



"Demonstration in Amman, 16 November 2012."
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JORDAN

PRESENTATION

This country review is part of a larger study on **Freedom of assembly in the Euro-Mediterranean region** in the present time, presented in two parts: **I- Legislative review**, and **II- Practice of freedom of assembly**. Part I of the regional study was published in November 2013, and Part II will be published in 2014.

The full Regional study on Freedom of Assembly in the Euro-Mediterranean Region is available [here](#). It presents international standards protecting this fundamental right, and proceeds to analyzing the legal frameworks and their compliance to international human rights standards in 13 countries of the Mediterranean and the European Union: [the EU as region](#), [Spain](#), [the United Kingdom](#), [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#), [Palestine](#), [Syria](#), [Tunisia](#) and [Turkey](#).

In order to develop the assessment of national legislations in comparison to international standards and the practical implications of legal provisions concerning freedom of assembly, objective indicators were used as a reference throughout this study, together with a gender-sensitive approach to detect whether women enjoy freedom of assembly to the same extent as men, or if they are more specifically affected by restrictions.

This study is based on a process of consultation and participation involving members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 organizations and institutions of human rights defense based in 30 countries as well as individual members. It thus reflects the efforts of a researcher recruited in the country, assisted by members of the EMHRN Working Group on Freedom of Association, Assembly and Movement, and the active involvement of other civil society organizations and experts.

Accordingly, the objective of this study is to provide Human Rights defenders and civil society organizations, international organizations and state institutions, with an analysis that allows them to assess national policies in their country and compare them to those of other countries and to international conventions, in order to advocate for relevant reforms and help improve the situation of freedom of assembly in the countries of the Euro-Mediterranean area.

Introduction

Over the last three years, Jordan has witnessed popular protests in the form of sit-ins, marches and strikes across the kingdom, demanding political and constitutional reforms, the reduction of prices, the overthrow of the government, the dissolution of parliament, the abolition of the peace treaty between Jordan and Israel and the closure of the Israeli embassy in Amman.

These protests culminated in the amendment of the Public Meetings Law in 2011 and the Constitution as well as the creation of a professional association for teachers in Jordan and early elections.

At times, the protests were handled with a relatively soft security policy whereby the security forces and gendarmerie abstained from using force against sit-ins and demonstrations and even distributed bottled water and juice to demonstrators. At other times, however, the protests were suppressed and activists arrested and referred to the State Security Court. Moreover, anti-reform movement groups, calling themselves the Bloc of Loyal Youth, organized counter-demonstrations against popular reform movements and attacked peaceful demonstrators, according to reports by local and international organizations.

The popular movements utilized electronic media, especially social networks, to call for marches and sit-ins and release statements. This approach was countered by amendments to the Press and Publications Law holding directors and editors of websites responsible for user comments. As a result of the Syrian crisis, Jordan has received large numbers of Syrian refugees now living in Jordanian cities and refugee camps specifically built to host them. These camps, including Al-Zaatari Camp, witnessed demonstrations protesting their difficult conditions. In addition, Syrians and Jordanians held sit-ins in front of the Syrian and Russian embassies, some to protest against and some to show support for the Syrian regime.

1. General Legal Framework

International conventions on human rights

Jordan has ratified the majority of international conventions on human rights, including:

1. International Covenant on Civil and Political Rights.
2. International Covenant on Economic, Social and Cultural Rights.
3. Convention on the Elimination of All Forms of Discrimination against Women.
4. Convention on the Rights of the Child.
5. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Jordan published these conventions in the official gazette and, in 2009, withdrew the country's reservation on Article 15/4 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) relating to the right to relocate and choose a place of residence.

Nonetheless, Jordan has not ratified the 1951 Geneva Convention on Refugees, but has signed a memorandum of understanding with the UN High Commissioner for Refugees (UNHCR) on the recognition of the legal status of refugees and the provision of services to them. However, this MoU does not include specific provisions on the right of refugees and asylum seekers to assemble, whereas it includes a provision on the refugees' obligations to respect applicable laws and regulations to maintain public order and not to undertake activities that would undermine security or harm Jordan's relations with other countries.

The Jordanian Constitution does not define the legal value of international agreements at the national level. The Jordanian Court of Cassation, upon reviewing its jurisprudence, determined that international conventions take precedence over national laws and shall be applied even if they conflict with domestic laws. However, judges and lawyers rarely base their arguments on international conventions.

Jordanian legislation

The Jordanian Constitution provides for the right to assembly in Article 16 which stipulates that (i) Jordanians shall have the right to hold meetings within the limits of the law. (ii) Jordanians shall have the right to establish societies, unions and political parties provided their objective is lawful, their methods peaceful, and their by-laws not in violation of the provisions of the Constitution. (iii) The law shall regulate the manner of the establishment of societies, unions and political parties and the control of their resources.

According to Constitutional amendments of 2011, every infringement on public rights and freedoms is a crime punishable by law.

The Public Meetings Law No. 7 of 2004, as amended in 2011, defines the procedures for holding public meetings and identifies the relevant authorities.

2. Procedures

Jordan introduced a fundamental amendment to the Public Meetings Law in 2011, which abolished the requirement to obtain the prior written approval of the administrative governor in order to organize a public meeting. The former law required that the approval be obtained at least twenty-four hours before the date set for the public meeting. Under the new law, obtaining approval was replaced with giving the administrative governor notice of convening the public meeting at least forty-eight hours in advance. The notice should contain the names of the organizers of the public meeting, their addresses and signatures as well as the

purpose of the meeting, its time and place. This amendment was the most significant outcome of pro-reform protests in Jordan.

The amended law considers every public meeting held without notice to the administrative governor an illegal act. Consequently, the law does not foresee an exemption from advance notification in the case of spontaneous assemblies prompted by unexpected circumstances, as international experts, such as the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, recommend.¹

Definition

The Public Meetings Law defines a public meeting as a meeting held to deliberate a matter related to state policy.

This definition is criticized for its lack of specificity in terms of scope, actors, time and place. Based on its wording, the law would consider a conversation between two people, possibly friends or relatives, about a public economic or social matter or news event reported by media a public meeting subject to the provisions of the Public Meetings Law.

Article 3 of the Public Meetings Law of 2004, as amended in 2011, specifies the meetings exempted from the prior notice requirement and, in addition, it grants the Interior Minister alone the discretionary power to exempt any other meeting from the prior notice requirement. Article 3 stipulates that “A) Jordanians have the right to hold public meetings and organize rallies in accordance with the provisions set forth in Articles (4) and (5) of this Law. The following meetings are exempt from these provisions:

1. The general assembly of charities, volunteer-based societies, companies, chambers of commerce and industry, municipalities and clubs provided that these assemblies aim to realize the objectives of their respective bodies and are compliant with the laws governing their work and activity.
2. Meetings of professional associations provided that these meetings aim to realize the objectives of their respective associations and are compliant with the laws governing their work and activity.
3. Meetings of legally licensed political parties held at their headquarters within the conditions prescribed in the applicable Political Parties Law.
4. Symposiums and informational programs held by official media institutions.
5. Meetings on university campuses

¹ See Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Human Rights Council, 20th session, A/HRC/20/27, para. 29.

6. Meetings held to celebrate national and religious holidays organized by ministries and governorates provided that the Ministry of the Interior is informed of the meeting at least one week in advance.

7. Meetings held during elections.

B) The Minister may exempt any meeting of the provisions set forth in Articles (4) and (5) of this Law.”

3. Restrictions

The law does not contain any clause requiring that measures restraining freedom of assembly should be undertaken in conformity with the principles of necessity and proportionality, as international human rights law request.² Ultimately, the law seems to give competent authorities unfettered discretion to suppress freedom of assembly, overlooking, among others, the principle by which all assemblies should be presumed peaceful.³

4. Protection

The Public Meetings Law vests in the administrative governor the absolute power to disband meetings and disperse marches if the governor believes that the meeting or march could endanger lives, public or private property, or public safety. It further empowers the administrative governor to take all security measures and procedures necessary to preserve security and order and protect public and private property and to compel security apparatus directors to fully abide by his or her orders and instructions in accordance with Articles 7 and 9 of the Public Meetings Law.

The phrases “public safety” and “all security measures and procedures necessary” contained in these provisions are broad and non-specific, which entails a risk of arbitrary restrictions and use of excessive force against protesters.

5. Sanctions

The Public Meetings Law penalizes those who disregard the law with a penalty of imprisonment for a minimum of one month and a maximum of three months or a fine of not less than two hundred dinars and not exceeding one thousand dinars, or both penalties.

² According to the Special Rapporteur, “only “certain” restrictions may be applied, which clearly means that freedom is to be considered the rule and its restriction the exception”, *ibid*, para. 16. See also UN Human Rights Committee, General Comment no. 31 (2004), CCPR/C/21/Rev.1/Add.13, para. 6.

³ See *supra* note 2, para. 26, OSCE/ODIHR *Guidelines on freedom of peaceful assembly*, 2010, Warsaw, 2nd edition, section A, Guidelines on freedom of peaceful assembly, para. 2.1.

Article 8 holds those who cause damages to others or to public or private property criminally and civilly liable even though this is a general principle already set forth in the Civil Code and the Penal Code.

The Penal Code criminalizes unlawful assembly in Article 164, which states:

1. If seven or more people assemble to commit an offense or achieve a common purpose and act in a manner that drives others to reasonably expect that they will disrupt public security or provoke unnecessarily or without a reasonable reason other people to disrupt public security, their assembly shall be considered unlawful.
2. If unlawful assemblers begin to achieve the purpose for which they assembled in order to disrupt public security in a manner that terrifies the public, such assembly shall be called rioting.

Participants in an unlawful assembly face a punishment of imprisonment not exceeding one year or a fine not exceeding 25 dinars, or both penalties.

Participants in assemblies/demonstrators who disband before or in immediate compliance with the warning of authorities or law enforcement representatives without using a weapon or committing a felony or misdemeanor (Article 166) are exempted from the penalty set forth in Article 165.

The Penal Code (Article 167) permits representatives of the administrative authority, the police chief, regional commander or any police officer, gendarme or any person assisting either of them to take the necessary measures to disperse assemblers who continue to assemble after being warned by blowing a trumpet, a whistle or other means or by firing a flare gun. If participants demonstrate resistance, the police or the gendarmes may use necessary force within reasonable limits to overcome such resistance.

Hence, if the use of force is unnecessary and disproportionate, those affected may resort to the judiciary. Police personnel are tried before a police tribunal consisting of one civilian judge and two police judges appointed by the public security director and are interrogated by the police prosecutor in accordance with the Public Security Law No. 38 of 1965.⁴ Under the Gendarmerie Law No. 38 of 2008, gendarmes are referred to the Gendarmerie Forces Court if they commit an offence while on duty.

The State Security Court considers cases of unlawful assembly. It is worth noting that Article 108 brought by the constitutional amendments of 2011 prohibits the trial of civilians in criminal cases

⁴ Effective and prompt investigations should be conducted by independent and impartial bodies, including judges and courts, when abuses are committed by security forces during or after an assembly; see *supra* note 2, paras. 77-81, see also OSCE/ODIHR *Guidelines on freedom of peaceful assembly* (2010), section A, Guidelines on freedom of peaceful assembly, para. 5.6.

before tribunals whose judges are not all civilians except in cases of high treason, espionage, terrorism, drug crimes and currency counterfeiting.

During the last three years, participants in peaceful sit-ins and marches across the kingdom were arrested on charges of unlawful assembly, insulting the king or undermining the regime. Some of them are charged under terrorism provisions, which place them under the purview of the military-dominated State Security Court.⁵ This is of serious concern, as according to international Human rights principles, military tribunals should not try civilians.⁶

It must be noted that disproportionate sanctions and penalties imposed on organisers and participants after a demonstration may breach freedom of assembly, particularly granted that they may deter individuals from exercising freedom of assembly.⁷

6. Gender Equality and Freedom of Assembly

The Constitution does not expressly provide for equality between Jordanians based on gender despite the demands made by human rights organizations to add gender as grounds for discrimination in Article 6 when the constitutional amendments were under review. These demands were ignored, despite calling for the observance of international treaties such as CEDAW which imposes on States the obligation to take all appropriate measures to guarantee women's exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.⁸ Such response triggered a debate on whether the Constitution guarantees gender equality considering that the word "Jordanians" in Article 6 and elsewhere in the Constitution refers to both Jordanian men and women. This debate has been most prominent with regard to Jordanian women's right to pass on their Jordanian nationality to their children like men. Several sit-ins, campaigns and coalitions were organized or created in support of this right, notably the campaign entitled "My Mother is Jordanian and I have a Right to her Nationality." The competent authorities rejected an application submitted by the organizations implementing this campaign to register a private association committed to realizing this goal.

5 See for instance Human Rights Watch 2013 report <http://www.hrw.org/world-report/2013/country-chapters/jordan>

6 UN Working Group on Arbitrary Detention (Opinion No. 27/2008).

7 *OSCE Guidelines*, *supra* note 4, paras. 109-112, Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Human Rights Council, 23rd session, A/HRC/23/39, para. 81(d), *Ezelin v France*, judgment of the European Court of Human Rights, 26 April 1991, para. 53.

8 See CEDAW, arts. 3 and 7.

Recommendations

1. Amend the Constitution to explicitly provide for the primacy of international human rights conventions in the Jordanian legal system and ensure gender equality.
2. Amend the Public Meetings Law in order to comply with international standards of human rights, conduct a comprehensive review of its provisions, provide a specific definition of public meetings in terms of their scope and number of participants, limit the absolute powers vested in the administrative governor to disperse sit-ins and marches by force and provide protection for marches and sit-ins.
3. Adhere to international standards relating to the use of force by law enforcement personnel and assign the task of investigating and deciding on the violations committed by law enforcement personnel to civil courts to ensure impartiality and continuity.
4. Review the legislative system to give civil courts jurisdiction to consider cases relating to the right of assembly and crimes committed by police and gendarmes against participants in public meetings.