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JORDAN

AN ABSENCE OF

SAFEGUARDS

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SUMMARY

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Six years ago the Jordanian Government dismantled a system which had allowed large-scale arrest and detention of prisoners of conscience, widespread torture, and unfair trials of political detainees. Reforms included the lifting of the state of emergency, the abolition of martial law courts and the legalization of most political parties. Hundreds of political prisoners were released and measures which might prevent torture or ill-treatment of political prisoners began to be put in place.

However, a number of human rights violations have continued. This report, which was sent to the former Jordanian Government as a memorandum in June 1998, focuses on three main areas.

- The use of prolonged incommunicado detention against a range of political suspects who are often arbitrarily arrested before being held without access to families and lawyers.
- The existence of laws which make possible the imprisonment of prisoners of conscience (those who are detained simply for expressing conscientiously-held beliefs without using or advocating violence). Some of those detained have been held on the broadly defined offence of *lese majesté*.
- Continuing reports of torture or ill-treatment both of political and common law suspects. Such torture is facilitated by pre-trial incommunicado detention and a lack of the safeguards which should ensure the thorough and prompt investigation of allegations of torture and compensation for those who have suffered such treatment at the hands of the security forces.

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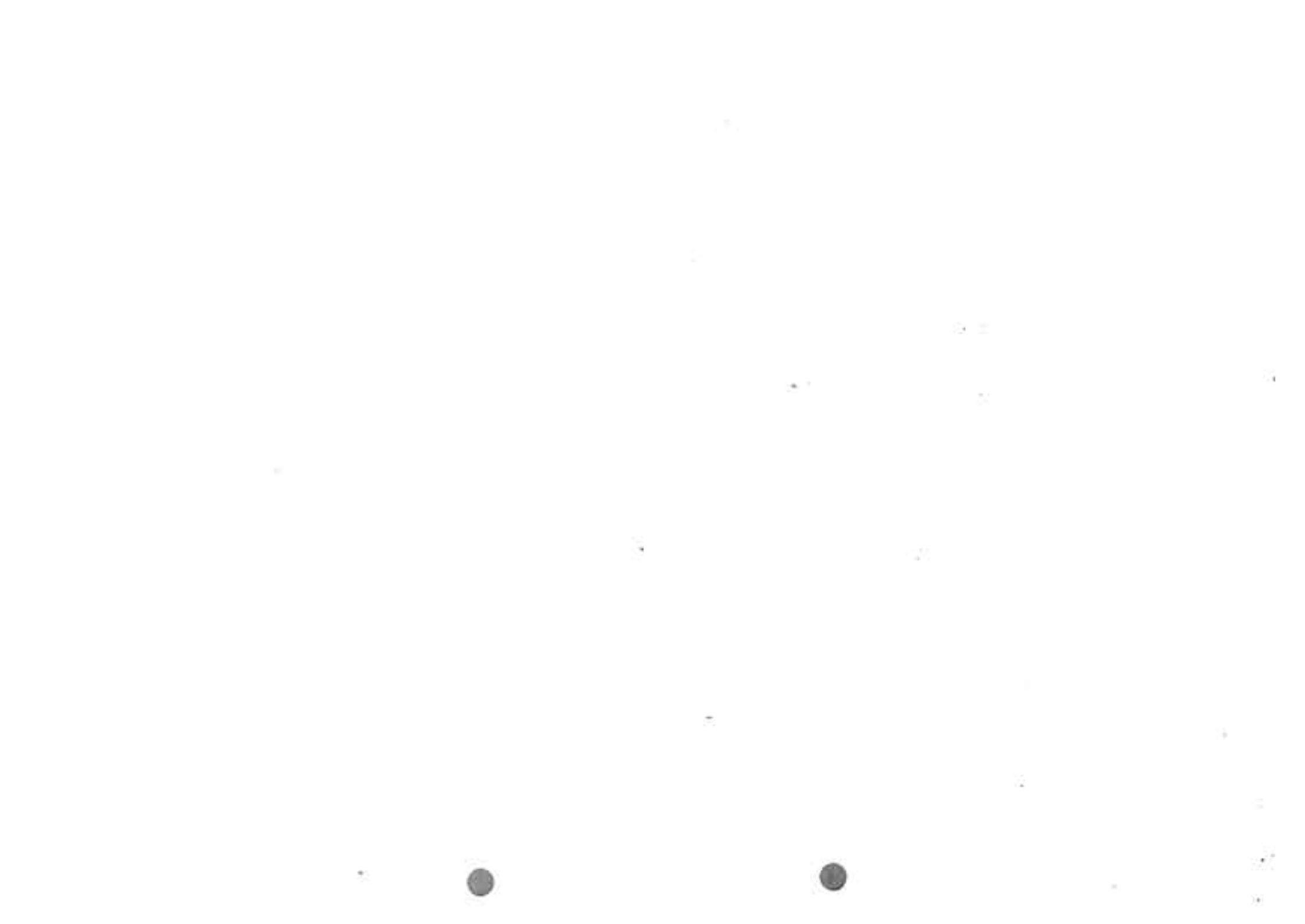
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JORDAN

An Absence of Safeguards

INTRODUCTION

Background

Six years ago the Jordanian Government dismantled a system which had allowed large-scale arrest and detention of prisoners of conscience, widespread torture, and unfair trials of political detainees. Martial law courts, "frozen" in 1989, were abolished in 1992 and a state of emergency, in force since 1939, was lifted. Later in 1992 the Law on Resistance to Communism (which had allowed the imprisonment of suspected communists for up to 15 years) was abolished and a new law on political parties was adopted which eventually led to the legalization of most political parties.

Elections were held in 1993 and in 1997 to the 80-member parliament. The 1997 elections were boycotted by the Islamic Action Front, the main opposition party, as well as seven other opposition parties which complained at what they called the erosion of parliamentary authority. Supporters of the government won a majority of seats in the new assembly.

Discussions about the different Press and Publications Laws dominated much of the national agenda during 1997 and 1998. Amendments to the 1993 Press and Publications Law which were promulgated by Royal Decree on 17 May 1997 led to the closure of 13 journals which failed to raise the required capital of 300,000 dinars (\$423,000) in the three months required by the law. After the High Court of Justice declared the 1997 law illegal in January 1998 the Jordanian Government introduced a new Press and Publications Law in the parliament. This law, which imposed many restrictions on the freedom of expression, passed through the parliament and was promulgated in September 1998.

Human Rights Concerns

Jordan has ratified a number of important human rights treaties. Since 1976 Jordan has been a State Party to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights. In November 1991 it acceded also to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). In addition, Jordan is a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child.

In 1994 Amnesty International published a report *Jordan: Human Rights Reforms: Achievements and Obstacles*,¹ welcoming reforms and outlining a number of areas where Jordanian law or practice still fell short of international human rights standards. Over the

¹March 1994, AI Index: MDE 16/02/94.

past years the organization has continued to be concerned at persisting reports of human rights violations and a lack of legal safeguards to prevent such violations. This report deals with some of these continuing concerns of Amnesty International:

- The use of prolonged incommunicado detention against a range of political suspects who are frequently arbitrarily arrested before being held without access to families and lawyers.
- Restrictions on freedom of expression and the existence of laws and articles of the Penal Code which permit the sentencing of prisoners of conscience and possible prisoners of conscience, for instance the charge of *lèse majesté*, which has been used to arrest political opponents, and the Press and Publications Law, which has in the past frequently been used to harass and even imprison journalists.
- Continuing reports of the use of torture or ill-treatment both of political and of common law suspects. Such torture is facilitated by pre-trial incommunicado detention and a lack of the safeguards which should ensure the thorough and prompt investigation of allegations of torture and compensation for those who have suffered such treatment at the hands of the security forces.

The concerns raised in this report have previously been raised by the United Nations (UN) Human Rights Committee and the UN Committee against Torture in their examination of Jordan's reports in 1994 and 1995 respectively. The UN committees asked Jordan to take measures to end the use of prolonged incommunicado detention, detention of possible prisoners of conscience and torture or ill-treatment.

In addition, these areas of concern have been raised on more than one occasion by Jordanian human rights groups. The Arab Organization for Human Rights (Jordan Branch) issues communiqués and an annual report and takes up individual complaints. The Jordanian Society for Human Rights was founded in 1997 and has issued communiqués on a range of human rights concerns.

Other serious concerns of Amnesty International in Jordan, including the continuing use of the death penalty, trials before the State Security Court and the forcible return of asylum seekers to countries where they are at risk of serious human rights violations, are not considered in the present report.²

Amnesty International delegates have frequently visited Jordan and the organization has raised its concerns with members of past Jordanian governments and with government

² See, besides news services and urgent actions, *Jordan: Human Rights Reforms* (op.cit.) and *Jordan: Executions on the Increase*, March 1994 (AI Index MDE 16/05/94).

officials. In June 1998 the concerns detailed in this report, were sent as a memorandum to His Majesty King Hussein, His Royal Highness Crown Prince Hassan, Prime Minister 'Abd al-Salam Majali, and a number of members of the then Jordanian Government.

In July 1998, in expectation of a prolonged absence in the United States for cancer treatment, King Hussein delegated Crown Prince Hassan as regent of Jordan with a wide range of powers including, from August 1998, the power to dismiss and appoint governments. A new government under Fayez Tarawneh as Prime Minister and Minister of Defence was formed in August 1998, after the resignation of 'Abd al-Salam Majali, partly triggered by a water crisis during the summer which had left much of Amman with no water or heavily polluted water.

In September 1998, a further copy of Amnesty International's memorandum was sent to the new Prime Minister, Fayez Tarawneh. No comments on the memorandum were received by mid-October. However, the new Jordanian Government has taken positive steps to lift some of the restrictions on freedom of expression by, in October 1998, dropping pending cases against journalists and promising that the restrictive powers in the 1998 Press and Publications Law would not normally be imposed. By placing its concerns on the public record Amnesty International hopes that the fundamental rights described in this report – the right to freedom of expression, the right not to be tortured and the right of an arrested person to have prompt access to the outside world – will be similarly and seriously addressed by the new Jordanian Government.

I. INCOMMUNICADO DETENTION WITHOUT TRIAL OF POLITICAL SUSPECTS

"Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power... It shall not be the general rule that persons awaiting trial shall be detained in custody..." [ICCPR, Article 9(3)]

Amnesty International has frequently raised with the Jordanian Government the practice of prolonged detention of political suspects without access to family or lawyers. Some of those detained incommunicado have committed violent acts, but the majority of those arrested and detained incommunicado for political reasons appear not to have been accused of violence. Amnesty International does not question the right of the Jordanian Government to arrest and interrogate persons against whom there is a reasonable suspicion of involvement in violent crimes; however, whatever the charge against them, and however well those detained are treated, prolonged incommunicado

detention without access to lawyers or families is outlawed by international standards ratified by Jordan.

Scores of people are detained every year in Jordan by the General Intelligence Department (GID), the main security service concerned in the arrest of political detainees, on suspicion of opposition to the government, held for up to three months and released without charge. Detainees are visited by the International Committee of the Red Cross (ICRC) in the GID detention centre and elsewhere but have irregular access (usually only after the first 15 days) to their families and no access to a lawyer. Some detainees accused of security offences have been held without access to lawyers for six months or more.³ For some months after October 1997 visits from the ICRC to the GID were suspended "because the authorities refused to grant access to all detainees."⁴ The ICRC continued to have access to other detention centres and ICRC visits to the GID have now reportedly resumed.

From the point of view of the Jordanian Government, short-term arrests followed by release could be cases where adequate grounds existed to justify the initial arrest but subsequent investigation showed insufficient evidence to bring charges. But the prevalence of the practice and the number of those apparently arrested without any intention of bringing them to trial suggests that arrest and short-term detention may be used as a means of harassment and intimidation against suspected government opponents and also as a means of obtaining information concerning members of opposition groups.

Since 1993, the year of the Oslo Agreement between Israel and the Palestine Liberation Organization, and 1994, when a peace accord was signed between Jordan and Israel, those who have been arrested and released without trial in this way have frequently been Palestinians or Islamist opposition activists who oppose the peace process with Israel.

A few of the arrests reported for the single month of May 1997, show the diversity of reasons for political arrest.

- Ramadan Hassan Jilad, aged 34, an electrical engineer of Palestinian origin, was arrested on 5 May 1997, apparently after preaching a sermon in the mosque at Jerash; he was held in the GID in Amman and questioned about his teachings. He was released at the end of May after three weeks' detention without charge.

³These prolonged incommunicado detentions involve allegations of torture and will be considered in Section 3.

⁴ *ICRC Annual Report 1997*, p.252.

- Two fans of heavy metal music, Hanna Abu Barhan and Ahmad al-'Umari, were arrested, apparently accused of being Satanists, which they denied. One of their colleagues wrote:

"Accusations of being a satanist are: heavy metal music, long hair, torn jeans, freedom of speech. Simply being rebellious and different."

Ahmad al-'Umari was arrested on 6 May 1997 at his home in Irbid by the police and the GID; he was taken to the GID in Amman where he was held for 14 days and then released without charge. His family only learnt of his arrest from the ICRC, who visited him in detention. He said:

"...as for the kind of questions they asked, well I can't think of a question they didn't ask. They asked about my academic life, my social life and even my sex life. Each question was repeated so many times in different forms that I doubt any interrogator had any idea what I told the previous investigators (there were eight in all). They inquired about my religious beliefs (naturally), of whether I belonged to any political group, how I chose my friends and why I wore my hair long."

- Twelve students of the University of Amman, who had removed a portrait of the King from a room where they were holding a meeting, were arrested on 18 May and were held for up to eight days before being released without charge.

A number of Palestinians opposed to the peace process with Israel are reported to have been subjected to short-term detention without trial. For instance, Yunus Salem al-Rajub, who had spent 13 years in prison in Israel before being released in 1985, was arrested in September 1997 by the GID and held for 18 days before being released unchanged. He stated that he was asked to give names of fellow Palestinians who opposed the peace process. In a case which gained much publicity, following a suicide bombing in Jerusalem, claimed by *Hamas*³ leaving four civilians dead and about 170 wounded, Ibrahim Ghosheh, spokesman of *Hamas* based in Jordan, was arrested on 7 September 1997. During his detention, which lasted 14 days, he had access to the ICRC but, contrary to international standards, had no contact with family or lawyers.

Such incommunicado detention of political detainees in Jordan denies them the safeguards laid down in international standards. The United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted

³ An Islamist group opposed to the peace process with Israel. Its military wing has carried out many suicide bombs and other armed attacks against Israeli targets.

by the United Nations General Assembly on 9 December 1988, states that a detained person "shall be entitled to communicate and consult with his legal counsel" (Principle 18) and that a "detained or imprisoned person shall have the right to be visited by and to correspond with...members of his family"(Principle 19).

Detainees arrested by the GID are frequently held in incommunicado detention without access to their family for periods of up to a month. Families are often not even informed that a relative has been arrested nor where he or she is being held. Even when access to family members is granted, it is not necessarily regular, and access to lawyers is generally granted only when a detainee is formally charged and transferred to court. Although the Jordanian Code of Criminal Procedure states that access to lawyers should normally be allowed, articles in the code allow for situations where a detainee may be interrogated and detained without access to a lawyer. Articles 63(2) and 64 allow prosecutors exceptionally to interrogate detainees without lawyers in situations of urgency, but these articles have been used to enforce regular bans on access to lawyers. On the basis of Article 66(1) public prosecutors may forbid all contacts with detainees for renewable periods of up to 10 days at a time. Article 66(2) specifies that this prohibition does not apply to lawyers "unless the public prosecutor determines otherwise", the grounds for such prohibition are not specified and there is no reference to any possibility of appeal. These provisions appear to be used by GID officers, who are granted the authority of public prosecutors, to detain people without access to lawyers until the end of their interrogation.

The use of officers of the GID as officers "authorized by law to exercise judicial power" contravenes the intention of Article 9 of the ICCPR, which is to provide an independent control of arrest, outside the security services. The Human Rights Committee, in its General Comment 8(16) on Article 9 of the ICCPR, stressed that "pre-trial detention should be an exception and as short as possible" and that, where preventive detention was used, it must not be arbitrary and "information of the reasons must be given." In its comments on Jordan's Third Periodic Report of its implementation of the ICCPR in 1994, the Human Rights Committee stressed that "Cases of administrative detention, denial of access of detainees to legal counsel, long periods of pre-trial detention without charges and pre-trial incommunicado detention are also matters of great concern." The Committee recommended that "the detention premises controlled by the Central [i.e. General] Intelligence Department be placed under close supervision of the judicial authorities" and that "measures of administrative detention and incommunicado detention be restricted to very limited and exceptional cases."

II. RESTRICTIONS ON FREEDOM OF EXPRESSION

"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." [ICCPR, Article 19(2)]

The ICCPR does impose restrictions on the rights contained in Article 19(2), but states that they

"shall only be such as are provided by law or are necessary:

- (a) For respect of the rights or reputations of others;*
- (b) For the protection of national security or of public order or of public health or morals."*⁶

Laws which Allow the Imprisonment of Prisoners of Conscience

Although most detainees, including possible prisoners of conscience, arrested for suspected opposition to the government are released without charge, some are tried and sentenced. Amnesty International is concerned that certain laws are vaguely worded and abused in such a way as to allow the arrest and imprisonment of prisoners of conscience.

One such legal provision is Article 195 of the Penal Code, which prescribes a sentence of up to three years on charges of *lèse majesté* (*italat al-lisan*), insulting the dignity of the sovereign. This law has been used to sentence political opponents of Jordanian government policy who, while they may have criticised the King, have nevertheless not advocated violence nor gone beyond acceptable criticism in line with principles of freedom of expression.

For instance, Ata' Abu'l-Rusha, the spokesperson of the *Hitb al-Tahrir fi'l-Urdun* (Liberation Party of Jordan, LPJ) a small Islamist party which refuses to seek registration and, according to its program, advocates the restoration of the Islamic caliphate by non-violent means, was arrested in October 1995 and sentenced to three years' imprisonment for *italat al-lisan* after giving an interview in which he implicitly

* In addition, under Article 20 of the ICCPR:

- 1. Any propaganda for war shall be prohibited by law.*
- 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*

criticised the King for the peace treaty with Israel. His published statements did not advocate violence. He was released in 1998.

Laws imposing imprisonment of up to two years for membership of illegal associations or up to six months for distribution of leaflets have also frequently been used against members of *Hizb al-Tahrir*. More than 30 members of *Hizb al-Tahrir* were arrested in July and August 1998, some were released after a few days, but many were held in incommunicado detention in the GID for up to three weeks. At least 25 were brought to trial during September and October 1998 and 13 were sentenced to up to 18 months' imprisonment on charges of membership of illegal associations and distribution of leaflets; one such leaflet was said to have strongly criticised officials for negligence over the water crisis.

After violent riots against a rise in the price of bread in August 1996 hundreds of people were arrested in many towns in Jordan. Many of those who were arrested had not participated in the demonstrations but were supporters of opposition political parties. Most of these, who included leading members of human rights organizations and 'political parties, were released after around 10 days' imprisonment without charge; they included 'Umar Abu Ragheb, a board member of the Arab Organization for Human Rights, arrested on 19 August and released after 10 days' incommunicado detention and Dr Hani Gharyabah, from Irbid, a leader of the doctors' union, who was arrested on 18 August and released without charge on 26 August. Dozens of other people from different areas of the country, many of them unaffected by riots, were charged with *italat al-lisan* under Article 195 of the Penal Code. The charge sheet almost invariably failed to detail the time and place the offence was committed or the words used, whether verbal or written. After up to three months in detention, all those involved in the bread riots, including those charged with attacks on property during the riots, were freed by royal amnesty in November and December 1996.

Layth Shubellat, a well-known Islamist critic of Jordanian government policy, has frequently been the target of imprisonment for his outspoken criticisms of the government. In December 1995 he was arrested, charged with *italat al-lisan* and sentenced by the State Security Court to three years' imprisonment after he had made speeches strongly criticising the peace policy with Israel. He was released by a special royal amnesty in November 1996. Fifteen months later, on 20 February 1998, during the Iraq crisis, 10 days after the government declared a ban on demonstrations, Layth Shubellat was again arrested and charged with *italat al-lisan* and inciting an illegal gathering after addressing a meeting in Ma'an calling on people to defy the official ban and demonstrate their support for Iraq. The day after his arrest a demonstration took place after Friday prayers which, according to eyewitnesses, started peacefully; however when the security forces arrived there were violent confrontations, the security forces shot tear gas and then fired in the air. A bystander, Muhammad 'Abdallah al-Kateb, 23, was killed.

The following day violent protests in support of Iraq and against the Jordanian Government took place. A curfew was imposed and communications between Ma'an and the outside world were cut by the authorities; at least 250 people were reportedly arrested; scores of houses were searched, reportedly violently, and 350 weapons were seized.

The charge of *italat al-lisan* against Layth Shubeilat was later dropped, but the charge of inciting an illegal gathering was maintained. An injunction by the state security public prosecutor barred any public reporting of the case. On 14 April, after seven weeks in detention, when several bail applications had been refused by the State Security Court, Layth Shubeilat was released on bail by order of the Court of Cassation. However, on 12 May, he was sentenced to nine months' imprisonment and immediately rearrested. Four days after the verdict, King Hussein granted him an amnesty. Layth Shubeilat refused to accept this amnesty saying that he would wait for a judgment of the court to declare his innocence. However, the Court of Cassation, in July 1998, confirmed the sentence stating that "the misery of the inhabitants of Ma'an and his [Layth Shubeilat's] emphasis on the injustice that they suffer in all fields of life...and his use of people's sentiments...removes his discourse from the domain of freedom of expression to the domain of agitation." Layth Shubeilat was eventually released on 8 October 1998, after having served seven months' imprisonment as a prisoner of conscience. On his release he said:

"My basic right is freedom of speech and I don't expect it to be a gift from anybody. Not even the king. If he wants to give me a gift, let him choose something I don't have a right to."

The Press and Publications Law

In the past the Press and Publications Law and articles in the Penal Code have been used to imprison journalists as prisoners of conscience.

Many Jordanian newspapers and journals have been outspoken in their opposition to government policy especially the government's peace policy with Israel and the Jordanian authorities attempted to use the 1993 Press and Publications Law to suppress this and other opposition. Under the 1993 Law journalists and newspapers were frequently brought before a court for offences under Article 40 which listed a range of prohibited subjects: news offensive to the King or royal family; unauthorized information about the armed forces; articles which show contempt for religion; articles which harm national unity, incite crime or sow hatred, discord or conflict in society; articles intended to shake confidence in the national currency; articles which insult heads of Arab, Islamic or friendly states or members of diplomatic missions; articles contrary to public morals; and articles offending the dignity of officials or other individuals. Between 1994 and 1998 a number of journalists were even detained. For instance, Hilmi Asmar, the editor of the Islamist newspaper, *al-Sabil*, was detained for nine days in September 1996 before being released without charge for raising a number of cases of torture of *Hamas*

supporters held for up to three months in incommunicado detention by the GID. The government is not known to have examined the torture allegations, which had been raised by human rights organizations, including Amnesty International.

The Jordanian authorities would frequently, apparently purposely, arrest journalists on Thursday so that, Friday being a holiday, they could not be released on bail until Saturday. This happened to Nazih Shawahin, a correspondent of *al-Arab al-Yawm* in July 1997, for using a "provocative headline."⁷ Even when not detained, journalists and editors have been harassed by numerous summons to appear in court, with cases against them being constantly postponed before ending, usually, in acquittals, after defendants and lawyers had lost days in waiting in court. For instance, in one case against the weekly newspaper *al-Majid*, which published an article in 1996 calling for Major-General Ian Henderson (at the time head of Bahrain's intelligence) to be expelled from Bahrain as Jordan had expelled Glubb Pasha (Commander of Jordan's Arab Legion from 1939 until 1956), the editor was charged with insulting a friendly and Arab state, and the case -- simultaneously with 12 other cases against the same newspaper -- dragged on for over a year and nine court appearances before ending in an acquittal.

By the end of 1996 it appeared as though a healthier relationship between the government and the media might develop. Under the Minister of Information Marwan Musher the number of cases against journalists fell sharply and in February 1997 the minister announced that censorship on foreign publications would be lifted and that the Press and Publications Law would be revised "to minimise constraints on publications." However, with the appointment of a new government, under 'Abd al-Salam Majali, in March 1997, a new offensive against what was perceived as a sensationalist and critical press was launched. Under amendments to the Press and Publications Law enacted by royal decree in May 1997 detention of journalists diminished as other, subtler means -- the imposition of crippling fines -- were used to limit freedom of expression. The 1997 amendments caused the effective closure of 13 weekly newspapers which were unable to raise large capital deposits required of them. The fear of heavy fines created -- and appeared to be designed to create -- an atmosphere of self-censorship which would be likely to limit press monitoring of human rights violations. The suspended newspapers brought a lawsuit against the government and in January 1998 the High Court of Justice declared the 1997 Press and Publications Law unconstitutional because it had never been brought before parliament. The court said the constitutional grounds for enacting temporary laws while parliament was in recess were restricted to two cases -- impelling speed and the need for immediate expenditure -- were non-existent in the case of the

⁷ "The peace park is burning at al-Baqura" -- the headline referred to a fire at al-Baqura, but al-Baqura was also the scene of an attack by a Jordanian soldier on a party of Israeli schoolgirls, killing seven.

1997 Press law amendments. In the same ruling the court cancelled the government's decision to suspend 13 weeklies.

After the High Court of Justice decision the 1993 Press Law was used and, although newspapers closed in September resumed publication, arrests and detention of journalists also resumed. Yusef Gheishan, a journalist who writes for *al-'Arab al-Yawm*, as well as for *al-Bilad* and *'Abed Rabbo*, and who had frequently been the target of arrests and harassing court cases in previous years, was arrested around midnight on 11 April, reportedly by 15 security agents who searched the whole house and took files and any documents they could find containing his handwriting. He was reportedly charged with *italaf al-lisan* and distributing leaflets against the government, but the charges were dropped and he was released six days later. Hussein al-'Umush, another editor of *'Abed Rabbo*, is also a journalist who has more than once suffered from detention under the Press and Publications Law during 1998. He was arrested from his home on Thursday 4 June 1998 and released the following day without charge. Later arrested at Iam on 9 August 1998 he remained in detention until 19 August.

In August the Jordanian Government introduced a new Press and Publications Law in parliament; it was promulgated in September. 1998 after being passed in both houses of parliament. It also seriously limits freedom of expression and the liberty of the press in Jordan. The financial burden of the capital required remains high, consisting of 250,000 dinars (\$350,000) for daily newspapers; the list of prohibited subjects contained in Article 37 of the 1998 law is similar to that in the 1993 law, with the addition of further prohibitions such as articles which defame the judiciary and articles instigating unauthorized strikes, sit-ins or public assemblies. Offenders will be fined from 5,000 to 7,000 Jordanian dinars (about \$7,000 to \$14,000). Like previous laws, no differentiation is made between false and accurate reporting. Other articles of the law require foreign publications to be submitted to the Press and Publications Department of the Ministry of Information prior to distribution in Jordan (Article 31) and manuscripts to be vetted by the same department prior to printing in Jordan (Article 35). Article 41 prohibits research institutes and public opinion polling centres from receiving financial aid from private donors, whether Jordanian or foreign, without prior approval of the Minister of Information. Article 50 permits courts to suspend the publication of any newspaper while a case against it is in progress.

After statements by the new Prime Minister, Fayez Tarawneh, saying that it was not the government's intention to apply the law strictly, on October 17 1998 the Director of the Press and Publications Department, 'Iyad Qattan, requested the Attorney-General to drop all cases filed by the department over the past year. As a result 21 cases were dropped and government lawyers were not proceeding with about eight other pending cases. According to press reports the Director said that the decision to drop the cases was

"because the attitude of the government and of the press and publications department is to turn a page in relations between the press and the government."

Amnesty International welcomes the Jordanian government's declared commitment not to enforce punitive articles of the 1998 Press and Publications Law; however, as long as vaguely worded prohibitions and punitive article continue on the statute book, press freedom remains endangered.

III. TORTURE AND ILL-TREATMENT

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment..." [ICCPR, Article 7]

"Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against ill-treatment or intimidation as a consequence of his complaint or any evidence given." [Convention against Torture, Article 13]

The possibility of prolonged incommunicado detention under Jordanian law provides the situation whereby torture or ill-treatment may take place and a detainee be held without contact with the outside world until the traces of torture may have healed.

The arrest and detention of both political and common law detainees is governed by the Criminal Procedure Code which, as we have seen, allows for prolonged incommunicado detention. In addition, the Law on Crime Prevention (*Qanun man' al-jara'im*) of 1954 is used to allow the administrative detention (*al-tawqif al-idari*) for a year indefinitely renewable of anyone suspected of committing a crime "or any other person deemed to be a danger to society." The order is made by the provincial governor (*muhafez*). This law has been used to keep detainees (usually common law detainees) in indefinite pre-trial detention sometimes for years.

Political Detainees

As regards political detainees, officials of the GID, including the Deputy Director and the Chief Medical Officer, who have met Amnesty International delegates over the past eight years, have stated that no one is tortured and that a number of measures are taken to ensure this. However Amnesty International has received some allegations of torture and ill-treatment at the hands of the GID over the past years. Mostly such torture allegations relate to members of Islamist groups who have been accused of violent actions or of plotting

violent actions; such detainees may be held in the GID in prolonged incommunicado detention for months until they are brought for trial and frequently state that confessions to the offences they are accused of have been extracted by torture. Other allegations of torture were made in 1996 by some members of *Hammas* arrested after the suicide bombs in Israel in early 1996 and released after up to three months' incommunicado detention.

Allegations of torture are made by only a small minority of those who are arrested by the GID and held in their new centre in Wadi Sir, Amman. When it does occur, torture appears to be invariably linked to prolonged incommunicado detention which, by enabling the intelligence services to keep the suspect without access to the outside world for periods of time sufficiently long for the signs of torture to disappear, makes allegations of torture difficult to prove or to disprove. In numerous visits to the GID Amnesty International delegates were assured that detainees were well looked after and received medical checks on their arrival at the facility. Such medical checks immediately on arrival and regular medical checks of detainees throughout their detention should be a method by which allegations of torture might be verified. The fact that medical checks are carried out by doctors who are military officers attached to the GID may put the independence of such doctors in question; in addition, the medical reports on detainees appear never to be made available to lawyers or courts, even when requested by the detainee.

While recognizing the progress made, reforms in regulations governing pre-trial detention are urgently needed. The allegations of torture of detainees arrested in 1998 is related to the lack of safeguards for those under detention. The ending of prolonged pre-trial incommunicado detention is a must and visits to places of detention by the ICRC, whose mandate enforces confidentiality, should be supplemented by the establishment of an independent body which should carry out regular inspection of places of detention as well as visits made without advance warning.

At present, political detainees who are brought to trial come before the State Security Court which uses the normal criminal procedure code with three judges appointed by the Prime Minister on the recommendation of the armed forces chief of staff for military judges and the Minister of Justice for civilian judges. However, the court has been almost invariably staffed by military judges; civilian judges are known to have been appointed on only one occasion. The ordinary judicial system supervised by the Ministry of Justice has no role in the detention, prosecution or trial of political offenders until the verdict has been given by the State Security Court and comes before the Court of Cassation.

The Court of Cassation, which, in State Security Court cases, is allowed to examine the substance as well as the procedure of a case, is an important check on the State Security Court. Allegations of torture made by defendants in cases involving political violence, although denied by the GID, have led to the Court of Cassation annulling individual or collective convictions in some political cases. For instance, in the Mu'ta Case, the 10

defendants, arrested in early 1993, had been held incommunicado for up to three months in the GID in Amman, where they alleged that they had been tortured to make confessions of involvement in a plot to kill King Hussein during a university ceremony. They all retracted their confessions in court. Eventually, in October 1993, as a result of complaints by the defence, four of the detainees were examined by doctors of the Ministry of Health who noted injuries "less than six months old" on all four. Notwithstanding the evidence of torture the defendants were convicted and one was sentenced to death. On 13 March 1995 the Court of Cassation, partly because of the strong evidence that the confessions on which the case was largely based were obtained by torture, quashed the verdicts in the Mu'ta Case and the accused were immediately released.

In March 1995 in the so-called Arab Afghan Case, the Court of Cassation also returned for a retrial a case involving a group said to have returned from Afghanistan and to be planning terrorist attacks in Jordan. The 16 defendants found guilty had retracted confessions which they had made during up to six months' incommunicado detention in the GID. The sentences were later confirmed by the State Security Court. Amnesty International remains concerned that some of the defendants were convicted on the sole basis of confessions extracted under torture.

Another political case involving allegations of torture in pre-trial detention is that of a group of militant Islamists known as *Boq'at al-Imam* (Allegiance to the Imam). Those accused stated that they were detained for six months in incommunicado detention immediately after their arrest in 1994, during which they made confessions under duress. For instance, one of them, Muhammad Wafifi, stated that he had been severely beaten and suspended by a rope in order to confess during six months' incommunicado detention; the date of arrest on his form was later falsified to suggest that he had been arrested several months later. Muhammad Wafifi's lawyer raised his torture before the State Security Court and he was one of those acquitted in the case.

Some allegations of torture have involved detainees later released without charge or trial. Six members of *Hamaz* arrested in March and April 1996 after suicide bombs in Israel which killed 59 people including civilians alleged that they had been tortured, including by beatings combined with *falaya* (beating on the soles of the feet) immediately after arrest. They were held in incommunicado detention without charge for up to four months before being released in May and June 1996. Medical certificates of four of the detainees immediately after their release showed injuries consistent with their allegations. After their release one of those tortured, Walid Ahmad Taylakh, brought a criminal prosecution against the GID; however the investigation of a criminal prosecution against the GID (or any other security force) is carried out by the security forces themselves. Thus the case against the police was presented to the very same military prosecutor who had renewed the detention of the six suspects. Ahmad Taylakh, fearing that the criminal case would be

unlikely to succeed, therefore also brought a civil case against the GID. This case is constantly being adjourned by the courts.

In a case which is still (in October 1998) before the courts, most of the 10 detainees standing trial in connection with a number of explosions in central Amman in early 1998 alleged torture in the GID. Among them, Samer Muhammad Isma'il 'Amer, 'Abd al-Nasser Shehadeh Salim, Ahmad Hussein Shehadeh, Samir Sa'id Shebayeh, Ra'ed 'Abd al-Karim, 'Abd al-Nasser Sayed Hassanayn and Mahmud 'Abd Tawfiq Sabti were reportedly arrested between 4 and 7 May 1998 by the GID and were held incommunicado without access to lawyers and families for two to three months. The detainees were allegedly subjected to beatings, *shabeh* (prolonged sleep-deprivation in painful positions), *falaga* (beating on the soles of the feet), and prolonged suspension in contorted positions with nylon ropes. Members of the families and lawyers who visited some of the detainees have stated that during their visits traces of torture were visible, especially the marks of beating on the feet. One detainee, 'Abd al-Nasser Shehadeh Salim, reportedly lost four toenails as a result of torture; the leg of another detainee, 'Abd al-Nasser Sayed Hassanayn, was reportedly broken. They said that they were also given drugs, apparently to make them confess. They stated that when they were brought before the Prosecutor General they were warned that they would suffer further tortures if they complained of torture or failed to repeat their confessions; they said that they repeated what they were told "like a film script". When they were brought to trial before the State Security Court in September their lawyers raised the alleged torture and asked for medical examinations. The judge initially turned down the request. Later the detainees were examined by forensic doctors but, by 20 October when the court went into recess for three weeks, the results of the medical examinations had not yet been made available to the defence. Before and during the trial the defence lawyers were frequently barred from access to their clients.

Amnesty International raised the allegations of torture of the detainees in this case with members of the Jordanian Government and directly with the GID in September 1998. In response the GID denied that the detainees had been tortured saying that they had responded negatively when asked about torture before the public prosecutor. The GID stated that interrogation was carried out "in a scientific and civilized manner" and reiterated that the extension of their detention was carried out "according to legal procedures". No details were given as to the length of time spent by each detainee in incommunicado detention.

Common Law Detainees

Common law detainees are less frequently held in prolonged incommunicado detention and they are tried by ordinary courts, where judges more often are prepared to throw out cases where detainees show signs of torture or ill-treatment at the hands of the detaining authority. Common law suspects are arrested by the police (*al-shurtā*); the preventive security (*al-aman al-wiqā'i*); the criminal investigation (*al-baḥṭ al-jimā'i*); and the metropolitan police (*shurṭat al-'asima*). Amnesty International has received reports of torture or ill-treatment

of common law suspects, especially by the three last forces. Torture of detainees followed by prolonged incommunicado detention to hide the marks of torture, is sometimes reported, but it is more common to find detainees who have been severely beaten immediately after arrest. Frequently common law suspects who have received beatings and then been released fail to complain; lawyers are expensive and lawsuits unlikely to succeed. On three occasions known to Amnesty International beatings appear to have caused or hastened the deaths of common law detainees (see below).

Torture appears to be used to gain confessions and frequently contains an element of punishment. Most commonly the method complained of is beating, sometimes using hoses, cables or sticks, but on at least three occasions suspension in a contorted position (the *farraj* – chicken, because the detainee is tied on a pole like a trussed chicken on a spit) has been alleged. Amnesty International has, over the past three years, received a number of cases (involving more than 20 persons) of torture or ill treatment of common law detainees and three cases involving detainees who appear to have died following beating by the police. Such figures almost certainly understate the importance of the problem, since many common law detainees who have been beaten do not have lawyers and are unwilling to make complaints. Torture, involving severe beating sometimes together with methods such as *falaga* or suspension in painful positions, appears to be infrequent. However, there seems to be almost total impunity for members of the security services involved in torturing or ill-treating detainees. There is, therefore, a danger that, unless the Jordanian Government takes steps against torture or ill-treatment, treatment which is now infrequent might, if ever there is a crisis or perceived crisis, become generalised: this, apparently, is what happened in at least two towns after the August 1996 bread riots. On that occasion, many of those arrested after riots opposed to the rise in the price of bread allege that they were tortured by being severely beaten by security services in Tafilá and Kerak before being taken to Swaga Prison, where several also allege that they were tortured or ill-treated. For example, one person, arrested in Tafilá, said that he was tortured by the preventive security police with electric shocks, beatings and suspensions in a painful position. He was brought before the military public prosecutor after 23 days' incommunicado detention. He stated that he made a complaint about his treatment, but was not informed about any action taken.

A number of allegations of torture of common law detainees involve those accused of serious crime, such as murder, in situations where there may be heavy pressure on the security services to find the culprit and to ensure that whoever is arrested for the offence confesses. For instance, Mustafa Abu Hamid, accused of murder, was held for one month in police custody without charge following his arrest in April 1995. He stated that he confessed to the crime after torture including being hung upside down from nails inserted into his ankles; he was then allegedly sent by the police to hospital under a false name for treatment. During the trial a complaint was lodged about the torture, but no medical reports were brought before the court and no investigation was ordered by the judge. He was convicted by the criminal court and sentenced to death on 27 February 1996, a sentence

which was confirmed by the Court of Cassation in June 1996. However, the sentence was commuted to life imprisonment by King Hussein in October 1996.

Another case of alleged torture was that of Muntasser Rajab Abu Zaid who alleged that he and his wife were beaten and deprived of sleep while held in detention in the police station in Salt, during which time he made a confession saying that he had murdered his children. His wife, who was not a suspect in the case, was released from police custody. Muntasser Rajab Abu Zaid's confession reportedly formed the basis for his conviction. The court did not order an investigation into these allegations and Muntasser Abu Zaid was convicted and sentenced to death in November 1996. He was executed in June 1997, after the failure of his appeals.

In July 1997 five young men Musbah Ibrahim Khatib, Suleiman Kamel Sa'ed, Ahmad Baha al-Din, Nidal Husni Rashed al-Hiza'i, Rashad 'Abd al-Muhsin al-'Abbasi, involved in a brawl in an Amman street in July during which one man was cut with a razor, were arrested and taken to the police station at Jebel Hussein. There they allege that they were severely beaten by the criminal investigation service with cables and hoses. Two of the four, Musbah Khatib and Ahmad Baha al-Din, were beaten while suspended in contorted positions (the *farruj*). Rashad al-'Abbasi was allegedly beaten on both sides of his head with electric cables. The detainees stated that they complained of their beating before the public prosecutor, however he ignored their complaints and failed to order an investigation. They were charged with attempted murder and conspiracy to commit a crime. After four days in the police station they were moved to Jweideh Prison. They stated that they continued to suffer headaches and sickness as a result of the beatings. While in prison they did not meet any representative of the ICRC.

Another case appears to show torture of young people who were not even charged with the offence investigated. Three students were arrested in a town on the outskirts of Amman when a friend had been injured after having been shot by an unlicensed gun. During the night after their arrest two of the students, of Palestinian origin, were reportedly beaten by the criminal investigation service and the preventive security service in the local police station in order to make them reveal what had really happened. One of the students was tortured by the *farruj* method. The following morning all were released; they decided not to complain of their treatment out of fear for any consequences which might harm their ability to find jobs.

On occasion the judges have remedied, for the victim, the wrongs committed by the security services; however, those members of the security services who have committed abuses almost invariably remain unpunished and the victim is not compensated. For instance, Khalaf Musa al-Ziyabat, a 14-year-old boy from Ramtha, was arrested on 4 December 1997 and accused of stealing his cousin's gold. He said:

"Some people of the criminal investigation came to my house about 7.30pm. When they began interrogating me ...they began beating me to confess, with sticks and punches and kicks all over my body. The torture continued all night, I thought 'they are going to torture me to death' so I made a false confession. The next day my brother came to see me, he couldn't recognize me because my skin turned blue...Then they began asking me where I put the gold, I began making up locations, and when they went to each location, they found nothing".

After 48 hours Khalaf Musa al-Ziyabat was brought before a judge and was able to show him the marks of beating. The judge then ordered a medical examination which recorded numerous bruises and swellings on the face, arms, legs and body including "a 15cm-long bruise on the back of the left shoulder resulting from a blow by a stick." The fingerprints of Khalaf Musa al-Ziyabat were found not to match fingerprints on the scene of the crime and, after five days in a juvenile centre, Khalaf Musa al-Ziyabat was released on bail. However, no further investigation is known to have been ordered into the beating which occurred.

In its comments on Jordan's first periodic report in 1995, the UN Committee Against Torture expressed its concern that "allegations [of torture] are rarely subjected to independent, impartial investigations." It recommended that the State party "should further strengthen measures: to protect the rights of detainees, especially to have access to judges, lawyers and doctors of their choice; to investigate promptly allegations of torture and ill-treatment and to ensure that appropriate penalties are applied whenever such offences are committed...and to reduce the length of preventive detention, taking into account the presumption of innocence."

Deaths in Custody

At least two detainees are known to have died in circumstances where beatings by the members of the security forces appear to have caused or hastened their deaths over the past two years. In another case no independent investigation is known to have been carried out into these deaths and no member of any of the security services has been brought to justice.

Yunus Abu Dawleh, a 34-year-old mechanic, died on 24 December 1996 some hours after he had been arrested by the police in his home in Zarga. He was apparently accused of murder in Jebel al-Amman in Amman. Yunus Abu Dawleh's wife stated that a large number of people, in plain clothes and uniform came to their flat in Zarga at 1.30am. From the window of her third-floor flat she said she saw Yunus Abu Dawleh pushed to the ground and a plain-clothes policeman sat on his chest and slapped him on the face. Then police pulled Yunus Abu Dawleh by his hair and beard to their cars 150 metres away. He was apparently taken with his brother Isma'il to the metropolitan police department in Amman where Yunus died some hours later. The autopsy report described signs of bruising on the shoulder, the neck and the genitals; however the medical certificate stated that he died of heart disease.

Samir Muhammad Ziyad Khazer, who had a history in the months before his death of criticisms or confrontations with the police, was beaten to death on 23 June 1997 in Zabda al-Wasatiya village near Irbid. According to eyewitnesses, the house was surrounded by large numbers of members of the criminal investigation service in civilian clothes at a moment when all the family members were away besides Samer, aged 29, his younger brother 'Abdallah, a university student, and his sister Manar, aged 19. When Samer Khazer heard about the police he tried to escape, but saw that the route was blocked and returned to the house. The police then charged the house, reportedly without any attempt to arrest Samer Khazer peacefully and without presenting any warrant. 'Abdallah, who tried to block their way, was beaten on the head and shoulders and escaped to call help. Samer Khazer escaped into the house and shut the door, but the criminal investigation service entered through the window and beat him for 10 minutes on the head and body, leaving him unconscious; they then left. Soon afterwards members of the uniformed force came, together with two villagers; instead of taking Samer Khazer, who was lying unconscious to hospital, the police chief, according to those present, was primarily interested in leaving the village, and suggested leaving Samer Khazer's body under the trees (perhaps to suggest that he had been beaten while trying to escape or had attacked the criminal investigation service). They arrested 'Abdallah Khazer, who had then returned, and detained him all night in the police station. After the police had left, villagers took the body of Samer Khazer to the hospital where he was pronounced dead.

The police issued a report which conflicts with the evidence given by eyewitnesses. The report states that the police were prevented from entering the house for half an hour by 'Abdallah Khazer and local villagers; they then entered together with the local *mukhtar* and found Samer dead from a heart attack. The *mukhtar*, who should, according to the law, have accompanied any police force with a warrant for the arrest of a villager, told an Amnesty International delegate that he had not been called by the criminal investigation service or, later, by the police to witness the arrest.

The public prosecutor at Irbid opened an investigation into the death, but the result of this investigation is not known. Normally, if an investigation finds members of any security force to be responsible, the file is handed over to special police courts to take action. No result of the public prosecutor's investigation has been disclosed to the family or lawyer and no action is known to have been taken against those who killed Samer Khazer. Amnesty International delegates, who raised Samer Khazer's death with the Minister of the Interior in December 1997, were told that the minister accepted the police report that they had found Samer Khazer dead.

Isma'il Suleiman al-Hamdan al-Ajarmeh died on 11 February 1998 after having spent more than four months in detention. He had been arrested at the end of September, apparently in connection with an attack on employees of the Israeli Embassy, and held at the GID. He had no access to a lawyer for the whole of that period. According to the

Jordanian authorities Isma'il al-Ajameh committed suicide by throwing himself down a stairwell and died instantly. The Minister of Interior stated that the prisoner's death "happened shortly after an interrogation session and that the autopsy confirmed the cause of death." Amnesty International asked for an investigation and requested a copy of the autopsy report. The deputy head of the GID replied reaffirming the government account of the death, but no autopsy report has been received to date.

According to the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions:

"There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances..." (Principle 9)

According to Principle 17:

"A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it."

CONCLUSION

Incommunicado detention without access to family or lawyers, often after arbitrary arrest, breaches international standards to which Jordan is a State Party. Amnesty International is additionally concerned at laws which allow the detention of prisoners of conscience, sentenced to up to three years for expressing their opinions without using or advocating violence.

Among the factors which lead to the continuing existence of torture or ill-treatment are: incommunicado detention and the impunity of the security services who carry out such treatment. One of the most important measures to end torture or ill-treatment is to ensure detainees' prompt access to families and lawyers. Medical examinations immediately after arrest and upon leaving a place of detention, which should be made available to the defence

with the consent of the detainee, will also help to prove or disprove allegations of torture. Jordanian courts have frequently made decisions to remedy abuses by freeing those detained who have made their confessions under torture. But others whose confessions are suspect may appear before judges who are unwilling to question police methods and may be sentenced to long periods of imprisonment -- or even death.

When there are complaints against police violations, the preliminary investigation is carried out on the orders of the *niyaba* (Prosecutions Department) under the Ministry of Justice, but the case is then handed over to the police prosecutor. On almost every occasion, the police investigation appears to have accepted the police version of the case. The six detainees who alleged torture by the GID after their arrest in March and April 1996 saw the same military prosecutor who had renewed their detention orders examining their complaints. The families of those who died after police beatings have raised complaint after complaint, to find that the same department they accuse of helping to cause these deaths is also carrying out the investigations.

RECOMMENDATIONS TO THE GOVERNMENT OF THE HASHEMITE KINGDOM OF JORDAN

In this year, 1998, the 50th anniversary of the Universal Declaration of Human Rights (UDHR), Amnesty International is calling on all Heads of State, Ministers, members of governments, politicians and each individual to reaffirm their commitment to the values of the UDHR.

Amnesty International urges the authorities to implement the following steps without delay. These measures would bring Jordanian law and practice closer to the letter and spirit of the international human rights treaties to which Jordan is a State Party.

- 1) Prolonged incommunicado detention should be ended and all detainees should be ensured immediate access to family and lawyers.
- 2) Detainees should be brought before an independent judicial authority separate from the security forces promptly after arrest; if no recognizably criminal charges are brought against them they should be released.
- 3) Article 195 of the Penal Code which allows prisoners of conscience to be sentenced to up to three years' detention for non-illegal criticism of the King and the Royal Family should be repealed.
- 4) All prisoners of conscience should be immediately released.

- 5) All allegations of torture and deaths in custody should be promptly and thoroughly investigated by an independent body which will make public its findings.
- 6) The inquiries into the deaths of Yunus Abu Dawleh and Samer Khazzer should be reopened with independent experts. An independent inquiry whose working methods and findings should be made public should be established into the death in custody of Isma'il Sulayman al-Hamdan al-Ajarmeh.
- 7) All members of the security services and other law enforcement officials who have ordered or used torture or ill-treatment against detainees should be brought to justice and victims or families of those who have died in custody compensated.
- 8) All detention centres should be regularly inspected by an independent body which should report publicly on its findings.
- 9) The Press and Publications Law should be amended to ensure that it conforms with the right to freedom of expression as guaranteed by Article 19 of the International Covenant on Civil and Political Rights.