**Contents:**

|  |  |
| --- | --- |
| **Number** | **Title** |
| **1.1** | **Introduction** |
| **1.2** | **The Legislation Against Torture**1. **The Jordanian Constitution**
2. **Penal Code**
3. **Civil Code**
4. **Code of Criminal Procedures**
5. **The Jordanian Bar Association Code**
6. **Anti-Terrorism Code.**
7. **Crime Prevention Act**
 |
| **2.1** | **Impunity For Perpetrators of Torture** |
| **2.2** | **The Refugees Status** |
| **2.3** | **Nationality Withdrawal** |
| **2.4** | **Capital Punishment** |
| **2.5** | **Human Trafficking, Migrant Workers, Domestic Workers** |
| **2.6** | **Monitoring Detentions Centers** |
| **2.7** | **Torture Victims rights in Legal Assistance** |
| **3** | **Recommendations** |

**An Introduction:**

Adaleh is a non-governmental, non-profit organization founded in 2003 in Jordan, working on promoting and protecting human rights in Jordan and the Arab world, Our vision is to create a mindful society that respects freedoms and human rights, a society free from any form of discrimination, a society that respects the values of dignity, freedom, equality, tolerance, and respect.

**Our work at the center is based on the following:**

1. Observing Human Rights Violations, torture cases in particular.
2. To visit and monitor detention centers and to provide legal assistance to torture victims.
3. To organize conferences, and workshops that is concerned with human rights and combating torture and fair trial guarantees.
4. To research the theoretical and practical implementation of the international conventions and national laws that relates to human rights.

Based on the above, our center established the national team for combating torture which is one of the most important tool in the center, by it we implement all the activities that is concerned with combating torture and mistreatment, the team also works on monitoring Jordan's role in implementing their international commitments that relates to combating torture and ill-treatment and inhuman acts, in addition to the international standards of the fair trail guarantees, and activating torture victims rights to get fair compensation.

The center has followed up many cases regarding torture and ill-treatment; it also monitored detentions centers and trails to follow up on implementing fair trail guarantees.

**1.1 Legislations that is concerned with combating torture.**

1. **The Jordanian Constitution:**

In 2011 Jordan has amended the Constitution, the last amendment stated on criminalizing acts of torture, it was stated on in the second paragraph of article (8): "*Every person who is arrested imprisoned or whose freedom is restricted, must be treated in a way that preserves his/her human dignity. It is forbidden for him/her to be tortured (in any form) or harmed physically or mentally, as it is forbidden to detain him/her in places outside of those designated by the laws. Any statement extracted from a person under duress of anything of the above or the threat thereof shall neither bare any consideration nor reliability.*" Based on the article that was mentioned previously, we concluded a direct and a clear criminalization of all acts of torture and considered these acts a violation of human rights.

1. **Jordanian Penal Code:**

- Article (208):

In the amendments that occurred in 2014 on the penal code, torture was given a new penalty by Article (208) which stated on the following: "*Whoever inflicted any form of violence and force, not allowable by law, in order to obtain a confession for committing a crime or information regarding such a crime, he/she shall be punished by imprisonment from three months to three years.*

*2. If the acts of violence and force resulted in a sickness or an injury, penalty shall be from six months to three years unless such acts are punishable by a harsher penalty."*

Despite criminalizing torture in the law, and raising the penalty from 3 months to 6 months, we consider this article has a lot of shortfalls; it is not enough to prevent torture which does not confirm with the international community that considered torture to be a dangerous crime therefore it should have more serious penalty. In Jordan torture is still a misdemeanor and not a felony and it is subjected to statues of limitations and it is subjected to amnesty and pardon which is also one of the notes on this article which doesn't confirm with the Convention against Torture.

1. **The Civil Code:**

The Jordanian Civil Code did not state on the right of torture victims to ask for compensation, therefore, we have to go back to articles (256,266,267) of the civil code which stated on compensation in general, and if we look closely to this articles we notice that they do not confirm with article (14) of the Convention Against Torture, because it doesn't state on a clear way to decide the amount of the compensation and to role in rehabilitating torture victims and to make sure that the victims will not be subjected to more torture acts.

The national legislations do not recognize the state responsibility in compensating victims of torture and ill-treatment acts, based on article (5) of the government claims it has stated on the cases that is allows the people to ask the state for a partial compensation based on the criminal acts that were conducted by public officials.

In addition to all the above, we are still suffering from long procedures in courts and the high fees that has to be paid to file a lawsuit, to get compensation, due to the limited financial capability of the torture victims.

1. **The Jordanian Criminal Procedural Code**:

The Jordanian Criminal Procedural law doesn't state on any article that prevents acts of torture in the initial investigation stage, in reviewing articles (100, 63, 64, 159) we conclude that in the first article it stated on the importance of getting a statement from the defendant in a period not exceeded by (24) hours, in the other articles it didn't state on the importance of a lawyer representation during the initial investigation, and in front of the public prosecutor and in making sure that torture did not occur, that is why we are asking for additional articles that will allow the defendant to hire a lawyer as soon as they get arrested, and to contact his lawyer and his relatives and to have them in the indirect investigation, and to have the rights to go to a private doctor and get physical examination.

1. **The Jordanian Bar Association Code**:

In 2014 the law was amended, in article (6) of the law that identified lawyers and talked about their duties and how they can practice their profession.

And in article (32) it stated on the lawyers right (whither they were trainee or lawyers) to follow up every case whether it was in the judicial authorities or the administrative ones, and they have the right to attend investigations that are done by the police or the public prosecute.

Despite this article in the law which allowed the lawyer to attend investigation, it is not implemented in reality, lawyers' are not allowed to attend investigations and they are not allowed to go and sign a power of attorney if their clients are in the anti-narcotic department, and by that a lot of people spend several days in detention without being able to contact anyone, without any legal justification for such acts.

1. **Anti-Terrorism Code.**

The Jordanian Anti-terrorism law was amended in 2014, the articles of this law was general which allows the authorities to criminalize a lot of acts based on this law, it concluded; hacking, infringement of money, using the world wide web, it also allows violating a lot of rights such as: freedom, transportation, privacy, and considering the victim guilty, until proven innocence, based on article (4) of this law, it allowed to monitor calls.

1. **Crime Prevention Law:**

This law gives the administrative governor the authority to violate a various number of human rights, such as right of freedom, personal safety, and it violates considering the victims innocent until proven guilty, it give the governor the right to issue an arrest warrant without any judicial decision and any legal foundation, it also gives the police an authority to arrest anyone for a long time without sufficient claim, and without showing them to a judicial authority, appealing these decision requires a high financial fee and a lawyer that has been practicing law for at least 5 years, because it is considered an administrative decision that should be appealed in the administrative court, that is why this law needs reviewing to amendments due to the fact the number of detainees by this law is increasing, in 2013 we had (12766) and in 2014 the number reached to (20216), and that is based on the annual 11th report of The National Center for Human Rights about human rights statue in the Hashemite Kingdom Of Jordan.

**2.1 Impunity for Perpetrators of Torture.**

The National Center for Human Rights and Civil Society Organizations received a lot of torture accusations but until now all the investigations that were started by authorities to any results and non of the cases transferred to the court as torture cases, usually the competent authorities modify such acts as assault, threat crimes, disobeying orders and a beating that lead to death.

The case that was transferred to court as a torture case for the deceased Sultan Al Khatatbeh, is being followed up by lawyers from Adaleh Center for Human Rights Studies, more than three years has passed and the case is still in the court, despite article (7) of the Criminal Martial Procedural Code that states scheduling court hearings day after day and not to delay a hearing more that (48) hour unless there were an emergency and the decision must be justified, unfortunately this article is not implemented in real life, which is considered as a violation of the convention against torture, in article 13 of the convention which stated on the importance of conducting a fast and efficient investigation.

There are 33 cases that have been registered in the records of torture cases from 2013 until 2015, based on the records of the General Attorney that is saved at The Justice Ministry, but there is no number of the cases that finished and the ones that were transferred to the courts, kindly review Annex (1) of this report.

There are no criminal prosecutions that were held against the people that wrote confessions that were found void by the court based on illegal grounds.

 Escaping punishment could be prevented by conducting an efficient and fast investigation and by transferring such cases to court if there were any suspicion of occurring, prosecuting people who are suspected of committing such acts is a necessity to combat torture.

 Medical Examination is also one of the ways that could be used to escape punishment, it was used before in one of the cases; doctor do their physical examination without documenting the case in details, they also do not record the victims claims without being accompanied by officers, and if all these things happen, the reports that are issued are not handled to a neutral independent body, we have also observed a number of assaults that were committed by police members on the doctors.

**2.2** **The Refugees Status**:

Jordan has been suffering from the difficult circumstances that are surrounding it, especially the Syrian problem; since the beginning of the situation in Syria and until now Jordan has hosted a huge number of Syrian refugees, their numbers are increasing significantly, according to official statistics, estimated at over one million and two hundred thousand Syrian refugee. Despite the great efforts exerted by the Government of the Hashemite Kingdom of Jordan and the United Nations High Commissioner for Refugees, the Syrian refugees are facing many obstacles, especially after the reports that were published by the media that monitored and registered cases of Syrian Refugees being subjected to deportation because they are suspected of committing crimes, a lot of these deportations were implemented without having peremptory judicial decisions which is a serious violation on human rights and a breach of article (3/1) of the Convention against Torture.

**2.3 Nationality Withdrawal:**

Withdrawing nationality arbitrarily from Jordanians of Palestinian origins is still happening in Jordan, with the lack of official public regulations to specify the legal basis of such actions, the only justification to these actions is the Decision of Jordanian disengagement from the West Bank.

It's important to talk about the role of reforming the committee that is specialized in looking into the requests that are applied by the people that got affected by these actions, the committee should have experienced neutral people to look into these requests, and they should have the power to get them their nationalities back.

**2.4 Capital Punishment:**

Implementing death penalty after it has been frozen since 2006 is a an alerting setback to the human rights statues in Jordan, in 21/12/2014 eleven person were executed, due to the fact that the death penalty is considered a very harsh act, and a significant human rights violation, it should be stopped, in order for Jordan to fulfill their international obligations in respecting and protecting human rights, it is bad for the image of Jordan abroad, it is also considered a breach of the international obligations, re-executing this penalty is contrary to the Convention Against Torture which was ratified by Jordan, it is also considered a flagrant violation to one of the basic human rights which is the right to life, justifying such acts by claiming that these executions are implemented to reduce crime ratings and to achieve deterrence, is illogical, the government should work on the main reasons that lead to committing crimes which are: economical, social and political reasons, there has been unofficial statistics that were issued and they claimed that the number of crimes in the first quarter of 2015 has increased, which is a clear message to government that these executions didn't decrease crime rates.

Issuing judicial decisions of sentencing defendants of death penalty and keeping them in jail for a long time waiting the implementation of the court decision is considered a form of torture.

**2.5 Migrant Workers, Human Trafficking and Domestic Workers.**

- Jordan has taken serious steps in protecting migrant workers rights by the reforming legislations that took care of their rights, but when we monitored migrant workers statues in we have noticed that there are a lot legislations that needs reviewing, there is also many acts that is being taken by officials and employers and the agents that recruit them that violates their rights and stand as an obstacle in implementing the legislative reforms, there are also many rights that are internationally recognized but are not included in the national legislations which created loopholes that are used to violate their rights, which are mentioned in the international reports.

Jordan has ratified on many international convention except the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was adopted by General Assembly resolution 45/158 of 18 December 1990, it is considered the most important convention that protects migrant workers rights.

- Jordan is the third country in the region that passed an Anti-Human Trafficking Law in 2009, in order to fulfill their legal obligations because it joined the 2000 United Nations Convention against Transnational Organized Crime, and the two Protocols thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants.

The law criminalized human trafficking and any acts relating to it in general, in addition to identifying the administrative structures that are behind supervising the implementation of the law, and is represented in the National Committee against Trafficking in Human Beings which is a common feature of several countries in the region. The law also criminalizes anyone who commits this crime. After several years of implementing this law, it became clear to many observers and interested parties what the fouls of the law; its ambiguity is clear, it's not effective and is not implemented on reality, the law needs reviewing to achieve the goal for its existence.

There are a number of substantive observations regarding the legislations that are related to human trafficking and migrant and domestic workers, and some of the acts that were observed during the last few years, which normalized a number of serious violations such as holding the worker passport, mistreating migrant and domestic workers without any criminal prosecution, and many other observations such as:

1. The Jordanian legislator used the same words that were stated on, in the protocol such as the definition of human trafficking crime, despite the fact that it has more than one meaning in the international law, and doesn't exist nationally, that is why we claim that the definition of the crime that existed in the law became general, ambiguous and inaccurate due to lack of explanation of the terms that are used. Based on the above, it can be said that the legislative environment in Jordan does not confirm with the definition in the protocol, and therefore transferring the definition from the international convention to the national law without adapting it with the national statue, will cause many problems in understanding and implementing it.
2. There are many legal terms that were ignored by the Jordanian legislator, such as slavery-like practices, which are defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, in which states are required to take the necessary legislative and non-legislative measures to achieve progressively and expeditiously the practices that were mentioned in this Convention, wherever they exist, whether it was covered by the definition of slavery or was not.
3. Some of the acts that were criminalized in the anti-human trafficking law were already criminalized in the penal code such as: abduction, which lead to judicial decisions to consider the committed acts as stated on the penal code because it is clearer and specified than the anti-human trafficking code.
4. There is an article in the national law that confirms with the protocol which states on the importance of founding a shelter to the human trafficking victims and provide them with physical and psychological rehabilitation, and there is a also a regulation that was issued to implement this article, admitting the victims in this shelter needs a decision from the public prosecutor, which means that the people that were not registered officially as victims could not go to the shelter, this needs an amendment, any person that is suspected of being a human trafficking victim should be admitted to the shelter without a decision of the public prosecutor.
5. Legal assistant for the human trafficking victims is not stated on in the national legislations.
6. None of the national legislations stated on a specific provision that give the human trafficking victims the right to get compensation which doesn't confirm with the protocol and the international standards.
7. The constitution prohibited forced labor but there are no legal provisions in the national laws that specifically criminalized it.
8. The Crime Prevention law is used by employers to force their foreign employees to work for them, by threatening them detention by an administrative decision from the governor, which was criminalized in the 1930 convention.
9. There are no guarantees for the foreign employees' right to keep their passports with them especially when it comes to domestic workers and other professions like it. To avoid any legal and practical problems, there must be an explicit provision that punishes the employer if he did such a thing, an effective mechanism should be adopted to hand over the passport of the worker who was illegally detained or taken.

**2.6 Monitoring Detention Centers:**

Despite allowing Civil Society Organizations and some of the International Organizations to visit reform and rehabilitation centers in Jordan, there are many legislative and practical difficulties such as: (The authorization that organizations should get to implement the visits and that these visits are limited to reform and rehabilitations centers and not all detention centers ) which stand in the way of Civil Society Organizations and make it harder to implement these visits in an effective and constant way.

Adaleh Center has conducted many requests to get an authorization to visit many reform and rehabilitation centers, unfortunately since the mid of 2013 we were not authorized to implement such visits without any justification from the authorities, kindly look up appendix 2 that is attached to this report.

The National Center for Human Rights is conducting visits according to the memorandum of understanding between the center and the Public Security Department, without any clear provision in the national legislations that allows the center to conduct such visits to the reform and rehabilitation centers and to provisional detention centers.

The statue of the reform and rehabilitation centers in Jordan is getting better, but some of these centers are facing problems that are being reported by the inmates such as overcrowding in the cells and lack of medical assistance in the psychic department, there are a shortage in the doctors and there are no medical files for each inmate, in some cases there are medical file but it's not in the medical staff hands it is in the hands of the police guards which is against inmates rights of privacy. The detainees and the inmates are also suffering from lack of information; they don't know anything about the legislations that regulates their obligations and rights, some of the centers place plates in the corridors.

Many inmates of the so-called jihadist organizations complained about ill-treatment by the prison administration and that they are subjected to additional restrictions, in visits or telephone calls, which violate their right to communicate with the outside world.

**2.7 Torture Victims Rights in Legal Assistance:**

Hiring a lawyer during investigation is considered a guarantee, because it is a third party present to make sure that the person that is being interrogated will not be subjected to any acts of torture or ill-treatment, it is also one of the fair trial guarantees.

The Convention Against Torture stated in article (2,16) that the states parties shall take effective measures to prevent torture through immediate access to a lawyer, it is important to the states to fulfill their obligation to take measures to prevent torture and other violations on fundamental human rights. The right to file a complaint and to investigate in any alleged torture is one of the most important guarantees that are stated on in the Convention against Torture.

Adaleh Center and other organizations provides legal assistance to the victims that were subjected to human rights violations, and were subjected to torture and ill-treatment, we have lawyers at the legal aid unite that are specialized in these cases, those victims or their families file a complaint at our center about the issue, we take all the information that we need and take the necessary legal procedures to file a complaint to the public prosecutor or a law suit in the courts, Adaleh also provides legal assistance to Migrant Workers who are vulnerable groups that got their rights violated and we work on prosecuting the people who committed these violations and we do our best to make sure that it won't happen again, unfortunately during our extensive and continues work the lawyers at the legal aid unit are faced with many difficulties and challenges with following up torture and abuse and physical violence cases, such as:

1. The victims don't continue to follow up with their complaints and are afraid of filing a complaint to the police or the the police prosecutor.
2. The witnesses are usually afraid and their unwilling to make any statements before any judicial authority.
3. There is also a lack of seriousness in following up the complaint with the judicial authorities (Police Prosecutor).
4. There is a difficulty in gathering evidences because torture is happens in places that are difficult to reach.
5. The length of litigation proceedings.
6. There is a difficulty in reaching migrant workers and domestic workers that are being abused because of the nature their work (they work in closed places).

**3. Recommendations:**

1. To amend article (208) of the penal code to confirm it with the Convention against Torture and to not make the torture crime dismissed because of a pardon or statutes of limitation.
2. To abolish article (308) of the penal code.
3. To join the protocol of the convention against torture.
4. To abolish the crime prevention law.
5. To transfer the jurisdiction of torture cases from the private courts (police court) to the civil courts.
6. To review Anti-Terrorism law in a way that confirms with international human rights standards.
7. To prosecute the perpetrators of torture and ill-treatment in an effective and efficient way.
8. To Amend the Jordanian Code of Criminal Procedures in a way to confirm with fair trial guarantees and to stipulate explicitly on the presence of lawyers in preliminary investigations and that all detainees must be examined after investigation.
9. The Government should join the Convention for the Protection of Migrant Workers and their Families as well as the conventions that are issued from the International Labor Organization, including Convention No. 87 of 1946, Convention No. 154 of 1981 and the Convention on Domestic Workers No. 189,
10. To redefine the crime of human trafficking and make it more precise and clear, and to take into account the legislative environment of Jordan which is not commensurate with the definition in the Protocol, the definition should state on phrases that were neglected by the legislator, such as slavery and similar practices.
11. To criminalize forced labor in the national legislations and to state on deterrent penalties.
12. To add an explicit statement that criminalizes ill-treatment and cruel and inhuman punishment.
13. To add an explicit provision that states on the right of torture victims to get a fair compensation and to establish a responsibility on the state.