards ending the state of emergency. Martial law remains an option under Article 125 of the Constitution which provides for its declaration, by royal decree based on a decision of the Council of Ministers, if the Defence Law proved "insufficient for the defence of the Kingdom".

*The Law on Lifting Responsibility as a Result of Ending Martial Law*

Provided for also by Article 125 of the Constitution, this law entered into force with the lifting of martial law. The law transfers all cases before the Martial Law Court to the "competent courts" and allows a retrial of Martial Law Court cases in the circumstances in which a retrial is allowed under the 1961 Code of Criminal Procedure. Amnesty International is not aware of any such retrials having taken place.

The law also grants immunity from any legal liability, arising from ordinary legislation, to all those who had been entrusted with implementing martial law directives. It is not clear whether this law would grant immunity from prosecution to officials who have perpetrated human rights violations such as torture. Amnesty International does not know of cases brought against officials in this context, but believes that no immunity from prosecution should be granted to anyone responsible for human rights violations.

## **B.Review of ordinary legislation**

In 1990 Amnesty International recommended a comprehensive review of ordinary legislation, including the Law on Resistance to Communism and the Law on Political Parties, with the aim of ensuring that no law would violate the rights to freedom of opinion, expression and association, as recognized by the Universal Declaration of Human Rights and the ICCPR, and lead to the imprisonment of prisoners of conscience.

*The repeal of the Law on Resistance to Communism*

The 1953 Law on Resistance to Communism was repealed by Parliament in February 1992 through an initiative of the government. This law punished with up to 15 years' imprisonment offences such as membership of communist organizations and had been used in the past to imprison prisoners of conscience. Amnesty International welcomes its abrogation.

*The new Law on Political Parties*

The new Law on Political Parties, abrogating one in force since 1955, entered into force in October 1992. The new law recognizes the right to form political parties. However, it requires parties to apply for authorization to the Minister of the Interior, who then decides whether to "declare the establishment" of the party. A negative decision may be appealed to

the High Court of Justice. Parties can be dissolved by order of the High Court of Justice on request by the Minister of the Interior.

There is a requirement for political parties to have at least 50 founding members, who must be at least 25 years' old and have had Jordanian nationality for no less than 10 years. According to Article 21 of the law, political parties must be committed to respecting the Constitution and the rule of law as well as to "safeguarding the independence and security of the nation and preserving national unity". They may not have any organizational, financial or other links abroad.

Article 24 prescribes punishments of imprisonment of up to two years for anyone receiving funds for the party from any non-Jordanian source; of up to six months for anyone participating in a non-authorized party; and for up to three months for contravening other provisions of the law unless a more severe penalty is prescribed. Fines are prescribed in addition or as an alternative to imprisonment.

At the end of 1992 the applications for authorization of the Jordanian Communist Party, the Jordanian People's Democratic Party and the pro-Iraqi Jordanian Arab Socialist Ba'th Party were initially rejected by the Minister of the Interior, on the grounds that they did not meet the requirements of the law. However, after discussions with parties' officials, the Minister reversed his decision shortly after.

At least 20 political parties have been registered so far. Amnesty International does not know of other parties whose applications have been rejected. One party, the Liberation Party in Jordan (LPJ) which seeks the establishment of an Islamic state encompassing Jordan, has declared that it will not apply for official registration as it opposes the Jordanian Constitution and some of the conditions imposed by the Law on Political Parties. Two party leaders were detained in May 1993 on accusation of conspiring to change the Constitution by illegal means, including violence, but were then released without charge in November. Both maintained that the LPJ does not advocate violence in pursuit of its aims.

While welcoming the reaffirmation of the right to form political parties, Amnesty International is concerned that provisions of the new Law on Political Parties or their interpretation may unduly restrict the right to freedom of association as guaranteed by Article 20 of the Universal Declaration of Human Rights and Article 22 of the ICCPR. Such provisions should be reviewed and the application of the law closely monitored to prevent the imprisonment of prisoners of conscience.

*Freedom of the media and the new Law on Press and Publications*

In recent years there has been much debate in the country on the need to properly protect the right to freedom of opinion and expression. Traditionally, the Jordanian media have received guidance from the Ministry of Information and exercised self-censorship, for example over matters regarding the royal family or foreign policy, in order to avoid displeasing the authorities. In the past a number of journalists have suffered reprisals such as loss of their credentials or restrictions on their employment or movements.

The focus of such debate since 1989 has been the new Law on Press and Publications, which entered into force in May 1993 replacing a 1973 law. The final draft of the law has been criticized by journalists as still including provisions incompatible with internationally recognized human rights. For example, journalists are required to join the Jordanian Press Association in order to be recognized as such. Newspapers must apply for a permit to the Minister of Information and the printing of books must be authorized by the Director General of the Department of Press and Publications, although their decisions can be appealed to the High Court of Justice.

There are also several specific restrictions on the content of what may be published. For example, Article 8 of the new law requires publications to "refrain from publishing anything which is contrary to the principles of freedom, national responsibility, human rights, respect for the truth and the values of the Arab and Islamic nation". Article 9 requires journalists to perform their task in "an objective, comprehensive and balanced manner" and to "aim for accuracy, impartiality and objectivity when commenting on news or events".

Article 40 of the law forbids the press from publishing "news offensive to the King or the royal family", "articles which may harm national unity, incite crimes, sow hatred and disseminate loathing, discord and conflict among the members of society"; "articles or news aimed at shaking confidence in the national currency"; and "articles or information containing a personal insult to heads of Arab, Islamic or friendly states or heads and members of the diplomatic missions accredited to the Kingdom". Article 42 prohibits the publication of records of an ongoing trial without the court's authorization.

Article 5 grants the judiciary the power to demand the disclosure of confidential sources of information "in the course of criminal proceedings in order to protect state security, prevent a crime or achieve justice".

Penalties consisting of fines are prescribed for the violation of provisions of the law, except in one instance (the acceptance of any financial assistance or donation without the authorization of the Minister of Information as specified in Article 44) for which punishment may include imprisonment of four to six months.

In 1993, from September onwards, about six journalists were charged with offences under this law as well as other legislation for articles they had written. Some may face imprisonment on the basis of the provisions of the 1960 Penal Code, such as Article 191

which prescribes imprisonment of between three months and two years for anyone found guilty of defaming:

"the Parliament or one of its members during or because of the exercise of his functions; an official agency; the courts; the public institutions; the army; or any employee during or because of the exercise of his functions."

Journalists currently on trial include Ramadan al-Rawashidah, a reporter for the newspaper *al-Ahali* of the Jordanian People's Democratic Party. He was detained for five days in Jweidah prison in September and then released on bail after publishing an article in which he said that the State Security Court was delaying the medical examination of eight defendants who had alleged torture and were being tried on charges of conspiring to kill King Hussein during a graduation ceremony at Mu'ta University in June 1993. He was accused of defaming the court and violating Article 42 of the Law on Press and Publications. In November Nihad Abu Ghawsh was charged with defaming Parliament for an article, also published in *al-Ahali*, in which he criticized aspects of Jordan's parliamentary democracy. Jamil al-Nimri, *al-Ahali's* editor, is also on trial in these two cases.

Amnesty International is concerned that current Jordanian legislation may be used to restrict the right to freedom of opinion and expression as guaranteed by Article 19 of the Universal Declaration of Human Rights and Article 19 of the ICCPR and lead to the imprisonment of prisoners of conscience. All legislation relating to the freedom of the news media should be reviewed and its application closely monitored to prevent the imprisonment of prisoners of conscience.

### **C. Safeguards for fair trial: introduction of the right of appeal**

In 1990, among other safeguards for fair trial, Amnesty International called for the introduction of legislation guaranteeing the right of appeal before all Jordanian courts. Defendants before the Martial Law Court, a three-judge military court which until 1992 tried political as well as other cases, had no right of appeal. With the phasing out of the Martial Law Court, another military court, the State Security Court, was established in 1991 on the basis of a 1959 law. This court largely took over the jurisdiction of the Martial Law Court and defendants also had no right of appeal against its verdicts.

In May 1993 an amendment to the 1959 Law on the State Security Court entered into force, introducing a right of appeal before the Court of Cassation. Amnesty International understands that the hearing before the Court of Cassation in this case is a full appeal on



questions of both fact and law, not limited to technical legal errors. The amendment had been proposed by the government of Prime Minister Taher Masri in July 1991 and passed by Parliament, but was initially vetoed by King Hussein in November 1991. The King's objections included the right of appeal. However, Parliament reconfirmed the amendment and King Hussein promulgated it.

## **D. Ratification of international human rights treaties**

Jordan, a state party since 1976 to both the ICCPR and the International Covenant on Economic, Social and Cultural Rights, ratified the Convention on the Rights of the Child on 24 May 1991 and acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 13 November 1991.

Amnesty International welcomes these ratifications and urges Jordan to also ratify the Optional Protocol to the ICCPR – which recognizes the rights of individuals claiming to be victims of any of the rights set forth in the ICCPR to petition the Human Rights Committee – and the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty – which requires countries not to carry out executions, with a view to abolish the death penalty.

## **III. PERSISTING VIOLATIONS: THE RESISTANCE TO CHANGE**

Despite reforms in legislation and practice, there are areas of remaining serious concern to Amnesty International. They include prolonged incommunicado detention of detainees, which facilitates torture and ill-treatment and compromises the right to a fair trial; the continuing operation of the special State Security Court to try political cases; the growing use of the death penalty; and the lack of full protection for people against expulsion to countries where they would risk serious human rights violations.

### **A. Incommunicado detention and torture or ill-treatment**

In 1990 Amnesty International called for the introduction, as a matter of urgency, of

safeguards against torture and ill-treatment including clear directives against torture; strict limits on incommunicado detention, with prompt access to lawyers, judges, doctors and relatives; separation of the investigating and custodial authorities; proper medical examinations and record-keeping; adequate investigations of allegations of torture; bringing to justice anyone found responsible and compensating the victims; and the prohibition of the use of coerced statements as evidence.

*Detention and torture or ill-treatment by the General Intelligence Department*

Since January 1992 over 800 detainees have been held by the GID on security grounds. While some of them were brought to trial before the State Security Court, the large majority have been released without being charged. They included people suspected of violent political activities and others who may have been prisoners of conscience.

Detainees held by the GID are almost invariably detained in prolonged incommunicado detention, sometimes for weeks or months. Typically, they are held with no access to lawyers, doctors of their choice or judges until their interrogation is over and a confession, if required, is taken. Family visits are allowed occasionally, although sometimes they are used to put additional pressure on the detainees, for example by encouraging relatives to ask detainees to confess.

It is during the period of incommunicado detention and interrogation that torture or ill-treatment is sometimes alleged to take place. Although in recent years Amnesty International has received fewer allegations than previously of torture by the GID, on occasion detainees have claimed to have been subjected to methods such as generalized beatings and *falaga* (beatings on the soles of the feet) in an underground corridor within the GID Headquarters in Amman. This corridor, called *saha* by detainees, is known to have been used in the past for such practices.

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", 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 *falaga* 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.

Amnesty International stresses that the obligation under Article 12 of the Convention

against Torture to conduct a prompt and impartial investigation of complaints of torture applies to all competent authorities, including prosecutors and courts. Guideline 16 of the 1990 UN Guidelines on the Role of Prosecutors requires prosecutors to exclude evidence which they have reason to believe was obtained through unlawful methods and to take all necessary steps to ensure that those responsible for such methods be brought to justice.

*Relevant legislation and discussions with the GID*

The Code of Criminal Procedure allows public prosecutors to renew indefinitely the detention of suspects for periods of up to 15 days at a time. Article 63 (2) allows public prosecutors to interrogate detainees without lawyers "in a situation of urgency (*halat al-sur'ah*) when it is feared that the evidence could be lost". Article 64 (3) allows a public prosecutor to prevent access to lawyers "in a situation of urgency (*halat al-isti'ja*) or when he deems it necessary to discover the truth" and explicitly forbids a review of the prosecutor's decision in this regard. On the basis of Article 66 (1) public prosecutors may forbid all contacts with detainees for renewable periods of up to 10 days at a time. Article 66 (2) specifies that this prohibition does not apply to lawyers "unless the public prosecutor determines otherwise". The grounds for such prohibition are not specified and there is no reference to any possibility of appeal.

These provisions are routinely used by GID officers, who are granted the capacity of public prosecutors, to detain people incommunicado until the end of their interrogation. Unlawful deprivation of liberty, including by law enforcement officials, is an offence under the Penal Code and Jordanian officials have told Amnesty International that detainees can seek a judicial review of their detention orders. However, such safeguard is not included in the Code of Criminal Procedure, and to Amnesty International's knowledge it has never been tested in political cases.

The Jordanian authorities have consistently denied that torture or ill-treatment takes place, accusing those making such allegations of lying. They have often referred to orders issued to all military personnel by Sharif Zeid Ben Shaker, current Chief of the Royal Court and former Chief of Staff of the Jordanian armed forces, forbidding the use of any form of violence against prisoners. GID officials, who themselves are members of the armed forces, have also stressed to Amnesty International that detainees in their custody benefit from visits of the International Committee of the Red Cross (ICRC) every two weeks and that the restrictions on access by detainees to lawyers, for example, are in order to prevent sensitive information being relayed between detainees and others outside. With a few individual exceptions, lawyers in Jordan and even detainees' relatives have not yet challenged this system of incommunicado detention.

Amnesty International welcomes the existence of orders prohibiting the military from using violence against prisoners. It also welcomes the regular visits by ICRC delegates.

However, also because of their confidential nature, such visits cannot replace other basic and internationally recognized safeguards for detainees such as access to lawyers, judges and doctors of their choice.

#### *Access to lawyers*

Amnesty International cannot accept that access to lawyers be routinely withheld for prolonged periods. Principle 7 of the 1990 UN Basic Principles on the Role of Lawyers requires governments to ensure prompt access to a lawyer, "in any case not later than forty-eight hours from the time of arrest or detention". Principle 15 of the 1988 UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment makes clear that even in exceptional circumstances such access "shall not be denied for more than a matter of days".

Amnesty International cannot accept either that lawyers be absent when defendants are interrogated or give confessions to prosecutors after their interrogation has ended. This is all the more crucial in capital cases such as in the "Mu'ta University case", as the defendants' lives are at stake. Principle 1 of the UN Basic Principles on the Role of Lawyers recognizes that defendants are entitled to have lawyers "defend them at all stages of criminal proceedings".

#### *Access to judges*

Amnesty International sees no reason why detainees should not be automatically allowed prompt access, within hours or days of arrest, to judges empowered to assess the legality and necessity of their detention as well as their treatment, in line with relevant international standards. Article 9 (4) of the ICCPR requires that any detainee 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". Principle 11.1 of the UN Body of Principles requires that detainees have access to a prompt judicial review of their detention with the assistance of a lawyer.

#### *The introduction of medical examinations and access to independent doctors*

In 1992 the GID informed Amnesty International that, following one of the organization's recommendations, it had introduced regular medical examinations for detainees in its custody. Some such records were shown to an Amnesty International delegate in October 1993 by the GID physician responsible for such examinations.

Amnesty International welcomes the introduction of such medical records. However, doctors of the detainees' choice should also be allowed to examine the detainees and have full access, together with lawyers, to all medical records as soon as they are drafted,

as they may become relevant in cases of allegations of torture.

In this context Amnesty International regrets that the State Security Court apparently did not consult such records in the "Mu'ta University case", as they might have helped to establish whether injuries suffered by the detainees had been sustained while they were in the custody of the GID or before their detention, as well as the way in which such injuries were sustained. The court did not allow defendants to be examined by doctors of their choice in order to find any evidence of torture, ordering instead that such examinations be carried out only by doctors of the Ministry of Health.

*Supervision of detainees' treatment in the GID detention centre*

GID officials have pointed out that the detention centre in their Headquarters is recognized as an official prison, therefore subject to supervision by the prosecution. However, they have indicated that such supervision, including supervision of detainees' treatment, is carried out by GID officers with the capacity of public prosecutors, although the detention centre would be open for inspection by authorities including the Prime Minister, the Ministers of the Interior, Justice and Defence and the Governor of Amman. To Amnesty International's knowledge, no official other than GID officers supervises in practice the treatment of detainees in GID's custody, and no GID officer has ever been brought to justice in a case of torture or ill-treatment.

Amnesty International believes that an important step towards fuller protection of detainees against torture and ill-treatment, and protection of the authorities against false accusations of torture or ill-treatment, would be the separation of the security functions of custody and interrogation. The agency responsible for the custody of detainees should therefore be different from the GID, which is engaged in interrogating them. At the very least the supervision of the GID detention centre should be carried out effectively by officials other than the GID officers themselves.

*Detention and torture or ill-treatment by the police*

Amnesty International is concerned about reports suggesting that torture and ill-treatment continue to be commonly used against non-political detainees held by the Public Security Directorate (the police) and that the authorities do not properly investigate allegations of torture. In 1993, for example, in a case relating to drug offences, Ahmad Mustafa was reportedly beaten resulting in his hospitalization while held by the Public Security Directorate in Ma'an in February. A request for an investigation and compensation made by his lawyer remained unanswered.

## B. Trials by special military courts

In 1990 Amnesty International called on the government to review the appropriateness and necessity of introducing another special court, such as the State Security Court, rather than restore full jurisdiction to the ordinary courts, once the Martial Law Court was abolished. It also called for fair trial safeguards to be introduced before all Jordanian courts, including military courts of the armed forces and the GID. Safeguards included impartial and independent judges; prompt access to lawyers; investigation of claims of coercion; and the right of appeal.

### *The State Security Court*

The 1959 Law on the State Security Court, amended most recently in 1993, grants the Prime Minister the authority to establish one or more State Security Courts "in special circumstances required by the public interest". Such circumstances are not further defined. Each such special court is to be composed of three civilian and/or military judges, appointed by the Prime Minister on recommendation of the Minister of Justice for civilian judges and the armed forces' Chief of Staff for military judges. The court tries both military and civilians and its jurisdiction includes offences against the external and internal security of the state as well as economic and drug-related offences. The right of appeal before the Court of Cassation introduced in 1993 is automatic in cases of sentences of death or imprisonment of at least 10 years.

In 1991 a State Security Court was reintroduced and has since tried all main political cases, including cases of political violence. Although the panel of the judges has been changed several times, it has always been composed of three military judges. The first appeal in a political case is currently pending before the Court of Cassation. It relates to the "Mu'ta University case" referred to above, in which 10 people were convicted in January 1994 of conspiring to kill King Hussein and three (including two who were tried *in absentia*) were sentenced to death.

The Jordanian authorities have justified the continued use of such an exceptional court by pointing out the need to conduct speedy investigations and trials for the offences within the jurisdiction of the court. They have also stressed the legal qualifications of the military judges involved and the fact that the court follows the ordinary Code of Criminal Procedure.

Without questioning the qualifications or the personal integrity of any military judge, Amnesty International believes that a court appointed by the executive authorities on an *ad hoc* basis cannot appear to provide the same guarantees of independence and impartiality

provided by the regular courts. In this respect the State Security Court fails to satisfy the requirements in Article 14 (1) of the ICCPR and in the 1985 UN Basic Principles on the Independence of the Judiciary that it be an independent and impartial court.

Speedy investigations and trials can be ensured, in full respect of defendants' rights, by giving adequate resources to the ordinary judiciary and prioritizing case loads, thereby eliminating the need for any exceptional court. In addition, to stress that exceptional courts attempt to operate like ordinary courts further undermines the justification for exceptional courts.

Amnesty International therefore calls again on the Jordanian authorities to consider abolishing exceptional courts such as the State Security Court and allow the ordinary judiciary, with adequate resources, to recover full criminal jurisdiction.

### **C. An upsurge in the use of the death penalty**

The death penalty remains prescribed in Jordan for a large number of offences, including premeditated murder, crimes against the security of the state including spying and illegal possession of weapons. In 1988 capital punishment was introduced for the rape of a girl aged under 15 and for a number of drug-related offences. Prisoners have continued to be executed after unfair trials by special courts. Executions are by hanging. Amnesty International deeply regrets that a trend suggesting a decline in the use of the death penalty was reversed in 1993 with a sharp increase in the number of executions.

In 1990 four executions were recorded by Amnesty International, two in February and two in March, all for murder after trials by the ordinary courts. Seven executions were recorded in 1991, two in February for spying after a trial by the Martial Law Court without the right of appeal; four in May, all for murder, including three by the Martial Law Court – one was the first execution in a drug-related case; and one in July, for murder.

During 1991 five death penalties passed without appeal by the Martial Law Court in March and six passed by the State Security Court in November, also without appeal, were commuted by King Hussein. They related to cases of political violence. During the examination of Jordan's second periodic report in July 1991, members of the Human Rights Committee had joined in the appeals on behalf of the first five defendants under death sentence. No executions were recorded in 1992.

In 1993, starting in January, at least 12 prisoners were executed, the highest number recorded by Amnesty International over the past two decades. Ten were convicted of murder by the ordinary courts. Two, executed in August, were convicted by the State Security Court of spying for Israel and had no right of appeal, as it had not yet been introduced. In January 1994 two other prisoners convicted of murder were executed.

Amnesty International does not know the number of prisoners currently awaiting execution. It knows of one political prisoner under sentence of death (in the "Mu'ta University case") currently awaiting appeal. It has also learned of two prisoners who have apparently been held under sentence of death since 1976. One is 'Uthman Sa'id Dhaher Subh, reportedly arrested on 19 June 1976 and convicted of spying by the Martial Law Court. The other is Muhammad Fadl Abu Zinah, reportedly sentenced to death on 7 December 1976 also by the Martial Law Court. Neither had the right of appeal. Amnesty International was not able to obtain clarification of these cases from the Jordanian authorities. In an appeal to the Prime Minister in 1992, sent also to Amnesty International, Muhammad Abu Zinah asked that his execution be carried out, saying:

"It has been 16 years, and I have been waiting for death every minute, every hour and every day throughout these 16 long years ... If it appears to you that there is 1% [of truth] in the charge [against me], I want you to carry out the sentence immediately and without hesitation".

Prison officials in the Swaqa Centre for Reform and Vocational Rehabilitation (Jordan's main prison where all executions take place), told Amnesty international in 1990 that prisoners on death row are not told when their execution will take place until about 15 minutes beforehand. Their families do not have an opportunity for a last visit and are informed of the execution only afterwards. This practice has been justified as an attempt to reduce the suffering accompanying executions.

The Jordanian authorities have argued that the death penalty is a sanction required by society and Islamic law. Without holding any views on Islam or other religions, Amnesty International opposes the death penalty in all cases as a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as recognized in the Universal Declaration of Human Rights. There is no reliable evidence that the death penalty helps to prevent other serious harm, for example by deterring crimes. The risk of error is inescapable, yet the penalty is irrevocable. No measure that may be devised can ever make it less inhumane.

In his report to the 1994 session of the UN Commission on Human Rights, Bacre Waly Ndiaye, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, expressed strong support for the conclusions of the Human Rights Committee that "all measures of abolition [of the death penalty] should be considered as progress in the enjoyment of the right to life". He recalled that the "desirability of abolition was also expressed repeatedly by the General Assembly" and emphasized that in his view "the



abolition of capital punishment is most desirable". Focusing on the safeguards for due process in death penalty cases, the UN Special Rapporteur stated (paragraph 679):

"In particular, proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries. All defendants in capital cases must benefit from the fullest guarantees for an adequate defence at all stages of the proceedings, including adequate provision for State-funded legal aid by competent defence lawyers. Defendants must be presumed innocent until their guilt has been proven without leaving any room for reasonable doubt, in application of the highest standards for the gathering and assessment of evidence. All mitigating factors must be taken into account. A procedure must be guaranteed in which both factual and legal aspects of the case may be reviewed by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. In addition, the defendants' right to seek pardon or commutation of the death sentence must be ensured."

## **D. Expulsion of people to countries where they risk human rights violations**

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. He was allegedly tortured or ill-treated while in Israeli custody and is currently on trial 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 Christian Sudanese 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 few 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.

Basel Ahmad 'Abd al-Rahman Ahmad 'Ali, another Palestinian, had not been able to

renew his Jordanian passport since it expired in September 1991 and was confiscated. Basel 'Ali has apparently been told to collect it at the King Hussein (Allenby) Bridge, but fears that if he attempts to do so he will be detained and handed over to the Israeli authorities, as in the case of Muhammad Bilbaisi.

Amnesty International raised all these cases with the Jordanian authorities in December 1993 but did not receive a response. It is gravely concerned that individuals have been expelled from Jordan to countries where they would risk abuses such as torture, in contravention to international standards. For example, Article 3.1 of the Convention against Torture states:

"No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

#### IV. PRIORITIES FOR URGENT REFORMS

Amnesty International stresses that the implementation by Jordan of all internationally recognized human rights safeguards would significantly contribute to protecting detainees against torture and ill-treatment and ensuring fair trials, as well as protecting the authorities against false accusations of torture or ill-treatment or other abuses. The end of all executions and effective protection for asylum seekers would further enhance Jordan's role in promoting and protecting human rights.

Amnesty International recommends that the Jordanian Government take urgent steps to implement fully international human rights standards. It also hopes that relevant sectors of civil society, specifically professional associations such as the Bar Association, will play an active role in ensuring the adoption of further reforms and monitoring their implementation. Priority attention should be given to the following 10 recommendations:

1. *Review of legislation restricting freedoms*

The Penal Code and laws such as the Defence Law and the Law on Political Parties, as well as their application in practice, should be reviewed and amended where necessary, in order to prevent the imprisonment of prisoners of conscience.

2. *Review of legislation regulating interrogation procedures*

The provisions of the Code of Criminal Procedure regulating arrest, detention and

interrogation, as well as their application in practice, should be reviewed and amended where necessary, in order to ensure that they are consistent with international standards.

3. *Prompt access to lawyers, doctors and relatives*

All detainees must be allowed prompt, regular and confidential access to lawyers and doctors of their choice, at all stages of the proceedings, as well as access to relatives. International standards require that in no case access to lawyers be prevented for more than 48 hours after arrest and detention.

4. *Prompt access to judges*

All detainees should automatically be brought before a court without delay and with their lawyers. The court should be empowered to assess the legality and necessity of their detention, as well as their treatment. At any time detainees should retain the right to seek a judicial review of their detention and of any orders by public prosecutors preventing access to lawyers, doctors or relatives.

5. *Separation of the detention and interrogation functions*

As a safeguard against torture and ill-treatment, the agency responsible for the custody of detainees should be different from the one engaged in interrogating them. At the very least the supervision of any detention centre should be effectively carried out by officials other than those of the detention centre themselves.

6. *Investigation of allegations of torture*

Prompt and impartial investigation of allegations of torture should take place whenever there are reasonable grounds to believe that they are well-founded. Anyone found responsible for abuses should be brought to justice and the victim compensated. Prosecutors and judges should play an active role in investigating allegations of torture and should not admit as evidence any statement found to have been coerced.

7. *Independence and impartiality of courts*

All courts should be fully competent, independent and impartial. The Jordanian authorities should consider abolishing exceptional courts such as the State Security Court and allow the ordinary judiciary, with adequate resources, to recover full criminal jurisdiction.

8. *Review of capital punishment and commutation of all death sentences*

Existing legislation should be reviewed in order to reduce the number of capital offences with

a view to abolishing the death penalty. The Jordanian Government should, as a matter of policy, recommend the commutation of all death sentences pending a full review of the death penalty and its future abolition. Amnesty International appeals to King Hussein to exercise clemency in all cases.

9. *Effective protection for asylum seekers*

The authorities should follow procedures which would effectively ensure that no one is expelled to a country where they would risk human rights violations such as imprisonment as prisoners of conscience, torture, execution or "disappearance".

10. *Ratification of international human rights treaties*

Amnesty International urges Jordan to ratify the Optional Protocol to the ICCPR and the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty, as a further contribution to the worldwide promotion and protection of human rights.