



ARAB SPRING JORDAN STYLE: POLITICAL REFORM AND THE UPCOMING PARLIAMENTARY ELECTIONS

EXECUTIVE SUMMARY

Shortly after the Arab Spring began to engulf the Middle East in late 2010, Jordan's King Abdullah II responded to calls for change by initiating a reform process which, so far, has resulted in modifications to the constitution and a number of key laws, including those on elections, political parties, the media, and freedom of assembly.

Some of these changes should have a positive effect on the upcoming parliamentary elections which are scheduled for 23 January, most notably the creation of an independent election commission, the introduction of a new system of voter registration and measures reducing the scope for electoral fraud. The Independent Election Commission has further enhanced the electoral arrangements by adopting a range of regulations, notably by requiring pre-printed ballot papers which should lessen difficulties for illiterate voters and limit possibilities for vote-buying.

However, the positive reforms of the election *administration* have been matched by only a relatively minor revision of the electoral *system*, which in political terms is the most contentious component of the electoral framework as it has a direct bearing on election results. Many Jordanians were disappointed that the new election system, adopted in July 2012, did not take into account the more far-reaching recommendations developed by the National Dialogue Committee (NDC). The NDC had proposed to discard Jordan's obscure single non-transferrable vote (SNTV) electoral system, which is widely seen as having produced a series of weak parliaments composed of individuals representing narrow local interests, and replace it with a proportional representation (PR) election system based on 'open' candidate lists, a method suitable for encouraging the emergence of political groups with shared policy platforms.

Instead, most of the seats continue to be allocated on the basis of the SNTV method, while only a small number of PR seats (27 out of 150) were added. Moreover, the PR seats are elected on the basis of 'closed' rather than 'open' lists, which prevents voters from expressing preferences for individual candidates on the lists and is expected to lead to a further fragmentation of the political forces running for election.

Crucially, the changes to the system did not address the inequality of the vote which exists between Jordanians living in different areas of the country, a situation that has been deliberately maintained for many years. Electoral districts remain drawn in a way that favours rural areas with strong tribal identities, the monarchy's traditional support base, over urban centres which are predominantly inhabited by Jordanians of Palestinian descent. To take the most glaring example, the vote of a person residing in one of Maan's electoral districts will again have more than seven times the weight of a voter residing in one of Irbid's districts. This inequality is a clear contravention of international standards for elections to which Jordan has subscribed.

Critics also point out that the reform of the constitution did little to fundamentally alter the structural problems of Jordan's broader political system, in particular the weakness of the Parliament vis-a-vis the powerful executive branch of government, which remains concentrated in the royal court. While the King has announced that there will be a "parliamentary government" after the elections, it remains unclear how in concrete terms this will be achieved as the constitutional provision that it is the King who appoints the prime minister and the cabinet without the need for backing by a parliamentary majority was not altered during the constitutional review. While the new Parliament may be able to form a majority to support a government, the expected absence of strong political parties means that it is unlikely that the executive's programmatic platform will derive from Parliament.

Jordan is thus approaching the elections with a set of reforms which enhance the prospects for clean elections, but which do little to reform the underlying flaws of Jordan's much-criticised electoral system, or its political system which marginalises Parliament, the only national constitutional body legitimised through direct elections. Jordan's most significant political party, the Islamic Action Front (IAF), has cited these factors as the basis for its decision to boycott the upcoming elections. This will lessen the pluralism of the contest and thereby reduce the representativeness of the incoming Parliament.

Nevertheless, the upcoming elections provide an important opportunity for the Jordanian authorities to demonstrate a genuine commitment to holding clean elections. This would show that the reforms have had a tangible impact and, after holding flawed elections in the past, might go some way to restoring public confidence. Conversely, another fraudulent election would constitute a major political setback not only for the reform process, but also for the legitimacy of Jordan's system of governance more generally.

RECOMMENDATIONS¹

In this sense, the Identity Center and Democracy Reporting International offer the following recommendations for measures that could serve to enhance the integrity of the electoral process:

1. The IEC could institute a number of measures to better ensure electoral **transparency**, including by
 - requiring candidates and lists to submit information on how they have funded their campaigns;
 - elaborating how citizens can file complaints regarding *any* act, decision, or omission that is a violation of the electoral law and the procedures to appeal decisions of administrative bodies, such as Polling Committees, and the steps the IEC will take to address these;
 - affording candidate representatives and accredited observers the right to receive certified copies of the official election results sheets;
 - adopting a regulation covering all procedures between the end of the vote count at polling stations and the announcement of election results by the IEC;
 - permitting candidate agents and observers to monitor the process of aggregating the polling station results at district level; and
 - publishing the individual results of all polling stations as well as the aggregation of these results at district and national level on the Internet as soon as they are available.
2. The IEC and the media should ensure that party lists are given equal and **sufficient airtime** to enable them to present their political platforms to the public. This may contribute to a better understanding of the role of political parties in society and by extension the purpose of the new PR electoral component.
3. Ensuring a clean process on Election Day is not only the responsibility of the IEC. The police should, as part of their general crime-fighting function, be active in **combating electoral crimes**, including vote-buying, and the Prosecutor's Office should prosecute perpetrators where sufficient evidence exists. The candidates and ordinary voters, some of whom have become accustomed to receiving financial rewards for their votes, may also need to be put on notice that electoral crime will not be tolerated in future.

¹ 'Between writing and publishing some of the recommendations in this report have been partially implemented by the IEC.'

I. BACKGROUND

On 23 January 2013 Jordanians will elect a new parliament in the country's first vote since the onset of the Arab Spring in late 2010. While Jordan has not seen the turmoil associated with the – often messy and sometimes violent – political transitions in other Arab countries, the Kingdom has not been isolated from the change sweeping the region. In fact, Jordan, a country with a fledgling democracy, has undergone its own, unique Arab Spring. Jordanians took to the streets in a series of generally small but persistent protests in the familiar Arab context of social and economic grievances over lack of access to employment, rising commodity prices and pervasive corruption. The demonstrations – which occur regularly across much of the country – have turned increasingly political in their demands. In November, amid a worsening economic and financial crisis, protests gained new momentum following a government decision to slash fuel subsidies, with calls for an end to the rule of King Abdullah II heard openly for the first time.

Significantly, Jordan's powerful tribes, long seen as the monarchy's main pillar of support, have staged their own protests and added their voices to calls for ending corruption and the redistribution of national resources. However, the divisions within Jordanian society – notably between 'East Bankers' belonging to the tribes originally inhabiting the territory east of the Jordan River, and Jordanian citizens of Palestinian origin – have prevented the emergence of a coherent broad-based opposition movement. Another factor is the weakness of issue-based political parties, a result of decades of discouragement of political activism and a legal framework foiling the development of a vibrant political party system. The Islamic Action Front (IAF), the political arm of Jordan's Muslim Brotherhood, remains the only organized political party with a mass following. The IAF is seen as representing Jordanians of Palestinian origin who, although they are Jordanian citizens and make up the majority of the country's population, have been largely excluded from employment in the public sector and security services.² Palestinian-Jordanians also remain severely underrepresented in parliament due to an unfair allocation of seats favouring the sparsely populated tribal-dominated governorates over the urban centres predominantly inhabited by non-'East Bankers'.³

King Abdullah, who under Jordan's constitution is invested with far-reaching executive powers, reacted to the onset of the Arab Spring in Jordan with the promise to reinvigorate ongoing reform efforts.⁴ He established a National Dialogue

Committee⁵ (NDC) in March 2011 to propose amendments to the election and political parties law and, in April 2011, a Royal Committee⁶ to review the constitution.

The NDC recommendations, presented in June 2011, included a proposal for a new electoral system to replace the much-criticized single non-transferable vote (SNTV) system with one based on 'open' lists at the governorate and national levels. This system would have introduced proportional representation (PR) and facilitated coalition-building around political programmes while at the same time giving voters the possibility to choose individual candidates from the lists, reflecting the preference of many Jordanians to elect individuals rather than political parties. However, subsequent drafts of the election law tabled by the authorities largely ignored the NDC's proposal. The bill eventually submitted to parliament and adopted as law in July 2012 retains key elements of the previous system, with 82% of seats still elected through the SNTV and women's quota systems, which are widely seen as generating results reflecting tribal allegiances and narrow interests rather than broader-based political programmes.

The recommendations submitted by the Royal Committee on constitutional reform were, on the other hand, swiftly approved by the Parliament and the Senate, albeit with little public consultation. The constitutional amendments adopted in September 2011 limit the government's ability to issue temporary laws and established a constitutional court and an independent election commission, but did not significantly alter the balance of power, which remains concentrated in the royal court.

Other legal changes enacted over the past two years include amending the legal frameworks relating to political parties, public assembly, and press and publications, and introducing laws establishing the Constitutional Court and the Independent Election Commission (IEC). However, neither the reforms enacted over the past two years nor the dismissal, in ever faster succession, of governments⁷ have put an end to the protests, as the underlying economic and political grievances have remained largely unaddressed.

² Following the 'Black September' civil war between the monarchy and Palestinian militants in 1970-71.

³ The issue of equal representation is highly controversial because it is often portrayed as a step towards creating an 'alternative Palestinian homeland' in Jordan, thereby undermining efforts towards the creation of an independent Palestinian state as part of a settlement of the Israeli-Palestinian conflict.

⁴ Jordan's monarchy had experimented with democratic reform on-and-off since 1989, albeit in a top-down manner and with little tangible result.

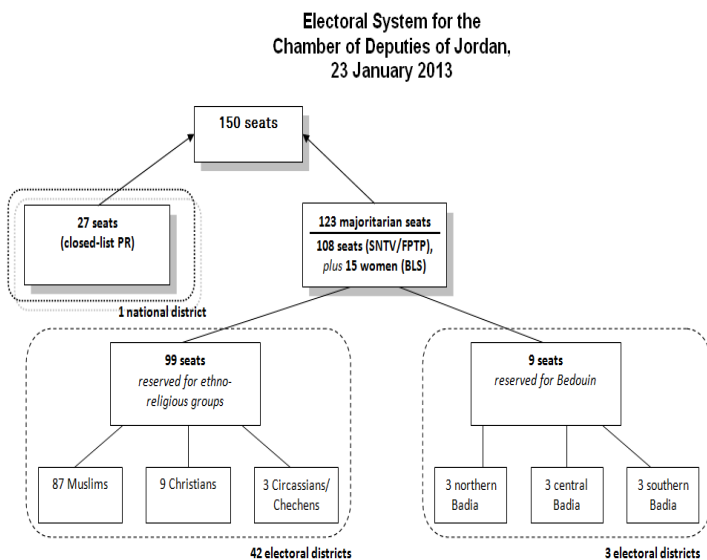
⁵ The National Dialogue Committee (NDC) was tasked with making recommendations for reforming the electoral and political party laws. It was composed of government officials, opposition leaders and civil society representatives. The Islamic Action Front boycotted the initiative. Other opposition leaders withdrew briefly after a peaceful pro-reform protest in March was attacked by pro-government activists and security forces, but returned at a later stage. The Committee issued its report and recommendations in June 2011. See: <http://www.ammonnews.net/article.aspx?articleNo=89081>.

⁶ The Royal Committee was comprised of former prime ministers and did not include representatives of the opposition or civil society.

⁷ The King appointed four new prime ministers in less than two years.

II. ELECTION SYSTEM

Jordan's new electoral system is even more complicated than its predecessor. It is a hybrid system composed of two majority-plurality systems, reserved seats for three minority groups, a quota for women and a nationwide constituency with seats allocated by proportional representation (PR).



THE MAJORITY-PLURALITY COMPONENT

From 1993 to 2007 most seats in the Parliament (Chamber of Deputies) were elected using the 'single non-transferable vote' system (SNTV). Under this system, multiple members of parliament are elected from electoral districts although electors may vote only for one candidate regardless of how many seats the district has been allocated. As some districts only have one seat, these seats were in effect elected under a first-past-the-post (FPTP) plurality system.⁸

While the architecture of this system was also in place for the 2010 elections, the electoral legislation amended the system in one significant way. While from 1993 to 2007 each district was represented with several seats, in 2010 electoral districts were divided into virtual (rather than geographical) 'sub-districts', each of which was represented by one seat. Voters could vote anywhere in the larger district but the candidate he or she wished to vote for was linked to a specific 'sub-district'.

The new electoral law adopted in June 2012 reverts to the SNTV system used between 1993 and 2007, but retains the districts used in 2010 whereby Jordan's 12 governorates are divided into 42 election districts with each allocated between one and seven seats.⁹ Of the total (99 seats), nine seats are reserved for Christian candidates, three seats are reserved for Circassian or Chechen candidates and 87 are reserved for Muslim candidates. In addition, electoral districts were created in the south, central, and north *Badia* regions of the country for Bedouin (Badu) voters with each region allocated three seats.¹⁰ In total, 108 MPs will be elected through the SNTV or FPTP-plurality methods. The winning candidates are those that receive the most votes. For example, in a district with five seats of which three are reserved for Muslim candidates, one for a Christian candidate and one for a Circassian/Chechen candidate, the three highest scoring Muslim candidates and the highest scoring Christian and Circassian/Chechen will be elected.

Globally, the SNTV system is seldom used, employed only in Vanuatu, Afghanistan, Libya (as part of a mixed election system), and Kuwait.¹¹ Critics of the system claim – with some justification – that it accentuates politics based on individuals or specific groups at local levels and can impede the development of a political system based on political parties with national-level policy programmes. In Jordan, the system, coupled with the unfair allocation of seats (*see below*), favours the governing authorities' strongest support base, namely the rural populations with stronger tribal identities, but can also lead to the election of members of parliament (MPs) whose main purpose for electors is to ensure the flow of state resources to their support group or locality (so-called 'service MPs').

WOMEN'S QUOTA SEATS

Jordan introduced a women's quota of seats in the Chamber of Deputies in 2003. At that time, the quota was set at just six seats (out of 110 – 5.5%). In 2010 the quota was raised to 12 seats (out of 120 – 10%), and in 2012 it has been raised to 15 seats (out of 150 – also 10%).¹²

Female and male candidates compete together in the 45 election districts. However, women can win a seat in two ways. Firstly, they can secure enough votes to win a seat in the single or multiple seat districts. Secondly, they can win a seat under the 'best loser system' (BLS) by being the female candidate that receives the highest *percentage* of the vote in the districts in a governorate (or *Badia*), but who did not

⁸ Under plurality systems, winning candidates require a plurality of the votes to win, i.e. most votes rather than an absolute majority. Plurality systems include those with single seat districts, i.e. with a single winner (such as the system used in the UK for parliamentary elections), and multi-seat districts, i.e. those where more than one candidate is elected. In multi-seat district plurality systems, a number of different sub-systems are used, including the SNTV system. Other examples include the 'block vote system' (where a voter can vote for more than one candidate) and the 'party block vote' system where a voter casts a vote for a slate of candidates.

⁹ Eighteen districts have one seat, seven districts have two seats, twelve districts have three seats, two districts have four seats, five districts have five seats and one district has seven seats.

¹⁰ The *Badia* regions are the arid and semi-arid areas in the east of Jordan. The annex of the law lists which tribes and family clans are entitled to register in each of the *Badia* regional election districts.

¹¹ SNTV was introduced recently in Kuwait and prompted a strong political backlash against the governing authorities.

¹² In 2010, 12 seats were reserved for women but there were 12 governorates and three *Badia*. Therefore, the candidates in the three governorates or *Badia* with the lowest percentage were not awarded seats. The addition of three seats for women means that all governorates/*Badia* will have at least one female MP.

receive enough votes to win a seat directly. Using percentage to determine the winning BLS candidates can lead to anomalous results because women candidates that contest large city districts tend to receive far more votes than their counterparts in smaller rural districts, but receive a lower vote percentage. The method of applying the quota also encourages tactical voting.¹³ Allocating reserved seats at the governorate/*Badia* level accentuates the problem of under- and over-representation of specific geographical areas (*see below*) and reinforces the representation of tribal areas in parliament.

DISTRICTING AND EQUAL SUFFRAGE

The Jordanian authorities refer to their election system as “one person, one vote”. This gives the impression that voters enjoy equal suffrage, but in fact, the ‘weight’ of a vote in the various election districts varies significantly because the number of seats allocated to the districts does not correspond to their population size. For example, Maan second district has some 6,700 registered voters while Irbid seventh has some 49,000 – but each elects the same number of MPs.¹⁴ In general, the large urban centres of Amman and Irbid are under-represented and rural areas are over-represented, notably the southern governorates Kerak, Maan and Tafilah. In addition, the allocation of seats to districts *within* some governorates is skewed, most notably in Balqaa and Zarqa.¹⁵

The Constitution does not clearly establish the right to universal and *equal* suffrage. Nevertheless, they are essential election rights, as reflected in Article 25 of the International Covenant on Civil and Political Rights (ICCPR).¹⁶ The UN Human Rights Committee stated in its General Comment 25, which is an authoritative interpretation of the ICCPR, that: “...the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group.”¹⁷ The current electoral arrangements in Jordan violate this principle.

While the election law does now include a schedule of seats allocated to the districts,¹⁸ regrettably it does not set out any criteria for districts to be drawn or seats to be allocated. This permits an approach to districting that facilitates systematic

under- or over-representation of specific governorates or districts. The current allocation of seats to districts leads to the under-representation of urban centres, home mostly to Jordanians of Palestinian origin, as well as some districts in the north of the country. Conversely, the allocation of a higher proportion of seats to tribal areas, particularly in southern districts, the monarchy’s traditional support base, magnifies their political power.

CLOSED-LIST PROPORTIONAL REPRESENTATION SYSTEM

The adoption of a list-PR system – either in its entirety or as part of a mixed election system – has strong support among Jordan’s political parties and reformists. The NDC proposed to introduce an ‘open-list’ election system. This system would allow voters to select individual candidates of their choice from electoral lists with seats allocated using the proportional representation principle (list-PR system). However, the draft Election Law presented by the Cabinet largely ignored the NDC’s recommendations on the election system. In June 2012, Parliament adopted the law without engaging in a genuine public debate or introducing major changes to the Cabinet’s draft. It retained the old SNTV system based on 108 district seats, but added a nationwide ‘closed-list’ PR system to elect 17 MPs.

However, after some parties had threatened to boycott the next elections, King Abdullah reconvened Parliament and asked it re-examine the law. In early July, the Parliament approved the Cabinet’s revised proposal to increase the number of MPs elected through the list-PR system to 27, thereby raising the total number of MPs to 150.¹⁹ Under the new system voters will cast two ballots, one for the district-based candidates and one for an electoral list at national level.

The decision to elect just 18% of the seats under the PR system and to use the closed-list method (rather than the open-list one proposed by the NDC) left many Jordanians disappointed, as the SNTV system is seen as contributing to the election of ‘service-MPs’ and because of heightened scepticism that the 2011-12 reform process was little more than the latest in a long line of cosmetic political changes. However, the adoption of a PR-component is significant insofar as it will be the first time that Jordan has used this system, and because it will almost certainly increase the number of party-backed MPs in the Parliament, albeit from a very low base.²⁰ It will also, to a marginal extent, redress the problem of unequal suffrage caused by the allocation of mandates to the districts.

¹³ For example, a tribal group which has fewer clan/family members than another in a specific area will be aware that its chance to elect one of its own male members to parliament is limited due to block voting patterns by traditional family structures, but they may be able to elect a female MP under the BLS.

¹⁴ Figures based on the final number of registered voters in the districts prior to the 2012 elections. Normally an area’s population size should be used when comparing the equality of suffrage across election districts. This is not possible in Jordan because citizens that are legally resident in one area are entitled to register as an elector in another area.

¹⁵ For example, Balqaa first district is allocated seven seats with a registered voting population of some 90,000, meaning approximately one seat per 12,850, whereas Balqaa fourth district has only one seat and a voting population of some 49,000, meaning that a vote in the first district has almost four times the weight as one in the fourth district.

¹⁶ Jordan ratified the ICCPR in 1975.

¹⁷ UN Human Rights Committee, General Comment 25 (1996), paragraph 21.

¹⁸ Previously the election districts, the number of seats allocated to each and the number of reserved seats for minorities was set out in a separate decree issued by the Cabinet of Ministers.

¹⁹ The outgoing Chamber of Deputies had 120 members.

²⁰ Only approximately two dozen of the members of the 2010-12 Parliament belonged to a political party.

III. ELECTORAL REFORM

In the first half of 2012, the Chamber of Deputies approved two new electoral laws to replace the provisional legislation adopted by the Cabinet of Ministers, which had previously been in force. While the new laws – the Law on the Election Commission (Law no. 11/2012, hereafter ‘the IEC Law’) and the Election Law (Law no. 25/2012) – do provide a better electoral framework,²¹ some serious problems remain. Moreover, the improvements in the legal framework have been overshadowed to a large extent by deep disagreement over the electoral system and the lack of reform of Jordan’s political system.

IMPROVEMENTS TO THE ELECTORAL FRAMEWORK

The transfer of the management of national elections from the Ministry of Interior to the Independent Election Commission is a potentially significant improvement. If the Commission can tackle the serious flaws and fraud, which have marred previous election processes, it may contribute to raising public confidence in electoral integrity.²² Nevertheless, expectations of what the Commission can achieve need to be realistic. The IEC was formed relatively recently and has not been afforded much time to establish its structures and draft electoral procedures before conducting the 23 January poll. Moreover, it has to conduct the elections on the basis of flawed laws. Even with the best of will, it is unlikely that the Commission will be able to effectively tackle deep-rooted electoral crimes, such as widespread vote-buying, unless state structures, in particular the police and the justice system, also act decisively to stop such practices. Due to the gaps in the Election Law (*see below*), the IEC is put in the difficult position of having to, in effect, draft regulations dealing with issues, which more appropriately should have been set out in the legislation.²³ This could potentially embroil the IEC in unnecessary controversy.

The IEC Law requires the Commission to perform its tasks transparently, impartially and with integrity. While it is positive that the electoral legislation includes these broad operating principles, it contains only a few provisions on how transparency is put in practice.²⁴ Nevertheless, to date the IEC has sought to operate in a transparent and inclusive manner,

for example by publishing the Regulations and Executive Orders necessary to implement the Election Law in draft form and then making efforts to consult with civic groups and political parties before adoption. Positively, the law requires all electoral officials to abide by a Code of Conduct.

While observers were de facto permitted to monitor previous electoral processes, the activity or the rights and duties of observers were not mentioned in law, meaning that observer groups were placed in a vulnerable position. Positively, the IEC law contains an explicit provision allowing the Commission to approve representatives of civil society organisations, media outlets, and international groups according to the executive orders adopted by the Commission.²⁵

The Election Law provides for the creation of a new voter register. This is an important development because the previous register was considered unreliable. Under the new system, the preliminary voter registers are drawn from the national ID card database and a ‘voter card’ was prepared for each eligible citizen.²⁶ Citizens were required to collect their cards personally, but could also collect those of their close relatives. According to the one of the domestic observer networks, some 64% of persons whose details were contained on the preliminary register collected (or received from relatives) a voter card.²⁷ This figure was politically sensitive because of the stated intention of some parties to boycott the election and the IAF’s call on its supporters not to register to vote. It is envisaged that the system of issuing voter cards will be a one-off exercise and in the future new ID cards will be issued, which will serve to identify voters for future elections. Positively, the law requires that the preliminary and final registers be posted on the IEC’s website.²⁸

The Constitution improves the framework for filing objections to the electoral process, and thus access to effective legal remedy, by permitting every voter to file a challenge to the validity of the election with the Court of Appeal within 15 days of the official publication of the election results.²⁹ Previously, Parliament had ruled on the validity of the election of its own members, a procedure which raises conflict of interest issues. The Election Law also contains clear provisions regarding the filing of appeals regarding voter registration and candidate nomination and the IEC Law stipulates that the Commission’s decisions are contestable before a specialised court. However, the law should be clearer regarding how citizens file complaints regarding *any* act, decision or omission that is a violation of the electoral law and the procedures to appeal decisions of administrative bodies such as polling

²¹ The new laws addresses a number of recommendations contained in the DRI/Al Urdun Al Jadid Research Centre’s Assessment of the Electoral Framework in Jordan (January 2007): http://www.democracy-reporting.org/files/dri_report_jordan.pdf

²² General Comment 25 (ibid), states: “An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”

²³ For example, the law did not establish a minimum number of candidates for the formation of a valid electoral list.

²⁴ For example, the Elections Law requires the public posting of voter registration data, the publishing of the names of approved candidates for election, the location of polling and counting centres and the final election results. However, it does not specifically require that the results of all polling stations be published. Ideally the law should also require the IEC to publish the minutes of its meeting sessions and additional data regarding the registration of voters, e.g. the number of voter cards that were archived due to objections, technical mistakes or retaining them from military personnel whose names incorrectly appeared on the preliminary voter register.

²⁵ IEC Law, article 12K.

²⁶ The IEC announced that the details of 3,565,139 citizens were included in the preliminary registers.

²⁷ See, also for a more comprehensive assessment of the voter registration process: <http://identity-center.org/en/node/124>.

²⁸ Articles 5(1) and 6(B-1) of the Election Law.

²⁹ The Constitution, article 71, to which article 57 of the Election Law defers.

committees.³⁰ As an interim measure the IEC could consider issuing a regulation in this regard.

Other improvements which can positively influence the electoral process include the requirement for the official media to cover all candidates in a neutral and equal manner during the election campaign³¹ and new measures reducing the scope for electoral fraud. This includes allowing the use of indelible ink to mark voters' fingers³² and providing clear and strong penalties for committing acts which undermine the integrity of the electoral process³³ (for example, offering inducements to vote in a specific manner can be punished by three to seven years imprisonment with hard labour).³⁴

Some improvements in the electoral arrangements stem not from the law but from IEC regulations. For example, the Election Law requires that voters "*write the name of one candidate on the ballot paper designated for the local election district as determined by the implementation instructions,*" but the IEC decided that the names of candidates and their photographs will appear on a pre-printed ballot.³⁵ This is significant because it can enable non-literate voters to cast their ballots without assistance from any other person, thereby enhancing the secrecy of the vote and reducing the scope for unduly influencing voters.³⁶ While the IEC should be commended for its decision, it would be more appropriate for the Law to require a pre-printed ballot listing candidates' names and including their photograph.

SHORTCOMINGS IN THE ELECTORAL FRAMEWORK

The Election Law's main shortcoming is the vagueness of certain key provisions. Despite the relatively long time between the publication of the NDC's recommendations and the adoption of the legislation, the Election Law reads as if it were drafted hastily, and the provisions dealing with a number of key electoral issues provide only sketchy details. For example, the law provides the IEC with little guidance on the method of translating votes into seats under the list-PR component.³⁷

The IEC has sought to address such issues through its Regulations and Executive Orders and on occasion it has had to refer issues to the Government's Legislative Interpretation

Bureau, which has provided it with guidance on the scope for interpreting the provisions of the Law.³⁸

However, some previously identified shortcomings remain, such as removing suffrage rights from specific categories of security personnel and persons declared as bankrupt. There also remains a lack of clarity whether persons in detention but who have not been convicted of a crime, and other persons unable to attend polling places, for example the infirm, have a reasonable opportunity to vote.

The Election Law restricts the locations where campaign events can be conducted, but does not clearly state where public events *can* be held. This could lessen the scope for candidates to meet with voters. The Election Law does not contain any provisions on campaign spending or financial disclosure which could lead to a situation where disproportionate expenditure undermines the free choice of voters or distorts the democratic process.³⁹ This problem is compounded by the absence of provisions guaranteeing candidates and lists access to state-owned media to campaign for election.

Article 67 of the Constitution provides that in addition to parliamentary elections, the IEC shall "supervise any other elections decided by the Council of Ministers." Hence, the IEC does not automatically have the jurisdiction to administer and supervise local elections. Rather, the decision on who will manage these elections is at the discretion of the Cabinet. This is an odd arrangement given the clear advantages of having an independent and impartial body manage and supervise all elections.

The IEC Law provides a general provision aimed at securing the IEC's independence. Nevertheless, the Election Law stipulates that the Prime Minister and ministers are responsible for the implementation of the provisions of the Elections Law and that the Council of Ministers shall issue regulations necessary to implement the provisions of the law.⁴⁰ In addition, some Jordanian civil society organisations have expressed a concern over the seconding of staff by government bodies, in particular the Ministry of Interior, to staff positions in the Commission's secretariat. These factors could potentially impinge on the Commission's independence. The new legislation still does not require the public posting of results at polling stations,⁴¹ nor does it entitle candidate agents and accredited observers to receive authentic copies of polling station and district-level results, both of which can significantly enhance transparency and public confidence. The law requires that five copies of the official polling results be compiled, but does not state to whom these important documents should be deposited.⁴² The legislation does not

³⁰ Article 42 states: "The polling and counting committee shall decide upon objections filed by candidates or their representatives with respect to the application of balloting rules". This implies that voters are not entitled to file complaints. If this reading is correct then voters could be denied access to a remedy short of challenging the entire electoral result in the district.

³¹ Election Law, article 22.

³² Election Law, article 39(F).

³³ For example, article 63.

³⁴ However, some election analysts are disappointed that all election crimes set out in the Election Law are subject to a three year statute of limitations.

³⁵ IEC Regulation 10, article 7.

³⁶ It has been claimed that in previous elections the 'assistance' given to non-literate voters was abused and became a form of control over voters' electoral choices or was used to facilitate vote-buying schemes.

³⁷ For example, whether the 'largest remainder' system or a 'highest average' system will be used.

³⁸ The Bureau determined that the IEC has the jurisdiction to determine the minimum number of candidates that election lists must contain.

³⁹ See paragraph 19 of General Comment 25, *ibid*. The Political Parties Law does contain some provisions on party financing but these are not applicable to all candidates.

⁴⁰ Articles 71 and 69 of the Elections Law.

⁴¹ However, IEC regulation no. 10, article 15-F provides for a copy of the results to be posted to the door of the polling station.

⁴² This has on occasion caused problems in other countries where the results sheets for the same polling station contained differing election results.

mention whether candidate agents and accredited observers are permitted to scrutinise the process of aggregating the polling station results by the district electoral committees. There is no requirement for the IEC to publish all polling results on its website within a reasonable timeframe and no deadline for the Commission to announce the final results.

IV. OTHER REFORMS WITH RELEVANCE TO THE ELECTORAL FRAMEWORK

The amendments to Jordan's constitution adopted in September 2011 enhance the role of the **judiciary** by establishing a Constitutional Court and making the Judicial Council a constitutional body with the sole right to appoint civil judges. They also provide for the establishment of an Independent Election Commission; significantly limit the situations in which provisional laws can be adopted; restrict the scope to delay an election of the Parliament after it has been dissolved;⁴³ and allow all voters to challenge the validity of an election in the courts. However, overall the amendments constitute only modest progress as they do little to fundamentally alter the structural problems of Jordan's political system, in particular the weakness of the Chamber of Deputies vis-a-vis the powerful executive branch of government. Moreover, many Jordanian reformists consider the key amendments aimed at strengthening the rule of law as flawed. For example, while the establishment of the Constitutional Court has been widely welcomed, the limitation of the right to bring cases to the Court or to the Cabinet and the two houses of Parliament has been criticised as overly restrictive.⁴⁴

The Parliament adopted amendments to the **Political Parties Law** in June 2012. These represent a modest improvement over the previous version of the law. Perhaps the most significant change is to remove the need for founding party members to undergo security clearance and introducing penalties for harassment of party members on the basis of their political orientation by the state apparatus, as these changes convey a political message that the authorities no longer consider parties detrimental to stable political life in Jordan. The revised law lessens the influence of the Ministry of Interior in registering new parties – although the Ministry is still strongly represented on the newly formed Political Parties Affairs Committee (PPAC). Additional positive features include removing restrictions on where parties can have offices and hold events, permitting parties to own TV stations and publishing houses, liberalising their financial arrangements, including raising the ceiling on individual donations and promoting parties' financial transparency. Some interlocutors criticised the retention of the requirement that parties must have at least 500 founding members and a new requirement that parties must draw its founding

members from a greater number of governorates than previously. Positively, at least 10% of new parties' founder members must be women.

Amendments to the new **Press and Publications Law** were introduced in September 2012. Many journalists and civic groups condemned the law for imposing stringent controls on electronic media, including websites. Under the law, electronic publications are required to register and obtain licenses from government departments and the executive authorities are given the power to close down unregistered sites, restrictions are placed on online content, and website owners are made responsible for comments posted by website users.⁴⁵ Many Jordanians specialising in media freedom issues regard the law as an attempt by the state authorities to control the freedom of expression and opinion in online publications. The law can negatively affect the electoral process by reducing voters' exposure to information and opinion on political issues. General Comment 25 on article 25 of the ICCPR states that: "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."

In May 2011 the Parliament improved the **Law on Public Meetings** by cancelling the requirement that organisers secure official permission before holding a public meeting.⁴⁶ This change could positively affect the campaign environment, allowing candidates and voters to meet more freely.

V. REACTIONS AND OUTLOOK

The 23 January parliamentary elections are taking place amid continued political tension and a palpable lack of enthusiasm for the upcoming vote in parts of Jordanian society. This is mainly due to the fact that the authorities have responded with half-measures to expectations for more far-reaching reforms, raised in particular by the effects of the Arab Spring in the region and the establishment of the NDC.

Much of the criticism voiced by political parties and civil society is directed at the new Election Law. The NDC's proposal for a system based on open PR-lists at national and regional level appeared to come close to reflecting a broad consensus in Jordanian society. The governing authorities' decision to ignore this proposal and opt for retaining the current system – in large part – was out of touch with the ongoing public debate and, not surprisingly, was met with disappointment across much of the political spectrum. The lack of attempts to engage in a meaningful way with political

⁴³ By deleting sections 4-6 of article 73.

⁴⁴ However, a plea of unconstitutionality can be raised before any court and the court shall, if deemed justified, refer the matter to a higher court which shall decide on whether to refer the matter to the Constitutional Court.

⁴⁵ Electronic publications that engage in the publication of news, investigations, articles, or comments, which have to do with the internal or external affairs of Jordan are required to register with the Commerce Ministry and obtain a license from the Press and Publications Department in the Culture Ministry.

⁴⁶ Now they are only required to notify the competent authorities.

parties and citizens groups during the drafting process did not facilitate acceptance of the new Law.

While the introduction of the small list-PR component at the national level is widely seen as a limited step in the right direction, the retention of the highly controversial – and misleadingly named – “one-man-one-vote” system to determine the overwhelming majority of members of parliament has attracted strong criticism. The outgoing and largely discredited Parliament – which was mainly composed of members with tribal and business interests rather than parties with political programmes – did not play a significant role in Jordan’s reform process. As MPs are dependent on the governing authorities for channelling government-controlled resources and employment to their constituencies, they rarely assume their core functions in a democracy, namely, holding the government to account and being active in the adoption of legislation.

There is a widely held expectation that the next Parliament will merely replicate its predecessor because of the similarity of the election systems used in the upcoming and the previous elections, with the consequence that it is unlikely to be noticeably more active in advancing the reform agenda or exercising its oversight functions. As such, many sceptics regard the upcoming elections as part of the continuing problem rather than a solution to Jordan’s economic and political difficulties.

The new PR-list component can positively affect the incoming parliament through the election of MPs who share a common platform on policy issues. But their voices are likely to be in the minority with the parliamentary majority composed of non-party affiliated MPs. As the new Law prescribes closed lists, i.e. lists with a fixed ordering of candidates, there is likely to be fierce competition for the top places on the lists as these offer the greatest prospect for being elected into Parliament. It is anticipated that this, together with the limited number of PR-list seats, will make it harder for parties and coalitions to agree on the composition of their lists and possibly lead to a further fragmentation of political forces running in the election, as individuals with a strong personal following have more reason to establish their own lists rather than join forces and form programmatic alliances with other candidates. Instituting a system with open lists, i.e. allowing voters to express preference for individuals on a list, could have bridged the gap between independent and party-backed MPs by providing an incentive for individuals to run on a party ticket. Therefore, it is unlikely that the new election system will significantly strengthen Jordan’s weak political parties or bring Jordan much closer to King Abdullah’s vision of developing a multi-party parliamentary-government system.

The IAF has announced that it will boycott the upcoming elections due to the limited number of list-PR seats⁴⁷ and the authorities’ decision not to revise the constitution such that

the Parliament decides on the composition of the Government. Ostensibly, the motivation for the authorities’ decision to limit the number of PR-list seats stems from its gradualist approach to reform. However, some Jordanians suspect that the reason was to provide a mechanism to cap the IAF’s parliamentary representation. For its part, the IAF has indicated that it would have accepted only a modest further increase in the number of PR-list seats. The decision by the IAF and some other parties⁴⁸ to boycott the 23 January poll diminishes the elections’ significance by lessening the field of contesting parties. It will also affect the representativeness of the incoming Parliament, weakening its ability to reflect on the views of all of Jordan’s political currents and engage in the reform process in a meaningful way.

The establishment of a dedicated institution for the organization of elections, the Independent Election Commission, has been widely welcomed by political parties and civil society as a step towards more professional, transparent, and cleaner electoral processes. The new IEC has received praise for the transparency and inclusiveness it has demonstrated in its work in the run-up to the elections. However, some doubts remain regarding the Commission’s independence from government and whether improvements put in place by the IEC during the pre-election period will translate into an election day which is free from fraud.

Many Jordanians appear to be sceptical about the promise to move to a system of “parliamentary government” after the elections, mostly because no concrete steps have been undertaken to reflect this objective in Jordan’s constitutional framework. In a newspaper interview published on 5 December 2012, the King outlined his plans in this regard, saying that he intends to consult on the selection of the prime minister with the blocs that he expects to emerge in the aftermath of the elections. The prime minister-designate would then consult with the blocs and other political forces to form a government that enjoys the support of parliamentary majority. The designated Prime Minister would seek a confidence vote on the basis of a policy statement and four-year programme, which would also be the outcome of consultations.⁴⁹

However, given that political parties are unlikely to gain a significant representation in the next Parliament, largely due to the effects of the SNTV election system, it is unclear how larger blocs based on comprehensive policy platforms, let alone a cohesive and stable majority, are expected to form. The absence of larger blocs would undermine efforts to make the government responsible to a parliamentary majority and increase its accountability to Parliament as a whole.

⁴⁷ The IAF considered the increase from 17 to 27 PR-list seats as an insufficient concession.

⁴⁸ Other than the IAF, a number of other parties are considering whether to participate in the elections, including: the Communist Party, Ba’ath Progressive Party, Ba’ath Arab Socialist Party, Jordanian People Democratic Party, and the Direct Democratic Nationalistic Movement Party.

⁴⁹ See: “His Majesty King Abdullah II’s Interview with *Al Rai* and The Jordan Times”, 5 December 2012, <http://www.jordanembassyus.org/new/jib/speeches/hmka/hmka12052012.htm>

Moreover, the constitution continues to grant the King the exclusive right to appoint and dismiss the Prime Minister and the Cabinet; this provision was left untouched by the recent constitutional reform. It is unclear, under these circumstances, how a new “parliamentary government” would be able to operate in a significantly different way from previous governments.

The King has received strong and largely uncritical backing for his reform course from the international community, in particular the United States and the European Union. Seen as an anchor of stability and moderation in a volatile region, Jordan remains a key strategic partner for the West. Some diplomats, however, are concerned that a lack of meaningful reform could ultimately jeopardise Jordan’s political stability. Rather than ensuring long-term stability, the failure to make the upcoming election as inclusive as possible is likely to exacerbate existing political tensions.

The observation of the upcoming elections by the European Union and some US-based NGOs will be an opportunity to provide an honest international assessment of the strengths and weaknesses of the electoral process that can serve as a useful guide for the next reform phase, which could well begin shortly after the instalment of the new Parliament. Delivering a genuine election process is of crucial importance to re-establishing public confidence and encouraging engagement in the next phase of the reform process. Conversely, holding an election which is marred by fraud or other manipulation would seriously undermine the significance of the 2011-12 reform process.

ABOUT DEMOCRACY REPORTING INTERNATIONAL

Democracy Reporting International (DRI) is a non-partisan, independent, not-for-profit organisation registered in Berlin, Germany. DRI promotes political participation of citizens, accountability of state bodies and the development of democratic institutions worldwide. DRI helps find local ways of promoting the universal right of citizens to participate in the political life of their country, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

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ABOUT THE IDENTITY CENTER

The Identity Center is an independent civil society organization based in Amman, Jordan helping to lead development across the Middle East through advocacy, outreach and training. The organization focuses on democracy, decentralization and participation, youth, parliamentary affairs civil, political and social and economic rights on the local and regional level. Through these means, Identity Center works to empower people to participate in political, economic and social development and ultimately, shape and control their identities and destinies.

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