

**Explanatory Responses  
of the  
National team to combat Torture  
to the List of Issues addressed by the Committee against Torture's consideration in  
connection with the consideration of the Second Periodic Report of Jordan on the  
implementation of "the Convention against Torture and Other Cruel, Inhuman or  
Degrading Treatment or Punishment"**

This the Responses of the National Team to Combat Torture , the team consist of 30 experts and professionals working to combat Torture and ill –treatment in Jordan ,the team would like to thank the distinguished Committee for their queries and comments on the Second Periodic Report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment submitted by the government of the Hashemite Kingdom of Jordan , and is pleased to present the following explanatory responses to the list of issues to be discussed during the consideration of the periodic report by the distinguished Committee

### **Article (1) and Article (4)**

- **Fundamental Commitment**

Criminalize all acts listed under torture. This shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. However, These offences punishable by appropriate penalties which take into account their grave nature (Article (1) and (4) from the UNCAT, Principle (7) of Principles for the Protection of all persons under any form of Detention or Imprisonment, Article (7) from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Paragraphs (31-33) from the Standards Minimum Rules for the treatment of Prisoners

- **Codifying legislations on Prohibit Torture**

The Definition mentioned in article one of the UNCAT was integrated within Jordanian Legal System through providing the temporal law NO (49) for the Year 2007. Accordingly article (208) of the Jordanian penal code was amended to include definition of torture as it was mentioned in article one of the UNCAT. Paragraph (2) of the article (208) came completely identical to article one of the Conventions. On the other hand, Paragraph (1) of the article (208) restricted torture criminalization on the purpose of obtaining information or getting the admission to commit a crime. In other word, the Jordanian Legislator has adopted just two forms of special Intention stipulated in the UNCAT which includes (5) forms of Special Intention. Moreover, article (208) didn't criminalize the attempt to commit torture. In accordance to the Jordanian law crime of torture is punishable from (6 months to 3 years) considering torture as a misdemeanor. The Jordanian law doesn't include text on punishment for the attempt to commit misdemeanor unless there is a specific text on punishment for the attempt to commit misdemeanor in accordance with article (71) of the penal code.

Moreover, the above text finds fault with non-exclusion of torture crime from the (general) amnesty and pardon or prescription in accordance with the UNCAT Provisions

It should be noted that punishment mentioned in the above text doesn't comply with grave nature of torture. Whereas, torture crime considered as misdemeanor which punishment should not be more than three years

No "trail monitoring" carried out during the year (2008) and the year (2009) for torture perpetrator or instigator or any attempt to commit torture and this in turn emphasizes that amendment of article (208) is still insufficient. Jordan Efforts on preventing Torture are still modest and hesitant in accordance with many International Reports

## **Article (2)**

### **• Fundamental Commitment**

Taking effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture. An order from a superior officer or a public authority may not be invoked as a justification of torture. Moreover, Relatives, lawyers and doctors shall have the right to communicate with detainees immediately and periodically (Article (2) of the UNCAT and Article (3) of the Declaration on the Protection of all persons from being subjected to torture and other Cruel, inhuman or degrading treatment or Punishment

### **The Sub- Commitments**

1. The Right of relatives , lawyers and doctors to communicate with detainees immediately and periodically

The code of criminal Procedures included a text on the right of Justice Officials to investigate in committing crimes, Offenders –tracking and referring them to Judiciary. In accordance with law, suspect person could be arrested for (24) hours before being transferred to the Competent Judicial. However, many suspect persons have been arrested more than (24) hours. Whereas the Justice Officials resort to issuing administrative decision, which issued by administrative governor for the purpose of expanding the period of arresting suspect person and increasing the Investigation period. Anyhow, this

is a very common practice in the Security Administrations specifically the (CID) and the preventative Security Services (PSS)

There is no specific legal text that allows resorting to lawyer during the detention at the Security Departments. Although, this right should be provided once the person presented in front of the Public Prosecutor in accordance with the code of criminal procedures, and not once the accused person arrested (this is in accordance with article (63) of the Code of Criminal Procedures

Moreover, the Bar Association code which arranges lawyer's rights and duties doesn't include any text that refers to the Lawyer Right to meet with detainees at the Investigation Centers (Security Department) and providing legal aid for them. Although PSD and the Jordanian Bar of Association have ratified an (MOU) on the date 19/ July/ 2009; the MOU guarantees the lawyer attendance with his Client at the Police Departments except in urgent cases and Privacy issues. The MOU seems to have an ethical commitment more than legal commitment, and it doesn't impose nullification upon arrestment and detention procedures carried out in the absence of lawyer or in case he was prevented to attend.

Moreover, it doesn't impose any kind of punishment upon the person who prevented the lawyer from attending, and it doesn't impose nullification for the testimony given by the accused person in the absence of his lawyer. The court adopts testimony proved by the prosecution that it was provided voluntarily in accordance with article (159) of the Code of Criminal Procedures. Furthermore, many lawyers referred to the temperamental of Security Centers Officers concerning the implementation of the above MOU

Moreover, the code of criminal Procedures didn't include any text concerning that accused person shall be subjected to medical examination once he is arrested in the Police Department. According to article (24) of the CRC code such procedure is restricted in persons who have arrestment warrant issued against him by competent Body in any of the detention Centers before trail phase

Article (13) of the CRC code codified the right of the Inmates to contact with lawyers and to meet them whenever this is necessary in accordance with the Instructions Issued by the Ministry Of Interiors. Although there are rooms that provide direct contact between the arrested persons and the lawyers but these rooms are small and subjected to electronic monitoring. The visits are subjected to written and oral instructions issued by

the Ministry of Interiors and the administration of the CRC including: arranging time of visits from (from 9:00A.M to 1:00PM). These Procedures could be amended as it deems appropriate for the management

## **2. Issuing the Detention decision by Judicial Body / The arrestment should be subjected to Judicial Supervisions**

Article (9) of the Code of criminal Procedures allows each of the head of the Public Security, Police Officers to Practice the authority of the Justice Officials .In accordance with law, the Public Prosecutor is the head of the Justice Officials. Accordingly it has the following authorities: issuing arrestment warrant, inspection and he has the authority to issue presence warrant and to be replaced with arrestment warrant if this was necessary for the Investigation Purpose. This indicates that arrestment is an act practiced or supervised by the Judicial System

Article (99) of the Criminal Procedures allows the Justice Officials to arrest without the Arrestment warrant in case of Serious Crimes and in case of flagrante delicto punishable for more than (6) Months. The accused statements should be heard immediately and to be sent to the Competent Public Prosecutor within (24) hours. The general legitimacy of arrestment is based on reasonable suspicions to justify confinement which guaranteed in accordance with Constitution, laws and International charters

The Administrative Detention is still practiced widely in accordance with article (5-4) from the Crime Prevention Act, which gives the administrative Governor Judicial authorities non-subjected to appealing except in front of the Supreme Court of justice located at Amman. This is also associated with the difficulty in authorizing a lawyer and to submit appealing on his decisions Such as: arresting any person who could pose threat to the Public Security or Imposing the House Arrest. According to the law Provisions, the administrative governor has the authority to undertake the role of the Judge or the Public Prosecutor this include Investigation, hearing witnesses and Detention

In the Year 2009, more than 16000 person were arrested administratively the average of detention period was between (one week - four Months). The main reason for the

continued detention is that detainees were unable to pay the bail requested by the Administrative Governor

The Minister of Interiors has issued a circular on the date 5/ November/2009 that allows lawyers to attend the Investigation carried out by the administrative Governor and the importance to carry out Investigation concerning the actions assigned to the suspect person before issuing arrest warrant or subpoena. However, such circular doesn't provide legitimacy for the detention decisions issued in accordance with Crime prevention act. This is attributed to great Objections on the detention authority issued by the administrative Governor, which considered as infringement upon the Judiciary Competence. However, number of detainees expected to be decreased during the year 2010 in case the Administrative governors adheres to carry out the Investigation in the presence of lawyer and transferring the complaint to Judicial Bodies in case its listed under the Judiciary Competence

Anyhow, the administrative detention in accordance with law mentioned hereinabove is subjected to great objections by most of Activists and CSOs attributed to the authority given to the administrative governor to arrest people on the base of suspicion of threatening Public Security without giving them any opportunity for appealing and make uncomplicated Judicial Review. There is no doubt that this violates the "Presumption of Innocence "and Infringement upon the personal freedoms and freedom of movements

### **3. Ensure the detainees Presence in front of Independent Judicial Body without Delay**

The Code of Criminal Procedures gave the Justice Officials the authority to make investigation on crimes, gather information and to arrest crimes perpetrators. Article (100) of the Code of criminal Procedures imposed upon the Justice Officials to hear the defendants Statements once being arrested and to be transferred to the Competent Public Prosecutor within (24) Hours . Properly, this considered as legislative improvements, which complies with the International Standards in ensuring the arrested appearance in front of Independent Judicial Body without delay. The Code of Criminal Procedures required prosecuting the officer responsible for violating the Provisions mentioned in article (100) concerning confinement of personal freedom

The Code of State Security Court gave the Justice Officials the authority to arrest persons for one week before being transferred to the Public Prosecutor who will issue arrest warrant against the Accused Person. Usually, persons suspected to commit

terrorism cases they are arrested at the Detention Centers of the General Intelligence Directorate (GID). Although, the Ministry of Interiors has declared on the year 1993 that Intelligence Detention Centers is a Correction and rehabilitation Center. In accordance with law, the Center is existed inside the (GID) which undertakes supervision on the investigation with the accused person who committed crimes listed under the Jurisdiction of the State Security Court. The Center includes individual rooms, arrested persons live in complete isolation and they are unable to meet their visitors separately. In accordance with the decision issued by the Public Prosecutor of the State Security; arrested persons are not allowed to be visited by their families or to meet lawyers freely. The average period of detention is (one week to One year). Although the decision of detention issued by public prosecutor of the State Security could be subjected to appealing in front of the Court where he is going to be trailed, in addition to the decisions on refuse release on bail; the lawsuit relevant files haven't been sent to the Court of Cassation to settle the legality of pre- trail detention and arrestment

Within this framework, it's clearly observed that the Code of Criminal Procedures missing a text on the accelerate referring of the accused person to the Judiciary whether he is arrested or not. Moreover, there is no national standard for the reasonable period of presenting the Accused person to the Competent Court; although article (8) of law of Criminal Court for the year (1986), which includes the necessity of carrying out an accelerate investigation subjected to legal liability in case of unjustified delay.

#### **4. Considering the Inmates Rights (Detainees and Convicted persons) , this include to make complaint**

The National Center for Human Rights was established in accordance with the law No (51) for the year (2006) and it was performed its work in accordance with the temporal law for the year 2003; Article (17) included the Center competence. For example, the commissioner – General authority to monitor violations of human rights and Public Freedoms, in addition to receiving complaints and to undertake required procedures .

The Center doesn't have the authority to call witnesses or resorting to experts concerning complaints Investigation. Moreover, the Center doesn't have the potential to provide protection for victims and witnesses or to carry out investigation. The Center authorities restricted on providing general recommendations included in the annual report submitted to his Majesty the King

The number of torture and ill treatment complaints received by the Center during the year 2009 was (54) Complaints, (6) of them were transferred to Police Court, (10) complaints were saved, (35) complaints are under the follow-up, the complainant gave up for (6) complaints

Office of the Ombudsman associated with the PSD was established for receiving complaints on violations committed by Public Security Officials.

The Office deals with such complaints confidentially without declaring the investigation findings or being subjected to Monitoring by Independent Body. Usually, the investigation findings are saved without taking any other procedures except discourse with the administration in which the defendant subjoined to, for imposing disciplinary penalties such as: deduction of the salary or deprivation of salary increment

It's rarely to refer the complaint to the police Court. The Number of complaints concerning torture and ill treatment submitted to the Ombudsman Office during the year (2009) , () of them were saved, () taken decision to prosecute, () complaints were transferred to the Police Court

The Ombudsman Office was established in accordance with law No (11) for the year (2008) as an independent Monitoring Body assigned to follow up the citizens complaints against the Governmental Institutions. However, the Ombudsman Office doesn't have any Jurisdiction on torture and ill treatment complaints committed by the law Enforcement Officers. In accordance with article (12) of the above law, The Office Jurisdiction is restricted on decisions and Practices issued by the Public administrations in violation of law. Complaints considered unaccepted if the appealing is going to be in front of any administrative or Judicial Body. In accordance with article (18), if the administrative decisions included any breach of law or default, neglect or abuse this could be included in a report sent to the administration attached with recommendations and to be included in the Annual Report

## **5. Ensuring the Judicial Authority Independency**

The Judicial Council still doesn't have the complete Independency from the Executive authority, The Judge appointment is still depending on recommendation of the Minister of Justice in accordance with article (14) of the Independence of the Judiciary

law. Moreover, all of the Public Prosecutors and the Prosecution are subjoined administratively to the Minister of Justice. Furthermore, the Judiciary Council doesn't have financial Independence from the executive authority. The Independency of the Judiciary law determined the conditions that should be provided in the Judge to be appointed as follows : Holding Jordanian nationality , complete (27) years , having the B.A degree in law , working as a lawyer for minimum four years or working as clerk in the Courts for three years and passed the Course of the Judicial Institute

The Judiciary Council, which consists of president of the Court of Cassation, head of the Prosecution, president of Supreme Court of Justice, presidents of Court of Appeal, Secretary- General of the Ministry of Justice and the head of Amman Court has the authority to terminating the Judge services in accordance with article (16) . It also has the authority to transfer Judges, promotion , in addition to have a disciplinary authority in case any disciplinary proceedings were carried out attributed to the breach of his duties or committing any act that prejudice honor or decency . The prejudice of the Judge Duties includes: delay in issuing the Proceedings decision, non- determining an appointment for informing the sentence, distinction between litigants and disclosure of deliberations in accordance with article (37). In this context, penalties such as warning or deduction of the salary or demotion or dismissal in accordance with article (38) if it was proved that he practiced any of breaches mentioned above

Regarding to the Military Judiciary or Judges of Police Courts, they are not subjected to any provisions of the Independency of the Judiciary law.

In Accordance with article (85) of the Public Security law the Judges of police Courts have Jurisdiction over crimes committed by Public Security representatives including torture crime, the Judges are appointed by the decision issued by head of Public Security an there is no specific Conditions that should be provided in the appointed member and he is subjoined to the head of the Public Security on issues related to dismissal or promotion or transferring or disciplining. Moreover, the validity of Judgments issued in misdemeanors depends on the authentication of head of the Public Security

The State Security Court performed in accordance with decision issued by the Prime Minister. Most Probably, It constitutes of Military Judges subjected to chief of the Staff within a rule of hierarchy of the authority, which appoints Military Officials in the Position of Attorney General who address accusations and gives order to continue arresting detainees in cooperation with many other legal Officials, GID and armed forces.

The prosecution of the State Security is responsible in front of the Military Judiciary Body and not the Judiciary Council. From this Point “all of those who make the decision of (Trail, Arrestment and detention) are part of the Military Institution. It should be noticed that decisions issued by the State Security Court could be subjected to appealing in front of the Court of Cassation. However, this doesn’t consider as guarantee for the Court Independency or for providing fair trial guarantees

## **6. Ensuring the Right not to be subjected to torture shouldn’t be breached or restricted**

Article (124) of the Jordanina Consitution includes the Following “In the event of an emergency necessitating the defence of the Kingdom, a law, which shall be known as the Defence Law, shall be enacted giving power to the person specified therein to take such actions and measures as may be necessary, including the suspension of the operation of the ordinary laws of the State, with a view to ensuring the defence of the Kingdom. The Defence Law shall come into force upon its proclamation by a Royal Decree to be issued on the basis of a decision of the Council of Ministers”.

The power of the executive authority in declaring the validity of the defence law is an absolute authority and doesn’t depend on the approval of any other authority. The defence law shall not include any text that restricts this authority and imposed upon the executive authority to get the approval on declaration or being presented to the parliament. Any text mentioned in the defence law contradicts with the above considered as breaching for the constitution provisions and should be considered

Depending on the above, the defence law has the authority to stop the validity of all ordinary laws in accordance with the Constitution such as the code of penalty which caramelize torture

Article (125) of the Constitution referred to the king right to declare the Martial law and notwithstanding the provisions of any law in force

Although, many national Organizations and Bodies called for amending the Constitution issued in the year 1952 and claiming for including the text on prohibiting torture and to codify the right to life. Whereas this considered one of the essential rights that should be protected. However, no response has been taken with regards to the claims mentioned therein. This in turn, gives the Council of

Ministers ; in accordance with the Constitution the right to disable the provisions and laws that Criminalize torture and ill treatment without any restrictions and conditions or monitoring from any Body

- Issuing the Prevention of Terrorism act No (55) for the year 2006. The act of terrorism was defined in accordance with article (2). Article three of the same law included the concept of terrorist acts. Its codified to prohibit all acts listed under terrorism this include :
  1. Resorting to any direct or indirect means for the purpose of providing, gathering money to be used for committing terrorist acts with recognition that this money is used as part or as a whole and whether they were committed or not committed inside or outside the Kingdom against the Citizens of the Kingdom Interest abroad
  2. Assigning person inside or outside the kingdom to join groups aim to commit terrorist Acts
  3. Establishing or Joining any group or association for the purpose of Committing terrorist Acts

The law gave the State Security Court the Jurisdiction over such acts and crimes. In accordance with article (8) such committed acts are punishable by temporal hard labor from (3-15) year unless there is other law which codified other kind of punishment

It's clearly observed that this law didn't determine clearly the crimes and their elements this considered as breach for the principle of legality *nullum crimen, nulla poena sine lege*. Many persons were transferred to the State Security Court referring to article (3), about (10) condemnation Judgments were issued

11. The National Legislations don't include a text on prohibiting torture, except Article (208) of the code of Penalty, which was mentioned in paragraph one of this report

12. Until this moment, many provisions and text of penalty code allows impunity, especially in the crimes committed against woman and children article (98) of the penalty code included the following:

“Any person who commits a crime in a fit of fury caused by an unlawful and dangerous act on the part of the victim benefits from a reduction in penalty.”In Accordance with this article many acts of attack and kill are committed against woman benefit from a reduction in penalty. Although Competent Body was

established in the Criminal Court in order to have Jurisdiction over such crimes. However many Judgments were issued benefiting from the provisions of the above article which in turn considered as a passage for Impunity

Giving up personal Rights in accordance with article (99-100), considered one of the mitigating circumstances that Justifies the commutation of Judgment. If the attacker was one of the family members; giving up the personal Right commutate the Judgment to the half

In accordance with article (308) of the penal code “If a marriage contract between perpetrators of any crimes of “Rape or indecent Assault “and the victim the prosecution should be terminated and the Judgment shouldn’t be executed

13. Issuing the law on protection from domestic Violence No (6) for the year 2008 and was published in the Official Gazette in the same year. This law came under the umbrella of the efforts devoted for limitation the domestic Violence; within a preventive framework it doesn’t criminalize the domestic violence directly and it settles for referring to the Penal Code in case the committed act considered as a crime in accordance with the Penalty code, Article (6) of the above law codified establishing Committees of the Family Reconciliation, performed for devoting all efforts required for reconciliation between family members. Moreover, the head of the family protection department could undertake preventive measures required to ensure no exposure to any member of the family. For example, not to allow the defendant to enter the family house for (48) hours and keeping the defendant for (24) hours in the department of Family Protection until provide protection for Injured person. Until this moment, no regulatory provisions were issued for the purpose of executing the law of protection from the Domestic Violence. No system was issued for the purpose of clarifying the mechanism of implementing the law provisions in accordance with article (19) from the same law which include “The Council of Ministers issuing the regulations required for implementing the law Provisions

### **Article 3**

#### **Fundamental Commitment**

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. Article (3) of the UNCAT

14- Article (9) of the Jordanian Constitution codified that “No Jordanian may be deported from the territory of the Kingdom. This article is restricted in the Jordanians

Regarding to the Foreigners, the act of residence and foreigner affairs No (24) for the year (73) organized the Provisions of foreigner, articles (31-32) discussed the administrative governor right to deport foreigner in case he entered the State in an illegal manner . Article (37) included the right of the Minister of Interiors to deport foreigner and he has the authority to arrest the foreigner who was subjected to temporal deportation

Until undertake the deportation Procedures. However, this authority given to the Minister and the Administrative Governor is an estimative authority and they are not obligated to clarify reasons with no monitoring imposed upon them

Whereas the deportation decision considered as administrative decisions it could be subjected to appealing in front of the administrative Court “Supreme Court of Justice “as any other Administrative decision. This should be within (60) days of issuing the decision. However, executing the decision immediately without waiting for the appealing duration preclude the deported person from practicing the right to appeal, in addition to many other obstacles that refrain appealing such as the legal Fees, mandatory to authorize lawyer who has worked in litigation for (5) years, the difficulty to brief a lawyer and being unable to stop the execution of deportation decision. All of the above justify few judiciary Judgments in this regard. Moreover, the decisions of the Administrative Court don’t allow appealing in front of any other Body and they considered as absolute right, in addition to what was mentioned above the deportation carried out once issuing the decisions with no opportunity to appeal the administrative Opportunity

Regarding to claims for extradition of persons whether they are Jordanians or foreigners; they came under the Jurisdiction of Magistrate. The extradition decision issued depending on a request submitted to prosecution which in turn refers the request to the Magistrate. The decision susceptible to appeal. No decisions were issued on refusal of person’s extradition whether they are Jordanians or Foreigners in accordance with article 3 of the Convention. However, usually there are bilateral or regional agreements that arrange persons extradition such as Riyadh Convection and other Conventions

Some reports referred to the government extradition for Jordanians and foreigners to other States within the framework of “The war on Terror “ without adherence to the extradition legal procedures and giving persons the opportunity to appeal on the extradition decision

Article 5/7/8/9

## Fundamental Commitment

The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and States Parties shall help each others in adopting the Criminal Procedures on Torture ( Article 8 and 9 of the Convention )

The Jordanian penal Code article (7) and articles listed after article (7) including provisions of its validity over the Jordanian territory (By land, Sea and Air). In Accordance with the self – validity it includes all Jordanians and foreigners who committed crime that breaches the State Security a. It also includes every Jordanian who committed a crime criminalized in accordance with the Jordanian Law even it was committed outside the Jordanian Territory. The Provisions are applicable in all foreigners resident in Jordan even if they committed the crime outside Jordan . This also highlighted the possibility of punishing the foreigner resident at Jordan if he committed a torturing Crime outside Jordan under the Following Conditions: to be foreigner and resident at Jordan with permanent or temporal residence and there is no request for extradition him to the Concerned State

It's clearly observed that article (61) excluded the diplomatic and the foreigners from implementing the provisions law as they are enjoying the immunity provided by the Public International law. However, such act contradicts with the Convention Provisions that no person shall use means of immunity for committing acts on torture or non-being subjected to criminal accountability or impunity

## Article (10)

### Fundamental Commitment

**Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. ( Article (10) of the UNCAT , Article (5) of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or**

## **Punishment, and Paragraph (54) from the Standards Minimum Rules for the treatment of Prisoners**

### **Provide training for the law Enforcement Officials:**

The PSD has specialized Academy for Police training on all required skills. The Judiciary Institute has been concluded a series of Courses for leveling up the Public Prosecutors and Judges capacities. However, effectiveness of the training for empowering the law enforcement Officials to improve their work performance complying with Human Rights Standards is still inaccurate as there is no documented information on the number of concluded workshops or the number participants. Additionally, there is no accurate data concerning the training impact on the participants performance

During the last Period, the number of NGOs which provide training for the Officials have been increased, in addition to have the opportunity to get international fund to implement such programs, which usually target number of Judges, Public Prosecutors and forensic doctors as they play key role in enhancing the efforts of preventing, documenting, revealing torture and ill treatment on the national level

## **Article 11**

### **Fundamental Commitment**

**Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.**

**Doctors, lawyers and family members shall have access to arrested persons (Article 11 of the UNCAT, principles (11-13-15-19-23) of the Principles for the Protection of all persons under any form of Detention or Imprisonment and the paragraphs (7-22-37) from the Standards Minimum Rules for the treatment of Prisoners**

1. Organizing the Arrestment Places / to be Subjected to Judicial Supervision / Prisoners should be arrested in places which are officially recognized

The code of the CRC for the year (2004), included provisions on prisons administration and arrangement, in addition to be subjected to the supervision of Director of the Public Security

Responsible Officials deny practicing any forms of torture or ill treatment in the arrestment and investigation places in Jordan, and that violations and faults occurred are individual and exceptional cases. Moreover, the Perpetrators subjected to prosecution. Many official Investigations on torture allegations were carried out. However, the carried Investigations don't comply with the International Standards which in turn adhere to carry out Investigations by Independent Body impartiality, effectively and quickly. The Investigation findings should be declared within a reasonable period of time. However, the Investigation carried out by the Prosecution or the Public Security or the office of ombudsman lack Independency. Whereas, Officials who carried out the Investigation belong to the same administration related to the violation. Moreover, they are not subjected to independent monitoring. Most of carried Investigations are within the framework of imposing simple administrative punishment; few number transferred to the Court (The Police Court which has the Jurisdiction over the Crimes committed by its members), which in turn prosecute them under the following criminal descriptions such as: prejudice to the Job Duties, breaching the instructions and regulations, non dealing politely with the public. The crimes mentioned above are simple crimes; the issued judgments are similar to disciplinary penalties .Moreover, such Judgments are suspended until getting the authentication of the head of the Public Security . It was mentioned before that provisions of article (208) are still unimplemented within provisions issued by the Police Court taking into consideration that it's the article which criminalizes torture in accordance with the amendments adopted in the year 2008

**- Independent Inspectors shall have access to carry out periodical visits which are undeclared previously and without imposing any restrictions for all of the arrestment places**

The Detention and arrestment places are places which may include practicing of torture and ill treatment. Accordingly, it's subjected to the supervision of the PSD in accordance with the CRC Code, which guarantees the right of the Minster of Justice, Head of Courts and head of the Attorney General and the Public Prosecutors to visit the arrestment Places for the Purpose of being acquainted with the records. Moreover, the law of the National Center for Human Rights (Article 9) gives the right to visit Reform Centers and Juvenile homes according to usual Practices. However, such visits don't have great impact on preventing torture because they are linked with previous Approval by the PSD which is the responsible body for keeping Inmates and there is no doubts that the In advance

approval could provide the possibility to hide any substantive evidence for Committing torture

The legal Texts don't allow monitoring visits for the arrestment and Detention Centers except for persons mentioned hereinabove. All of visits whether they are International or National Visits should be declared and restricted, most of the Visits are unarranged which in turn, don't left great impact on preventing torture

Although the Government has drafted comprehensive plan for improving the CRC Situations including opening two CRC (SALHOUB CRC and OM ALo'la CRC), in addition to assigning (29) nurse to work in the clinics of the CRC, Concluding (five) literacy Courses, provide training for (682) Officers to work at the CRC, launching preparation Courses for the Inmates who are about to terminate their condemnation Period, the Program of (Tahween) for the new Inmates who enter the CRC for the first time , in addition to opening ( Dar Al Amal ) nursery to take care of the female Inmates Kids at the CRC on the date 14/6/2009 , concluding computer Courses for the Inmates . On the Other hand, many problem are still existed such as: the problem of overcrowding, bad social and heath circumstances of the Inmates, bad infrastructure, the ill treatment of Inmates, water unfit for drinking and many other problems that restrain improving the inmates circumstances, taking into consideration that the average number of Inmates during the year 2009 is (8000) Inmate and sometimes this number is increased to be 1000. The average number of female Inmates is (400) female Inmate

## **Article 12 and article 13**

### **The Fundamental Commitment**

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction. Article (12) of the UNCAT, the Principle (33) and (34) of the Principles for the Protection of all persons under any form of Detention or Imprisonment and article (9) of the declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

### **The Judiciary shall carry out the Investigation on Torture Allegations:**

The International Standards adhere to present person responsible for torture to the Judiciary. Such standards should be implemented where ever the place of committing torture and regardless to the torture perpetrators nationality or their Job Position and regardless to the place where the crime took place and the Victim Nationality. Whereas the National Legislations didn't arrange the crime of torture except in article (208); the possibility of presenting torture perpetrators to the Judiciary within these descriptions actually is not available, taking into consideration that the legislator restricted the special Intention in two forms. Moreover the above descriptions are insufficient to ensure the effectiveness of the prosecution and impose punishment for committing torture Crimes. Additionally, the authorities which were given to the Private Courts such as: the Police Courts military Courts and the Intelligence implement the special laws of these Bodies and restrict the possibility of prosecution and punishment of Torture, in addition to the absence of Independent Investigation Bodies and non providing effective and impartial investigation guarantees. Above all, the defect in the allocation of Court Jurisdiction which gives the special Courts linked with executive facilities the legal Jurisdiction to prosecute in committing crimes of torture committed by the law enforcement Officers. The national Legislations don't include effective provisions that ensure the judicial prosecution for committing torture and ill treatment Crimes at all circumstances and cases

## **Article 14**

### **Fundamental Commitment**

**Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation (Article (13) and (14) from the UNCAT, Article (11) of the declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Paragraphs (35) and (36) of the Standards Minimum Rules for the treatment of Prisoners**

- **The State Commitment to Provide fair and Appropriate Redress/Compensation**

The National Legislations don't recognize The State Responsibility towards committing act of torture and Ill-treatment. Article (5) of the government Proceedings Act restricted the cases that allow Institutions of legal Proceedings against the Government – It doesn't Provide Institutions of compensation Proceedings arising from a penal Offense committed by staff member of the State

Moreover, the general rules of compensation for the Tort which arranged by the Civil law; considered insufficient as its restricted in dealing with the perpetrator responsibility for causing damages and it's a personal responsibility for committing Tort

Furthermore, laws that govern the Judge work don't allow Public Prosecutors and Judges Prosecution for the faults and breaches they committed during their work performance such as: arbitrary detention or non following up prisons and Places of Detention or non taking any legal actions concerning the public right in crimes of torture and ill treatment, in addition to other practices related to miscarriage of Justice

However, even torture perpetrators subjected to trial, the trial will be in front of Special Courts (The Police Court) which doesn't hear Compensation Proceedings " Claim for Personal Right "

- **Providing Medical Care and Rehabilitation of Victims**

Lack of medical care even in the Ordinary Circumstances , the Role of the National Center for Human Rights within the framework of taking preventive and therapeutic procedures for preventing Torture and rehabilitate the victims is still unclear. The Psychological services considered one of the most vulnerable services in the Jordanian Prisons and in Jordan in General. The National Center for the Psychological Care is designed to include (400) Inmates. However, it doesn't have any Programs for the Victims of Torture within its therapeutic Programs

The Professional and Social rehabilitation for victims of torture which supposed to be under the Responsibility of Ministry of Social Development; doesn't provide the minimum standards of rehabilitation for victims of torture and when we contact the Official Bodies Concerning this Problem they attribute such problem to the lack of financial and human resources. Although International Standards imposed upon States to Provide appropriate compensation for the victims of Human Rights Violations, this Include rehabilitation through devoting special fund

### **Article (21) and (22)**

Issuing required declarations that guarantee Individuals and States Rights to submit Complaints considered as fundamental commitment listed under the authentication

requirements. However, Jordan Didn't issue any declaration concerning the acceptance of the Committee Jurisdiction to consider the Statement submitted by States and Individuals in accordance with article (21) and article (22) of the Convention

Moreover, Jordan didn't join the (OPCAT) which considered as International Instrument which complements the preventive guarantees of prohibiting torture through arranging periodic visits to arrestment Places by International and National Bodies and without a prior approval from the Bodies supervise on the Arrestment Places

Although many Human Rights Organizations tried to Convince the Official Authorities to Join the Optional Protocol and to declare the acceptance of the Committee Jurisdiction to considered the Statements submitted by States and Individuals in accordance with article (21) and (22) ; there is official insistence not to join the (OPCAT) and not to accept the Committee Jurisdiction to accept Complaints according to declarations of the Minster of Justice and other Officials

