

Planting an Olive Tree: The State of Reform in Jordan

Freedom of Association and Civil Society in the Middle
East and North Africa



Ana Echagüe

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Working Paper / Documento de trabajo
March 2008

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Ana Echagüe

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Preface

Associations are indispensable to the very survival of democracy and societal progress. Non-governmental organisations (NGOs) defending human rights on a local, national or international level are the guardians of fundamental liberties, and often constitute the only framework through which minorities and other vulnerable segments of the population can see to it that their voices are heard, their rights respected and their participation guaranteed. The degree of effective use of freedom of association therefore constitutes an important barometer in judging the factual situation of democracy, human rights and participation in a country.

In addition to being a fundamental right in itself, freedom of association is also a precondition and safeguard for the defence of collective rights, freedom of conscience and religion, and therefore deserves special attention and vigilance. With the rise of transnational terrorism, recent years have witnessed freedom of association in many countries being suppressed in the name of national security. Obligations that expose the founders of associations to arbitrary admission criteria, pedantic verifications and unnecessary administrative hindrances are indicators of government efforts to exert political control. This may happen formally – via the adoption of laws that allow inappropriate limitations on freedom of association – or informally – through a lack of application of the law in practice and the predominance of informal rules that replace the rule of law.

Recognising the fundamental significance of freedom of association and a vibrant, active civil society for

citizen participation and the dynamics of democratisation, the Club of Madrid, an independent non-governmental organisation of 70 former heads of state and government dedicated to democratic practice, embarked in February 2007 on a project aimed at strengthening dialogue on freedom of association across the Middle East and North Africa region. With the support of the European Commission's European Initiative for Democracy and Human Rights (EIDHR) and the United Nations Democracy Fund, the objective of the project has been to improve the capacity of both civil society and the authorities to construct a shared vision on the promotion of freedom of association. In cooperation with FRIDE and local partners, the Club of Madrid (CoM) has been engaging in efforts to strengthen dialogue between civil society and government, aiming to contribute, based on the CoM members' own leadership experience, to fostering the inclusion of civil society. With this end in mind, the project hopes to propose constructive legal and policy reforms that contribute to advancing citizen participation in national political debates on freedom of association, and more broadly, on democratic reform.

This report is one out of a series of six country reports that provide independent analysis of the state of freedom of association and civil society in Morocco, Jordan, Bahrain, Egypt, Tunisia and Saudi Arabia, respectively. The reports are intended to accompany and support the aforementioned project led by the Club of Madrid by identifying both outstanding challenges and civil society's ideas on how to resolve them. Each report is based on a substantial number of consultations and interviews among local civil society stakeholders, government representatives across all levels, parliamentarians, political party representatives, journalists, union activists, women's and human rights activists, and lawyers and political analysts, conducted throughout 2007 and 2008. The independent analysis aims at facilitating public debate and further societal dialogue on freedom of association in the respective country. The main findings and recommendations summarise the views expressed by the numerous local stakeholders who kindly granted us some of their time for an interview.

¹ "Planting an olive tree" is a reference to a speech given by King Abdullah II to the European Parliament in Strasbourg on 12 December 2007, in which he referred to the reform process in Jordan and broader initiatives required for the region: "We in Jordan know that when an olive tree takes life, planting is only the first step. A hundred processes then go active to create the cells and structures of life. Roots emerge, growth occurs, and a core of strength ensures survival. From outside comes water and support to sustain life and create new fruit." <http://www.jordanembassyus.org/new/jib/speeches/hmka/hmka12122007.htm>

Executive summary

While Jordan has succeeded since 1989 in providing a limited space for civil society organisations (CSOs) to operate, the initial promise of reform has receded in recent years, and the parameters and limitations under which CSOs operate remain both overly restrictive and intrusive. Jordan's relative stability and important strategic position in the region has reduced external pressure to reform with no consequences for its aid dependent economy and the country continues to be held up as an example of one of the more progressive and democratic Arab states.

The regime has struggled to maintain national unity and security while addressing a series of challenges such as the demographic changes caused by the surge in the population of Jordanians of Palestinian origin, the rise in support for political Islam and the threat of terrorism. The Arab-Israeli conflict has had a significant effect on Jordan's domestic balance of power and Palestinian refugees remain a major undercurrent to all political issues and national debates. Their integration as Jordanian citizens has generally been successful although they continue to be underrepresented in the public sector and in the political establishment. The electoral law continues to be the single most contentious domestic issue. The "one person one vote" law together with the uneven distribution of parliamentary seats among electoral districts are designed to under-represent urban areas that are bastions of Palestinian or Islamist support and over-represent rural segments of the population that are allied with the regime. This has favoured the entrenchment of tribal allegiances in Jordan's Parliament to the detriment of national political parties. The king retains a monopoly on power in the country, while the Parliament remains weak and ineffective. Much of the current distrust between the government and civil society arises from the 2001-2003 period when King Abdullah issued 211 provisional laws and amendments, many of which reversed civil liberties, including through the

introduction of tighter restrictions on many aspects of freedom of association. This was despite the contemporaneous launch, with much fanfare, of numerous reform initiatives, which nevertheless have failed to be implemented.

Freedom of Association is guaranteed by the Constitution and should be protected by the international instruments that Jordan is party to, namely the International Covenant on Civil and Political Rights. Nevertheless the legal framework and regulations relating to civil society in Jordan contain provisions that restrict the right of association and limit the freedom of civil society. Legislation grants extensive powers of oversight to the government, including the right to refuse applications for licences with no explanation, the power to replace the governing body of an association, and full inspection powers over an association's premises and records. The powers of central government and local administrators to regulate non-governmental organisations are excessively intrusive. The key obstacles that civil society organisations encounter in the development of their activities pertain to the registration process, extensive and intrusive supervision on the part of the Ministry of Social Development and the Ministry of the Interior, the threat of dissolution and suspension and the lack of access to funds. The government's relations with trade unions remain highly adversarial.

In order to regain confidence in and the momentum of Jordan's efforts to continue recent reform initiatives, there should be a process of Constitutional reform leading to a greater balance of powers and the establishment of a truly independent judiciary, a Parliament with full legislative and oversight power and a government representative of the winning majority parliamentary coalition. Legislation should be reflective of the international conventions signed and restrictive laws such as the Public Meetings Law and the Anti-Terrorism Law should be repealed. Reform of the electoral framework before the next elections is one of the keys to successful reform towards a more progressive and democratic system.

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The political context: democratic reform process to date

The political situation in Jordan is obscured by the fact that although it is far from being a democracy, in terms of civil and political liberties it fares much better than most Arab states, at least formally. Political parties are legal, parliamentary elections are held more or less regularly and the reform process started in 1989 did bring about positive changes if not a fully-fledged democracy. Furthermore, compared to its neighbours Iraq and Palestine, it is an oasis of stability. The regime uses this image of precarious stability (and the threat of chaos and Islamism) to stem any push for political reform (domestic or external) and to secure international aid. The truth, as conceded by a senior European diplomat, is that Jordan is a security state, if a less extreme, less openly repressive version of one than Tunisia or Egypt.² The regime banks on its key geographic position and its role in the maintenance of regional security to secure the foreign aid it needs to palliate its lack of resources and help maintain domestic stability. The distribution of the rents from foreign aid as well as government jobs and other privileges allow it to maintain a more or less stable base of support from a certain segment of the population and a loyal security establishment.³ The monarchy has thus consolidated its rule by aligning itself with the Transjordanian population concentrated in the rural areas and shifting the electoral balance from growing urban population centres to these rural areas. Members of the tribal rural areas occupy most public jobs and their over-representation in Parliament is guaranteed by the electoral law. Any challenges to the system are addressed by weakening

institutionalised opposition.⁴ Admittedly, the security threat is real and the Arab-Israeli conflict has indeed had a profound effect on Jordan's domestic balance of power. However while the monarchy struggles to maintain stability, discrimination and the curtailing of individual liberties are not likely to achieve the social cohesion needed to overcome such threats.

In 1989 Jordan initiated a political reform process which won much praise from the United States and the European Union. The reform process included the legalisation of political parties and the holding of parliamentary elections. Despite these positive changes, which contributed to the country's image of progressiveness and tolerance, the changes hardly constituted the development of a true democratic process and the country has since seen increasing restrictions of fundamental freedoms and rights as well as constraints on political participation.⁵ These contradictions stem from the fact that political reform was initiated not as an end in itself but rather as a strategy for regime survival in the face of pressures of economic discontent which derived from the International Monetary Fund (IMF) requirement that external debt be restructured.⁶ The reform process was characterised by its hesitant top-down nature and by its aim of maintaining domestic stability and expanding the monarchy's support base rather than achieving genuine structural reforms.⁷

The regime has struggled to maintain national unity and security while addressing a series of challenges such as the demographic changes caused by the surge in the population of Jordanians of Palestinian origin, the rise in support for political Islam and the threat of terrorism. At the same time it has sought to protect the interests of the ruling elite and the traditionally dominant Transjordanian tribal structures. Any threats

⁴ Ibid, pp 4-5.

⁵ Democracy Reporting International and Al Urdun Al Jadid Research Center, "Assessment of the Electoral Framework, Final Report The Hashemite Kingdom of Jordan", January 2007, p. 4.

⁶ Brand, Laurie., "In the Beginning was the State: The Quest for Civil Society in Jordan", Civil Society in the Middle East, Norton, Augustus Richard., (ed). Boston: Brill, 1996.

⁷ Choucair, op. cit, p.3.

² Interview in Amman on April 17, 2007.

³ Choucair, Julia., "Illusive Reform: Jordan's Stubborn Stability", Washington: Carnegie Endowment for International Peace, Democracy and Rule of Law Project, Middle East Series, Number 76, December 2006, pp 3-4.

to the precarious balance of power have historically been dealt with by the repression of the opposition. Challenges posed by Arab nationalist and Palestinian militant groups throughout the 1950s, 1960s and early 1970s led to repressive measures including the banning of political parties, the imposition of martial law and the suspension of Parliament. The most significant challenge to Hashemite authority has been the Arab-Israeli conflict which has had a significant effect on Jordan's domestic balance of power. Palestinian refugees remain a major undercurrent to all political issues and national debates. The exact composition of the population is a sensitive and contested issue, with figures for Palestinian Jordanians somewhere between 40 percent and 60 percent. The integration of Palestinian refugees as Jordanian citizens has generally been successful, although Palestinian Jordanians continue to be underrepresented in the public sector and in the political establishment. The electoral law and the distribution of parliamentary seats among electoral districts are designed to under-represent urban areas that are bastions of Palestinian or Islamist support and over-represent rural segments of the population allied with the regime.⁸

In 1989 the process of political liberalisation was initiated with the holding of parliamentary elections, which had been postponed since 1967. Although political parties were still illegal, candidates could run as independents and the elections saw a big success for Islamist candidates, who gained close to 40 percent of the seats. In 1991 King Hussein appointed a 60-member commission, including government loyalists, members of the leftist opposition and the Muslim Brotherhood (MB), to draft a charter to outline the goals and characteristics of the liberalisation process. The National Charter ultimately saw the expansion of political freedoms and the space for civil society in exchange for recognition of the legitimacy of the Hashemite monarchy. As a result of the charter, martial law was lifted, political parties were

legalised, political exiles were permitted to return and restrictions on demonstrations were relaxed.⁹

Nevertheless King Hussein started undermining the reforms as soon as he saw an opportunity to regain the external support he had lost through his refusal to sign a peace treaty with Israel in 1980. In order to quash internal opposition a series of measures were put in place to diminish its voice and influence. Most important among them, and one of the most contentious issues to this day, was the amendment to the electoral law. The 1993 amendment restricted each voter to choosing only one candidate, regardless of the number of seats to be filled in the district. The controversial "one-person, one-vote" law favoured tribal candidates to the detriment of parties, and as a result, the 1993 elections saw a decrease in the presence of the Islamic Action Front (IAF) in Parliament. In November 1994, the peace treaty with Israel was ratified, despite strong opposition. Consequently, the United States would write off its debt and progressively raise aid levels until Jordan became the fourth largest recipient of US economic and military assistance. Jordan was also one of the first countries in the region to sign a partnership agreement with the European Union. By the time of Hussein's death in February 1999, it seemed clear that liberalisation had been a temporary means of reducing opposition to unpopular economic policies. Since then, repeated commitments by King Abdullah and his government to democratic reforms have not been implemented. The deteriorating regional situation and continuing economic woes have pushed Abdullah to clamp down on political and civil liberties and lean on the pervasive role of the security services.¹⁰ The situation can best be characterised as one of highly regulated freedoms within specific limits, with close monitoring and regulation increasing notably in the past five years.

In 1999 King Abdullah's accession to the throne intensified expectations of political reform.

⁸ Democracy Reporting International, *op. cit.*, p.3.

⁹ Choucair, *op. cit.*, p.7.

¹⁰ Choucair, *op. cit.*, p. 7-8.

Nevertheless economic reform quickly took precedence, with a focus on attracting foreign investment and increasing exports. Economic reforms led to Jordan's entry into the World Trade Organisation in 2000, to the signature of a Free Trade Agreement (FTA) with the United States in 2001 and to the establishment of the Qualified Industrial Zone (QIZ) programme. The king prioritised administrative reform and the fight against corruption in the public sector. But increasing regional pressures related to Palestine and Iraq placed security concerns at the forefront and brought about restrictions on political activity which have had lasting implications for freedom of association. The regime, concerned with public opposition to its stance both towards Iraq and Palestine, delayed parliamentary elections, originally scheduled for 2001. While Parliament was suspended (between June 2001 and June 2003), King Abdullah issued 211 provisional laws and amendments, many of which constituted a reversal in civil and political liberties. The Public Meetings law of August 2001 requires the government's prior written consent for any public meetings or rallies, while amendments to the penal code in October 2001 impose penalties and prison sentences for publishing "false or libellous information that can undermine national unity or the country's reputation".¹¹ Another decree allows the prime minister to refer any case to the State Security Court, and 2008 draft laws on NGOs and public assembly continue to limit and interfere with their activities.

These clampdowns on the ground were contemporaneous with successive reform initiatives. In 2002 the "Jordan First" initiative was launched; in 2003 the Ministry of Political Development was created, to increase political participation and advance democratic dialogue; in 2005 the National Agenda was conceived; and in 2006 the "We are all Jordan" action plan was launched. The National Agenda seems to be the most comprehensive so far and is a reflection of 13 months of work. Its planned implementation would run until 2020. Reforms have generally aimed to stabilise the regime in the face of regional and

economic challenges rather than to significantly open up the political system. They were much more explicit in terms of economic reforms than political reforms and none of them have targeted the distribution of political power. Power is concentrated in the hands of the royal court and the intelligence services while the Cabinet and Parliament merely execute policies which they do not decide upon. Demands for structural reform, such as addressing the shortcomings of the Election Law, remain unheeded. A new party law was passed in an attempt to encourage the consolidation of political parties but there have been no advances on electoral reform.

While the 1952 constitution declares Jordan a constitutional monarchy, the king retains a monopoly on power in the country to the extent that the concept of separation of powers is not really applicable. Officials can be heard referring to the "Government as directed by His Majesty" and often use the terms state, government and king interchangeably. Constitutionally, the king can appoint and dismiss the prime minister, the Cabinet and the upper house of parliament. He is also entitled to dissolve Parliament, veto legislation, decree "provisional laws" when the Parliament is dissolved, establish governmental and legislative policy and appoint the judiciary.

The Constitution balances these powers with a requirement that the executive acts with the confidence of the lower house of parliament, but in the history of Jordan there have only been three votes of no confidence. In addition, institutions outside constitutional structures, namely the Royal Court and the intelligence services, exercise substantial power. Both the Royal Court and the intelligence services report directly to the king. Their mandate and structure remain obscure and they are not constrained by parliamentary oversight. The Royal Court plays a key role in defining government and the intelligence services have influence over legislative and political policies, especially when considered a threat to the country's stability.¹² Institutions outside the monarchy,

¹¹ Choucair, *op. cit.*, p. 8-9.

¹² Democracy Reporting International, *op. cit.*, p. 5-6.

such as the Cabinet and Parliament, are left with limited powers and the government at best executes what is decided elsewhere. Governments serve at the king's pleasure, with Parliament having little to say on its formation and dismissal.

Although governments must be endorsed by Parliament, the lack of parliamentary majority governments precludes holding the government accountable to the people. Parliament has repeatedly been suspended and elections postponed. As a result of the electoral system Parliament has a majority of independent members, unaffiliated to any political parties, who represent a range of tribal interests and who provide weak oversight of the executive. The powers of the lower house of Parliament are constrained by an appointed upper house. The executive often legislates by issuing temporary legislation and decrees that function with the force of law without parliamentary approval. Parliament can debate, approve and initiate legislation but, in practice, it rarely debates legislation or initiates new draft laws.¹³ The executive's role in the promotion, punishment or sanction of judges is an expression of the lack of independence of the judiciary, as are the State Security Courts which remain outside the competence of the judicial council. Between 1952 and 1976 the constitution was changed or amended 28 times in a way that took power from Parliament and the judiciary and increased the power of the monarch.

Although the constitution recognises the basic freedoms of expression and assembly, press and penal laws prohibit criticism of the royal family and the armed forces or any statement considered harmful to national unity or Jordan's foreign relations. Editors and journalists continue to receive official warnings not to publish certain articles, and security officials pressure printers to hold publication until editors agree to remove sensitive stories. Polls show that 74.6 percent of Jordanians fear punishment or retribution by the authorities for criticising the government.¹⁴ The

right of assembly is restricted through the requirement of prior consent for all public meetings (with the excuse of security). The regime also interferes with the activities of non-state actors (professional associations, NGOs, not-for-profit companies) which are not allowed to be involved in "political" issues. Freedom of association can be exercised within a controlled environment and new legislation, such as the anti-terrorism law, is leading to increased restrictions.

The various reform initiatives have failed to be implemented. The lack of deadlines, means of implementation and monitoring and evaluation systems has fuelled claims that they are just exercises aimed at appeasing the West. Others insist that the Palace and government are genuine in their enthusiasm and commitment to these initiatives but that they are all eventually aborted because of the regional situation or the lack of support from the conservatives. Status quo forces are an obstacle as they feel their privileges and position will be threatened and the king does not want to undermine his most loyal base of support. Since King Abdullah's accession there have been five different governments. The instability of the governments and their dependence on the king also renders it impossible for them to meet any demands for reform. Generally there is a cleavage between those who believe that any reform will jeopardise security and those who believe that stability lies with the implementation of reform. Further complicating matters, the rise of Islamic political movements in the region, especially the success of Hamas in the 2006 Palestinian elections, has increased concerns that any opening-up of the political space may strengthen the IAF's popular support. The relationship between the government and the Muslim Brotherhood is complex and has shifted from one of mutual support to a more confrontational stance. The IAF is abandoning its neutral position towards the government and increasingly playing the role of main opposition party. Government pressure on the MB could eventually lead to a division within the moderates, leaving extremists with greater freedom to work underground and gain support.

¹³ Democracy Reporting International, *op. cit.*, p.1.

¹⁴ CSS Democracy in Jordan, 2006

In the long-run the lack of freedoms together with the failure of socio-economic programmes could lead to problems. In polls 85 percent of the population state that their economic situation has either not improved or deteriorated. Despite increases in exports because of the FTA and the construction boom there have been few benefits for the majority of the population. Future reform depends on whether the regime believes that Jordan's stability is best maintained through political liberalisation or through repression. The official position is that much has been achieved in the past few years and that the challenge is to keep moving on the road towards democracy under the security circumstances.

Associations landscape¹⁵

It is estimated that there are around 2,000 civil society organisations in Jordan. Although most analysts highlight the weakness of civil society in the country - it is true that most organisations are small in size and some even lack head offices - the sheer number of organisations seems to point to increased mobilisation efforts. Nevertheless, in spite of the large number of organisations civil society cannot be said to be very active as most NGOs have minimal outreach capabilities (1,000 per organisation at the most). Most organisations work within significant constraints, most pertaining to the legal framework, the difficulties inherent in raising funds and interference from the authorities. Additional problems include the lack of internal democracy within the organisation's own structures, the non-renewal of leadership positions and a lack of efficiency or capacity. Positions of leadership rarely change, elections are either not held or are not transparent and fair. This may be one of the reasons for the low levels of participation in civil society organisations.

¹⁵ Most factual information is taken from "The Directory of Civil Society Organizations in Jordan" supervised by Hourani, Hani., Al Urdun Al Jadid Research Center, 2006.

The majority of civil society work in Jordan is based on the voluntary efforts of organisations' members who do not receive any wages or salaries for their administrative activities.

Civil society organisations have been successful in joining regional and international organisations but they have not been successful in establishing local networks within Jordan. Alliances among civil society are uncommon. Nevertheless recent years have witnessed the establishment of several networks and coalitions such as the "Jordanian Coalition for Civil Society Organisations", which comprises the Arab Organisation for Human Rights in Jordan, the Amman Centre for Human Rights Studies, the Association of Jordanian of Jurists, the Centre for Children's Rights "Haq", the Jordanian Society for Human Rights, the Arab Women Organisation and the Jordanian Youth Forum. The challenges to the establishment of networks and alliances in Jordan are numerous: legislation such as the Public Meetings Law and the Right of Access to Information Law; prevalence of individualism over collective action at work; competition among organisations rather than integration; lack of experience of associations governing bodies; competition for limited funding sources.¹⁶

Voluntary societies make up more than one-third of civil societies. They are governed by the 1966 Social Societies Law and supervised by the Ministry of Social Development. There were 783 in 2003. They flourished, especially after the banning of political parties between 1957 and 1967. They include tribal and family groups, women's groups, religious societies and ethnic societies, among others. Their funding comes from membership dues, project proceeds, from the Ministry of Social Development and foreign and local support. They are organised under the general union of voluntary societies, which was taken over by the government in 2006, and a voluntary societies union in each governorate.

¹⁶ Rahal, Ghosoun., "Freedom of Assembly and Association", the Euro-Mediterranean Network for Human Rights, June 2007.

There are 14 **professional associations**. These are the most effective organisations within civil society. The investment of their membership fees and funds has allowed them to gain financial clout and independence from the government. Their membership, which is compulsory in order to practice a profession, is around 100,000. Membership is mostly drawn from the elite and the middle classes. They are usually involved in the drafting of legislation relevant to the practice of their profession and their main objective is the defence of the rights and interests of members. They also offer pension, health insurance and social security funds to their members. The formation of such organisations is governed by by-laws issued by the Council of Ministers. The laws establishing these associations allow them to exercise an independent internal democratic process, including the election of leadership, without the interference of the government. It is almost impossible to establish a new association, however. This was demonstrated when an attempt to establish a new teachers association was declared unconstitutional by the High Judicial Council.

After 1967 they adopted a more political role, focusing both on pan-Arab issues (Palestine, Lebanon, Iraq) and national issues (the economic adjustment programme, peace treaty with Israel). This political stance, especially the active resistance to normalisation, has often led to conflict with the government. The government has at times threatened the professional associations with rescinding compulsory membership and also with referring the laws under which they are established to the Higher Council for an interpretation of their constitutionality. The 2001 Law on Public Gatherings created tensions with the government, as did a proposed professional associations law which meddled in their internal affairs and allowed the Audit Bureau to audit their accounts and access their funds. At times appointed committees from the ministries have attempted to supplant the elected councils of the associations. Despite their uneasy relationship with power they are generally allowed to hold activities within their own headquarters without permission from the government, and require consent only for activities outside their headquarters.

Each association operates under a specific ministry with which they hold some form of semi-structured dialogue and which allows them input into the laws proposed by that ministry. Parliamentary committees also sometimes call on associations to discuss issues such as the income tax law, but this is done more out of courtesy than because they have any real influence. Associations meet annually with the prime minister to discuss issues such as electoral and political party law but dialogue with government is generally unstructured and dependent on the personal connections of the president of each association. Leadership of the associations has seen distinctive trends: nationalist until the 1970s, leftist and Palestinian up to the 1980s and currently Islamist. The Islamic movement has the upper hand in most associations and in all the most important ones (engineers, the bar and agricultural engineers).

There are 16 registered **political parties**, down from 33 before the New Political Parties Law took effect. Most political parties in Jordan are small, personalised organisations with limited political influence, weak institutional capacity, and low levels of popular support. All but the IAF have less than one percent representation. Many of these parties are formed by pro-government individuals who held decision-making positions in the past. Political parties are fragmented and attempt to gain public support through patronage rather than by appealing to political programmes and grassroots activities. Most parties seem unable to create effective political platforms or to represent political interests. This is in part due to a lack of resources, but it is also due to public fear of joining political parties given their recent proscribed status and to an electoral law which favours independent candidates. Public apathy towards political parties is affected by the weakness of Parliament,¹⁷ and by the fact that parties do not form the government nor design government policy. The new political parties' law which took effect after the 2007 parliamentary elections was an attempt to consolidate the political scene with fewer, stronger parties. Although it achieved

¹⁷ Democracy Reporting International, *op. cit.*, p. 8.

its goal of reducing the number of parties, these remain just as ineffective, reflecting the fact that they lack political incentives to be active given the marginal role played by Parliament.

The electoral law encourages individuality, tribalism and sectarianism to the detriment of a process based on electoral programs. Candidates tend to be elected based on their ability to provide services to their constituents rather than on the electoral programme of their party. Individual candidates are considered better suited to deliver on election promises through their tribal ties. Political parties play a limited role in parliamentary elections. Most parties therefore seek tribal support to assure their success in the elections and candidates are referred to the political programmes once elected. Party alliances are sometimes formed around certain issues. Some argue that the legal framework provides a convenient excuse for the lack of progress, that parties have become lazy, and that those elected to Parliament have the wrong motivations: travel, money and benefits. According to this view, with the right legislators Parliament could be more active.

Parties can be roughly classified as: those that were active underground until their legitimisation in 1992 (such as the Ba'ath and Communist parties and some linked to Palestinian movements such as the Jordanian People's Democratic party and the Jordanian Democratic Popular Unity Party), the MB party (IAF), parties formed by political figures that previously occupied prominent positions in government, the majority centrists (such as the National Constitutional Party), and formations that have split from parties or coalesced into new ones (such as the Jordanian Democratic Leftist Party or Al-Nahda Political Party). The executive authorities have been calling for political parties to integrate and reduce their numbers to a few big political parties representative of the different currents, and a political party law has been passed to this effect.

The IAF is the strongest party. Although it was traditionally aligned with the government, it now represents the only solid opposition party. The

dominance of foreign issues on its agenda, namely the Israeli–Palestinian conflict, the war in Iraq, and the US war on terrorism, has led to a confrontational relationship with the regime. The regime regards the Islamist movement as its most significant domestic rival, taking the place earlier occupied by Arab nationalists, leftists and Palestinian nationalists. The question remains whether the regime will ultimately treat the Islamist movement as a security challenge to be crushed or a political one to be co-opted and contained. The party has traditionally strived not to alienate the regime and has largely accepted the limitations put in place against it and worked around them. It is forced to operate under an electoral framework deliberately designed to keep it at a parliamentary minority, which has led to a strategy of running only a limited number of candidates. In the November 2007 elections it ran a slate of only 22 candidates, which was purged of extremists, in an apparent agreement reached with the government. The effectiveness of the IAF in influencing Jordanian policy has thus been limited by its small parliamentary representation and by the limitations of the Parliament itself. Nevertheless, parliamentary representation has given it considerable experience in using the body as a platform, and in recent years its abilities have been enhanced by its newfound willingness to forge opposition alliances, with nationalist and leftist parties. While these parties contribute little in terms of a popular base, the opposition front (which the IAF can dominate) allows the movement to speak as something more than a narrow political party. It has sometimes been able to obstruct or delay government action, though it has done so by direct bargaining or confrontation with a government keen to avoid controversy (such as when the Parliament delayed consideration of an amended law of professional associations in 2005), rather than through a parliamentary vote. Some of the extra-parliamentary reform initiatives such as the National Charter or the National Agenda have provided similar opportunities to press issues.¹⁸

¹⁸ Brown, Nathan J., "Jordan and its Islamic Movement: The Limits of Inclusion?", Washington: Carnegie Endowment for International Peace, Democracy and Rule of Law Project, Middle East Series, Number 74, November 2006.

There are 17 **labour unions**. Unions are required by the government to be members of the General Federation of Jordanian Unions (the sole trade union federation) which has been criticised for being too close to government and for centralising decision-making to the detriment of the autonomy of the unions. The federation is financed by government, applauds every new government and never objects to any government measures. Unions have thus limited power and independence. Unions operate under the 1960 Labour Law which was amended in 1976. Political parties have historically had a large influence on unions, with leftist parties being the most influential, and Islamists characterised by their absence. Therefore the decline in influence of leftist forces has been accompanied by a decline in union influence on national policies. There has been a recent decline in membership, from around 200,000 to 100,000. Only six or seven of them are seen to be active in defending workers rights. The flood of expatriate labour workers has also decreased the unions negotiating potential as they are not allowed to join unions.

The other two groups that are not allowed to form unions are students and teachers, presumably because, as the largest sectors of the community, they could have a significant effect on changing policy and this instils fear in the authorities. Elections have been held in only six of the unions, with officials being appointed in the rest. Dialogue between unions and the government is confrontational and unions feel that they are treated as opponents and constantly face the threat of dissolution for being unconstitutional.

Human Rights organisations started to surface in the 1970s but didn't begin to thrive until after the 1990s when seven international conventions were ratified by Parliament and the government started presenting human rights reports to the UN.

The National Centre for Human Rights was established in 2002 by Royal Decree and in accordance with provisional law 75 of 2002, which was approved by Parliament and made permanent in 2007. The centre is said to be financially and administratively independent,

although its board of trustees is appointed by royal decree and the government allocates money to it from the national budget (there is a part of the national budget which is allocated to all independent institutions and ratified by Parliament). The fact that it was led by an ex-head of intelligence has been the subject of much criticism. In fact, Ahmad Obeidat was head of intelligence in 1981 and since then has been part of the mainstream opposition. He was forced to resign in 2008 after the publication of a report highlighting instances of fraud and the overall lack of integrity and fairness of the electoral process. There has been some speculation that the centre could become one more element within the state apparatus. Some NGOs feel that it duplicates their work instead of working on changing the laws and that it is too soft on some issues (as reflected when comparing its report on torture with that of the UN rapporteur on torture).

The main **women's organisations** are the Jordanian Women's Union, the General Federation of Jordanian Women (created by the Ministry of Social Development), the National Commission for Women and the Jordanian National Forum for Women.

Institutions for public support and research centres are either semi-official (under the supervision of the Royal Family or government) or belong to the private sector. Research centres require a licence from the Ministry of Trade and Industry.

Employers' professional associations, which defend private sector interests, include chambers of commerce (63,000 members; membership is compulsory), chambers of industry (15,000 members), employers' professional associations, employers' societies, the Association of Banks in Jordan and the Jordanian Business Association.

Civil protection and health care societies operate under the 1966 Social Bodies Law but are registered under the Ministry of the Interior instead of the Ministry of Social Development. Some are also registered as civil corporations with the Ministry of Trade and Industry (Centre for Defending the Freedom

of Journalists, Law Group for Human Rights (MIZAN). Most were established in the 1990s, post-1989 reforms. Most are directed towards the handicapped and special needs and therefore have government approval.

Other categories of organisations include: cultural associations and leagues, sports clubs, environmental societies, teachers forums and foreign NGOs.

Legal framework

Constitution & international treaties

Freedom of Association is guaranteed in Jordan by article 16 of the 1952 Constitution, which allows Jordanians to form associations and political parties. The Constitution also provides guarantees to protect the fundamental freedoms and rights that relate to democratic elections, freedom of expression and assembly. Article 16 states that "(i) Jordanians shall have the right to hold meetings within the limits of the law. (ii) Jordanians are entitled to establish societies and political parties provided that the objects of such societies and parties are lawful, their methods peaceful, and their by-laws not contrary to the provisions of the Constitution. (iii) The establishment of societies and political parties and the control of their resources shall be regulated by law". The Associations and Social Entities Law No. 33 of 1966 amended by Law No. 2 of 1995 regulates the work of associations. Since 2004 several draft laws have been presented by the government to replace it. A new Political Parties Law has recently replaced Law No. 32 of 1992 which regulated political parties. Other laws regulating the work of civil society are the Trade Unions and Professional Associations Law, the Public Meetings Law No. 7 of 2004, the Labour Law, which regulates the activities of union workers, the Cooperative Societies Law, the Political Parties and Associations Law, and the new Company Law of 1997.

The international instruments ratified by the Jordanian government are considered national laws only after

they are endorsed by both houses of Parliament and ratified by the king as stipulated in the Constitution. These instruments become effective laws only after they are promulgated by the king, and after 30 days from the date of their publication in the *Official Gazette*. Thus, although Jordan has endorsed the majority of international instruments and conventions on human rights, most of these agreements have not been presented before Parliament for discussion and endorsement.¹⁹ The International Covenant on Civil and Political Rights (which was ratified by Jordan in 1975) and the International Covenant on Economic, Social and Cultural Rights were published in the *Official Gazette* in June 2006, giving them the force of law. The Convention on the Rights of the Child, The International Convention on the Elimination of All Forms of Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were also published in the *Official Gazette* in 2006, years after having been signed and ratified. The Convention on the Elimination of All forms of Discrimination Against Women was signed and ratified (with reservations) and published in the *Official Gazette* in July 2007, two days before the UN was due to review Jordan's compliance with it. Jordan has not ratified the Convention on Freedom of Association and Protection of the Right to Organise (No. 87).

Other international conventions have been signed without the requisite adaptation of the local legislation. For example some aspects of the labour laws are in contradiction with the international conventions signed. The articles on the freedom to form unions contradict the international conventions signed as does the fact that public servants and foreign labourers cannot join unions. Articles 134-135 violate the right to stage strikes.

There appear to be contradictions between some of the provisions in the Constitution and obligations under international law pertaining to the international covenants ratified. Article 91 of the Constitution

¹⁹ Rahal, *op. cit.*

stipulates: "The Prime Minister shall refer to the Chamber of Deputies any draft law, and the Chamber shall be entitled to accept, amend, or reject the draft law, but in all cases the Chamber shall refer the draft law to the Senate. No law may be promulgated unless passed by both the Senate and the Chamber of Deputies and ratified by the King." Control of the legislative process thus rests with the king and the executive through the constitutional power to reject legislation, the control of the upper house of parliament and the possibility to issue provisional legislation and decrees. In this sense there is no guarantee that legislative power represents the will of the elected house of Parliament, which contravenes one of the central tenets of international standards related to democratic governance (Article 25 of the International Covenant on Civil and Political Rights). In the same way, the fact that both houses of Parliament have equal powers in the legislative process, although only the lower house is popularly elected, also appears to undermine the concept of democratic ascendancy within the Constitution. The Constitution allows the executive to postpone elections for up to two years and to suspend Parliament indefinitely, which undermines Jordan's obligations under international law to guarantee periodic elections (Article 25 of the International Covenant for Civil and Political Rights). These constitutional provisions create a possibility for the arbitrary suspension of Parliament (indeed, it was under these powers that Parliament was suspended in 2001 and parliamentary elections were postponed for two years).²⁰

In the same way, many of the laws that are being legislated contain provisions contradicting the principles and standards contained in the international charters and conventions ratified by Jordan. The Jordanian Constitution lacks any provision giving priority to the application of international treaties over domestic legislation. Neither has the Jordanian legislature addressed clearly the question of the relationship between international and domestic laws,

nor whether priority should be given to applying international law over domestic law or vice versa. Lack of amendments to domestic legislation reflective of ratified agreements reveals a lack of real commitment, as does the non-enforcement of the provisions of those agreements as law before national courts.²¹

National legislation

The legal framework and regulations relating to civil society in Jordan contain provisions that restrict the right of association and limit the freedom of civil society. These regulations contain restrictions that prevent associations from achieving their goals, do not provide adequate safeguards to ensure respect for the right of association and facilitate the executive's interference in the activities of the associations.²²

The lack of a clear legal framework under which to operate is one of the main hindrances to freedom of association as organisations end up being subject to the prerogatives of the authorities. A wide range of organisations exist and they operate under different laws: some were created under the 1966 Law of Charitable Societies, some under the Non-Profit Private Company Law, and others by royal decree. This lack of homogeneity constitutes a problem. Additionally, there are a range of other laws, some recently enacted, such as the Anti-Terrorism Law and the Public Meetings Law, which impinge in one way or another on the activities of civil society organisations. These laws usually give the government powers to monitor and interfere with the work of organisations. Restrictive articles of legislation have also been introduced in the Political Parties Law and there have been attempts to amend the Professional Associations Law so as to enable the government to restrict the work of those associations.

The 1966 Associations and Social Entities Law (No.33) is the main legislation governing charitable and voluntary societies reporting to the Ministry of Social Development. It also regulates civil society organisations reporting to the Ministry of Youth,

²⁰ Democracy Reporting International, *op. cit.*, p. 7.

²¹ Rahal, *op. cit.*

²² Rahal, *op. cit.*

Culture and the Interior and governs groups that do not report to a particular ministry such as human rights groups, development, democracy, environment and women's groups. The law defines a "charitable (or voluntary) society" as a "body consisting of seven or more persons whose main objective is to organise its endeavours for offering social services to citizens without aiming, through its activities or work, to make or share material profits, secure a personal advantage or achieve any political goals." This definition does not include political societies or societies established by special legislation.

The law grants the Ministry wide supervisory powers over these groups which can be used to interfere with and restrict their work. It gives the Ministry and the governor the right to approve incorporation applications, inspect their operations and records, audit their headquarters, supervise their elections and dissolve them. The Ministry may also examine the group registers and accounts to ensure that the funds are being expended for their designated purpose and that the work is being conducted in accordance with the requirements of this law, towards its established goals, and in cooperation with the ministry concerned. The level of intrusion is such that Article 15 stipulates that the association must inform the Ministry of Social Development of the election day of its governing body at least 15 days before the set date such that the Ministry may send an employee to verify that the election is conducted in accordance with the statutes.

Associations must obtain a written authorisation from the minister in order to establish an association, and the refusal of such authorisation need not be specified. The Ministry must decide within three months on an application for registration. The minister may seek the opinion of the administrative governor before granting approval for the establishment of an association or organisation. In practise approval is usually contingent on security considerations. The law did not originally give the applicant the right to contest the Ministry's decision but this changed with the Higher Court of Justice's granting of the right to challenge administrative decisions.

Another form of restriction is the requirement of a minimum number of members to establish an association, in this case seven. The law also allows the minister to interfere in the administration of associations and in the organisation of their elections by appointing an interim governing body in place of their original governing body. The Associations and Social Entities Law, together with the Penal Code and the Anti-Terrorism Law, allow the search of the headquarters of associations and the monitoring of their funding sources on grounds of suspicion alone. Associations may not have any political goals, although the term "political goal" has not been legally defined, leaving interpretation to the discretion of the Ministry of Social Development. Associations are free to hold meetings at their headquarters and centres without obtaining permission, but need to notify the concerned administrative governor and obtain a written approval when organising any activity outside their headquarters. The minister may dissolve any organisation that has contravened its basic regulations or expended its funds in inappropriate ways. Article 16 lists the reasons for dissolving an association:

"A. Should the number of the governing body members become inadequate to properly convene because of resignation, death or failure to attend three consecutive meetings without excuse, and the failure to fulfil the sufficient number of members in accordance with the provisions of the statutes.

B. Should the governing body violate the provisions of statutes related to the reelection of its members or to summoning the General Assembly to convene, or to accepting memberships, and fail to rectify the violation within a month from the date of the Minister's written warning. The interim governing body shall summon the General Assembly within sixty days from the date it was formed, and present a detailed report to the Assembly on the situation of the concerned association. The General Assembly shall elect in this session a new governing body."²³

Two new draft proposals were submitted to the prime minister's office, one drafted by the Ministry of Social

²³ Rahal, *op. cit.*

Development and the other by the Ministry of Political Development, in 2007:

The law drafted under the Ministry of Political Development was the result of a participative process which included civil society organisations and various different ministries, including the Ministry of Social Development. It streamlines the registration process, provides for improvements in funding by removing restrictions and states that organisations cannot be shut down without a court order. The draft law proposed by the Ministry of Social Development was much more restrictive. Under this draft the government does not act as a regulatory but rather as an authorisation organism. It allows the Ministry to police organisations' headquarters, granting Ministry employees judicial police powers. It requires pre-authorisation to receive foreign funds. This is the version that most expect will be passed.

The cabinet in October 2007, days before the parliamentary elections, proposed the more restrictive draft law. The parliament never voted on the draft and following civil society protests it was eventually withdrawn by Prime Minister Dahabi in January 2008. The Ministry of Social Development then led a series of consultations on a new draft law, only to disregard civil society input. In June 2008 a draft NGO law as restrictive as the one put forth in 2007 was introduced by the government. The law, which places harsh restrictions on foreign funding of NGOs and allows Ministry officials to reject NGO attempts to register for almost any reason, came into force after being approved by Parliament, signed by the king and published.

Some civil society organisations, in an attempt to avoid interference from the Ministry of Social Development, are registered as non-profit companies under the Ministry of Trade and Industry. Nevertheless, in 2007 the Ministry issued new regulations extending its supervisory role to monitoring funding. The provisions adopted are similar to those proposed by the Ministry of Social Development in its draft law. All organisations are also required to re-register.

Unions are regulated by the 1953 Labour Union Law and 1960 Labour Law for Political Associations. Contrary to the freedoms guaranteed by the international conventions signed, the government continues to ban the right to organise unions among public servants, including teachers and the workers of Jordanian pharmaceutical factories, whose numbers exceed 5,000. Foreign labourers are also banned from joining unions. The law limits worker rights to freedom of association and collective bargaining, with articles 134-135 violating the right to stage strikes. Unions are required to obtain the approval of the administrative governor for any activity they wish to hold, even within their headquarters. Article 13/B of the Labour Law grants labour inspectors the right to inspect the registers of trade unions, which is considered interference in the affairs of the unions and a diminution of their independence in the administration of the affairs of their members. The Universities Law prohibits the formation of student unions and tasks the university president's office with the appointment of half of the student council members while the remaining half is elected by the students.

The Jordanian Cabinet approved a draft law on professional associations in 2005 which would bar professional associations from engaging in politics and change the way in which they elect their leadership. The generalised outcry against it and the strong opposition from the IAF prevented it being presented to Parliament for endorsement. It stipulated that members of the local branches of the associations would elect intermediary councils and that the members of these councils in turn would elect each association's president and general council, changes which aimed to minimise the influence of Islamist candidates. The draft also authorised the Audit Bureau to inspect the associations' financial records, and restrict their activities to internal and professional matters. Written approval from the Interior Ministry, obtained three days in advance, would be required to hold a gathering or meeting. The law would also create a disciplinary council to judge offences. The law also prohibits ties between the professional associations in Jordan and those in the Palestinian territories.

The 1992 Law on Political Parties regulated until recently the formation of political parties. It introduced a liberalised regulation for the formation of political parties through registration with the Ministry of Interior (MOI) and, in general, allowed for parties to function without governmental interference. The new Law on Political Parties passed in 2007 increases the number of founding members required for a political party from 50 to 500 members (the initial draft law proposed an increase to 250 but Parliament raised it to 500) with a requirement that the party must also have members in at least five different governorates. Most political parties have expressed concern over their ability to meet the proposed new requirement. Another important aspect of the new law is the condition that political parties must be non-discriminatory. This requirement prohibits any party to discriminate on the grounds of religion or ethnicity and there is some concern that the provision may be used as a means to restrict parties that stand on a religious or ethnic platform. The law also restricts the use of religious premises for political party activity. The IAF may be particularly adversely affected by these aspects of the new law as the measures restrict party activities and election campaigning in its traditional areas of support, especially in mosques.²⁴ Every year political parties must submit their budget to the MOI and prove that their membership dues have been paid. Positive aspects of the new law include the inadmissibility of harming or questioning citizens or holding them accountable or prejudicing their constitutional rights because of their party affiliation. It also provides for state funding of registered parties and allows for the utilisation of official media outlets and the opening of public facilities for partisan activities.

The new law aims to reduce the number of political parties by forcing them to consolidate. The goal is to force the creation of political parties that can act as a counterweight to the IAF but it is doubtful if parties can be created from above in such a manner. The government contends that once this consolidation is achieved the majority party would be able to form the

government. All parties have agreed to reject the new law which they feel represents a reversal in terms of its numerous penalties, regulations and prohibitions. They feel the new law has doubled the emphasis on security considerations and that it does not deal with parties as political institutions with a right to access power, but rather portrays them as a hindrance rather than as a contribution to public life. Some would prefer a percentage threshold for parliamentary representation as a means of consolidating the party scene.

By far the most contentious law is the electoral law which since 1993 is based on the "one man one vote" system. This system allows the individual one vote regardless of how many parliamentary seats represent their district. The law benefits independent candidates with strong personal or tribal connections to the detriment of political parties that cannot effectively run lists of candidates in each district as voters get only one choice. The Election Law that regulates the conduct of parliamentary elections was issued as provisional legislation in 2001 and amended again in 2003. The TEL has never received the formal approval of Parliament and its constitutional legitimacy is therefore questionable. By law, provisional legislation is valid only if it is placed before Parliament at the beginning of its next session. This temporary legal framework falls short of international standards for democratic elections, most notably by not guaranteeing the universal principle of equality of suffrage amongst voters.²⁵

A policy to ensure the over-representation of parliamentary seats from rural areas at the expense of urban areas, where most Jordanians of Palestinian origin live, has led to large discrepancies in the number of voters that each seat represents. The regime sees the large population of Palestinian origin in urban areas as a political obstacle to any process of electoral reform and this situation may continue until the final status negotiations between Palestinians and Israelis reach a permanent solution on the issue of refugees. The Cabinet of Ministers has discretionary power to decide

²⁴ Democracy Reporting International, op. cit, p. 8.

²⁵ Democracy Reporting International, op. cit, p. 1.

on how the 104 directly-elected parliamentary seats should be distributed among the 45 different electoral districts. A governmental decree is issued ahead of an election stating how many seats have been allocated to each electoral district. There are no established criteria, such as population size or geographical or regional representation, for the method by which the government determines the allocation of seats.

Other shortcomings of the Election Law that need to be addressed include: the lack of a mechanism that allows citizens to seek legal remedy to protect or enforce their electoral rights or to ensure that there is compliance with the law, the lack of legal requirement for a detailed and prompt publication of results, insufficient safeguards of the right to vote in secret for illiterate voters, the lack of a set campaign period or rules on campaign spending, lack of guarantees for equitable access for candidates to publicly-funded media and administration of elections by the Ministry of Interior instead of an independent electoral commission.²⁶

There have been numerous proposals for amendment of the law, starting in 1999 with the Jordan First Committee through to the suggestions made by National Agenda in 2005, but none of them have been taken up. The National Agenda Committee brought together some 400 representatives to, among other things, “enhance public participation in the decision-making process and strengthen the role of the civil society institutions”. This initiative produced a comprehensive national action plan with one of the key recommendations being for electoral reform so as to strengthen the public’s engagement in politics and build the capacity of Parliament and political parties as democratic institutions. All sides participating in the initiative were unanimous on the need for electoral reform, differing only on the type of election system that should be adopted, although all professed a preference for a “mixed” system. Despite such consensus, the government seems to have chosen not to follow the recommendations of the National Agenda.

Parliament is unlikely to present a bill to change the electoral law as its MPs have been elected under the existing law. Any dialogue on a new law will therefore have to be spearheaded by the prime minister. There seems to be a generalised consensus, at least among parties, that any proposal should include a combination of one man one vote and proportional representation with one vote for the locality and one vote for a national list.

Another contentious issue regarding elections is the issue of observers to ensure fairness and transparency. Many civil society organisations fear that transparency will be undermined by the lack of local or international observers and accuse the government of interference in the appointment of individuals to act as observers. The government has informally conceded the possibility of monitoring but there are no laws to establish rules and regulations concerning monitoring. The government referred all organisations interested in monitoring the November 2007 parliamentary elections to the National Centre for Human Rights (NCHR), which was advised that it could only enter the area outside the schools where voting took place, thereby precluding the observation of counting, sorting and voting itself. The NCHR notified the government of their intention to observe and offered to train observers but did not receive an official response. Additional problems with the elections include the lack of specific voter lists by precinct (all voters need is their ID with which they can vote in any polling station within their constituency), “ironing” of voters (using an iron to remove the impression on the ID card so that people can vote more than once), transfer of voters from one constituency to another, buying of votes and government interference in candidate’s submission and withdrawal.

The Public Meetings Law of 2004 constrains the right of associations to organise rallies, sit-ins and demonstrations, contradicting the principles contained in signed international covenants. It restricts freedom of association through its requirement of submission of a request, three days in advance, to the administrative governor in order to hold a public meeting or march. The law also requires specification of the names,

²⁶ Democracy Reporting International, *op. cit.*, p. 2.

addresses and signatures of the applicants, the goal of the meeting or march as well as the location and the time set for either event. Article 8 holds those requesting permission to hold a meeting or rally responsible for any damages in the event of a breach of public security during the meeting or a march. Violations of this law can lead to imprisonment for a minimum period of one month and a maximum period of three months or fine of JD 200 to JD 1,000, or both. Under this law unions must obtain approval from the governor for any activity they hold, even within their headquarters. Following the issuance of the Public Meetings Law, the Minister of the Interior issued additional regulations on meetings and rallies through which he prohibited "the use of slogans, expressions, songs, drawings or pictures that are detrimental to the state's sovereignty, national unity, security or public order."²⁷

A new draft law on public meetings passed both houses of parliament in 2008. It presents a minor improvement over the old law but continues to be very restrictive. While it still requires prior written approval by the governor in order to hold a public meeting, the response time has been reduced from three to two days and a lack of response is considered to be an approval. The governor is still not required however to justify any refusal to grant permission for any gathering.

The media is regulated by the Press and Publications Law of 1998, amended in 2003 and again in 2007. The law allows the authorities to be overly intrusive and in this way encourages self-censorship among journalists and editors. The lower house of parliament finally endorsed changes to the law in March 2007, abolishing clauses allowing the imprisonment of journalists. Instead journalists can face fines of up to JD 28,000 for violations relating to defaming religion, offending religious prophets, inciting sectarian strife or racism, slandering individuals, and spreading false information or rumours. It requires that "publications shall adhere to... principles of... national responsibility... and the values of the Arab and Islamic Nation". Such broad-

based restrictions are open to wide interpretation and are likely to continue to limit the freedom of the media. While there is some improvement in the protection of journalists from arrest, they are still vulnerable to arrest and detention under provisions of the Penal Code Articles 150 and 195 ("stirring up sectarian strife or sedition among the nation "and lèse majesté ") which continue to be used against journalists and in this way contribute to a climate of self-censorship. Free speech seems to end when it comes to sensitive political issues.²⁸ There are certain issues which are off-limits to the press such as: demographics of Jordanians of Palestinian origin, the Royal Family, the judicial system, the Ministry of Planning and the Army. Basic information/statistics (such as the number of Christians or Jordanians of Palestinian origin) are not available.

In this sense, the laws do not fully protect freedom of expression and legislation is used by the authorities as a means to restrict journalists. On 9 October 2007 a State Security Court sentenced former parliamentarian Ahmad Oweidi al-Abbadi to two years in prison for "attacking the state's prestige and reputation". Al-Abbadi, a Member of Parliament from 1989-1993 and 1997-2001, and head of the Jordan National Movement (a party not recognised by the government), was arrested on 3 May after posting an open letter to US Senator Harry Reid on his party's website that accused Interior Minister Eid al-Fayez and other government members of corruption.

Journalists are required to be members of the Jordan Press Association, in violation of international conventions, while attempts to establish an alternative writers union of reporters have been legally refuted. Media owners must grant the Ministry access to budget information of all media organisations.

Most media can best be described as governmental. Conflict of interest is rampant as a large percentage of journalists are consultants in governmental organisations. The government has its TV and

²⁷ Rahal, op. cit.

²⁸ Democracy Reporting International, op. cit, p. 30.

newspaper as well as ownership of the distribution. The lack of professionalism in the media is another problem, as coupled with a spirit of intimidation and the fear of ending up in court, it leads to greater self-censorship. The Protection of State Secrets and Documents Law turns all information in the possession of the state into confidential information unless allowed to be published.

There is strict security monitoring of the media, particularly websites. The Jordanian Press and Publications Department announced in September 2007 that regulations of the Press and Publications Law would be extended to websites and online publications. The department stated that it will not attempt to censor content, but will monitor it and prosecute if needed. Journalists and civil rights activists protested the measure as “damaging to freedom of expression”.

The 2008 rankings published by Journalists without Borders rank Jordan 121st (it was 109th in 1996).

The Anti-Terrorism Law adopted in 2006 allows anyone to be held on suspicion and entitles the State Security Public Prosecutor to detain suspects, carry out surveillance, prevent suspects from travelling, and monitor financial assets. The suspect may file a “grievance” against these decisions before the same State Security Court by challenging them “within three days from the date the individual was informed” of the decisions. If the complaint was rejected by the State Security Public Prosecutor or extended for a period exceeding one week, the individual may appeal before the Cassation Court. The Cassation Court’s decisions in such cases are final. The legislation was first proposed in November 2005 in the wake of the terrorist bombings in Amman. The House of Representatives approved on 29 August 2006 the controversial draft law despite objections by Islamist deputies and human rights activists.

The Crime Prevention Law allows the administrative government to detain people under suspicion that they will commit a crime. Detention can be renewed based

on the governor’s judgement. According to the NCHR Human Rights Report for 2006, the current implementation of the Crime Prevention Law violates both international and national legislation and leads to arbitrary behaviour on the part of judicial police officers, with persons being punished twice for the same offence, once by the judiciary and again by the administrative governor. It contributes to the generalised climate of fear.

Fiscal regime / taxation

Civil society organisations are tax exempt by virtue of being volunteer non-profit organisations. Some organisations receive exemptions from customs or taxes accrued on property. Royal foundations often further benefit from exemption from paying sales taxes, a measure other associations believe should be extended to them too.

Foreign associations

Foreign associations operate under Law 33 and must register prior to their establishment. They may start their activities prior to registration but must negotiate on a case by case basis the development of their activities and their tax exemption. International organisations must register under the Ministry of Social Development. The Ministry may authorise a foreign organisation to open one or several antennas in Jordan which will be subject to the same rules and control as Jordanian associations. In practice, foreign associations usually open their local antennas without prior authorisation as the registration procedure can take years to become effective.²⁹

²⁹ Doucin, Michel, (ed.), “Guide de la liberté associative dans le monde”, La Documentation française, Paris, 2007.

Key obstacles

Most of the key obstacles highlighted by civil society representatives are contained within the legislation described above, the main issues relating to: registration, dissolution and oversight. Additional complaints refer to the elasticity of the laws, that is, the flexibility in their implementation and difficulties pertaining to funding.

Registration

The Associations and Social Entities Law requires a minimum of seven founding members and the submission of a request for registration to the Ministry with the statutes attached in order to approve the registration of a society. The request should include:

- Name of the charity, social entity or union.
- Addresses of the society's headquarters and branches.
- Names, professions, ages and places of residence of the founding members who must not be under 21 years of age.
- Detailed account of the purposes and goals for which the society was created.
- Membership requirements, fees and ways to revoke membership.
- Method for electing the governing body tasked with conducting the business of and overseeing the entity's affairs.
- Convention and dissolution of the entity.
- Monitoring and managing the financial affairs of the entity.
- Disposal of the entity's funds in case of dissolution.

The Law requires a written permission or authorisation from the minister prior to the formation of any association. If after three months from the receipt of the request by the Ministry the applicants have not yet received a notice of the decision, or of the presence of legal deficiencies in the application or the statutes presented, they can then start their activity as if the association were registered. The denial of registration

is often attributed to security considerations but reasons for the denial are most often probably undisclosed political matters. In 2006 the Ministry of the Interior denied the licensing of four associations. In the event of rejection, associations can appeal this administrative decision before the Cassation Court. They also have the right to seek compensation before regular courts.³⁰

Oversight

There is extensive and intrusive supervision over associations (administrative, financial, members, activities) by the Ministry of Social Development and the Ministry of the Interior. This has led many organisations to register under the Ministry of Trade and Industry in an attempt to avoid such scrutiny. Under the Associations and Social Entities Law, the Minister for Social Development assumes oversight over the different types of charities, social bodies and federations. Organisations are required to maintain the following information in their headquarters: the statutes and names of the governing body's members during each election cycle and the date of their election; the names of all members, their identification information, age and date of affiliation; minutes of meetings of the General Assembly in sequence; minutes of meetings of the governing body in sequence; detailed income and expenditure accounts; supplies and assets.

In addition they must notify the minister of every modification to their headquarters, amendment to their statutes or change to their governing body. Amendments to the statutes will only take effect after obtaining written approval from the minister after consultation with the concerned federation. The change in the governing body will only take effect after obtaining a written approval from the minister after consultation with the governor. Every organisation has to submit two copies of its annual report outlining its activities, the overall amount spent to achieve its goals and sources of income. Each organisation must obtain a certificate from a licensed auditor at least once a year. If these provisions are not adhered to, the minister

³⁰ Rahal, *op. cit.*

can order the dissolution of any charity, social entity or federation.³¹

The Ministry can send representatives to observe any meeting or election and to inspect any records at any time. Permission to organise a workshop has to be requested two months in advance. In general there is little interference in associations' activities as long as they are within the goals and objectives set forth in the statutes, and loyal to the government. However, opposition associations are subject to dissolution and interference, such as was the case of the Jordanian Women's Union, which was dissolved twice because of its political positions. There is also more informal monitoring and supervision by the Jordanian intelligence services, which are often accused of planting people (their presence at workshops and intimidation of participants is notorious). This discourages citizens from joining organisations for fear of being persecuted and encourages self-censorship. During the few months in the run up to the 2007 elections, scrutiny intensified. This seems to be the expression of a concerted effort from above rather than simply the initiative of an isolated ministry.

Dissolution and suspension

The Associations and Social Entities Law allows the Ministry to dissolve any organisation without judicial oversight if the association has breached its statutes, has not implemented the goals set forth in its statutes, has stopped working for six months or displayed shortcomings in its work, has refused to allow officials to attend its meetings, inspect its premises, documents or records, has expended its funds for purposes other than those specified, has submitted to concerned official authorities incorrect data, generally violated any provision of the Law, or if one third of its general assembly members who are entitled to vote voted in favour of its dissolution. The reasons for dissolving associations are as unclear as the reasons for denial of registration. Dissolution is often justified by and attributed to "undermining the objectives or legal violations". The Law allows association founders to

resort to the judiciary in order to challenge the dissolution decision before the Cassation Court. Associations targeted for dissolution are usually those with political or ideological orientations opposing that of the government, such as Islamist organisations, or those associations whose founders include individuals with a partisan history of opposition to government policies.³²

NCHR reports that the number of associations dissolved by the Ministry of Social Development was nine in 2005 and five in 2006. The reasons cited were deviations from the goals they were founded to pursue or their statutes and contravening the Associations and Social Entities Law.³³

Funding

Most organisations suffer from a lack of financial resources and depend on government and foreign support. The funds allocated to support social and charitable work in the general budget are very limited, which obliges civil society organisations to resort to international donors for funding. The most important sources of funding include the United Nations agencies, the European Union and international organisations of different nationalities. The law establishes many restrictions that limit the right of associations to acquire or own property and funds or use property other than those licenced. Some analysts are beginning to note that this is leading to a civil society driven by donors. Professional associations are more sustainable due to compulsory membership fees. The IAF and some other political parties rely on influential leaders or regional affiliations that can provide necessary financial resources. Most other parties face difficulties in financing their activities.

In theory the government does not limit access to foreign funding but it does require express authorisation from the ministry concerned. Some organisations complain that they have not been able to accept foreign funds because the Ministry of Social Development has simply not responded to their request

³¹ Rahal, op. cit.

³² Rahal, op. cit.

³³ NCHR report for 2006

and accompanying proposal, even a year after it was made. The Ministry sent a letter to all embassies in 2007 reminding them that they may not fund Jordanian organisations or foreign organisations operating in Jordan without prior consent. In practice, some organisations accept foreign funds without government approval and have thus far had no problems. In general terms regional organisations seem to be less constrained by regulations than local ones, an example of the inequity in application of the law. The Ministry has attempted to take over some aspects of the administration of the financing of civil society organisations. Donor countries are expected to provide the funds to the Ministry, which in turn finances the projects of associations applying for funding using applications specifically designed for this end. However, the Ministry is accused of not being objective in the disbursement of these funds and has the option to deprive associations of funding based on its own criteria, which makes many associations and organisations reluctant to request funding from the Ministry and resort to donor parties directly instead.

The Anti-Terrorism Law allows the government to control the bank accounts of associations, and punishes them for donating to charities suspected of supporting militant groups in Palestine, Lebanon and Iraq. While the Audit Bureau was established to monitor the financial behaviour of the government, the government issued a decision that obliges professional associations to subject their accounts and general budgets to the scrutiny of the Audit Bureau. In this way it interferes with the freedom of associations to manage their financial affairs and their own resources.

Targeted/excluded groups

In the aftermath of the US invasion of Iraq and the election of Hamas the relationship between the IAF and the Jordanian regime has become steadily more adversarial with some of the regime's actions prompting speculation that it is moving towards open repression of the Islamist movement. In 2006, security agencies arrested some members of the IAF based on the unlikely claim that Hamas was preparing to launch attacks within Jordan. Although the detainees were

eventually released, they were held in solitary confinement with some of their wrongful detentions lasting more than five months without their being charged. Shortly afterwards four members of the IAF were arrested and charged with incitement after visiting Al Zaraqawi's funeral tent and offering comments that implied support for Al Zaraqawi's actions in Iraq. The parliamentarians were arrested for their statements and tried in the State Security Court. In July 2006, the Cabinet took an additional step, acting on a report by the public prosecutor alleging irregularities in the management of the Islamic Centre, the largest NGO associated with the Islamist movement, to replace the organisation's board. The king finally issued a pardon of the deputies.

The leftist parties have not escaped the harassment of the security agencies either, as a number of their members were detained and arrested on the basis of participation in and calling for rallies and popular actions to support the resistance in Palestine, Lebanon and Iraq. In addition, in 2006, the security services arrested a number of professional association members based on expressions of their political views on the regional situation. Furthermore, the Minister of the Interior and the Governor of the Capital denied licences to a number of activities and festivals marking Land Day and those supporting the resistance in Palestine, Lebanon and Iraq. Likewise, the security forces prevented some of the festivals and rallies by force, including a rally the opposition parties and professional associations called for to support the Lebanese resistance in confronting Israeli aggression.

There are no specific restrictions on women joining associations, yet women's groups are especially susceptible to interference by the security services, given that often their members are of Palestinian origin. Although women enjoy significant presence and representation in many organisations, this is not the case in political parties, professional associations and trade unions, where women have a low presence. This is attributed to dominant social perceptions and patterns that promote women's presence in charitable activities and diminish it in political circles, parties and associations.

State – civil society relations

While the reform process initiated in 1989 did lead to an increase in cooperation between civil society and the government, the government is still reluctant to grant these organisations too much space and independence in the fear that they may gain political influence. While the state views national organisations as partners in development issues it is suspicious of any initiatives in the political arena and so attempts to rein them in through legislation that restricts their operations. The government does consult some organisations in regard to decisions relevant to the public interest, such as personal status laws, employment and development projects especially with regard to the Millennium Development Goals, and when writing country reports on its commitment to international human rights conventions like those submitted to the CEDAW Committee or the Committee on the Rights of the Child. Nevertheless, the government usually enacts laws independently and without consultation with civil society, particularly with regard to political and economic affairs such as the Political Parties, Elections and the Income Tax Laws.³⁴

In those instances where dialogue has taken place between civil society and government on more political issues, concrete results have yet to be implemented. The Ministry of Political Development, charged with nurturing the relationship between state and society as well as furthering a participative society, is also said to be the weakest ministry and the one with least support. Although it has initiated multiple stakeholder processes for the purpose of reforming legislation on political parties and associations, these have yet to bear concrete results. For the purpose of the Political Parties Law a joint committee was formed of political party representatives and government representatives from the Ministry of the Interior and the Ministry of

Political Development. They held extensive meetings on the development of the law and jointly produced a draft. Despite supposed party representation in the joint committee all parties have come out against the new law, so there seems to have been some flaw in the process. A civil society draft law was also drawn up after a process that included participation from a broad spectrum of NGOs, but nevertheless a much more restrictive version which disregarded civil society's concerns was the one to be presented to and approved by Parliament.

In terms of political parties, the state's general approach towards Islamist, nationalist or leftist parties has oscillated between co-optation and repression. Most recently, however, it appears to be combining the two strategies at the same time, initiating formal processes of political reform (with various new campaigns, dialogues, and laws) while not actually contributing to their strengthening.³⁵

The pervasive role of the king in all aspects, executive, legislative and judiciary, has created expectations among both his supporters and the opposition that any reform must originate from the Royal Court. Thus political and social campaigns, whether by parties or civil society, focus on attracting the attention of the king as progress in any area is seen to depend on his will. The king actively encourages and initiates policy discussions outside Parliament, seeking a direct dialogue among key interlocutors. While the outcomes of these initiatives have no legally binding force and mostly remain unimplemented, they do provide an indication of the consensus for reform. Yet, while these initiatives offer an important platform for interlocutors to exchange ideas and reach political compromises, their set-up sidelines the institutional framework for political discussion and contributes to the further weakening of an already feeble Parliament.³⁶ In a similar fashion, civil society organisations, especially the royal NGOs, often find that they have greater support from the Palace than from the government.

³⁴ Rahal, op. cit.

³⁵ Brown, op. cit.

³⁶ Democracy Reporting International, op. cit.

The NCHR for example has had several conflicts with the government, such as in relation to the issuance of the anti-terrorism law. In several of these confrontations with the government the king has ended up overruling the government in favour of the centre, hardly a way to give credibility to the government.

In any case, participation in any of these reform initiatives, as is the case with policy-making and implementation generally, has been mostly relegated to the ruling elite. The regime is known to act single-handedly in the implementation of top-down policies. Any reform efforts are imposed from the top after being initiated and designed by the Palace's multiple initiatives. Effective involvement of different stakeholders is lacking perhaps because civil society, political parties, and unions are too weak to play a role in supporting or blocking reform. The state does not perceive these groups as influential stakeholders to be considered in the process of designing and introducing reform measures. The state's institutional capacity to promote participation, make information available, and facilitate the process of debating reform and potential changes is either limited or withheld. There are no effective channels of communication between the state and society in place. Available networks are not independent and are often controlled by the state and its security branches. The appointment of former Director of the General Intelligence Department, Ahmad Obeidat, as chairman of the National Centre for Human Rights, is a case in point. The GID stands accused by human rights groups of major human rights violations.³⁷

Furthermore the average term of Jordanian governments during the last fifteen years has been less than two years. This has often made governments and individual ministers hesitant to implement reform programmes. Despite the regime's claim to prioritise reform of administrative structures, any fundamental changes to the system are often avoided by the government. The public sector is the key instrument of

the state–society relationship and the main pillar of rent distribution by the state. Appointments in the public sector (representing close to 50 percent of total employment) are an important instrument towards the maintenance of the patron–client networks that help sustain the state. Reforming this sector would entail changing the social contract between state and society and reducing privileges to politicians and tribal leaders which provide stability and support to the regime. Structural changes to this system of privileges face severe resistance from entrenched and privileged groups. Thus little progress has been made to reform public administration and introduce merit-based recruitment and payment.³⁸

Future reform will depend on whether the regime is convinced that Jordan's stability is best maintained through political liberalisation or through repression. The regime believes that socio-economic developments will take pressure off but the question is how long the country can sustain the status quo. The later the reform the more destabilising the situation will be. A lack of progress could lead to a rise in support for the more extreme elements of the Islamist movement and growing discontent could lead to the IAF adopting a more confrontational stance.

Domestic calls for reform

Calls for reform from local activists and civil society range from broad appeals for a more balanced distribution of power through constitutional reform to detailed proposals on the Association Law governing their activities. These include the following:

Constitutional reform to ensure balance of powers:

- Government should be formed by the winning majority parliamentary coalition as opposed to being appointed by the king.

³⁷ Alissa, Sufyan, "Rethinking Economic Reform in Jordan: Confronting Socioeconomic Realities", Washington: Carnegie Endowment for International Peace, Carnegie Middle East Center, Carnegie Papers, Number 4, July 2007, p 9-10.

³⁸ Ibid

- Parliament should be granted full legislative and oversight power, unchecked by an appointed upper house.
- The judiciary should be truly independent.
- Independent Constitutional Courts should be established.

National legislation:

- Should be in accordance with the international conventions signed.
- Should guarantee the liberties established in the Constitution.
- Should not be decreed by the king as “temporary legislation”.
- Repeal the Anti-Terrorism Law.
- Repeal the Public Meetings Law.
- Amend Associations and Social Entities Law.

Elections:

Reform of the electoral framework is needed before the next elections in 2011. The absence of political reform has already undermined the public’s confidence in elections and the role of Parliament. The “one man one vote” system should be replaced by some form of mixed system, and parliamentary seat distribution should be revised towards a more proportionate allocation that ensures equal suffrage. The Ministry of the Interior should adopt measures to increase the transparency of the electoral process, through independent election observation, involve parties and candidates more in the preparation of the elections and provide for a prompt and detailed publication of results.

Political parties:

- Remove requirements on number of founding members and provenance.

Civil society:

- Abolish the requirement of prior authorisation by the Minister for Registration and prior consultation of the governor by the minister.
- Simplify requirements for establishing an association, including removal of required number of founders.
- Allow organisations to freely adopt and modify their statutes.

- Prohibit official bodies from interfering in the administration of associations or from dissolving them except in the case of a decision issued by the judicial authority.
- Abolish the requirement of informing the authorities in advance of upcoming meetings of the organisation’s electives bodies.
- Abolish the requirement of authorisation for activities outside the organisation’s headquarters.
- Allow the formation of national, regional and international coalitions without prior authorisation.
- Allow civil servants, teachers and university students to form unions.
- Remove restrictions on funding from foreign donors.
- Allocation of public funds to civil society in an equitable and transparent manner.
- Abolish requirement for unions to obtain the approval of the administrative governor for their activities, including within their headquarters.
- Formalise and encourage the participation of civil society in the decision-making process regarding public policies.

Media:

- Remove required membership of Jordan Press Association.
- Remove broad-based restrictions which are open to wide interpretations.
- Improve access to information.
- Contribute to professionalism in journalism through training.
- Refrain from using penal code to prosecute journalists.

Education:

- Public-awareness campaigns.
- Democratic curriculum in education system.
- Ensure academic freedom.
- Ombudsmen.

Remove all administrative and security-based restrictions imposed, directly or indirectly, on the work of trade unions, professional associations, political parties, civil society and the media.

Conclusion

Jordan's path to reform has been a carefully managed top-down process which has all the trappings of democracy while lacking substance. The balance of power is highly slanted towards the king, his ministers and the unelected upper house, while the elected lower house of parliament remains constrained in its powers and thus ineffective and lacking in credibility. This has created grave disillusionment in Jordan as well as a continued lack of oversight of legislation affecting civil society. While in some areas the government reported an official 54 percent turnout for the recent elections held in November last year, the figure was much lower for many urban districts populated mostly by citizens of Palestinian origin.³⁹ The large number of civil

society organisations masks the constraints that they operate under both in terms of the specific legal framework that regulates their activities and the broader democratic deficits related to the monarchy's concentration of power, the lack of independence of the judiciary and the overly extensive and intrusive supervision they are subjected to.

Without further substantial reform, it remains to be seen whether Jordan's status as a favourite of foreign donors and King Abdullah's economic reform strategy will be sufficient to stave off rising dissent over the government's lack of accountability to the electorate and disappointed hopes for further liberalisation of laws regulating civil society. The question remains as to whether the regime is willing to continue with political reform or will use security as an excuse to stall or even backtrack on liberties achieved so far.

³⁹ "54% of eligible voters cast ballots in 'smooth' elections", *The Jordan Times*, November 27, 2007 <http://www.jordanembassyus.org/new/newsarchive/2007/11212007001.htm>

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FRIDE

Since his accession to the throne, King Abdullah II of Jordan has succeeded in managing an ostensibly reformist programme while simultaneously not ceding the key levers of power. The impotence of the elected lower house of parliament together with the failure of the political parties to articulate a truly national agenda as a counterbalance to the executive power of the King and the royally appointed Cabinet of Ministers, has resulted in a deep sense of frustration and disillusionment among Jordanian citizens. The erosion of civil liberties under royally promulgated legislation between 2001 and 2003 have not been reversed, and the introduction of anti-terrorism legislation in the wake of the 2005 Amman bombings has prompted fears that the reform process in Jordan may have been stalled, or even reversed.

This paper argues that the government of Jordan must strike a balance between providing security to its citizens while respecting its international obligations as outlined in the International Covenant of Civil and Political Rights (ICCPR). Based on a series of interviews conducted with government, political and civil society representatives, this paper concludes that a process of constitutional reform is required in Jordan, in order to achieve a greater balance of powers, the establishment of a truly independent judiciary, increased parliamentary legislative and oversight powers and a government representative of the winning majority parliamentary coalition, based on a fair electoral system. These reforms are necessary if Jordan is to capitalise on the positive contributions made by a broad range of stakeholders towards building a more cohesive, accountable and democratic society.

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