

Title:

“Torture in Jordan and How it has been addressed by the UPR, i.e. Universal Periodic Review Committee 2018, and ICCPR, i.e. International Convention on Political and Civil Rights Committee 2017”.

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Introduction

It is a fundamental belief of human rights activism that more rights confer more freedom and are inherently transformational and progressive, which draws on the prevailing liberal belief that human beings are autonomous agents with the ability to choose their own goals and work to create the conditions that will allow them to do so without interference from or submission to the desires of others.¹ As part of this comprehension, freedom is only to be honoured to the extent that it does not infringe upon the freedom of others. According to classical jurists, this liberty includes the right to private property and the fruits of one's labour.² It entails a quest for what is a "good" life³ - a specific mode of existence based on a specific self-concept that is crucial to the liberal worldview of prosperity and contentment of the person.

Torture in Jordan

The story of the Torture of Jordan explains the system's cruelty, which forced and tortured the arrested persons to make confessions. Two years after calling for measures to end torture, King Abdullah is still pervasive in Jordan's jail system, described by Sarah Leah Whitson, Middle East director for Human Rights Watch.⁴ The methods for stopping torture by holding those who commit it accountable are simply ineffective. The most typical types of torture include beatings with cables and sticks and hanging vulnerable prisoners by their wrists from metal grates for extended periods. Prisoners are also tortured by guards who believe they

¹ Dominic mcgoldrick, 'A DEFENCE OF THE MARGIN OF APPRECIATION AND AN ARGUMENT FOR ITS APPLICATION BY THE HUMAN RIGHTS COMMITTEE' [2016] 65(1) International and Comparative Law Quarterly <<https://doi.org/10.1017/S0020589315000457>> accessed 3 January 2023

² Lara montesinos coleman, 'Struggles, over rights: humanism, ethical dispossession and resistance' [2015] 1(1) Third World Quarterly <<https://doi.org/10.1080/01436597.2015.1047193>> accessed 3 January 2023

³ Ratna Kapur, Gender, alterity and human rights (1 edn, Edward Elgar Publishing Ltd 2018) 15

⁴ The jordan times, 'King urges joint efforts to enhance human rights record' (*The Jordan Times*, 16 August 2015) <<https://www.jordantimes.com/news/local/king-urges-joint-efforts-enhance-human-rights-record>> accessed 3 January 2023

have broken jail regulations. Human Rights Watch discovered proof that Islamists who were occasionally charged with or found guilty of crimes against national security (Tanzimat) were punished collectively.⁵

According to prison officials, beatings and other mistreatment are rare occurrences.⁶ A reform initiative started in 2006 is improving prison conditions and increasing accountability for mistreatment.⁷ According to Human Rights Watch's research, although the reform programme may progress in the critical areas concentrated in health care, overcrowding, visiting, and recreational facilities, physical abuse is routinely tolerated.⁸

After reviewing Jordan's human rights,⁹ the UN Human Rights Council (HRC) endorsed the country's result report on March 14th, 2019. Shortly after receiving 226 suggestions from other UN Member States at its Universal Periodic Review (UPR) on November 8th, 2018, Jordan reported that it had accepted 131 of these proposals and "noted" 74 others. Before the 40th session of the HRC, which began on February 25th, Jordan submitted an evaluation in which it accepted 16 of the remaining 21 suggestions and noted 5.¹⁰ However, the MENA Rights Group is worried that Jordan's assessment is overly optimistic about the public human rights in the country, especially about torture, free speech, counter-terrorism efforts,

⁵ Human right watch, 'Jordan: Investigate Alleged Torture 56 Days in Incommunicado Detention' (*Human Right Watch*, 3 November 2015) <<https://www.hrw.org/news/2015/11/03/jordan-investigate-alleged-torture>> accessed 3 January 2023

⁶ Human right watch, 'Jordan: Investigate Alleged Torture 56 Days in Incommunicado Detention' (*Human Right Watch*, 3 November 2015) <<https://www.hrw.org/news/2015/11/03/jordan-investigate-alleged-torture>> accessed 3 January 2023

⁷ Dominic mcgoldrick, 'A DEFENCE OF THE MARGIN OF APPRECIATION AND AN ARGUMENT FOR ITS APPLICATION BY THE HUMAN RIGHTS COMMITTEE' [2016] 65(1) *International and Comparative Law Quarterly* <<https://doi.org/10.1017/S0020589315000457>> accessed 3 January 2023

⁸ Fra symposium report, 'Using indicators to measure fundamental rights in the EU: challenges and solutions' [2011] 1(1) 2nd Annual FRA Symposium Vienna 5

⁹ Dorothée cambou, 'The UNDRIP and the legal significance of the right of indigenous peoples to self-determination: a human rights approach with a multidimensional perspective' [2019] 23(1) *The International Journal of Human Rights* <<https://doi.org/10.1080/13642987.2019.1585345>> accessed 3 January 2023

¹⁰ Human right watch, 'Jordan: Investigate Alleged Torture 56 Days in Incommunicado Detention' (*Human Right Watch*, 3 November 2015) <<https://www.hrw.org/news/2015/11/03/jordan-investigate-alleged-torture>> accessed 3 January 2023

indefinite detainment, and the concept of non. Regardless of evidence to the contrary, Jordan reacted to several recommendations on these topics by claiming that the country's laws and procedures already met international standards. Therefore, MENA Rights Group is concerned that the Government's lack of political will to address serious human rights concerns is reflected in the answers communicated to the Human Rights Council, which will hinder the country's ability to follow through on the commitments made during its most recent UPR.¹¹

To better define torture crime in conformity with the UN Convention against Torture criteria, Jordan accepted the suggestions offered by Chile and Mexico (UNCAT). However, Jordan responded to calls for it to change its Penal Code to torture a capital offence by noting that the Code had already been changed in 2018 as part of the criminal justice reform. The last sentence for torment was raised from three months to one year as part of this revision. Since this punishment is more in line with a misdemeanour, and because the torturing of another human being is a crime that is subject to statutes of limitation, it is not proportional to the severity of the offence. A lack of an independent complaint structure for receiving and dealing with alleged torture or ill-treatment incidents and a low number of investigations and prosecutions about such cases make this deficit more problematic. Moreover, police and military courts continue to handle torture cases, despite their proceedings being neither impartial nor transparent.

The Kingdom of Jordan has signed seven fundamental international human rights accords. Regarding human rights treaties, Jordan has not adopted any individual complaint mechanism. Despite adopting the CAT's investigation method (article 20), which calls for creating a National Mechanism for the Prevention of Torture, it has not approved the

¹¹ Dorothée cambou, 'The UNDRIP and the legal significance of the right of indigenous peoples to self-determination: a human rights approach with a multidimensional perspective' [2019] 23(1) The International Journal of Human Rights <<https://doi.org/10.1080/13642987.2019.1585345>> accessed 3 January 2023

Optional Protocol to the CAT (NPM).¹² In their separate messages to Jordan, independent experts from the Special Procedures mainly address the issues of preventing arbitrary imprisonment and removing limits on freedom of expression. Besides the Covenant on Economic, Social, and Cultural Rights, which has been waiting for a report since 2003, Jordan has completed three rounds of the Universal Periodic Review (UPR). It is regularly written to the independent expert committees (Treaty Bodies) that manage the execution of the human rights treaties at the national level. Some requests for visits are still waiting, although Jordan has already welcomed several independent experts on country visits. Although Jordan maintained that it was already by international norms, it accepted a suggestion from Belgium to change the Anti-Terrorism Law to make it conform to the ICCPR, which is untrue; in 2014, modifications were presented to the Anti-Terrorism Law of 2006 that expanded the definition of terrorism, making it possible for authorities to imprison and prosecute people for exercising their rights to free speech and peaceful assembly. Concern was voiced by the UN Human Rights Committee in its most recent finishing remarks on this overly broad definition of terrorism.¹³

The grievance and judicial procedures responsible for adjudicating charges of torture are not independent of the Government, allowing these acts of torture to go mostly unpunished. For instance, most judges on the Police Court are selected by the Director of the Public Security Directorate (PSD), which includes the police, jail, and border services and is subordinate to the Ministry of the Interior. It is also unclear which court in Jordan would have jurisdiction over GID members due to the country's convoluted and murky judicial system. So yet, no

¹² United nation in jordan, 'UN in Jordan - Background Document' (*United Nations Human Right Mechanism Jordan's Engagement*, 2021)

<[https://jordan.un.org/sites/default/files/2022-](https://jordan.un.org/sites/default/files/2022-09/Jordan%27s%20Engagement%20on%20Human%20Rights%20Mechanisms_September%202022_EN.pdf)

[09/Jordan%27s%20Engagement%20on%20Human%20Rights%20Mechanisms_September%202022_EN.pdf](https://jordan.un.org/sites/default/files/2022-09/Jordan%27s%20Engagement%20on%20Human%20Rights%20Mechanisms_September%202022_EN.pdf)> accessed 3 January 2023

¹³ Daniel p l chong, 'Five Challenges to Legalizing Economic and Social Rights' [2008] 1(1) Human Rights Review <DOI 10.1007/s12142-008-0094-y> accessed 3 January 2023

police officer or member of the GID has been convicted of acts of torment under article 208 of the Penal Code, and no GID member has been tried and sentenced for such charges.

Not all of Alkarama's worries about torture in Jordan are addressed here. The concerns mentioned here must be addressed to abolish torture once and for all in the country. To put an end to torture once and for all, as the Government stated it would when it ratified the UN Convention against Torture (UNCAT) in 1991, the Government needs to do several things, including, but not limited to:

- Prohibit the use of confessions acquired through torture and reassess any convictions that were achieved on such evidence;
- Rewrite the Anti-Terrorism Act and do away with the State Security Court;
- Guarantee victims are held accountable and compensated;
- Give the General Prosecutor full authority over all State security services, including the General Intelligence Directorate.

Torture should be outlawed, and the rule of law should be upheld nationally, so these issues must be resolved. Mashreq Legal Officer for Alkarama, Inès Osman, stresses that "national security" concerns cannot be used to justify torturing or otherwise demeaning anybody who peacefully expresses their beliefs. During the dialogue between the Committee against Torture (CAT) and representatives of the State Party, Alkarama expects its issues will be handled positively. That is a big step toward ending torture and other human rights abuses.¹⁴

Ten impartial experts make up the Committee against Torture, which is responsible for implementing the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT). The Committee against Torture's investigations and

¹⁴ Alkarma, 'JORDAN: ON THE USE OF TORTURE BY JORDAN INTELLIGENCE SERVICES' (Combating injustice in the Arab World since 2004, 30 October)
<<https://www.alkarama.org/en/articles/jordan-use-torture-jordan-intelligence-services>> accessed 3 January 2023

prosecutions aim to ensure that the international community never condones torture. The Convention against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment or Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment or Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment or Other Forms of Punishment Treatment or The webinar addressed the critical need to create a safe and welcoming civic space for torture victims to seek justice, reparation, and reintegration in a world where thousands of people are tortured daily. The UN Human Rights Office and the American University, Washington College of Law's Centre for Human Rights & Humanitarian Law collaborated to host the panel. According to UN Assistant Secretary-General for Human Rights Ilze Brands Kehris, the Fund was established in 1981 and is the first of its kind at the UN.¹⁵ It funds hundreds of civil society organisations worldwide to help torture victims seek justice.

According to Jordan's second periodic report (CAT/C/JOR/2)¹⁶, the country's Government has recently taken concrete steps toward implementing the Convention in practice. These include the 2003 establishment of the National Centre for Human Rights, which performs various functions, including fielding citizen complaints. The Center has given multiple reports to the Government with recommendations for improving the conditions for inmates. It has even established a specialised unit to handle reform and rehabilitation centres in Jordan. In response to these suggestions, the Government developed a comprehensive strategy to enhance the quality of life and health of those incarcerated in reform and rehabilitation facilities. This included the construction of new facilities and the introduction of more

¹⁵ United nation, 'Torture and Inhuman Treatment' (*United Nations Human Rights*, 21 July 2021) <<https://www.ohchr.org/en/stories/2021/07/victim-torture-one-too-many-says-un-expert>> accessed 3 January 2023

¹⁶ United nation, 'Committee against Torture begins examination of Report of Jordan' (*United Nation Human Rights*, 29 April 2010) <<https://www.ohchr.org/en/2010/04/committee-against-torture-begins-examination-report-jordan>> accessed 3 January 2023

humane and therapeutic practices. Some reform and rehabilitation centres have set up trade workshops and arranged agricultural and occupational activities to help inmates maintain their sense of self-worth while reintegrating into society after serving their sentences. In addition to medical and therapeutic services, reform and rehabilitation centres sometimes include recreational, sporting, and educational amenities like gyms and libraries. As a legal guarantee offered at all stages of proceedings, inmates are provided with legal help, and lawyers' rooms are made available in all reform and rehabilitation centres.

The Prosecutor-General, his deputies, court presidents, and public prosecutors in Jordan have access to all reform and rehabilitation centres in the country. These people check in to monitor that inmates' rights are being respected and that incarceration regulations are being adhered to by listening to complaints, remarks, and performance evaluations and acting as necessary. The National Centre for Human Rights, other human rights groups, political parties and associations, the International Committee of the Red Cross (ICRC), and all other civil society organisations are free to in to visit reform and rehabilitation facilities and meet with convicts independently people in charge of these facilities listen to suggestions, examine valid criticism, and reward positive feedback. As an added service, they set up suitable procedures for these groups and provide them with the necessary amenities.¹⁷

Physical punishment had been outlawed and would welcome data on how this was accomplished and the applicable laws and regulations. There were several common themes in the reports provided by non-governmental organisations and others to the Committee. According to several accounts, torture in Jordan was not viewed as a significant crime but rather as a minor one and did not carry the severe punishments it warranted. In addition, there were complaints of a paucity of convictions for charges of torture. Another cause for worry

¹⁷ Daniel p l chong, 'Five Challenges to Legalizing Economic and Social Rights' [2008] 1(1) Human Rights Review <DOI 10.1007/s12142-008-0094-y> accessed 3 January 2023

was the extensive use of administrative detention, which involved around 20,000 persons for a year. While Jordan's estimate said that the number had been cut to 16,000, and other non-governmental groups spoke of 12,000, this was still a significant right to a medical exam, access to a lawyer, the ability to contact a member of one's family, and the right to know the reason for the imprisonment or the accusations against the detainee were among the most often asked questions. Concerns have been raised repeatedly by families of political prisoners and detainees, the Liberties Committee, and the Arab Organization for Human Rights in Jordan (AOHR-J) over the living conditions and treatment of political prisoners and detainees. Prison authorities in Swaqa told the NCHR that the inmates there did not want to meet with them, despite their efforts to arrange a visit. Therefore, the NCHR could not learn how current inmates are being treated. The ICRC allegedly visited the detainees and has let the matter to the attention of the Public Security Directorate. According to reports, the Director of the PSD visited Swaqa prison on June 23rd in response to the persistent complaints of their families and members of civil society organisations.¹⁸

There are some highly encouraging trends in defining and protecting economic and social rights on a global scale. Nonetheless, it is necessary to highlight the difficulties that lie ahead, not to criticise the efforts that have already been undertaken but to highlight the strategic options available to human rights groups. For the last few decades, advocates for human rights have mainly used the legalisation path to push for the real-world application of moral or philosophical objectives. However, the human rights community's fixation on legal measures might undermine non-conventional approaches. The legalisation process is neither the only nor the most intuitive way to learn about or engage in politics about human rights. Legalisation has been met with scepticism from certain scholars and activists for human

¹⁸ Alkarma, 'JORDAN: ON THE USE OF TORTURE BY JORDAN INTELLIGENCE SERVICES' (Combating injustice in the Arab World since 2004, 30 October) <<https://www.alkarama.org/en/articles/jordan-use-torture-jordan-intelligence-services>> accessed 3 January 2023

rights who worry that the added formality would discourage participation from marginalised groups and hinder them from enacting more progressive social policies.

Even within the economic and social rights movement, some legal obstacles are neglected or minimised while others are well recognised and aggressively tackled by activists. What follows has looked at five interconnected difficulties unique to defending people's economic and social rights. The main idea of this essay is to analyse the UN human rights mechanisms UPR and ICCPR on torture. Some questions need answers for the victims. Why did the mechanism not work for the UPR and ICCPR, these bodies have tried to analyse the situation and give their reports to execute, but still, the prisoners were detained and tortured to confess.

Some suggestions and recommendations were made to prosecute any government employee who commits, orders, instigates, consents to, or acquiesces to torture or other ill-treatment. The UN Special Rapporteur on torture has advocated for the prohibition of incommunicado detention and the rapid presentation of all detainees to an impartial judicial authority upon arrest. The committee has suggested that inmates be allowed timely visits from loved ones, attorneys, and medical professionals.

Conclusion

An impartial organisation should immediately investigate allegations of torture or other ill-treatment, and the findings should be made public. Tortured individuals should not be able to use statements or so-called confessions gained via the legal system. By international standards, the state must ensure that anybody suspected of torturing or mistreating another person is brought to justice.¹⁹ For example, it should make it crystal clear that torture and other ill-treatment are criminal acts and that they are obligated to disobey any order to torture

¹⁹ Lara montesinos coleman, 'Struggles, over rights: humanism, ethical dispossession and resistance' [2015] 1(1) Third World Quarterly <<https://doi.org/10.1080/01436597.2015.1047193>> accessed 3 January 2023

as part of a training programme for all officials involved in the custody, interrogation, or treatment of prisoners by international requirements of humane treatment and their implementation.²⁰ The state should stop the death penalty until it is abolished entirely. Guarantee financial compensation for victims and their families, as well as the provision of appropriate medical care and rehabilitation services; Make sure, with a careful eye on the GID, that prison camp oversight is handled correctly by authorities who are not in charge of the detention centers themselves, and that detention and questioning are kept separate.

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²⁰ Daniel p l chong, 'Five Challenges to Legalizing Economic and Social Rights' [2008] 1(1) Human Rights Review <DOI 10.1007/s12142-008-0094-y> accessed 3 January 2023

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