

The Jordan National Center for Human Rights (JNCHR)

Report on the list of issues (LOI) preceding the 4th periodic report of Jordan as adopted by the Committee in its 63rd Session (23 April – 18 May 2018)

The National Center for Human Rights of Jordan submits to your Committee its third response to the cases adopted by the Committee in its 63rd Session (23 April – 18 May 2018) in relation to the 4th Periodic Report of Jordan, in pursuance of the legal powers granted to the Center under its Law No. (51) for the year 2006 as amended, which gives it the competence to monitor, protect, and verify respect for human rights in the Kingdom, to address any abuses or violations, and follow up the adoption of the necessary measures to this end, including their settlement or referring them to the competent Executive, Legislative or the Judicial authority to halt them and eliminate their effects, ensure the dissemination of the culture of human rights and monitors its situation, in addition to providing legal advice or legal aid to people who could otherwise not afford it.

Due to the Center's legal mandate, under Article 10 of its Law No. (51) of 2006 and its amendment, to visit reform and rehabilitation Centers, temporary detentions, juvenile detention centers as per common rules; and to visit any public place in which violations are reported to have been or are being committed against human rights, the Center cared to keep visiting to those places through paying announced and unannounced visits. It is noteworthy that the Center's Law was amended in 2017 and the unannounced visit authorities were extended to include visits to any place belonging to a public entity or any legal personality in which violations of human rights are reported to have been or are being committed, or to verify the same. Furthermore, the Center continued to make recommendations to the Government to acceding the Optional Protocol to the Convention against Torture of 2002.

Articles 1 and 4:

Paragraph 2 – in 2017, Code No. 26 of 2017 (amending the Penal Code) was enacted. The amendment made to Article 208 of this Code focuses on raising the minimum punishment for torture crime from six months to one year. That poor handling of torture criminalization was a key reason for the continuation of legal and practical issues of countering torture in Jordan.

The top issues of Jordan's penal system of torture criminalization are as follows:¹

1. 1. Criminalization of torture in a partial manner, which is in contrary to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by making the torture definition restricted to force an admission or confession, which is in violation of CAT; and criminalization of torture as a felony rather than a crime unless such crime led to a death or a disability, in which case it would be considered a crime.
2. Grievance and interrogation with the people accused of committing torture are insufficient, which greatly leads to the people who commit torture being unpunished and getting away with their violations. This requires Article 208 of the Penal Code to be amended as soon as possible to give the judiciary the jurisdiction to hear torture complaints.
3. Lack of explicit provisions of torture victims' right to damages and insufficiency of general legal rules of damages to comprehensively present the damages stated in Article 14 of CAT including victims' psychological and physical rehabilitation; ensuring the commitment of torture will not be repeated; and apology and conciliation.
4. The possibility to have torture crime barred by limitation.

Article 2:

Clause 3: Under the Constitutional Amendments of 2011, prohibition of torture became a constitutional principle included in Article 8/2, which states that: "Any person arrested, jailed or detained must be treated in a way that maintains his human dignity. Such person may not be tortured in any whatsoever way or otherwise physically or morally harmed. Furthermore, he may not be detained somewhere other than the places allowed by the laws. Any statements made by any person under the influence of any torture, harm or threat shall not be considered." Moreover, the constitutional principle of torture prohibition shall be read with the general standard context contained in Article 128 of the Constitution that prohibited the violation of the laws regulating rights and liberties in the core of such rights, which results in the unconstitutionality of any legislation in contrary to the torture prohibition constitutional principle.

¹ This issue was mentioned, and legislative and procedural recommendations to reject torture in Jordan were made in the annual reports on human rights made by the National Center for Human Rights. See the 16th Report on Human Rights Status of Jordan, P 17-18; the 13th Report on Human Rights Status, P 26-27 (www.nchr.org.jo)

As for the legal measures taken to ensure torture is considered absolute and cannot be restricted or insufficient arguably due to enforce orders made by the administrative seniors, Article 61 of the Penal Code No. 16 of 1960 as amended provides that the committers of criminal acts shall be bear penal responsibility for their acts – including torture crime – in case of enforcing the illegitimate orders made by their seniors. The said Article provides that: “An act committed in any of the following cases is not a crime: 1. In enforcement of law; and 2. In obedience of an order made by a competent person required to be obeyed by the law unless the order is illegal.” In addition, a person who orders torture to be committed shall be held responsible in accordance with the general rules for participation in the criminal act under the Law of Jordan.

Clause 4: National Center for Human Rights made periodic visits to the temporary detention centers during 2016-2020, **which is the period of the report, in addition the Center continued this visits during 2021-2024 Due to the Center’s legal mandate.** Through those visits and complaints received by the Center, it was clear that some violations continued to be committed. Those violations were deprivation of detainees of their right to get a lawyer at the initial interrogation stage; prevention of visits to some detainees; and occasional prevention of detainees from contacting anyone outside detention. Furthermore, detainees’ criminal records were constantly used as an excuse to keep them detained for longer periods based on the Crime Prevention Law, especially at the initial detention stage, in particular at the Forensic & Laboratories Department and Anti-Narcotics Department. When individuals appear before public prosecution, NCHR observed them being notified on the accusations made against them and of their rights in a language understandable for them during that interrogation stage.

Clause 5: In 2017, amendments were made to a number of legislations to further individuals’ rights to a fair trial. Those amendments were made in response to the recommendations made by the Royal Committee on Judiciary Development & Rule of Law Furtherance.²

Among the key amendments for criminal justice reform was to draft Code No. 32 of 2017 amending the Penal Proceedings Code No. 9 of 1961. It includes numerous positive amendments that would further the guarantee of the right to a fair trial on one hand, and prepare a proactive legal environment to prevent

² The Royal Committee was formed on 18.10.2016 to develop the Judiciary and further the rule of law by making comprehensive strategies for handling challenges and continuing to update, develop and upgrade the judicial authority’s performance. The Committee accomplished its works on 26.02.2017.

torture and cruel, inhumane or degrading punishment. Among the key amendments made under this Law include:

1. To add created provisions that would limit pre-trial detention and allow detention alternatives to be used with some crimes. Examples of such alternatives are electronic monitoring, travel ban, judicial guarantee, house arrest or zone restriction.
2. To authorize prosecutors and courts to use modern technological means in interrogations and trials such as hearing witnesses, especially juveniles to protect them and enable courts to commence trials remotely in order to shorten the trial duration and find justice effectively.
3. To extend legal protection under the amendment to Article 208 of this Law, which guarantees individuals' right to a legal defense and representation. The Article provides that legal assistance is required before court in connection with crimes punishable by death sentence, penal labor for life, life sentence or penal labor for no less than ten years. As for crimes punishable by penal labor for less than ten years, prosecutor or competent court of jurisdiction may refer the accused to the Minister of Justice to be provided with legal assistance.
4. In crimes punishable by a prison of ten years or more, **Article 36 repeated** of the Penal Proceedings Code No. 9 of 1961 as amended requires a lawyer to be present with the defendant at every interrogation session subject to avoidance.

Despite the legislative progress made to extend the comprehensiveness of the legal assistance necessity during 2017, this progress was not accompanied by the exceptions of ensuring the defendant's right to hire a lawyer by authorizing prosecution, when necessary, to interrogate in lawyer's absence in case of urgency or whenever deemed necessary to find the truth (**article 36/2 of the Penal Code**). The law kept the prosecution authorized to prohibit a detainee from contacting people who are out of detention center under Article 66/1 of the Penal Proceedings Code No. 9 of 1961 as amended.

Clause 6: Through its observatory visits and complaints received by it, NCHR **observed** the continuity to move defendants or suspects from an initial detention center to another one for the purpose of extending the 24-hour initial detention period, which is an explicit violation of Articles 112 and 113 of the Penal Proceedings Code No. 9 of 1961 as amended.³

³ Those outcomes were concluded based on 114 unannounced visits made by NCFH to initial detention centers during 2016-2019. See the 16th Report on Human Rights Status, P 26; the 15th Report on Human Rights Status, P 30; the 14th Report on Human Rights Status, P 31; the 14th Report on Human Rights Status, P 42. (www.nchr.org.jo)

With respect to training and awareness programs provided to law enforcers, in 2018, Public Security Directorate implemented 27 training courses and workshops in which 441 law enforcers participated. In addition, 48 courses and workshops were held in 2019 and 522 law enforcers were involved. In 2020, there have been 19 training courses and workshops in which 88 law enforcers have taken place.

Clause 7: Reform and rehabilitation Centers inmates' classification: through the unannounced observatory periodic visits made by its staff to the reform and rehabilitation centers, NCHR observed the continuity of overcrowding issue at a number of such centers over the past four years, which posed an actual challenge for the inmates' classification on one hand, and for the provision of services and improvement of services and optimal care on the other hand. Comparing to their capacity during 2016-2022, the actual occupation of those centers was 114-158%.⁴

Judicial arrest: despite the progress made with regard to legislation within the penal justice system reform, especially in considering pre-trial judicial arrest as an exceptional measure, non-detention measure (arrestment alternatives) approval and alternative punishment approval, NCHR observed a continuity of rise in the number of judicially arrested individuals. Over the past four years of 2016-2019, the numbers of those judicially arrested individuals were 35.906-45.516⁵. NCHR further observed a rise in the percentage of convicted people comparing to arrested ones. It was 41.6% in 2016 comparing to 44.5% in 2015 and 47.8% in 2014.⁶ The number of judicially arrested individuals in 2021 was (20.070), and the number of judicially arrested individuals in 2022 was (37.850), and the number of judicially arrested individuals in 2023 was (19.163), which indicates to a trend towards reducing judicial arrest, especially in light of the expansion of arrestment alternatives.

Clause 8: no amendments were made to Crime Prevention Law No. 7 of 1954, which maintained the administrative arrestment power. This breaches the principle of separation of authorities, as the same violates the judiciary's competence on one hand, and constantly threatens legal guarantees of a set of rights, especially the right to personal liberty and safety in the light of the

⁴ See the 16th Report on Human Rights Status, P 28; the 15th Report on Human Rights Status, P 31; the 14th Report on Human Rights Status, P 33; the 13th Report on Human Rights Status, P 33. (www.nchr.org.jo)

⁵ The 16th Report on Human Rights Status, P 35; the 13th Report on Human Rights Status, P 41. (www.nchr.org.jo)

⁶ The 13th Report on Human Rights Status, P 41; the 12th Report on Human Rights Status, P 55; the 11th Report on Human Rights Status, P 33-34. (www.nchr.org.jo)

continuity to enforce this Law with no compliance with the established legal rules included in the Criminal Proceedings Code to make an administrative arrestment decision. They are the same applicable procedures in the Crime Prevention Law in accordance with the provisions of Article 5. NCHR continued to make its recommendations to omit or at least amend this Law until it is omitted to ensure sufficient legal controls are established to restrict the use of administrative arrestment against individuals. It also continued to receive complaints related to administrative arrestment.

NCHR insists that the justifications for the continuity to apply this Law, considering the administrative arrestment decisions are administrative decisions appealable before administrative jurisdiction agencies for cancelation (Administrative Court and Administrative Supreme Court) under the Administrative Jurisdiction Law No. 27 of 2014, are against the rightful system. NCHR observed the cancelation of several administrative arrestment decisions by this Court. NCHR also observed a significant rise in the numbers of administrative arrestees at a range of 73.853-30.138 during 2016-2019. It is noteworthy that the majority of those arrestees were arrested after the execution of the punishment period contained in the Law and/or after a court decision was made to release them. The arrestment excuse was to maintain the community security.⁷

Clause 9: NCHR's compliance with Paris Principles and the recommendations made by the Sub-Committee on Global Alliance of National Human Rights Institutions: in 2017, Law No. 4 of 2017 amending the National Center for Human Rights Law No. 5 of 2006 was enacted. This enactment was made in response by the State of Jordan to the recommendations made by Global Alliance of National Human Rights Institutions for the purpose of furthering the legislative basis of the NCHR's mandate.

The proposed amendments helped giving the General Commissioner a procedural and subjective immunity against performing the NCHR's intellectual, political and human activities and events. This also furthers the NCHR's authority by giving it the power to follow up the affected individuals' compensations for violations of human rights and liberties; extending the authority to make unannounced visits to include visiting any place belonging to public agency or private corporate person reported to have had or to having violations of human rights, or to verify the same and recommend to take the necessary actions; and to immunize the legal term of the Board of Trustees by

⁷ The 16th Report on Human Rights Status, P 26; the 15th Report on Human Rights Status, P 29. (www.nchr.org.jo)

specifying the exclusive cases in which a membership of this Board members' authority expires.⁸

In response to the recommendation made by the Sub-Committee on Global Alliance of National Human Rights Institutions, the formation of the NCHR's 5th Board of Trustees (2019-2023), which was re-formed under a Royal Decree on 6 August 2019, considered the independence and diversity guarantees contained in Paris Principles. The Board has 20 members from intellectual trends, universities, qualified experts of nongovernmental organizations responsible for human rights and anti-discrimination, unions and Parliament.

NCHR's mandateto make unannounced visits: NCRH has a legal authority to make unannounced visits to reform and rehabilitation centers, detention centers and juvenile care facilities. It exercises its legal authority on a regular and periodic basis. As for its visit to the Temporary Arrestment Center of the General Intelligence Department, NCHR started since the begging of 2018 making unannounced periodic visits to that Arrestment Center⁹. Those observatory visits continued through 2018-2020¹⁰. The inmates were interviewed and their complaints and demands were heard in private. The detention environment was checked, so were all facilities of the Center (cells, clinics, dental clinic, pharmacy, office, kitchen and open yards). NCHR received a number of complaints such as the length of the judicial arrestment duration for some inmates, prevention of contacting people outside, preventing arrestees from contacting each other while they are in the open yards. Based on the recommendations made by NCHR to the General Intelligence Department, a number of improvements were made to the arrestment center such as environmental improvements to several facilities (ventilation means, installation of an elevator for arrestees with special needs...) installation of a direct phone line through State Security Court Prosecutor's Office to contact the arrestees' families and receive their inquiries.

Clause 10: the applicable Terrorism Prevention Law No. 18 of 2014 was not reviewed, and those crimes are still under the jurisdiction of the State Security Court. A committee was formed at the Ministry of Justice in 2018 to review the Penal Code, and NCHR made a proposal for modifying the definition of terrorism stated in the Penal Code. NCHR insists that Terrorism Prevention Law in its

⁸ Law No. 4 of 2017 (ending the National Center for Human Rights Law), Official Gazette, Volume 5447, 8 February 2017.

⁹ The 14th Report on Human Rights Status, P 31. (www.nchr.org.jo)

¹⁰ The NCHR's staff checked out the detention places and the legal situations of the detainees who were interviewed and whose complaints and demands were heard in private. The staff also checked the forms of care, prison environment status, food quality, healthcare level and psychological health services, which are good.

current formulation still contains numerous issues such as (i) broad definition of terrorist act under Article 2 of the Law, which is in contrary to the definition of terrorist act stated in the Penal Code under Article 147; (ii) terrorist acts are described with loose and broad expressions such as “general order,” “society safety,” “discord creation,” “society’s security,” “causing fear” and scaring people.” All these expressions broad indications and can be used upon applying law provisions and let any act or activity within their context be considered as an act of terror; (iii) Article 3/b of the Law considers any act that would adversely affect Jordan’s relation with any foreign country as an act of terror.

With respect to the case of Amjad Qorsha who was arrested on 13.06.2016, he was accused of committing acts that would expose Jordan to hostile acts; adversely affect its relations with a foreign country; or expose Jordanians to acts of retaliation against themselves or their properties, which is in contrary to the provision of Article 3/b of the Terrorism Prevention Law in accordance with Article 7/c of the same Law due to a video he published on social media platforms. At that time, NCHR made sure he was fine and was not tortured or mistreated. During the visit, NCHR praised the treatment of the reform and rehabilitation center.

Clause 11: in its sequential annual reports, NCHR stressed the necessity to give jurisdiction over torture complaints to the regular judiciary considering it is an essential requirement for the independence and efficiency of the interrogation procedures required by the international standards. However, the reality kept the jurisdiction over interrogation in torture complaints with the public prosecution and special courts with no adoption of legislative initiatives to move such jurisdiction to the regular judiciary.

NCHR observed the way executive authorities handle the acts committed in relation to torture as just attitude-related violations that do not require the application of Article 208 of the Penal Code No. 16 of 1960 as amended. For example, taking legal actions against those who work for the Public Security Directorate under Article 37 of the Public Security Law of 1965 is not sufficient and rather meets the minimum requirements. In addition, using another criminal description such as harm in its different forms actually means an existence of a suitable environment to escape punishment in relation to such crime.

In the same context, NCHR noticed that the regular public prosecution continues to interrogate in the torture complaints, as such torture and mistreatment

complaints received by the regular public prosecution during 2019 were 20 complaints in total¹¹.

Clause 12: Protection against Domestic Violence Law No. 15 of 2017 was enacted, and under which Protection against Domestic Violence Act No. 6 of 2008 was canceled. Protection against Domestic Violence Law protects family members from violence of all forms, especially violence committed against women and children. The Law does not omit the importance of maintaining family bonds through reconciliation procedures and measures. The most prominent content of this Law is the extensive definition of family to include fourth-degree relatives and both third- and fourth-degree in-laws. The Law also requires reporting domestic violence committed against incapacitated by medical care and social or educational service provides at both public and private sectors subject to prison and/or fine punishment. The Law maintained all procedures and information related to domestic violence cases confidential and provided protection to those who report violence cases and witnesses by nondisclosure of their identities unless legal procedures require otherwise. Furthermore, domestic violence cases are treated as urgent when a competent court of jurisdiction hears a lawsuit. It requires the court's approval of settlement and reconciliation procedures organized by committees belonging to Family Protection Department. The Law allows alternative measures for punishments decided by court after settlement, given that the Law requires provision of psychological guidance and psychological and social rehabilitation programs to domestic violence victims.

The national framework on family protection against violence was updated together with the national response to domestic violence; and in 2014, Jordan joined UN's initiative to eliminate domestic violence against women. Punishments of rape crimes and immoral acts were made severer and those who commit "honor" crimes will not benefit from relief excuses contained in Article 98 under the Penal Code amendments of 2017. Jordan did not agree to the recommendation to cancel the provisions of Article 340 of the Penal Code upon submitting the governmental report in the comprehensive periodic preview discussed by the Government on 08.11.2018 before Human Rights Council in Geneva. On the other hand, Article 308 that allows the chase of a rapist if he married his victim was canceled under amendments to Penal Code of 2017.

Women at Risk Shelters Regulation No. 171 of 2016 was enacted and Women at Risk Shelters Instructions of 2018 were made. Article 20 of the Regulations provide for conditions to consider a woman being at risk if her life is under threat

¹¹ The 16th Report on Human Rights Status, P 18. (www.nchr.org.jo)

of murder by one of her family members and if there is no one able to protect her. Article 4 of the said Regulation set the conditions for a violence victim admission to the Shelter, which also receives children accompanied by their mothers under conditions set forth in Article 8 of the Regulation.

Women at Risk Shelter (Aminah Shelter) was opened in 2018 to end the precautionary detention of women at risk and administratively arrested women at reform and rehabilitation centers. Housing at the Shelter is voluntary and stay is temporary for six months renewable on a case-by-case basis. A beneficiary is discharged once her life is no longer threatened. The Shelter also provides psychological rehabilitation services and guidance, as well as programs aiming at reintegrating women into the society and empowerment programs.

Before that, Karama Shelter had been established under the Ministry of Social Development in 2015 in order to protect women who are human trafficking victims and provide social, psychological, health, economic and sheltering services to human trafficking victims in response to the recommendations made by NCHR.

Clause 13: there has been a rise in human trafficking cases over the past three years comparing to preceding years. In 2016, there were 30 cases; in 2017, there were 317 cases; in 2018, there were 307 cases; and in 2019, they decreased to 205 cases in total¹².

With respect to the made progress, in 2019, the national strategy for human trafficking prevention (2019-2022) was launched. It entailed a special referral system to be prepared for human trafficking cases to guarantee the chase of criminals and provision of care to victims. On 12 October 2019, the Government presented to the Parliament a Draft Law amending Human Trafficking Prevention Law of 2019. The key notes made by NCHR on this Draft Law are as follows:

1. NCHR welcomed the addition of begging to the concept of human trafficking. It demonstrated that Article 2 of the amending Draft Law does not include the images of this crime in accordance with their recent techniques such as hiding begging by offering cheap items for sale with indications of images beyond begging crime stated in Article 389 of the Penal Code No. 16 of 1960. NCHR further welcomed the establishment of “Human Trafficking Victims’ Aid Fund” dedicated to provide legal assistance to victims of and people affected by human trafficking crimes. In this respect, it suggested to dedicate financial

¹² The 16th Report on Human Rights Status, P 159; the 15th Report on Human Rights Status, P 151; the 14th Report on Human Rights Status, P 152; the 13th Report on Human Rights Status, P 145. (www.nchr.org.jo)

resources to this Fund in the annual budget of the Ministry of Justice rather than solely depending on donations, grants and gifts.

2. NCHR suggested to extend the human trafficking crime concept to include “withholding, hiding or damaging travel or stay documents or ID cards for the purpose of people exploitation.”
3. Article 7/c of the Amending Draft Law will be reformulated to become: “Notwithstanding the content of any other legislation, public prosecutor may decide to stop chasing any of the victims of and people affected by human trafficking crimes set, provided that they are directly associated with them being victims or affected in the following cases:” (i) if he is found to have committed, participated in, intervened in or provoked any of the human trafficking crimes set forth herein; (ii) if he committed, caused, participated in, intervened in or provoked a felony associated with a human trafficking crime.
4. To amend Article 13/b in a way that guarantees the use of modern techniques to protect all witnesses not only those who are under 18-year-old.

Clause 14: Domestic Workers Importation Regulation was amended to include additional guarantees to protect those workers from exploitation. However, some workers are still exposed to some abuses such as exhausting work conditions, deprivation of wages, prevention from contacting their families, too long working hours, passport withholding or delay in their wage payment. During 2016-2020, NCHR received about 21 complaints from domestic workers in relation to freedom restriction, document withholding and delay in wage payment.

Article 3

Clauses 15-19: The United Nations High Commissioner for Refugees (UNHCR) in Jordan provides free services to refuge seekers. Such services involve legal assistance, health and education. They are provided under a Memorandum of Understanding between Jordan and UNHCR, as Jordan ratified UN Convention on Refugees of 1952. Nationally, legal assistance agencies in Jordan provides their services to refuge seekers in several fields such as legal consultations, documentations like marriage proof and parental proof in domestic violence cases for women refugee seekers and penal cases such as forgery and harm, as well as abusive and administrative arrestment. Legal services only related to the method in which refuge applications are submitted to UNHCR.

NCHR has not received any complaint related to mass expulsion or transfer of Syrian refugees. However, a complaint related to decisions to repatriate some people who do not hold Jordanian nationality. NCHR wrote to the competent

authorities to cancel such decisions and to refer those people to legal assistance agencies to challenge those decisions because they are administrative.

NCHR made an observatory visit to Ramtha City to check the situations of Syrian refugees stuck in the border area between Jordan and Syria (Rukban) and the mechanism to provide assistance to them by the Jordanian authorities on 04.07.2018 after a decision made by the Prime Minister that Jordan would not receive more refugees and would not open the border again. During its visit, NCHR also observed the Jordanian aids provided to the Syrian refugees stuck on the Jordanian-Syrian border. It noticed that the distribution of aids was made in an organized manner and that policemen supervised the distribution of such aids that included food stuff, clothes, blankets and tents.

Articles 5-9

Clause 20: The Supreme Administrative Court made a decision in 2017 to refuse to rendition Ahlam Al Tamimi, the Jordanian prisoner who was freed from Israel, to USA, given that the Parliament of Jordan did not approve the treaty of renditioning people wanted by USA.

Article 11

Clause 24: Juvenile Law No. 23 of 2014 was enacted. Clause B of Article 4 states that a child below 12-year-old shall not be penalized, which means the penal accountability age was raised from 7 to 12-year-old. The provisions of the Law aim at applying the restorative justice rather than penal justice to juveniles to correct and reintegrate them into the society. A police department specialized in and qualified to deal with the social and psychological situations of juveniles was created; it is the Juvenile Department. The Law also includes a creation of the verdict enforcement judgement regulation so he supervises the enforcement of a final verdict made against a juvenile in application of the principle of supervising the enforcement of the made verdict measures and extension of the cases of juveniles who need case and protection by including the working juveniles who are below penal accountability age, as they need care and protection. A public prosecution was dedicated to juveniles. It is qualified to deal with their cases in line with restorative justice of juveniles. Furthermore, qualified judicial commissions and a directorate were dedicated to dealing with events from a comprehensive social, psychological and correctional perspective. As for juvenile trial, a juvenile may only be tried before competent juvenile courts in accordance with the provisions of the Juvenile Law, so juvenile judges hear the juvenile cases before juvenile courts of various levels. Juvenile conciliation court is formed in each governorate and given the jurisdiction to hear offenses and felonies

punishable by no more than a couple of years. A juvenile court of first instance is formed in the center of each governorate and is given jurisdiction to hear crimes and felonies punishable by over two years.

Regulations for enforcing Juvenile Law were enacted, for example, Juvenile Dispute Settlement Regulation No. 112 of 2016. It included the legal conciliation procedures to settle disputes for the sake of juvenile's best interest, protection, reform and rehabilitation in violations and felonies punishable by no more than two years, and they are heard depending on the victim's complaint. Juvenile Subsequent Care Regulation of 2016 was enacted to complement a juvenile's care and rehabilitation programs provided when a juvenile is admitted to care shelters so subsequent services are provided in order to reintegrate a released juvenile into society and provide community security; however, it has not come into force yet.

Clause 25: reform and rehabilitation centers have been clearly overcrowded **over the years (2016-2022). The centers' total occupation percentage reached (114% -158 %)**, which makes it necessary to consider the real activation of alternative punishments and arrestment alternatives to reduce the State's financial burden and mitigate the overcrowding issue. It would also avoid this group of people going through arrestment experience and ensure they are corrected and being in contact with people with criminal records. Public Security Directorate subjected Al Juwaideh Reform & Rehabilitation Center to maintenance works to reduce the degradation of the Center's infrastructure and improve the arrestment environment conditions.

Reform & Rehabilitation Centers Department provides healthcare to inmates through clinics located at them and run by Ministry of Health's doctors. It equips those clinics with all equipment available at any medical facility, albeit such clinics are initial. The cases that require admission at hospitals are referred to Ministry of Health's hospitals at governorates where the Centers are located; and in cases where there is a lack of specialists, patients are referred to Royal Medical Services. As for psychological healthcare, the staffs of most clinics of the reform and rehabilitation centers complained about a lack of psychologists who visit the centers, as such visits are only made fortnightly. With respect to inmates who need specialized psychological care, they are referred to the Judicial Section of the National Center for Psychiatry / Al Fuhais, which has a capacity of 148 beds. It is noteworthy that Ministry of Health closed the National Center for Psychiatry's Judicial Section located in Al Muqabalen in 2018 because the building was too damaged. It was replaced with the Judicial Section of the National Center for Psychiatry / Al Fuhais, which is totally equipped.

During its visits, NCHR observed the continuity of some issues such as bad ventilation and illumination of some centers and lack of cleaning, humidity and spread of insects.

Articles 12-13:

Clause 28: The Law still gives qualitative jurisdiction over torture complaints to special courts (Police Court, Military Court). In its sequential periodic reports, NCHR stressed the necessity to amend Article 208 of the Penal Code in a way that gives the regular judiciary a qualitative jurisdiction to hear torture complaints.

In 2019, NCHR received 98 complaints from citizens in relation to allegations that they or their family members were tortured and mistreated by the law enforcers and various security departments, whether at the initial interrogation centers or at the reform and rehabilitation centers during periodic visits made by NCHR's representatives to such places or through complaints lodged via fax, e-mails, personal interviews or otherwise. The number of such complaints was 86 in 2018, 85 in 2017, 63 in 2016 and 92 in 2015¹³.

Official statistics given to NCHR by the Public Security Directorate indicate that no complaint was recorded against the PSD's workers in relation to torture and cruel, inhuman or degrading treatment against detainees of the initial arrestment centers in 2019 comparing to 332 cases, 10 of which were referred to the Police Court. The cases in which indictment was determined before the unit chief were 51 in 2018. There were 240 cases in which defendants' trials were prevented by the Police Public Prosecutor, while 31 complaints are still pending. In comparison, there were 45 in 2017, 269 in 2016, 239 in 2015 and 140 in 2014. With respect to mistreatments committed against reform and rehabilitation centers' inmates during 2019, there were 17 cases, 13 of which were prevented by the Police Public Prosecutor, while 4 were tried before the unit chief. In comparison, there were 29 cases in 2018, 17 complaints in 2017, 12 complaints in 2016 and 8 complaint sin 2015.

29. A. In the middle of 2005, the Public Security Directorate established the Grievance & Human Rights Bureau. It was subsequently renamed Transparency & Human Rights Bureau. Since the beginning of 2020, the Bureau is subject to the Police Judiciary Department of the Public Security Directorate after it used to be directly subject to the Public Security Directorate when it was established. The Bureau consists of a number of public prosecutors who were given the

¹³ The 16th Report on Human Rights Status, Axe of Right to Life, Freedom and Physical Safety. (www.nchr.org.jo)

authority to receive complaints and reports against the PSD's workers, including torture and mistreatment complaints.

In implementation of Jordan's voluntary commitments to the "Fourth Transparent Governments of 2018-2020" initiative, the fourth commitment "Standardization & Development of Mechanisms to Receive Complaints on Human Rights Violation" is currently being implemented through the establishment of a national system of complaint receipt and handling.

B. NCHR insists it is necessary to give the regular [judiciary] the authority to investigate and hear torture complaints. NCHR noticed that the law enforcing authorities deal with the acts of torture as just attitude breaches that do not entail the enforcement of Article 208 of the Penal Code No. 16 of 1960 as amended or give such acts another criminal description such as harm in various forms.

C. The lack of crime adaptation of torture cases greatly helped considering the torture crimes in many cases as attitude breaches, which keeps the defendants in their jobs. On the other hand, NCHR noticed in some of the severest cases that defendants were suspended during investigation as in the deceased Abdulla Al Zu'bi and Omar Al Nasser's cases.

D. Trial procedures before Police Court are subject to the general rules of the Penal Procedures Code. This results in giving a complainant and his attorney all available legal means to follow up the procedures taken in his complaint. NCHR received no complaints on retaliated acts as a result of a complaint lodged on torture or mistreatment.

E. Jordan has yet to be a party to the Optional Protocol to CAT despite NCHR's repeated recommendations to **join** this Protocol.

Clause 30: A. The Court of Cassation's decision numbered 1319/2020 related to the deceased Omar Al Nasser's case was made. The criminals were charged with the crime of beating to death. However, the decision was not based on Article 208 of the Penal Code related to torture; it was rather based on the Article related to beating to death. NCHR made a statement in which it praised the verdict and referred, at the same time, to several issues to be avoided¹⁴.

B. Abdulla Al Zu'bi suffered bleeding and was tortured on 02.05.2015 by a number of Anti-Narcotics Department / Irbid Division workers. On the same date mentioned above, the medical report made by the Forensic Medicine Center of

¹⁴ See the Appendix, a statement made by NCHR with respect to the decision made by the Court of Cassation in Omar Al Nasser's case.

the Northern Region stated that there were bruises on several parts of the deceased's body. It said that the reason for death was a reflex syncope resulting from blood spills in testicles and associated bruises. Consequently, the Police Public Prosecutor charge the accused with beating to death in accordance with the Penal Code. In addition, he charged them with torture felony and with forcing an admission and confession under Article 208 of the Penal Code of Jordan. The trial proceedings are still pending before the Police Court despite the deceased's family relieved the accused of their personal right.

C. In 2017, NCHR received numerous complaints from families of a number of terrorism case inmates at **Al Muwaqqar** reform & Rehabilitation Center ². They complained that their children were tortured by the Center's guards. When a verification team formed by the NHCR, it was found that the acts were a result of an assault committed by a terrorism case inmate against a guard using a sharp object, which necessitated the right force to be used against that inmate and the Center's Command to conduct a search campaign to check all cells. That procedure angered the inmates and resulted in a series of violence acts. The inmates who belong organizations were interviewed but they declined to comment on the incident; however, they did not deny it and they said that the security guards confiscated and damaged some of their stuff. It is noteworthy that terrorism inmates went on strikes following their violence acts or verbal abuses against the Public Security guards in protest over the search campaigns and any internal punishment handed to any of the inmates who belong to terrorist organizations at various reform and rehabilitation centers in the Kingdom, the last of which was in the beginning of 2020 at Tafilah Reform & Rehabilitation Center where a terrorism inmate was searched and found to have had a steel sharp object; and when the cells of inmates who belong to terrorist organizations were searched, the inmates declared a hunger strike.

The most significant demands made by those inmates were to be moved from Al Muwaqqar Reform & Rehabilitation Center 2 due to the Center's system based on solitary confinement cells; and to be allowed to use mobile phones for making calls because some of them were sentenced to long periods in prison. The Center intervened more than once, including in 2018, when it informed the Prime Minister of the nature of their detention conditions, and he mediated and the inmates ended their strike after a major part of their demands was fulfilled¹⁵.

Article 14, Clause 31: There was addition of a provision pertinent to compensating torture victims or establishing a compensation fund in accordance

¹⁵ See Human Rights Status Report made by NCHR in 2018, P 32.

with the Article 218 of the Penal Code of Jordan although it was amended in 2017. Victims' rights are limited to resort to general rules of the Law of Jordan in relation to compensation for each damage caused to others. Furthermore, there are no governmental rehabilitation programs for torture victims; rather, there are only some civil society organizations that provide such services.

Article 15, Clause 32: The voidance of admissions forced under torture became a constitutional principle in accordance with the constitutional amendments of 2011 based on Article 8/2, which reads: "Any statement made by any person under any torture, harm or threat will not be considered." It is worth mentioning that Jordan's Court of Cassation nullified a lot of such admissions. However, in such cases, the Court of Cassation did not refer the involved officers to public prosecutor for suspicion of torture crime commitment¹⁶.

Article 16

Clause 33: On Saturday 04.03.2020, the Government of Jordan executed 15 criminals who had been detained in Al Suwaqa Reform & Rehabilitation Center and in presence of Amman Attorney General, High Crime Court Attorney General and their assistants, as well as any person required to be present in accordance with the Penal Proceedings Code. The executed criminals who were charged with terrorism:

The criminal charged with attacking Al Baqa' Intelligence Office who murdered five people; the criminal charged with murdering the Writer Nahedh Hattar; the criminal charged with murdering security guards in Samma area; the criminal charged with exploding Jordan's Embassy in Baghdad; the criminal charged with shooting tourists at the Roman Theater causing a death of a British tourist; five criminals charged with Irbid terrorist cell; and five criminals charged with cases related to rape and murder.

Clause 34: The recommendation made by the Committee on Child Rights in relation to prohibition of physical punishments against children was not implemented. There was no amendment to the provision of Article 61 of the Penal Code that allows parents to beat their children as a disciplinary action that does not cause damages or harms (physical effects). However, the matter does not only require a recommendation to omit the Article; there should rather be a legal provision clearly criminalizing the disciplinary beating. The Article does not take into consideration the psychological damage resulting from the disciplinary beating, as beating, violence or physical punishment against children by their

¹⁶ See the decisions made by the Court of Cassation in its penal capacity (820/2003, 107/2003 and 327/1994).

parents might not only leave physical damages or effects; it could rather affect the children's psychological wellbeing and persona. NCHR made several recommendations with this respect for the purpose of amending this Article. Moreover, Article 33 of the Juvenile Law was not amended.

Clause 35: Among the key violations observed by NCHR against journalists in 2016, three journalists and reporters were arrested under Cybercrime Law because they published medial materials; then they were released after a short while. A journalist who works for Sky News Channel¹⁷ was mistreated and arrested for three days upon a decision made by the Administrative Governor of Madaba while he was covering Theeban protest events during Ramadan 2016. Law enforcers tore his journalism card, broke his camera and beat him. Moreover, media was prevented from entering into the university campus to cover a sit-in held by a group of the university students on 28 February 2016, which lasted for 25 days. There were also verbal and physical assaults against reporters while they were covering the dispersion of a sit-in in front of the Parliament on 25.02.2016 as mentioned above, and his mobile phone by which he filmed parts of the sit-in was confiscated.

In 2018, NCHR observed arrestments of a number of activists and protesters (around 10 persons) by police. They were interrogated because of their participation in some peaceful protests, and they were released with no charges. On the 1st of June 2018, a demonstration held near the Prime Ministry Building (the 4th Circle) was dispersed by force upon a decision made by the Governor of the Capital City. On 2 June 2018, a demonstration was prevented from being held near the Prime Ministry Building (the 4th Circle) by force. Those demonstrations were intended to be held in protest over the Income Tax Law at the time. Some journalists were assaulted while they were covering a protest held on 13.12.2018. However, during sequentially held protests near the 4th Circle in 2018, law enforcers handled the situation in general in such a manner that respects the right to a peaceful gathering. In 2019, NCHR observed an arrestment of Al Ordon Al Youm TV team whose equipment was confiscated and the filmed scenes were deleted, which affected their coverage of the sit-in held on 02.06.2019 in demand for protesters to be released and in an attempt by the protesters to reach NCHR.

Clause 36: Hysterectomy operations for sterilization, in particular for girls with mental disability and severe psychological disability, made over the past years

¹⁷ The mentioned person is not registered in the Jordanian Press Association; he is rather registered in the Bahraini Journalists Association and he had obtained a permit to cover Theeban Protests.

were one of the violations committed against women with disability although the Ministry of Health confirmed no hysterectomy operation was made for women with disability since a *fatwa* was issued by the Ifta' Department to prohibit such operations. In 2014, Ifta' Council of Jordan issued Fatwa No. 194 (2/2014) to prohibit the hysterectomy operations for girls with disability. In addition, forced sterilization is criminalized under the Penal Code due to harm resulting from causing an impairment or removal of a body part, which makes it punishable in accordance with the provisions of Article 330 of the Amending Penal Code No. 27 of 2017. The Penal Code also contains numerous provisions that make disability a severe condition in physical and psychological harm crimes. Article 2 of Disabled People Rights Law No. 20 of 2017 requires a free informed consent to be obtained from the relevant disabled person or his/her legal representative for every act or legal action to be taken in relation to one of that person's rights or liberties after he had been told thereof in a way understandable for him. Furthermore, Article 5 of Disabled People Rights Law prohibited any medical invention, whether it was for treatment or prevention, without obtaining a free informed consent from the disabled person. The Disabled People Rights Law No. 20 of 2017 should include an explicit provision establishing controls to limit the forced sterilization and hysterectomy practices on girls with mental and psychological disability for unreal medical reasons to go around the provisions of the Penal Code.

Clause 37: NCHR made a proposal for the Amnesty Law to include a number of crimes classified as terror crimes in accordance with the Terrorism Prevention Law and Penal Code of Jordan; however, this proposal was not accepted. The Terrorism Prevention Law has never been amended as mentioned earlier. Within the legal guarantees of the people accused of terror crimes, the decisions made by the State Security Court can be appealed before the Court of Cassation of Jordan. NCHR received complaints from families of the people sentenced in terrorist groups' ideology promotion crime. They complained about the severity of the sentences handed to them and the lengths of those sentences. In 2016, there were 3 cases related to anti-regime crime or provocation against the regime crime were recorded; 0 case of exposing the Kingdom to the threat of hostile acts and adversely affecting its relations with a foreign country; and 57 cases of terrorist group ideology promotion were recorded. In 2017, there were 6 cases related to anti-regime crime or provocation against the regime crime were recorded; 6 cases of exposing the Kingdom to the threat of hostile acts and adversely affecting its relations with a foreign country; and 162 cases of terrorist group ideology promotion were recorded. In 2018, there were 2 cases related to anti-regime crime or provocation against the regime crime were recorded; 5 cases

of exposing the Kingdom to the threat of hostile acts and adversely affecting its relations with a foreign country; and 52 cases of terrorist group ideology promotion were recorded.

Clause 38: Jordan took important steps in protection of human rights in general and countering torture and mistreatment, abuse, inhuman or degrading acts in particular. Those steps included:

- A set of amendments made to key legislations such as the Penal Code, particularly in relation to the addition of punishments alternative for jail; the Penal Proceedings Code in connection with the addition of controls over the arrestment process and temporary arrestment alternatives; and raising the minimum punishment for torture crime from six months to one year.
- The national strategy of penal justice was made. It included frameworks such as the development of the reform and rehabilitation centers' situations; increasing the training of law enforcers on the reform and rehabilitation center inmates' rights; and extension of the legal assistance framework.
- The national strategy of human trafficking prevention (2019-2022) was made. It entails a special referral program to be made for human trafficking cases to ensure criminals are chased and victims are provided with care.
- In participation with all sectors, the Government of Jordan started reviewing and evaluating the national plan to spread human rights culture in order to be developed and fix any of the defects that appeared in it during implementation.
- The improvement of detention environment including several initiatives: accomplishment of Qafqafa Reform & Rehabilitation Center maintenance, which was put in service; maintenance of women detention division at Um Al Lulu Reform & Rehabilitation Center, which was put in service again; establishment of a coffee bean factory at Ermemin Reform & Rehabilitation Center; expansion in remote trial system activation; establishment of handcraft workshop at Al Juwaideh Reform Center; and establishment of a tailoring workshop at Zarqa Reform & Rehabilitation Center.

Appendices (1)

National Center for Human Rights' Statement on the Decision made on Omar Al Nasser's Case

NCHR followed up the Court Decision No. 1319/2020 related to the deceased Omar Al Nasser's case. In this regard, NCHR welcomes the decision content and stresses the following standard and procedural matters:

- 1st. The Judicial Authority's independence is the essential guarantee to protect the public liberties and rights. It is a pillar of a righteous state, rule of law and social order stability in the state.
- 2nd. The torture prohibition principle is among the constitutional principles emerging as a fruit of the constitutional amendments of 2011; therefore, practice of torture, whether psychological or physical, or otherwise setting up the environment for torture is a violation of one of the firm constitutional principles.
- 3rd. In this respect, NCHR calls for speeding up the approval of amendments that guarantee the suitability of the Jordanian legislations for the provisions contained in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 1984. They were published in the Official Gazette 14 years ago, thus they are considered a part of the legal system of Jordan. NCHR also urges the Government of Jordan to join the Optional Protocol to CAT. The foregoing would handle a number of legal and practical issues that are still being confronted by Jordan and related to torture. They include:
 - Considering torture crime a felony unless it causes death or impairment; only this way it would become a crime. Furthermore, it is possible that a punishment is lifted by a pardon or prescription. The attempt to commit this crime is not criminalized. All the foregoing is against the International Convention.
 - Torture cases remain under the jurisdiction of special courts, and the majoring of torture crimes are adapted as harm crimes in various forms. Torture acts are sometimes treated as just attitude breaches. In this respect, NCHR calls for handing the qualitative jurisdiction over torture cases to the regular judiciary.
 - There is no explicit provision for fairly and appropriately compensating and rehabilitating torture victims as stated in Article 14 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Appendices (2)

Development and Rehabilitation of Reform and Rehabilitation Centers

Improvements made to sewages and ventilations of the reform and rehabilitation centers during 2016-2020:

Center	Improvements
Balqa	1. Sewage pipelines were replaced starting from the line from the Center and Al Balqa Licensing Section to the Treatment Plant of the Center. The total cost is JOD 21144. 2. 32 fans were installed at all rooms and cells for inmates. External suctions were also installed at all cells.
Al Muwaqqar	The sewage is modern and it is subjected to periodic maintenance.
Um Al Lulu	1. Suctions were installed at all inmate cells and they are subjected to maintenance from time to time. 2. Plastic fans were installed at all inmate cells. 3. A main entrance for sewage canals were created to facilitate the periodic maintenance process. 4. Air conditioners and fans were installed at the visit halls where inmates meet their visiting families. 5. A medical unit was created at the inmates' visiting park. 6. A medical unit was created at the women detention division.
Al Karak	1. Suctions were installed at inmates' cells. 2. Cooling fans were installed at inmates' cells. 3. The Center's absorption pit was completely rehabilitated.
Women Reform & Rehabilitation Center	1. The damaged main pipeline was replaced to supply the Center. 2. Sewage unites were repaired. 3. Sewage manholes were made to avoid leakage occurring to some cells.
Bereen	1. Suctions were installed at inmates' cells. 2. The sewage is connected to the main sewage system, and it is subjected to maintenance on a periodic basis.
Irbid	1. Suctions were installed at inmates' cell windows. 2. Sewage is subjected to periodic maintenance. 3. All sewage pipelines were rehabilitated and maintained, and the parts damage as a result of 2020 riots were replaced.
Al Juwaideh	1. The sewage was upgraded and connected to Greater Amman Municipality's sewage. 2. Fans were installed at all inmates' cells.
Tafileh	An absorption pit was created for the Center and connected to the sewage about a month and a half ago.
Aqaba	Sewages work well and no improvements have been made thereto.
Marka	Sewages were subjected to maintenance works and the damaged parts thereof were replaced.
Al Muwaqqa 2	The Center is connected to a sewage, which is in turn connected to a treatment plant few kilometers away from the Center.