



## **JORDAN**

### **Alternative Report submitted to the Human Rights Committee in the context of the review of the fourth periodic report of Jordan**

**24 September 2010**

Alkarama recalls that it concentrates its work on four priority areas: arbitrary detention, enforced and involuntary disappearances, torture, and extrajudicial executions. We base our work primarily on the documented individual cases we submit to UN Special Procedures and Treaty Bodies, as well as our contacts with local actors including victims, their families, lawyers and human rights defenders.

## **About Alkarama**

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Alkarama الكرامة (Dignity) is a registered Swiss Foundation. It was founded in 2004 by a team of volunteer human rights lawyers and human rights defenders working on human rights in the Arab world. We have offices and representatives in Geneva (which is our head office), Lebanon (Beirut), Qatar (Doha) and Yemen (Sana'a). Alkarama participates in the United Nations human rights mechanisms including submission of communications and reports to the Special Procedures and Treaty Bodies as well as the newly established Universal Periodic Review (UPR).

The aim of Alkarama is to work in a constructive dialogue with all actors – including States, the Office of the High Commissioner for Human Rights, National Human Rights Institutions and all members of civil society – to respect and promote human rights in the Arab world. We base our work primarily on principles of international human rights and humanitarian law.

Due to the magnitude of work, Alkarama concentrates on the following four violations of human rights in particular: enforced disappearances, extrajudicial executions, torture and arbitrary detention.

In 2008 Alkarama submitted over 600 cases of human rights violations to various UN mechanisms: Special Procedures, Treaty Bodies and the High Commissioner for Human Rights. Additionally, Alkarama has prepared numerous reports on the human rights situation in 7 of the 10 Arab states reviewed under the UPR during its initial sessions and to the relevant UN human rights treaty bodies. In 2009, Alkarama submitted over 1000 communications concerning 888 individual cases detailing human rights violations to various UN human rights mechanisms. These communications concerned cases from 14 Arab countries.

In addition to its core activity of legal work within the UN human rights protection mechanisms, Alkarama engages in complementary work including organising seminars and campaign work to raise awareness of human rights issues in the Arab world. Cooperation between Alkarama and organizations with similar objectives is something not only desired, but a position that is actively sought.

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## 2. Context

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In March 2009, the Kingdom of Jordan submitted its third periodic report to the Human Rights Committee for consideration during 100th session in October 2010.<sup>1</sup> The discussion of the second report took place in 1994; in the intervening 15 years, the State party has clearly not fulfilled its commitments stemming from its ratification of International Covenant on Civil and Political Rights.

Jordan is also party to the Convention against Torture, which it ratified in 1991. Its second periodic report, submitted in 2008, thirteen years late, was discussed on 29 and 30 April 2010.

The National Centre for Human Rights (NCHR) was created in 2003; it is the national institution for the promotion and protection of human rights (NHRI). It currently enjoys an 'A' status, and will be reviewed by the Sub-Committee on Accreditation in October 2010.

Jordan is a constitutional monarchy where the King holds the legislative and executive power. He is the head of state, the Supreme Commander of the Armed Forces, and he appoints the Prime Minister and Cabinet. The Constitution was written in 1952 and amended in 1992. The current King of Jordan, Abdullah II, ascended to the throne in 1999.

The lifting of emergency rule, the abolition of martial law and the release of political prisoners happened during the life of his father, in 1992. At the same time, new laws on political parties, newspapers and publications were enacted - these allowed the formation of opposition parties.

Much of the Kingdom's population is made up of Palestinians, who naturally seek the independence of Palestine. This means that the internal workings of the country are deeply affected by the Israeli-Palestinian conflict.

The opposition is made up mainly of Islamic elements; the balance that had been maintained by the monarchy has deteriorated over the course of the last decade, particularly due to the regime's growing dependence on U.S. policy. In 2006, events brought on a significant change in this balance: the bombings on 9 November 2005, attributed to a group linked to al-Qaeda, and Hamas' January 2006 victory in the Palestinian legislative elections led some to fear major upheavals in the country. Under the guise of the "fight against terrorism", the authorities postponed elections scheduled for the summer of 2006, placed Jordan's largest Islamic charity organization (the Islamic Center for Society charity) under state control, and established new "anti-terrorism" legislation. On the social front, major strikes have contributed to the accentuation of repression.

The General Intelligence Directorate (GID - Da'irat al-Mukhabarat al'amma) is the main force responsible for internal security. As such, it is responsible for the fight against terrorism, but it also carries out repression against those regarded as political opponents. Its officers regularly arrest people and detain them incommunicado; they use torture with impunity.

The Jordanian authorities have introduced a series of measures designed to demonstrate their commitment to human rights: they created a National Human Rights Centre in 2003, authorized Red Cross visits to prisons as well as the GID center in Amman, received the Special Rapporteur on Torture in 2006, and established human rights offices in several departments. But the proliferation of government institutions and measures has not necessarily led to a significant improvement in the situation; civil society, which remains under varying degrees of control, still struggles to act and be heard. Repressive laws have been enacted which significantly restrict such freedom of expression.

In their report, the Jordanian authorities draw attention to the "progress towards human development in all its forms." Undoubtedly, positives are worth highlighting, both in law and in practice. In particular, it appears that progress has been made in the prison system. New prisons have been built, whose inmates are less exposed to abuse and poor conditions of detention.

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<sup>1</sup> *Third periodic report of Jordan submitted to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, Amman, 30 March 2009, (CCPR/C/JOR/3)

However it should be noted that in the wake of the September 11 attacks and the resulting international struggle against terrorism, some improvements have been significantly eroded. Most notably, the Jordanian authorities have cooperated closely with the United States, including carrying out "outsourced" torture on persons handed over to them.

### **3. Special courts and legislation**

Jordan's periodic report does not acknowledge the existence of a "system of special courts", which includes "the State Security Court, the Special Police Court and the General Intelligence Directorate's Military Court, which guarantees freedom from prosecution for members of the military and security services who have committed human rights violations."<sup>2</sup>

Article 97 of the Jordanian Constitution guarantees the independence of the judiciary. A High Judicial Council is responsible for the appointment and promotion of judges and prosecutors. However, this Council is not independent, since it is composed of Justice Department representatives, and some senior judges are directly appointed by the King.

The jurisdiction of the State Security Court (SSC) covers cases related to state security, financial crime and drug trafficking. According to Article 2 of the law governing the Court, it is composed of three civilian judges and/or military judges; the civilian judges are appointed by the Prime Minister on the suggestion of the Justice Minister, and the military judges are proposed by the Joint Chiefs of Staff. Judges may be removed at any time by the head of government. In practice, the Court is composed of a civilian judge and two soldiers, one of whom acts as Chairman of the Court. It is not independent because the head of government appoints and dismisses its members.

The General Prosecutor of this Court also acts as Chairman of the Military Justice Department of the Defense Ministry, designated by the head of the Joint Chiefs of Staff, who also appoints judges to the position of military prosecutors. This nomination process completely fails to guarantee the independence and impartiality of the SSC.<sup>3</sup>

It is the State Security Court prosecutor who presses charges against a suspect and decides his detention or release. He represents the Crown and, as an officer of the armed forces, comes under the same administrative authority as intelligence officers. His office is also located in the intelligence service complex, a proximity which does not favor the independence of his function.

According to the law governing the State Security Court (art. 7), the duration of custody for investigation cannot exceed seven days. The suspect must then be brought before the prosecutor. The latter may order a detention of 15 days, renewable for the purposes of the investigation; the entire detention must not exceed a period of two months.<sup>4</sup> In reality, suspects are sometimes detained for several months before being either transferred to another prison or released.

The SSC and members of the GID work together very closely; the length of time that the latter can hold detainees is defined by the provisions of legislation No. 17 of 1959 governing the State Security Court. Interrogations carried out by GID officers aim to obtain confessions from suspects that the State Security Court can then use against them. Allegations of torture are usually not taken into account. Trials before this court are in most cases unfair, and "confessions" that have been extracted form the only basis for conviction.

During trial proceedings, defendants routinely complain of having been tortured during their interrogation. The State Security Court, however, has never felt it necessary to order any investigations and has even returned guilty verdicts condemning prisoners to the death penalty on the sole basis of minutes containing confessions extracted under torture. A report by Amnesty

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<sup>2</sup> Committee Against Torture, 44<sup>th</sup> Session, *Concluding observations of the Human Rights Committee on the second periodic report of Jordan*, 25 May 2010, (CAT/C/JOR/CO/2), para. 14.

<sup>3</sup> Euro-Mediterranean Human Rights Network, *The Independence and Impartiality of the Judiciary in Jordan*, Jan 2008, p. 38, [http://en.euromedrights.org/index.php/publications/emhrn\\_publications/emhrn\\_publications\\_2008/3800.html](http://en.euromedrights.org/index.php/publications/emhrn_publications/emhrn_publications_2008/3800.html) (accessed 20 Sep. 2010)

<sup>4</sup> Law 17/1959 concerning the State Security Court, [http://www.lob.gov.jo/ui/laws/search\\_no.jsp?no=17&year=1959](http://www.lob.gov.jo/ui/laws/search_no.jsp?no=17&year=1959), art. 7. (accessed 20 Sep. 10).

International also corroborates these practices.<sup>5</sup> Some sources even report that custody is prolonged when detainees complain about having been tortured when they are presented to the prosecutor.

Theoretically, the Code of Criminal Procedure applies to the special courts. All trials must begin within 10 days of referral and hearings held in consecutive days cannot be postponed by more than 48 hours without good reason (Article 8b of the law governing the SSC). In fact, hearings are often postponed and the trials can last several months. The accused is theoretically entitled to a lawyer of their choice, or should have one appointed by the court if they do not have the means, but in some cases the authorities have refused to approve the appointment of counsel.

The SSC makes its decisions by consensus; failing that, the majority rule is used. Generally, the accused is detained for the duration of the trial. The Security Court's judgements may be brought to the Appeals Court. The latter very often confirms the SSC's convictions without taking into account any allegations of torture. In the rare instances when the Appeals Court overturns a conviction due to the extraction of confessions under torture, no investigation is ordered to establish responsibility for these acts.

In 1995, the Committee Against Torture and the Human Rights Committee had already recommended that the Jordanian authorities "abolish special courts such as the State Security Court"; this has not been implemented.

Jordan has undertaken a reform of its legislation to include protection against torture. A definition of torture has been added in Article 208 of the Penal Code but the reference to "any type of torture inadmissible under the law" is misleading in suggesting that there would be permissible forms of torture. Meanwhile, the Special Rapporteur on Torture reports that the definition of section 208 of the Penal Code, which does not distinguish between private and state officials, does not cover or only partially covers the infliction of pain or mental suffering, and does not impose sanctions that reflect the seriousness of the crime.<sup>6</sup>

Penalties for perpetrators of torture do not match the gravity of the crime. The article states that "a person who submits another to any act of torture prohibited by law, with the intention of obtaining from him the confession of a crime, or information on this crime, is punishable by six months' to three years' imprisonment." The Committee Against Torture recommended that the authorities "amend the Penal Code to introduce tougher penalties." Finally, sentences handed down for crimes relating to torture fall in the same class as common criminal offences, which raises fears crimes of torture may finally remain punished. The Committee against Torture recommended that the State party "incorporate the prohibition of torture into the Constitution to show a real and important recognition of torture as a serious crime and human rights abuse and to fight impunity."<sup>7</sup>

Under Article 61 of the Penal Code, a public official who commits torture cannot be prosecuted if the order came from his superiors. In addition, any agent found guilty of acts of torture can only be prosecuted under Article 37 of the Public Security Act, which dates from 1965. This merely provides for disciplinary action.

The law prohibits **arbitrary arrest and detention**. Section 111 of the Code of Criminal Procedure allows the prosecutor to detain a person for a renewable period of 15 days before establishing the charges against them. The prosecutor may extend this period of custody "in the interest of the investigation", provided that the extension does not exceed six months in the case of a felony and two months in the case a misdemeanour. Extended police custody is legally provided for, but in reality it is not always ordered by a magistrate.

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<sup>5</sup> Amnesty International, "Your confessions are ready for you to sign" - Detention and torture of political suspects, (index AI : MDE 15/005/2006), July 2006, <http://web.amnesty.org/library/Index/ENGMD160052006?open&of=ENG-JOR> (accessed 20 Sep. 2010)

<sup>6</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Jordan, submitted to the Human Rights Council at its fourth session, 5 January 2007, (A/HRC/4/33/Add.3), para. 13.

<sup>7</sup> Committee against Torture, 44<sup>th</sup> Session, Concluding observations of the Committee against Torture on the second periodic report of Jordan, 25 Mai 2010, (CAT/C/JOR/CO/2), para. 9.

A person in custody has no right to speak to their lawyer before being brought before the magistrate. The law provides that the judge may question the suspect, if necessary in the absence of his counsel (Article 63 para 2. and Article 64 of the Code of Criminal Procedure).

The juvenile justice system has been reformed: the age of criminal responsibility has been raised from 7 years to 12 years. This is still inconsistent with principles of international law concerning minors.

The Jordanian authorities claim that "according to article 159 of the Code of Criminal Procedures, any evidence or proof obtained by means of physical or mental coercion of any kind shall be deemed null and void and legally unsafe. Complainants may challenge statements taken down by criminal investigators in the presence of a public prosecutor or in court, if the statements were obtained under duress or as a result of physical and mental coercion."<sup>8</sup>

Many defendants, however, have stated before the trial courts and in particular before the State Security Court that security forces tortured them to extract confessions. These courts have then ignored these allegations, and defendants have been convicted on the sole basis of these admissions which were withdrawn before the court. According to the Arab Organization for Human Rights, the SSC has delivered sentences ranging from capital punishment to life imprisonment and confinement on the basis of "confessions" obtained through torture and ill-treatment.<sup>9</sup>

#### **4. The legal system subordinated to the fight against terrorism**

Two weeks after the attacks of 11 September 2001 in the United States, the Jordanian authorities introduced amendments to the Penal Code. The definition of "terrorism" was enlarged to include many vaguely defined offenses, freedom of expression was restricted and more offences were made punishable by capital punishment and life imprisonment (Art. 147-153 of the Penal Code). This Act came into force on 2 October 2001, while waves of arrests were under way following three protests held in Amman and Zarqa. Many people were arrested and held incommunicado under this law for long periods solely because of their political opinions. They had neither used nor called for violence.

Following the bombings on 9 November 2005 in three hotels in Amman which killed 60 people and injured hundreds of others, Jordanian authorities issued a draft law for the prevention of terrorism. On 1 November 2006, this new law (Prevention of Terrorism Act) was enacted. It is contrary to international standards for the protection of human rights in the fight against terrorism and resolution 1566 (2004) Security Council of the United Nations.

The definition of "terrorist activity" is so broad that in practice, it allows the arrest and detention of persons who merely seek to peacefully express their political opinions. It criminalizes direct or indirect support for terrorism without distinguishing between the intentions of those implicated. For example, individuals who have contributed to or funded a legally-recognised charity that is subsequently reported by authorities as a "terrorist organization" can be criminally prosecuted.

The law defines crimes of opinion as terrorism; persons may be arrested, tried and convicted for defaming state officials and disseminating "false" or "exaggerated" information outside the country which might affect the "dignity of country."

Furthermore, the text gives greater power to the security services; they can arrest and detain anyone they suspect of terrorism. Most importantly, it strengthens the powers of the Intelligence Branch, which is responsible for the repression of political opponents.

This Act grants powers to the State Security Court and other institutions which violate the right to liberty, movement, privacy and the presumption of innocence. It allows the home and movements of a suspect to be monitored, their communications to be surveilled and searches to be carried out. It also provides for a travel ban. The definition of acts related to "terrorism" and the penalties applicable

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<sup>8</sup> *Third periodic report of Jordan submitted to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, Amman, 30 March 2009, (CCPR/C/JOR/3), para. 37.

<sup>9</sup> The Arab Organisation for Human Rights, *Annual Report 2009*, para. 8. <http://www.ifhr.org/index.php?topic=515.0> (accessed 20 Sep. 2010)

to them remain unclear under this law, violating fundamental principles of legality; and capital punishment and life imprisonment may be used as sanctions for these crimes (art 7).

## **5. Arbitrary arrest and detention**

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The law prohibits arbitrary arrest and detention. In practice, however, these are common. Citizens are not adequately protected against arbitrary arrest, because the prosecutor may initiate proceedings without judicial review. Charges are not subject to review by an independent tribunal during the investigation, and charges are worded very vaguely, for example 'the agreement between two or more persons to execute a crime in specific ways', thus opening the door to very serious abuses.

Arbitrary arrests and detention are carried out by several departments, including the General Intelligence Directorate (GID) and the Department of Public Safety (PSD), which controls the functions of police and reports to the Minister of Interior.

The Code of Criminal Procedure provides that anyone who is arrested should be brought before a magistrate within 24 hours. In reality, those arrested are often held by security services for a long time, sometimes months, before being brought to a judicial authority. When they are suspected of engaging in or supporting terrorist activities, they are generally held on the premises of the General Intelligence Directorate (GID).

The **General Intelligence Directorate** (GID) has its headquarters in Wadi Jandawil district, which also includes a detention center. Its officers have military status, since the GID is a military intelligence unit under the direct responsibility of the Prime Minister. The GID's director is appointed by the King. The primacy of its mission, that is the fight against terrorism, places the GID above other security services, who have to assist it if necessary. This department is responsible for the greatest number of arbitrary detentions.

Its powers to detain are defined by the provisions of law No. 17 of 1959 governing the **State Security Court**. The GID is responsible for the arrest of anyone suspected of crimes against state security. These offences fall under the aegis of the State Security Court (see above). Ongoing detention without charge or trial is allowed under the Act for a period of seven days, renewable by the prosecution. In practice, preventive detention may be prolonged for weeks or months.

The GID is the main department responsible for violations of the rights of political prisoners. Its agents have broad powers and act anonymously, which reinforces their impunity. Reportedly, many people who were held on GID premises had no contact with the outside world or with their families or lawyers, sometimes over a period of many years. Civil and judicial authorities are not informed of their existence; nor do they have the power to intervene to ensure that laws are respected by agents of the intelligence services.

The Human Rights Committee had already recommended in 1994 that places of detention used by the Central Information Service be placed under the strict supervision of the judiciary. Meanwhile, in 1995, the Committee Against Torture noted with regret that "the headquarters of the General Intelligence Department has been recognized as an official prison, that the armed forces officers are granted the capacity of public prosecutors, that they have the capacity of detaining suspects incommunicado, whether military persons or civilians, until the end of their interrogation for periods of up to six months, and that detainees are deprived of access to judges, lawyers or doctors."<sup>10</sup>

According to information provided by the Jordanian authorities, several agencies visit detention centers. The Committee Against Torture noted however, that regular monitoring does not occur on the premises of the GID. We must also remember that during his visit to Jordan in 2006, the Special Rapporteur on Torture was not allowed to meet privately with GID inmates.<sup>11</sup>

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<sup>10</sup> *Report of the Committee against Torture submitted to General Assembly at its 50<sup>th</sup> session*, 26 July 1995, (A/50/44), para. 168.

<sup>11</sup> *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Jordan submitted to the Human Rights Council at its fourth session*, 5 January 2007 (A/HRC/4/33/Add.3) para. 6.

The law governing the State Security Court is used to punish persons exercising their right of expression in non-violent rallies. **Mr Mohamed Al-Sunaid**, president of the Association of Jordanian public sector workers, was arrested by security service agents for participating in a peaceful demonstration organized to protect the rights of workers and union members. He was presented to the State Security Court prosecutor on 11 May 2010, who ordered that he be detained for a period of 14 days, for "investigation."<sup>12</sup> Released on bail, he was eventually sentenced to 3 months in prison by the same court on 27 July 2010 for "unlawful assembly".<sup>13</sup>

Alkarama was informed that on the night of 7 November 2009, Jordanian authorities arrested **Yousef Abu Sharby Anwar** and **Jamal al-Sarawi** in the province of al-Zaraq without a judicial warrant. These men were then transferred to the intelligence service prison. After forcing the door open, Jordanian intelligence agents entered and searched Yousef Abu Anwar Sharby's home. They then forced his wife and children to watch while they beat him. Jamal al-Sarawi went through the same ordeal after the intelligence services demolished his front door. His wife had to be hospitalized because of psychological trauma; she lost the power of speech. At the same time, they raided Jamal al-Sarawi father's apartment, which is in the same building, without presenting a search warrant.

As for **Abdelkader Emad Al Tahawi** and **Emad Abidat**, of Irbid, they were both arrested and imprisoned without a warrant and accused of supporting the Salafist Jihad - the only proof offered was a wedding video aired by the Al-Arabiya television channel a few months beforehand.<sup>14</sup>

On 27 July 2010 our organization informed the Special Rapporteur on Torture of the case of **Mr Abdulsalam Ashraf**, aged 26. He was arrested on 28 June 2010 on route, after having been summoned by the intelligence services, to their headquarters in Amman, held incommunicado and severely tortured. His family tried to find out why he had been arrested and where he was being held, but the services would not acknowledge his custody. It was only on 22 July 2010, after pursuing many fruitless avenues of enquiry, that his mother was allowed to visit him at his place of detention at intelligence headquarters in Amman. During the visit, which lasted about fifteen minutes, she found her son showing signs of beatings and torture which he suffered during his detention in solitary confinement. However, he could not tell her more due to the presence of a guard. The victim could only reveal that he had not been presented before a judicial authority, and had not been examined by a doctor despite his condition.<sup>15</sup>

In June 2007, the President of the Council of Trade Unions revealed that several people had been held in solitary confinement for four years, without trial. They included **Samer Al-Barq Hilmi** (حلمي سامر البرق) who had been held since October 2003, and **Adnan Mohamed Abu Najileh** (أبو محمد عدنان نجيله), held since September 2003. Both had been transferred from general intelligence centers to premises in Al-Jafar and Suwaqa.<sup>16</sup>

On 17 April 2007, Alkarama submitted a communication to the Working Group on Arbitrary Detention about **Mr Issam Mohamed Tahar Al Al Barqaoui Uteibi**, a well-known theologian in Jordan and the Arab world, who was arrested on 28 November 2002 with 11 other persons and accused of "conspiracy to commit terrorist actions." He was arrested because of an interview he had given to the satellite channel Al Jazeera. The authorities held him incommunicado for nearly a year and tortured him repeatedly. He was denied the right to appoint a lawyer of his choice, and was not allowed to

<sup>12</sup> Alkarama communiqué, *Jordan: Labor activist, Muhamed Al-Sunaid in provisional detention*, 18 May 2010, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=506:jordan-labor-activist-muhamed-al-sunai-in-provisional-detention&catid=24:communiqu&Itemid=120](http://en.alkarama.org/index.php?option=com_content&view=article&id=506:jordan-labor-activist-muhamed-al-sunai-in-provisional-detention&catid=24:communiqu&Itemid=120) (accessed 22 September 2010)

<sup>13</sup> محمد النجار, محمد النجار, *Union leader handed prison sentence* (in Arabic), Al Jazeera, 28 July 2010, <http://www.aljazeera.net/NR/exeres/3CA253A1-4719-4446-9685-4B1C9135DD8C.htm> (accessed 22 September 2010)

<sup>14</sup> Alkarama communiqué, *Jordan: Four Jordanians arbitrarily arrested by the secret service*, 13 November 2009, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=356:jordan-four-jordanians-arbitrarily-arrested-by-the-secret-service&catid=24:communiqu&Itemid=120](http://en.alkarama.org/index.php?option=com_content&view=article&id=356:jordan-four-jordanians-arbitrarily-arrested-by-the-secret-service&catid=24:communiqu&Itemid=120) (accessed 22 September 10 2010)

<sup>15</sup> Alkarama communiqué, *Jordan: Ashraf Abdulsalam Tortured while in Secret Detention*, 27 July 2010, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=559:jordan-ashraf-abdulsalam-tortured-while-in-secret-detention&catid=24:communiqu&Itemid=120](http://en.alkarama.org/index.php?option=com_content&view=article&id=559:jordan-ashraf-abdulsalam-tortured-while-in-secret-detention&catid=24:communiqu&Itemid=120) (accessed 22 September 10)

<sup>16</sup> محمد النجار, محمد النجار, *Jordanians held for years in isolation without trial* (in Arabic), Al Jazeera, 7 July 2007 <http://www.aljazeera.net/NR/exeres/67EBB14C-5CFD-456C-95AE-0A63C605E8D4.htm> (accessed 22 Sept 2010)

challenge the legality of his detention. Brought before the State Security Court, he was acquitted by a ruling on 27 December 2004. He was, however, not released but rather held for 6 months in solitary confinement on the premises of the GID from 27 December 2004 to 28 June 2005, during which time he was again tortured on several occasions.

Upon his release, he gave another interview to the Al Jazeera satellite channel on 4 July 2005 in which he expressed his condemnation of the U.S. military occupation of Iraq. He was arrested the next day, 5 July 2005. He was never judged, and his most fundamental rights were violated. The Working Group issued an opinion in November 2007 stating that his detention was arbitrary. Mr. Al Uteibi was finally released on 12 March 2008, nearly three years after his last arrest.<sup>17</sup> While he was under house arrest from 10 August 2010, following an intervention he made on the satellite channel Al Jazeera, he was again arrested after being summoned to the headquarters of the General Information Directorate. His family has not heard from him since this arrest to date.

## 5.1 Administrative detention

This form of detention is common in Jordan. While administrative detention is not *per se* a violation of international law, such action must be consistent with the law, which should limit its duration. It should only be used against persons representing a clear and serious threat to society that cannot be countered in any other way. In addition, the individual should have the right to challenge their detention before a judge and the law should provide compensation in cases where laws and procedures were violated.

The Law on the Prevention of Crime No. 7 of 1954 provides the legal basis for administrative detention. It grants the police broad powers to make arrests. Above all, this law flies in the face of any judicial authority since the administrative detention may be ordered by the governor against a person who is "about to commit a crime or assist in its commission." It violates the provisions of the Code of Criminal Procedure, which provides that persons who are arrested should be brought before a judge within 24 hours. Often, the security services refuse to comply with decisions to acquit detainees. Rather, they subject them to administrative detention with a view to creating a new court case.<sup>18</sup>

The Jordanian government said in its periodic report: "The Government issued a circular to administrative court judges instructing them to end the practice of administrative detention; a large number of persons in administrative detention were subsequently released."<sup>19</sup>

According to a late 2009 report by the National Centre for Human Rights on the question of administrative detention, the number of administrative detainees rose from 14,046 in 2008 to 16,050 in 2009. The average length of detention varied between a week and four months. Generally, those detained cannot afford the bail required to be released. There is no statutory amount set; it can vary between 5,000 and 20,000 dinars.<sup>20</sup> Much greater variations in price have been noted.

The Jordanian NHRI recommends that the law on the prevention of crime be repealed, or at least amended. It also recommends that the authorities respect the decisions of the judiciary in cases of release, dismissal or acquittal of those detained, and that interference by the administrative court in police investigations be avoided to prevent prolonged periods of detention and investigation.<sup>21</sup>

However, many observers report that the duration of administrative detention sometimes exceeds several years. Women have also been affected, particularly those likely to be victims of honor killings

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<sup>17</sup> Alkarama communiqué, *Jordan: M. Issam Al Uteibi (Sheikh AlMaqdisi) liberated on March 12, 2008*, 13 March 2008, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=70:jordan-m-issam-al-uteibi-sheikh-almagdisi-liberated-on-march-12-2008&catid=24:communiqu&Itemid=120](http://en.alkarama.org/index.php?option=com_content&view=article&id=70:jordan-m-issam-al-uteibi-sheikh-almagdisi-liberated-on-march-12-2008&catid=24:communiqu&Itemid=120), (accessed 22 September 10)

<sup>18</sup> National Centre for Human Rights (NCHR), *State of Human Rights in the Hashemite Kingdom of Jordan*, 5th Annual report, April 2009, p 16-17. <http://www.nchr.org.jo/uploads/> (accessed 22 September 2010)

<sup>19</sup> *Second periodic report of Jordan submitted to the Committee against Torture pursuant to article 19 of the Convention*, Amman, 5 October 2009, (CAT/C/JOR/2), para. 45. The review was carried out by the CAT at its 44<sup>th</sup> session in spring 2010.

<sup>20</sup> National Centre for Human Rights (NCHR), *Report on administrative detention* (in Arabic), 2009, <http://www.nchr.org.jo/uploads/%C7%E1%CA%E6%DE%ED%DD1.pdf> (accessed 22 September 2010)

<sup>21</sup> National Centre for Human Rights (NCHR), *Report on administrative detention* (in Arabic), 2009, p. 28 <http://www.nchr.org.jo/uploads/%C7%E1%CA%E6%DE%ED%DD1.pdf> (accessed 22 September 2010)

and reprisals from their families. The authorities justify this form of detention, claiming that they are protecting them from abuse and harassment by their relatives. However, they can be held for years without having committed any offense, without trial and without any means of redress.

Illegal aliens are also affected by this measure when they can not be expelled. If they cannot afford bail, they remain detained for years.

## 5.2 The situation in prisons

It appears that progress has been made with regards to the prison system. New prisons have been built and inmates are less exposed to poor conditions of detention and other ill-treatment than before. In its periodic report to the Committee against Torture, the Jordanian government noted the progress made in relation to prison conditions but notes that "Although mistakes or isolated and exceptional violations do occur, those responsible for them are brought to book."<sup>22</sup>

In its report on the situation in Jordanian jails, the National Centre for Human Rights (NCHR), reported 37 complaints of ill treatment during 2008 (41 were received in 2007)<sup>23</sup>. In its 2008 annual report, the NCHR noted the recurrence of individual complaints concerning inhuman and degrading treatment of detainees and the impunity enjoyed by perpetrators of these acts.

In its 2009 report, the Arab Organization for Human Rights stated that detainees have been tortured and suffered ill-treatment in prisons. They are routinely beaten, hit with electric cables and sticks, suspended on an iron bar by their wrists for hours, insulted, forced to undress, denied access to the sun, isolated in single cells and not allowed visits for months, etc.<sup>24</sup>

A former Jordanian Interior Minister told the satellite channel Al Jazeera that "the allegations of torture in prisons have become very worrying for the authorities. (...) The proliferation of these charges highlights the need to change the management of prisons; they must be removed from the authority of security services and placed under the governance of the Ministry of Justice."<sup>25</sup> This highlights one of the main challenges in the fight against torture in prisons: the security services, in this case the police, are charged with investigating allegations of torture that are laid against members of their own department. This has led to the suggestion that an independent and effective structure be established to deal with complaints, which should be overseen by a civilian prosecutor, and not a police officer, as is the case currently.

The toughest prison conditions are reserved for Islamist detainees. A hundred of them are held in Suwaqa prison, about 100 km from Amman. Most were sentenced to lengthy prison sentences or life imprisonment following unfair trials. On 12 May 2010, 28 of them began a hunger strike to protest against their conditions of detention. In retaliation, some were transferred to the punishment block of other prisons. After receiving promises from the administration that their conditions would improve, they stopped their protest on 16 June 2010. Some of them had to be evacuated to the hospital because of their deteriorating health.<sup>26</sup>

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<sup>22</sup> *Second periodic report of Jordan submitted to the Committee against Torture pursuant to article 19 of the Convention*, Amman, 5 October 2009, (CAT/C/JOR/2), para. 7.

<sup>23</sup> National Centre for Human Rights (NCHR), *6th periodic report on prisons in Jordan* (in Arabic), 8 February 2009, p. 5. <http://www.nchr.org.jo/uploads/%> (accessed 22 Sep. 2010)

<sup>24</sup> The Arab Organisation for Human Rights, *Annual Report 2009*, May 2010, <http://www.ifhr.org/index.php?topic=515.0> (accessed 22 Sept. 2010) and also محمد النجار, الانتهاكات بسجون الأردن مستمرة رغم دعوات الإصلاح, Mohamed Al Najjar, *Abuses continue in Jordan prisons despite calls for reform* (in Arabic), Al Jazeera, 13 May 2008, <http://www.aljazeera.net/News/archive/archive?ArchiveId=1163453> (accessed 22 Sep. 2010)

<sup>25</sup> محمد النجار, الانتهاكات بسجون الأردن مستمرة رغم دعوات الإصلاح, Mohamed Al Najjar, *Abuses continue in Jordan prisons despite calls for reform* (in Arabic), Al Jazeera, 13 May 2008, <http://www.aljazeera.net/News/archive/archive?ArchiveId=1163453> (accessed 22 Sep. 2010)

<sup>26</sup> محمد النجار, نهاية إضراب سجناء إسلاميين أردنيين, Mohamed Al Najjar, *End to hunger strike to Jordanian Islamist detainees* (in Arabic), Al Jazeera, 28 May 2010, <http://www.aljazeera.net/NR/exeres/9DCE8F78-2944-4473-9664-CD36B5828AD9.htm> (accessed 22 Sep. 2010)

## 6. Torture

The State party's periodic report states that: "intelligence agencies have no evidence that any of their officers have been involved in acts of torture or ill treatment."<sup>27</sup> However, many testimonies and reports indicate a systematic use of torture, particularly during custody. The national human rights institution reported many cases of "abuse", a euphemism used to describe torture. For the period June 2003 to December 2004, it claims to have received 250 complaints of "abuse"; for the year 2009, the number rises to 57, of which 50 relate to the various security centres and departments.<sup>28</sup>

The Special Rapporteur on Torture has also reported instances of torture committed by intelligence service agents. Following a mission in Jordan from 25 to 29 June 2006, he wrote: "In particular, it was alleged that torture was practiced by the General Information Directorate (GID) to extract confessions and obtain information in the fight against terrorism, and for national security objectives. It was also used within the Criminal Investigation Department (CID) to obtain confessions during routine criminal investigation procedures."<sup>29</sup> However, he was not allowed to meet privately with detainees held at intelligence headquarters or on the premises of Public Safety and Criminal Investigation Department (CID).<sup>30</sup>

The methods of torture most commonly employed by GID officers are beatings, beatings with cables, ropes, plastic pipes, whips etc all over the body including the soles of the feet (falaqa), stress positions, sleep deprivation, injections that cause states of extreme anxiety, humiliation, threats of rape against the victim and members of his family, electroshock, prolonged isolation, etc.

Abuse is more prevalent in the GID due to its close collaboration with the judges of the State Security Court. Incommunicado detention, which is itself a form of mental torture, is routinely extended for undetermined amounts of time.

In its annual report on the human rights situation in Jordan, the Arab Organization for Human Rights claimed to have received 90 complaints regarding violations of human rights. These were forwarded to the authorities with a request for clarification. They only received responses for 39 cases. The Organization stated that one third of complaints related to beatings and torture inside detention centres controlled by police, and mistreatment of prisoners, particularly those affiliated to Islamic organisations.<sup>31</sup>

The National Centre for Human Rights, whose representatives regularly visit detention centres and prisons, reported that torture is common, but is difficult to prove for several reasons: victims are detained on the basis of administrative decisions designed to allow the time to remove all traces of such abuse. There is also a lack of witnesses and medical reports, and it is difficult to identify agents who have used torture.

The Jordanian NHRI notes in its annual report that during 2009, no-one was prosecuted under Article 208 of the Penal Code. It considers that the amendment of this article is not an effective weapon in the fight against torture, because it does not provide for an independent investigation to be carried out by a civilian judge; nor does it provide for effective control of administrative detentions by the judiciary. Finally, it does not mention compensation for victims of abuse.<sup>32</sup>

<sup>27</sup> *Third periodic report of Jordan submitted to the Human Rights Committee pursuant to article 40 of the International Covenant on Civil and Political Rights*, Amman, 30 March 2009, (CCPR/C/JOR/3), para. 34.

<sup>28</sup> National Centre for Human Rights (NCHR), *Report submitted by the National Centre for Human Rights to the Committee Against Torture at its 44<sup>th</sup> Session*, (no date), p.10

[http://www2.ohchr.org/english/bodies/cat/docs/ngos/Jordanian\\_National\\_Centre\\_HR.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/Jordanian_National_Centre_HR.pdf) (accessed 22 September 2010)

<sup>29</sup> *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Jordan, submitted to the Human Rights Council at its fourth session*, 5 January 2007, (A/HRC/4/33/Add.3), para. 29.

<sup>30</sup> *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Jordan, submitted to the Human Rights Council at its fourth session*, 5 January 2007, (A/HRC/4/33/Add.3), para. 6.

<sup>31</sup> محمد النجار, اتهامات بالتعذيب بسجون الأردن, 22 mai 2010, <http://www.aljazeera.net/NR/exeres/11F2F87D-3B0C-436B-BBA7-19D2C83E0C7F.htm> (accessed 22 September 2010)

<sup>32</sup> National Centre for Human Rights (NCHR), *6th periodic report on prisons in Jordan*, 8 February 2009, p. 13, (in Arabic) <http://www.nchr.org.jo/uploads/>

The NHRI therefore considers that these shortcomings, added to the lack of recourse for victims because of the secrecy of investigation procedures, the fear of reprisals and the lack of confidence in the judiciary, contribute to the likelihood of detainees being subjected to abuse and physical and psychological duress.

On 1 March 2010, **Sayed Mahmoud Hamed Talafha**, 29 years, bricklayer and father of two children, was arrested at his home in the presence of his pregnant wife and two-year-old daughter by agents of the Irbid Investigation Service. No warrant for his arrest was presented, nor was he told of the reason for his arrest. Handcuffed, he was taken to the headquarters of the Criminal Investigation Branch where he was severely beaten all over his body. He was also hung by his wrists to the back of a door. One officer struck him on the right leg, where Sayed had metal pins due to an operation, while another officer pierced his right wrist with a drill, perforating his veins.

After this savage torture, Mr. Talafha was taken to the emergency department of the Princess Basma government hospital, where doctors performed emergency surgery on 2 March 2010. The same day, Mr. Talafha's parents visited him in hospital and found him in the presence of one of his torturers, who told them that what had happened to their son "was just the beginning."

On 2 March 2010, Mr. Talafha was brought back from the hospital's emergency department to the Criminal Investigation Department, despite his condition. He was then detained for another five days with dozens of people in a cell which only measured a few square metres, without contact with the outside world. Mr. Talafha was not allowed to see his lawyer and was forced to sign confessions under torture stating that he had committed a theft.

On 14 March 2010, he was brought before the prosecutor of the court in Irbid Bin Obeid, who ordered that he undergo a medical examination and then be held at the in Qafqafa prison in Irbid, where he awaits trial.

Mr. Talafha's family tried unsuccessfully to sue for torture before the General Prosecutor in charge of police behaviour. This latter refused to receive their complaint, stating that they must await the official doctor's report. Alkarama presented this case to the Special Rapporteur on Torture asking him to ensure the Jordanian authorities undertake a full and impartial investigation into the acts of torture suffered by Mr. Talafha, and identify the perpetrators.<sup>33</sup>

## **7. The fight against terrorism in the international context**

As part of the "fight against terrorism", many suspects have been detained incommunicado without any legal procedure for long periods. These arrests have often taken place within the framework of cooperation with other countries, including the United States. This cooperation was further intensified after the attacks of 11 September 2001. Jordan has played an important role in the transfer and secret detention of persons suspected of terrorist activities. They are often held in Wadi Sir, the GID headquarters, and systematically subjected to torture. They are not necessarily Jordanians, nor are they considered a threat to Jordan. Jordan was in fact a subcontractor for the CIA, especially in the early years following the attacks on the United States.

Foreign nationals report being detained incommunicado in GID centers and tortured before being transferred to U.S. detention centers. Alkarama heard the testimonies of others who were arrested or prosecuted in the United States before being transferred to Jordan where they were tortured.

The Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism was very concerned by the situation, especially in Jordan, "where the detention and interrogation powers of the intelligence services in counter-terrorism operations and investigations have no clear statutory basis. The arrest and detention of persons on grounds which are not clearly established in domestic law is a violation of article 9, paragraph 1, of the International Covenant on Civil and Political

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<sup>33</sup> Alkarama communiqué, *Jordan: Attack on citizen Said Mahmoud Talafaha*, 5 March 2010, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=445:jordan-attack-on-citizen-said-mahmoud-talafaha&catid=24:communiqu&Itemid=120](http://en.alkarama.org/index.php?option=com_content&view=article&id=445:jordan-attack-on-citizen-said-mahmoud-talafaha&catid=24:communiqu&Itemid=120) (accessed 22 Sep.2010)

Rights. Without such a legal framework there is a danger that intelligence services arrest people on the basis of sheer assumptions, which might be based only on a "guilt by association" pattern."<sup>34</sup>

Alkarama had brought the case of **Mr Djamel Ahmed Khalifa** to the attention of the Working Group on Arbitrary Detention. Mr Khalifa, a Saudi national, was arrested in San Francisco in the United States because of family ties to Osama bin Laden. He was secretly transferred to Jordan after four months' imprisonment. Once there, he was brutally tortured for two months before being deported to Saudi Arabia. He was later murdered in Madagascar by a commando group composed of men who were never identified.<sup>35</sup>

Numerous accounts from released detainees state that prisoners transferred to Jordan by the United States were systematically hidden during visits to GID premises by the International Committee of the Red Cross.

Another problem concerns hundreds of Jordanian prisoners held in centres outside the country. Some are accused of terrorist activities and others have been held for decades without the Jordanian authorities intervening to release them or publicize their plight. According to the Arab Organization for Human Rights, there are 250 people in Syria, 55 in Iraq, 15 in Saudi Arabia, five in the U.S., 27 in Israel and dozens in other countries.<sup>36</sup>

Some of these detainees have either been acquitted or simply were not released at the end of their sentence; **Amjad Ash-Shalabi** (الشليبي أمجد) was arrested in Iraq in 2003, released by U.S. forces and handed over to Iraqi authorities in 2008. He has yet to be released. As for **Mr Mohamed Al-Nimrat** (النمرات محمد), professor of religious studies, he was arrested in Saudi Arabia in 2006 because of a fatwa he issued to one of his students authorizing the jihad in Iraq. Mr. Al-Nimrat died in detention on 27 November 2009. The Saudi authorities informed the Jordanian government, but his family only found out two months later. There are Jordanians who have been held in Syria for some 25 years without trial, without their fate being known; others, suspected of terrorist activities, have been incarcerated in Saudi Arabia for seven years without due legal process.

The Jordanian authorities generally do not provide consular assistance to nationals detained abroad, and do not inform their families of their situation. This means that the families often do not know if they are dead or alive. In Israel, 27 Jordanian soldiers who have been held since the 1967 war; their fate is unknown to this day.<sup>37</sup>

## 8. Conclusion

The Jordanian authorities have put in place in human rights sections in several ministries, and have allowed the creation of an NHRI. NGOs are given some leeway to act on the ground, thus allowing the government to present the image of a country concerned with protecting and promoting human rights.

In reality, serious violations of basic human rights still occur; arbitrary detention and torture are a major source of concern. Intelligence services are given a free hand by the executive to act with impunity, which contributes to the perpetuation of these major violations.

The authorities have not undertaken concrete actions to put an end to this situation. This is regularly deplored by human rights NGOs and emphasized by various Committees during the consideration of periodic reports from the State Party.

<sup>34</sup> *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, submitted to the Human Rights Council at its tenth session, 4 February 2009, (A/HRC/10/3), para. 40.*

<sup>35</sup> Alkarama communiqué, *Opinion on the arbitrary detention of Amin Al-Bakry at the Bagram military base*, 28 June 2007, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=31:opinion-on-the-arbitrary-detention-of-amin-al-bakry-at-the-bagram-military-base&catid=16:communiqu&Itemid=162](http://en.alkarama.org/index.php?option=com_content&view=article&id=31:opinion-on-the-arbitrary-detention-of-amin-al-bakry-at-the-bagram-military-base&catid=16:communiqu&Itemid=162) (accessed 22 September 2010)

<sup>36</sup> محمد النجار, *مئات الأردنيين معتقلون بالخارج*, Mohamed Al Najjar, *Hundreds of Jordanians held outside the country* (in Arabic), Al Jazeera, 1 March 2010, <http://www.aljazeera.net/NR/exeres/04A80896-17BB-4327-8491-AFBA01F26C27.htm> (accessed 22 September 2010)

<sup>37</sup> محمد النجار, *مئات الأردنيين معتقلون بالخارج*, Mohamed Al Najjar, *Hundreds of Jordanians held outside the country* (in Arabic), Al Jazeera, 1 March 2010, <http://www.aljazeera.net/NR/exeres/04A80896-17BB-4327-8491-AFBA01F26C27.htm> (accessed 22 September 2010)

The State party has ignored recommendations made by the Human Rights Committee and the Committee Against Torture in previous instances. It has not acted sufficiently on the legislative and judicial fronts to combat the most serious violations.

## **9. Recommendations**

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### **The State party should consider undertaking the following:**

1. Abolish the State Security Court and the exceptional laws that govern it.
2. Place all state security services, especially the General Intelligence Directorate (GID), under the sole authority of the General Prosecutor; establish independent oversight of these services.
3. Limit the powers of the General Intelligence Directorate by ensuring a separation of powers, legally and in practice, between the authorities responsible for detention of suspects and those responsible for preliminary investigations.

### ***Accordingly, Jordan should immediately:***

4. End the practice of incommunicado detention by placing all premises of detention, without exception, under the strict supervision of the Ministry of Justice.
5. Immediately place all those currently detained incommunicado under the protection of the law, and allow them to appeal to an impartial and independent tribunal to review the legality of their detention.
6. Transfer all persons whose continued detention is deemed necessary by an independent tribunal to a detention center where they are able to enjoy their full rights and guarantees as detainees in conformity with Jordan's human rights obligations.
7. End the practice of administrative detention and immediately release all detainees held by the governors of provinces who have neither had charges brought against them nor been brought before a judge.
8. Institute a guaranteed immediate access for all detainees to a lawyer of their choice.
9. Quickly and independently investigate all allegations of torture or other ill-treatment; prosecute the perpetrators and disregard any evidence or statements obtained by torture in criminal proceedings.
10. End the State Party's participation in renditions and other secret transfers of prisoners subjected to enforced disappearances. Make public names and other information to identify all persons who have been detained in Jordan or transferred to Jordan in this context.

### ***On the normative level:***

### **The State party should consider undertaking the following:**

11. Bring its legislation into compliance with its obligations arising from the ratification of international instruments, including amending the Criminal Procedure Code and repealing any domestic provision contrary to the Covenant.
12. Ratify the Optional Protocol to the International Covenant on Civil and Political Rights.
13. Ratify the Optional Protocol to the Convention Against Torture which came into force on 22 June 2006 and agree to allow independent monitoring of all places of detention under the provisions of the Protocol. Declare its adherence to Article 22 of the Convention Against Torture