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## ASSESSMENT OF THE ELECTORAL FRAMEWORK





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# TABLE OF CONTENTS

EXECUTIVE SUMMARY	06
INTRODUCTION AND ACKNOWLEDGEMENTS	09
DEMOCRACY AND ELECTIONS IN JORDAN	09
1. Political Context	09
2. System of Governance	12
3. Political Parties	15
4. The 2010 Parliament and 2013 elections to the House of Representatives	17
ANALYSIS OF THE LEGAL AND ADMINISTRATIVE FRAMEWORK FOR PARLIAMENTARY ELECTIONS	20
5. International Legal Instruments, the Jordanian Constitution and Democratic Elections	20
6. Overview of the Applicable Legislation for Elections	21
7. Electoral System	22
8. Women's Representation	28
9. Representation of Minorities and Other Groups	30
10. Election Administration	30
11. Equal and Universal Suffrage	32
12. Voter Registration	35
13. Candidate and List Registration	36
14. Election Campaigning	37
15. Media and Elections	39
16. Transparency	41
17. Polling Procedures	42
18. Electoral Offenses	46
19. Electoral Challenges	46
RECOMMENDATIONS	48
ANNEXES	54

# EXECUTIVE SUMMARY

Political reform has been on the agenda in Jordan since 1989 but has moved at a very slow pace. Various committees have been formed over the years mandated to propose reforms to invigorate Jordan's political life. However, in many cases their recommendations have been overlooked or the resultant reforms insufficient. The primary reason for Jordan's faltering democratisation record has been the difficulty in finding a formula the authorities consider capable of safeguarding national unity and security while balancing the interests of the country's constituent groups. This balancing act has also been influenced by the political consequences of Jordan's fragile economy and dependency on foreign aid. Consequently, Jordan has struggled to establish a genuinely democratic system of government.

The strategic policy behind previous attempts at reform was also undercut by restrictions on the exercise of fundamental freedoms, repeated manoeuvring by tribal and state elites to preserve their positions and nervousness about granting elected representatives the right to form the government. Another obstacle is the weakness of issue-based political parties, a result of the ban on parties until 1991, subsequent discouragement of political activism and a legal framework which has impeded the development of a strong political party system. However, the Arab Spring gave renewed impetus to the reform agenda and King Abdullah II initiated a process which led to modification of the Constitution, the revision of a number of key laws and the holding of early elections in January 2013.

This report assesses Jordan's electoral framework in terms of compliance with the obligations towards its citizens that it undertook in ratifying a number of international instruments (so called 'international standards' for genuine elections), most notably the International Covenant on Civil and Political Rights (ICCPR).<sup>1</sup> It also assesses the constitutional role of the House of Representatives in the government of the country. The report also presents a series of recommendations, the aim of which is to bring Jordanian legislation further in line with international standards.

The constitutional amendments adopted in September 2011 in-

troduce a number of changes which positively affect the electoral architecture including: restricting the scope for the government to issue 'provisional' laws, also on elections, without parliamentary approval; restricting the scope to delay elections after the House of Representatives has been dissolved; strengthening the integrity of electoral processes by establishing an independent Election Commission (IEC); and allowing all voters to challenge the validity of an election in the courts. However, the Constitution still grants the King discretionary power to extend the term of parliament "for a period of not less than one year and not more than two years" for whatever reason. Other notable reforms enacted over the past two years include positive changes to the laws on political parties and public assembly, and the adoption of laws on the newly established Constitutional Court and IEC.

However, the legal framework still does not adequately respect fundamental freedoms, particularly the freedom of expression where the recent changes to the Law on Press and Publications represent a backward step. The decisions not to provide a constitutional prohibition on discrimination against women or raise the minimum guaranteed level of representation in parliament are inconsistent with the priorities set out in the National Agenda (2007-2017).

The constitutional amendments do little to fundamentally alter the structural problems of Jordan's political system, in particular the weakness of the House of Representatives vis-a-vis the powerful executive branch of government or the strong legislative role given to the unelected Senate. The decision to reform the electoral framework presented an opportunity for Jordan to discard its obscure single non-transferrable vote (SNTV) electoral system,<sup>2</sup> which is widely seen as having produced a series of weak parliaments composed of individuals representing narrow local interests.

In 2011, the multi-stakeholder National Dialogue Committee (NDC) presented a far-reaching recommendation to replace the SNTV system with an election system based on proportional representation (PR), and using 'open' candidate lists - measures

<sup>1</sup> The ICCPR was published in the Official Gazette in June 2006, thereby giving it the force of law.

<sup>2</sup> Globally, the SNTV system is seldom used, employed only in Vanuatu, Afghanistan, Libya and Kuwait.



which are generally considered beneficial to the development of political groups with shared policy platforms. However, the drafters of the Election Law and the parliament decided to retain the highly controversial and misleadingly named “one-man-one-vote” SNTV system to elect 123 members of the House of Representatives (MPs) and add a nationwide PR component to elect just 27 MPs. The outcome, which was out of touch with the public mood, was met with disappointment and prompted an election boycott by some parties including the Islamic Action Front (IAF). Their non-participation diminished the significance of the 2013 elections and representative character of the incoming parliament.

It is generally accepted that political parties are the key components of a vibrant parliamentary democracy. While the legislation on political parties did not necessarily constitute a major obstacle to party formation, it did little to facilitate their development and some provisions in previous laws indicated a degree of mistrust of parties. With the exception of the IAF, most of Jordan’s numerous political parties have remained small entities with limited organisational capacity and reach. These factors, the SNTV election system, and the IAF’s decision to boycott the 2010 and 2013 elections, have negatively affected the size of parties’ representation in the House of Representatives. While the new Law on Parties – adopted in June 2012 – represents an improvement over the previous legislation by removing restrictions on where parties can have offices and hold events, permitting parties to own TV stations and publishing houses, liberalising their financial arrangements and providing an allocation of state funds, it is unlikely, in itself, to contribute to the development of political parties in the short-term.

The Constitution (Article 67) provides that the members of the House of Representatives are elected by general, secret and direct elections and that the law must ensure: the right of candidates to observe the electoral process, the punishment of those adversely influencing the voters’ will and the integrity of all stages of the electoral process. However, the Constitution does not establish ‘equal and universal suffrage’, or a specific guarantee for the free expression of the will of electors.

From 2003 to 2010, electoral processes were regulated by a series of ‘provisional’ election laws issued by the Jordanian Government during periods when the parliament had been suspended or dissolved. The adoption of the 2012 laws on the IEC and Elections

by parliament therefore constitutes an important milestone. Nevertheless, the legislation, notably the Election Law contains numerous flaws. Despite the relatively long time between the publication of the NDC’s recommendations and the adoption of the Election Law, the text reads as if it were drafted hastily and provisions on some key issues lack the necessary detail, for example it provides the IEC with little guidance on the method of translating votes into seats under the list-PR component.

The electoral system established by the 2012 Election Law is even more complicated than its predecessors. It is a hybrid system composed of two majority-plurality systems (SNTV and first-past-the post), reserved seats for three groups (Christians, Circassians/Chechens and Bedouin), a quota for women and a nationwide constituency with seats allocated by proportional representation (PR). For the 108 seats<sup>3</sup> in the majority-plurality component, the law retains the same districts that were used in the 2010 elections whereby Jordan’s 12 governorates and 3 *Badia* are divided into 45 election districts each of which is allocated between one and seven seats. Fifteen seats are reserved for women.

The absence of a legal provision setting out criteria for electoral districting and a fair allocation of mandates to the governorates and districts is, as in previous law, the most obvious flaw in Jordan’s electoral framework. While the authorities refer to their election system as “one person, one vote”, there exists a significant inequality in the voting power of 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 contravenes Jordan’s commitments under international conventions.<sup>4</sup>

3 Of the 108 seats, 87 are reserved for Muslim candidates, 9 are reserved for Bedouin tribes, 9 are reserved for Christian candidates and 3 three are reserved for Circassians and Chechens.

4 The ICCPR provides for ‘equal and universal suffrage’.

The transfer of the management of national elections from the Ministry of Interior to the Independent Election Commission constitutes an important step forward. An independent commission is best placed to address the flaws and fraud which marred previous elections. However, the IEC is in the difficult position of having to conduct the elections on the basis of flawed laws. Positively, the legislation confers the Commission with a reasonable degree of independence, wide-ranging powers and requires it to operate transparently and impartially. However, the rules on its appointment, financial arrangements, regulatory powers and staffing could all be improved to enhance structural independence. In addition to its administrative, supervisory and quasi-legislative, quasi-judicial functions, election officials also have the powers of law enforcement officers.

The legal provisions on suffrage as well as candidate and voter registration are, in general, reasonable although the opportunities for all citizens to exercise their right to vote and stand for election could be enhanced. The Election Law establishes a hybrid passive-active system of voter registration which requires all citizens wishing to vote to collect a voter card. Only 64% of the estimated number of eligible electors registered for the 2013 elections did so. The legislation does not state that voters must register in the district according to their place of residence. This is a major flaw. The IEC's decision to allow electors to register either according to their place of residence or origin may reinforce the practice of voting for kin and the possibility of electors registering in one of two locations and complicates the allocation of seats according to population criteria.

The IEC's decision requiring electors to nominate the polling station at which they will vote had a positive effect, but its decision to allow non-immediate family members to collect voter card on behalf of others was particularly controversial and may have led to de facto disenfranchisement and increased the risk of serious electoral malpractice. The timeframes for candidate registration and the subsequent appeals processes could create practical difficulties.

The 2012 Election Law contains more details on election campaigning than its predecessor, although most provisions deal with prohibitions rather than rights. If, however, the principle of 'what is not prohibited is permitted' is applied then the campaign rules are, with some exceptions, reasonable. If it is not applied, then the law should provide more details as to what forms of campaigning are permitted. Positively, campaigning is no longer prohibited in 'public streets' and there are legal provisions aimed at ensuring a separation of politics and state structures during the campaign. The legislation's main weakness is the absence of provisions on campaign financing and a lack of clarity how candidates and parties can access state media to campaign. Improving media access for parties and extending the period for campaigning could help electors familiarise themselves with party political programmes. A serious effort is needed to tackle illegitimate forms of campaigning, including vote buying and active campaigning in the vicinity of polling stations.

The legislation, the sub-legal acts of the IEC and the modus operandi of the IEC all demonstrate a conscious effort to improve

transparency in the election process. It is very positive that the new legislation makes provision for election observation by Jordanian CSOs and international organisations. The law also allows candidate representatives to follow election day proceedings but does not grant them specific rights in the period before election day. The law could be enhanced by clearly establishing the right of all citizens to access information held by the electoral authorities.

The Election Law sets out a fairly comprehensive range of electoral offenses and corresponding penalties. However, it does not contain a specific penalty for intimidating or threatening voters and the penalties for some offenses seem disproportionate.

In general, the new legislation improves the arrangements for filing challenges and appeals, notably the amendment to article 71 of the Constitution which grants the judiciary, rather than members of the House of Representatives, the competence to determine the validity of the election of parliamentarians. However, the law is unclear regarding which court has the jurisdiction for challenges to all IEC decisions and how citizens can file complaints regarding election day proceedings.

The state authorities presented the January 2013 parliamentary elections as the culmination of two years of reform efforts, in particular the introduction of 27 PR seats. However, many voters still prefer to elect MPs from their kin networks as they are better able to act as a conduit, channelling state resources to their constituencies. MPs rarely assume their core democratic functions of holding the government to account and actively legislating. Once again, the election produced a House of Representatives dominated by independent MPs. Instead of the PR list facilitating the emergence of national level political parties, it resulted in a large number of independent lists and groups each winning few seats. Parliamentary blocs have been formed, but none has more than 20% of MPs. This could undermine efforts to increase the accountability of the government to parliament. This suggests that any strengthening in the role of the parliament in future will need to be accompanied by a deeper understanding, on the part of the citizens, of the role of MPs and political parties in political life and by a greater effort to strengthen political parties.

The prevailing mood in Jordan after the elections is that reform process needs to be continued and King Abdullah II identified the need to revise the electoral legislation. It is aim of this report to assist in bringing Jordanian legislation further in line with international standards.



# DEMOCRACY AND ELECTIONS IN JORDAN

## INTRODUCTION AND ACKNOWLEDGEMENTS

This report is a continuation of DRI's engagement on electoral issues in Jordan dating back to 2006 and part of the Identity Centre ongoing work to contribute to reform in the Kingdom. It was prepared by Paul O'Grady, Jens-Hagen Eschenbacher and Francisco Cobos Flores for Democracy Reporting International (DRI, Berlin), and Mohammed Hussainy for the Identify Center (Amman). The two organisations analysed the relevant legislation and regulations and conducted numerous interviews with political parties, civic organisations, international governmental bodies, international NGOs, the Independent Election Commission (IEC) and other stakeholders. Fieldwork in Jordan took place in September and November 2012 and January 2013. DRI and the Identity Centre held a workshop in Amman on 10 March 2013 to present the draft report and to debate its initial findings.

DRI and the Identity Centre would like to thank all those who contributed to the report, in particular Jordanian civic groups, the International Foundation for Electoral Systems (IFES), The Carter Centre, participants at the workshop and those who gave their time to meet with DRI and the Identity Centre and share their views.

All views expressed in this report are those of the respective organisations.

## 1. POLITICAL CONTEXT

Jordan's vulnerability to external factors has created challenges for the country since its independence in 1946. First amongst these are the issues of the Palestinian-Israeli conflict and conflicts in the Middle East at large. Palestinian refugees have had a massive impact on the society, economy and politics of Jordan and remain a major undercurrent to all aspects of national debate and political activity. The exact number of Palestinian refugees in Jordan is not known but their integration as Jordanian citizens has generally been successful and it is widely assumed that persons of Palestinian origin comprise around half of the country's estimated population of some 6.4 million.<sup>5</sup> However, complex issues relating to the systemic imbalance between the size of this population and their level of political and parliamentary representation have long constituted an impediment for more comprehensive democratic reform. In particular, the disproportionate allocation of parliamentary seats to electoral districts inhabited by East-Bank tribes – long seen as the monarchy's main pillar of support – has resulted in a significant parliamentary under-representation of those areas where Jordanians of Palestinian origin reside.<sup>6</sup> The country has also given safe haven to other sizeable refugee populations, notably from Iraq following the 1991 and 2003 wars and the instability which followed and more recently from the Syrian conflict.

Historically, there have been numerous instances of internal tension and conflict and the regime has reacted to threats to the country's delicate power balance by clamping down on the opposition and placing restrictions on public activities. Direct challenges to the Kingdom by Arab nationalist and Palestinian militant groups throughout the 1950s, 1960s and early 1970s led to

<sup>5</sup> Since the Kingdom's independence from Britain in 1946, large numbers of Palestinians have moved to Jordan, in particular following the 1948 war – which led to Jordan's annexation of the West Bank – and the Israeli occupation of the West Bank after the 1967 war.

<sup>6</sup> This issue is highly controversial and attempts to grant Palestinian-Jordanians equal parliamentary representation have been resisted because it is regarded by many Jordanians 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.

repressive measures which included the proscription of political parties, the imposition of martial law and the frequent suspension of parliament, for the longest period between 1971 and 1989 but also as recently as from 2001 to 2003.

In 1989, the late King Hussein, began the reform of Jordan's political system by legalising political parties and re-instituting multi-party parliamentary elections. Since coming to the throne in 1999, King Abdullah II, who enjoys considerable executive power under Jordan's constitution, has repeatedly pledged to modernise Jordan's political system and over the years has established numerous commissions tasked with proposing political and economic reforms.<sup>7</sup> However, many of the recommendations made by these bodies were either ignored or watered down. Moreover, the strategic policy behind the reform agenda was largely undercut by restrictions on the exercise of fundamental freedoms, repeated manoeuvring by tribal and state elites to preserve their position, a hitherto ambivalent position towards political parties, which has stunted their development, and nervousness about granting elected representatives the right to form the government.

The primary reason for Jordan's faltering record in democratising its political system has been its difficulty in finding a formula capable of safeguarding national unity and security while balancing a number of conflicting political factors. These include protecting the interests of the ruling elite and the traditionally dominant 'East Bankers' belonging to the tribes originally inhabiting the territory east of the Jordan River, the huge demographic changes caused by the surge in the population of Jordanians of Palestinian origin and the rise across the region in support for political Islam.<sup>8</sup> This balancing act has also been influenced by the country's dependency on foreign aid. Whereas western donors have generally supported reform initiatives,<sup>9</sup> Jordan's financial backers from the countries in the Gulf are much more antipathetic towards democracy.

Despite numerous regional crises, security concerns and growing domestic discontent, Jordan has continued to be seen as a stabilising force in the Middle East. Although the Kingdom avoided the popular uprisings seen in Tunisia, Egypt, Libya, Yemen, and Syria, it has not been isolated from the change sweeping the region and has experienced its own unique version of the Arab Spring.

## 1.1 Impact of the Arab Spring

Since early 2011 Jordanians across the country have taken to the streets in a series of generally small but persistent protests. In general, demonstrators have expressed social and economic grievances; focussing their demands on employment opportunities, commodity prices and tackling pervasive corruption. By and large protesters have been able to freely voice their demands at public gatherings and the authorities have generally respected the right to peaceful assembly,<sup>10</sup> although there have been prolonged detentions without trial and allegations that on occasion the police have used excessive force against protestors. However, with the deepening of the economic and financial crisis, protestors' demands have become more political.

In the capital Amman, the Islamic Action Front (IAF), the largest organised political party in Jordan, and the National Front for Reform (NFR), an umbrella organization comprising the IAF, various secular parties, and independent/non-partisan social groups, have been the main drivers of the protest movement. Significantly, however, Jordan's powerful autochthonous tribes have staged their own protests in the governorates and added their voices to the calls for reform. Having benefited for decades from privileged access to resources through public sector employment and subsidies in return for loyalty to the monarchy, the tribes have suffered from the gradual loss of their privileges as a result of economic reforms launched in the 1990s and an ongoing economic crisis which have left the authorities with fewer funds to distribute.

Nevertheless, the monarchy still remains a strong unifying force in the country, and there appears to be broad consensus, including among the major opposition groups, that the goal should be the reform of the 'regime' rather than 'regime change'. There appears to be little appetite among Jordanians to replicate the unrest and violence that has engulfed other Arab countries in the wake of the Arab Spring and the conflict in neighbouring Syria has served as a particularly powerful deterrent.

Notwithstanding such moderating factors, internal pressure for reform has remained high since the beginning of the Arab Spring, compounded by a worsening economic and financial crisis. The crisis, and the need to secure additional international financial assistance, prompted the authorities to continue slashing subsidies, which in turn fuelled the protests. Indeed, in late 2012 isolated calls for the end of the reign of King Abdullah II were for the first time publicly voiced at demonstrations in Amman, even though such statements are illegal under Jordanian law and subject to severe sanction.<sup>11</sup>

7 The most notable example prior to the 2011 initiative was the formation of the National Agenda Committee in 2005.

8 The rise of political Islam in the region, notably in the occupied Palestinian Territories, Egypt, and Tunisia has created apprehension within the regime – and parts of Jordanian society – that any further opening-up of the political space may strengthen opportunities for the IAF to increase its popular support.

9 The King has received support for his reform course from key partners, in particular the United States and the European Union. However, there appears to be growing unease among some EU diplomats in Amman about the largely uncritical public backing from Brussels, with concerns being raised over the prospect for Jordan's long-term stability in the absence of meaningful reform, see European Council on Foreign Relations: [http://ecfr.eu/page/-/ECFR68\\_JORDAN\\_MEMO\\_AW.pdf](http://ecfr.eu/page/-/ECFR68_JORDAN_MEMO_AW.pdf)

10 In May 2011 the parliament improved the Law on Public Assembly by cancelling the requirement that organisers secure official permission before holding a public meeting dealing with general state policy. Now they are only required to notify the competent authorities.

11 See: <http://www.middle-east-online.com/english/?id=55708>



## 1.2 The 2011-12 Reform Agenda: Continuation of the 'Gradualist' Approach

The deep social and political cleavages present in Jordanian society, notably between 'East Bankers' and Jordanian-Palestinians, and secularists and Islamists have prevented the emergence of a unified, broad-based and coherent reform movement. While this situation allows the governing authorities to play off different groups against each other, it also makes it hard for them to secure consensus support for specific reform proposals. Another obstacle 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.

King Abdullah II responded quickly to the onset of the Arab Spring by formally reviving the reform agenda, on-going in various incarnations since 1989. He established a National Dialogue Committee (NDC) in March 2011 which was tasked with making recommendations for reforming the electoral and political party laws and, in April 2011, a Royal Committee to review the Constitution.

These mandates of these bodies appeared to be sufficiently broad to enable them to address the core structural shortcomings of Jordan's political system: the over-concentration of power in the executive branch of government, in particular the royal court and – more informally – the security services; an obscure and unfair election system which has resulted in a series of weak and fragmented parliaments; the near absence of strong political parties; and the relative under-representation of Jordanians of Palestinian descent in the country's political life.<sup>12</sup> A comprehensive reform of Jordan's political system would also have the potential to tackle the integration of political Islam, which, due to electoral boycott by the Islamic Action Front (IAF) in 2010, was not represented in parliament.<sup>13</sup>

The National Dialogue Committee (NDC) was composed of government officials, political party leaders and civil society representatives, but the IAF boycotted the initiative.<sup>14</sup> The Committee issued its report and recommendations in June 2011, which included a proposal for a new electoral system based on 'open lists' at the governorate and national levels, with seats allocated by proportional representation.<sup>15</sup> The change in the election system

would have 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.<sup>16</sup>

The Royal Committee was comprised of former prime ministers and did not include representatives of the opposition or civil society. Its recommendations, in contrast to those of the NDC, were swiftly approved by the lower house and the Senate, albeit with little public consultation.

The constitutional amendments adopted in September 2011 introduce a number of positive changes, notably:

- Restricting the scope for the government to issue 'provisional' laws without parliamentary approval;
- Enhancing the role of the judiciary by establishing a Constitutional Court and making the Judicial Council a constitutional body with the sole right of appointing civil judges;
- Restricting the scope to delay an election of the House of Representatives after it has been dissolved;<sup>17</sup>
- Strengthening the integrity of electoral processes by establishing an independent Election Commission, and allowing all voters to challenge the validity of an election in the courts.

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 House of Representatives vis-a-vis the powerful executive branch of government concentrated in the royal court.

Other notable 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 new laws for the newly established Constitutional Court and Independent Election Commission (IEC). While some elements of the reform package, such as the creation of a Constitutional Court and an Independent Election Commission, and the liberalisation of the assembly law have been widely welcomed across the political spectrum, reformists have expressed disappointment over the limited scope of the changes.

<sup>12</sup> This is to some extent a legacy of the 1970-71 civil war between the monarchy and Palestinian militants, and the distrust the conflict has created between the Palestinian-Jordanian community and the 'East Bankers' belonging to the tribes originally inhabiting the territory east of the Jordan River. But the full political integration of Palestinian-Jordanians has also been a highly sensitive and controversial political issue.

<sup>13</sup> The IAF boycotted the 2010 elections because in its opinion, the government failed to provide sufficient guarantees to make sure the polls would be fair and transparent.

<sup>14</sup> The IAF boycotted the NDC sessions as it objected to the political orientation of some of its members. Some committee members withdrew briefly after a peaceful pro-reform protest in March was attacked by pro-government activists and security forces, but later returned.

<sup>15</sup> See: <http://www.ammonnews.net/article.aspx?articleNo=89081>.

<sup>16</sup> The bill eventually submitted to parliament and adopted as law in July 2012 retains key elements of the previous electoral system, with 82% of seats still elected through the Single Non-Transferable Vote (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.

<sup>17</sup> By deleting sections 4-6 of article 73

Much of the criticism voiced by political parties and civil society is directed at the new Election Law (adopted in July 2012). While the introduction of a small list-PR component at the national level is 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 House of Representatives was out of touch with the public mood and, not surprisingly, was met with disappointment across much of the political spectrum. 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.

Neither the reforms enacted over the past two years nor the dismissal, in ever faster succession, of governments put an end to the protests, as the underlying economic and political grievances remained largely unaddressed.<sup>18</sup>

## 2. SYSTEM OF GOVERNANCE

### 2.1 The Constitutional Framework

The Constitution of 1952 establishes the Hashemite Kingdom of Jordan as a hereditary monarchy with the King as Head of State and with a system of government consisting of a bicameral legislature, an executive headed by the King and an independent judiciary. The two-chamber National Assembly (*Majlis al-Umma*) is formed by an elected lower house, the House of Representatives (*Majlis al-Nuwab*) and the upper house, the Assembly of Senators (*Majlis al-A'yan*), (hereafter ‘the Senate’), whose members are appointed by the King. Legislation establishes the number of members in the House of Representatives and the Senate. Following the adoption of the new Election Law in 2012, the House of Representatives has 150 members, an increase of 30 members from the 2010-2012 House of Representatives. The outgoing Senate had 60 members and the new Senate will have up to 75 members.<sup>19</sup>

In August 2011, the Royal Commission proposed amendments to 41 articles of the Constitution. The following month, the two houses of Parliament reviewed the proposals and adopted 39 amendments,<sup>20</sup> which became law on 1 October. Even though almost one third of the Constitution was revised, the provisions regulating the respective powers of the branches of government were, for the most part, not altered and the King remains the central political authority. The Constitution continues to grant the King the

exclusive right to appoint and dismiss the Prime Minister and the Cabinet, and thus from a legal perspective there is no obligation to form the type of “parliamentary government” foreseen by the King.

However, some important checks and balances in the system of government were introduced, including:

- Enhancing the independence of the judiciary vis-a-vis the executive;<sup>21</sup>
- Establishing a Constitutional Court, which inter alia can decide the constitutionality of laws;<sup>22</sup>
- Reducing the role of the executive branch in the organisation of legislative elections;<sup>23</sup>
- Significantly restricting the situations in which the executive can adopt ‘provisional’ laws;<sup>24</sup>
- Restricting the scope to delay an election of the House of Representatives after it has been dissolved.<sup>25</sup>

### 2.2 The Executive Powers

Executive Power is vested in the King, exercised through his ministers in accordance with the provisions of the Constitution (art 26). The King appoints and dismisses the Prime Minister (or accepts his resignation), and appoints and dismisses ministers (or accepts their resignation) upon the recommendation of the Prime Minister (art 35). The authorities of the Prime Minister, the ministers and the Council of Ministers are defined by regulations established by the Council of Ministers and ratified by the King (art 45.2).

The Constitution, to an extent, balances the executive and legislative powers by requiring that the Prime Minister and ministers are jointly responsible before the House of Representatives for the public policy of the State and the functions of ministries (art 51). Each new Cabinet is required to submit a statement of policy to the House of Representatives and secure a vote of confidence (art 53.3). A vote of no-confidence in the Cabinet or a minister may be held at the request of the Prime Minister or ten deputies of the lower house (art 51.1). A vote by the lower house approving a no confidence motion in the work of the government or one of its ministers would remove them from office. Their successors would be installed by royal appointment.

<sup>21</sup> Notably by establishing the Judicial Council as a constitutional body with the sole right to appoint civil judges, in accordance with provisions established by law (Constitution, article 98).

<sup>22</sup> See article 59 of the Constitution

<sup>23</sup> By establishing an independent commission for elections (Constitution, article 67)

<sup>24</sup> By amending article 94 of the Constitution

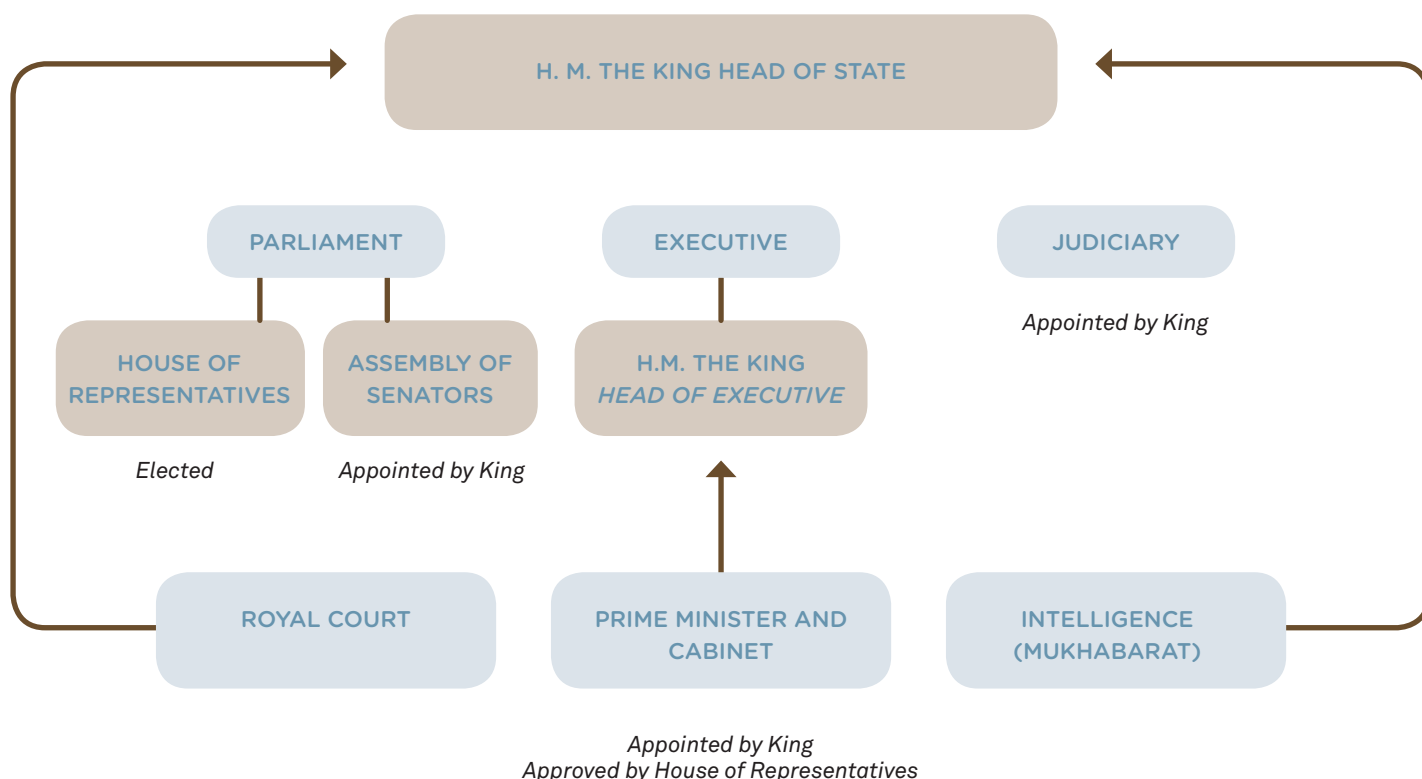
<sup>25</sup> By deleting sections 4-6 of article 73

<sup>18</sup> The King appointed four new prime ministers in less than two years.

<sup>19</sup> The Constitution provides that the Senate must not exceed half the number deputies in the House.

<sup>20</sup> The House of Representatives modified 17 of the amendments proposed by the Royal Commission.

## CONSTITUTIONAL STRUCTURE OF GOVERNMENT IN JORDAN



However, on 5 December 2012, the King elaborated on plans he had outlined earlier on the establishment of a “parliamentary government” after the 2013 elections.<sup>26</sup> According to his vision,<sup>27</sup> in future the blocs in the incoming parliament would be consulted on the selection of the Prime Minister,<sup>28</sup> and 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.<sup>29</sup> However, no concrete steps have been taken to reflect this objective in Jordan’s constitutional framework.

Parallel to the constitutional structures, the King also exercises substantial governmental powers through the role of the Royal Court and the security forces, specifically the Department of General Intelligence (*Da’irat al Mukhabarat al Aamma*). The Royal Court plays a key role in defining government policy as well as launching political initiatives. Meanwhile, it is generally believed that the General Intelligence Department (GID) has substantial influence in determining political and legislative priorities, especially in blocking initiatives that it considers may threaten the country’s stability. Both the Royal Court and the GID report directly to the King but their precise mandate and structure are not clear and their operation remains non-transparent, with no requirement for parliamentary oversight.

### 2.3 Legislative Power

The Constitution vests legislative power jointly between parliament and the King and states that “no law may be promulgated unless passed by both the Senate and the House of Representatives and ratified by the King”.<sup>30</sup>

<sup>26</sup> The plan was further elaborated in a Discussion Paper published by the King on 16 January 2013: “Making Our Democratic System Work for All Jordanians”, [http://www.kingabdullah.jo/index.php/en\\_US/pages/view/id/248.html](http://www.kingabdullah.jo/index.php/en_US/pages/view/id/248.html).

<sup>27</sup> See: Interview with His Majesty King Abdullah II, By: Samir Hiyari and Samir Barhoum, For: Al Rai and The Jordan Times, 5 December 2012, [http://www.kingabdullah.jo/index.php/en\\_US/interviews/view/id/501/videoDisplay/0.html](http://www.kingabdullah.jo/index.php/en_US/interviews/view/id/501/videoDisplay/0.html)

<sup>28</sup> After January 2013 elections, the King assigned the head of the Royal Court to meet with the parliamentary blocs on the question of the selection of the Prime Minister.

<sup>29</sup> 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>

<sup>30</sup> See Constitution, Articles 25 and 91. Parliament may also adopt changes to the Constitution upon a two-thirds majority of a joint session of parliament, provided they are subsequently ratified by the King.

All members of the House of Representatives are directly elected. Both houses have a four-year term of office, but the King may, by Royal Decree, prolong the term of the House of Representatives for a period of not less than one year and not more than two years (art 68). The members of the Senate and the Senate Speaker are appointed by the King. Each of the two Houses makes its by-laws for the control and organisation of its proceedings and such by-laws are submitted to the King for ratification (art 83). The Constitution grants the King the power to dissolve one or both houses of parliament (art 34),<sup>31</sup> postpone the commencement of parliament's ordinary sessions by up to two months or prolong sessions by up to three months (art 78), adjourn sessions (art 81), and call parliament to meet in an extraordinary session (art 82). The King also has the power to call elections to the House of Representatives (art 34).

Draft legislation is referred initially to the House of Representatives by the Prime Minister where it can be accepted, amended or rejected, before being passed on to the Senate. Members of both houses of parliament are entitled to propose an item for legislation. Such a proposal must be supported by at least ten members of the house and is then referred to a relevant parliamentary committee. If that committee approves on behalf of parliament, the proposal is referred to the government to produce draft legislation which is then submitted to parliament for consideration. This process has a number of procedural flaws – for example, there is no formal obligation for the government to draft the legislation along the lines of the original proposal – and it has rarely been used by members of parliament to initiate new legislation even when there is broad parliamentary consensus in the house to push forward on particular issues. Each house has equal power to reject draft legislation and, to that extent, the unelected Senate can effectively block draft legislation which is supported by the elected members of the House of Representatives or vice versa.<sup>32</sup>

The King ratifies and promulgates laws and orders the enactment of the regulations necessary for their implementation. He may decide not to ratify a bill, in which case, the King can return it to the parliament with a statement of the reasons for the non-ratification within six months. The Constitution establishes a formal position of parliamentary primacy in that the King's veto can be overturned if the legislation is approved for a second time by both houses with two-thirds majorities of members. However, it does not appear feasible that such an action in opposition to the King could ever be invoked. Even if a two-thirds parliamentary majority could be achieved, the King could use other constitutional powers to dissolve or suspend any parliament that tried to force through legislation against his will.<sup>33</sup>

The work of the executive is undertaken using a system of decrees. The King exercises his powers by Royal Decrees, which are signed by the King and the Prime Minister and the minister or ministers concerned (art 40)<sup>34</sup>, but are not open to scrutiny by, or require the approval of, parliament. Governmental decisions are issued by the Cabinet of Ministers and ratified by the King.<sup>35</sup>

Previously, the government was able to circumvent parliamentary approval of legislation through a constitutional mechanism that allowed provisional legislation to be issued by the Council of Ministers in situations where parliament was not sitting or had been dissolved. The procedure was widely used to ensure the adoption of important and often controversial laws, including the previous election laws, without open debate in parliament. The 2011 constitutional amendments significantly limit the use of provisional legislation.<sup>36</sup>

Although the Constitution provides that parliament has formal primacy in the legislative process, the de facto control of the procedure rests with the King and the executive through the constitutional power to reject legislation and the control of the Senate. To that degree, there is no guarantee that legislative power represents the will of the elected House of Representatives. This would appear to contravene one of the central tenets of international standards related to democratic governance. The General Comments of the United Nations Human Rights Committee, in their interpretation of Article 25 of the International Covenant on Civil and Political Rights (1966) identified that:

“Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit...that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power.”<sup>37</sup>

Similarly, the fact that the House of Representatives and the Senate have equal powers in the legislative process, although only the lower house is popularly elected, also appears to undermine the concept of democratic ascendancy within the Constitution.

However, many citizens see the channelling of government-controlled resources and employment to their constituencies as the principle role of parliamentarians. They rarely assume their core functions in a democracy, namely: holding the government to account and taking an active role in the adoption of legislation. Indeed, the 2010-12 parliament – which was mainly composed of members with tribal and business interests rather than parties

34 The King places his signature on the decree after signature by the Prime Minister and minister(s).

35 Article 48 of the Constitution and legislation also provides the Cabinet with discretionary powers to issue Governmental Decrees.

36 The use of provisional legislation is now permitted only during situations of general disasters, state of war and emergencies, and where there is a need for urgent expenditures incapable of postponement, provided the parliament is not sitting or has been dissolved. See Constitution, Article 94.

37 See UN HRC General Comments (No 25) on “The right to participate in public affairs, voting rights and the right of equal access to public service (ICCPR Art. 25)”, 12 July 1996.

31 In the event of dissolving the House of Representatives, a general election should be held so that the new chamber shall convene in a non-ordinary session not later than four months later. If the election does not take place by the end of the four months, the dissolved chamber shall regain its full constitutional powers and convene immediately and will remain in office until the new house is elected.

32 See Constitution, Article 92. Where a draft law is passed twice by one house and rejected twice by the other, the Constitution requires a joint session of parliament to be held where the law will be adopted if passed by a two-thirds majority.

33 See Constitution Article 93(iv).

with political programmes – did not play a significant role in Jordan's reform process. Thus, any fundamental change in the role of the parliament in Jordan will necessarily require a fundamental change in the understanding of the role of parliamentarians, political parties and parliamentary blocs.

The results of the 2013 elections indicate no strong parliamentary bloc is likely to emerge. This is mainly due to the lack of popular identification with political parties, as well as to the effects of the election system, and the IAF's decision to boycott the elections. Given these factors, it is unclear how larger parliamentary blocs based on comprehensive policy platforms, let alone a cohesive and stable majority, are expected to form. The absence of large blocs could undermine efforts to make the government responsible to a parliamentary majority and increase its accountability to parliament as a whole. Moreover, neither the legislation nor the parliamentary by-law mentions 'parliamentary blocs'. Hence, there is no formal legal or procedural role for blocs in the functioning of parliament. This lessens the possibility for the formation of effective political groupings and weakens the potential for them to play a greater role in parliamentary life.

## 2.4 Judicial Power

According to the Constitution, judges are independent and they are not subject to any authority in their jurisdiction other than that of the law. Jordan has three types of courts, civil, religious and 'special'. The constitutional amendments adopted in 2011 strengthened the judiciary by establishing a Constitutional Court and judicial independence by giving a constitutional body, the Judicial Council, the exclusive right to appoint civil judges, a power previously vested in the King.

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.<sup>38</sup>

Reformists also objected to the adoption of constitutional amendments which institutionalised the role of the 'Special Courts' which, under provisions contained in primary legislation, have tried civilians accused of crimes against Jordan's security.

<sup>38</sup> Citizens cannot bring cases challenging the constitutionality of a law directly. However, a plea of unconstitutionality can be raised before any court and, if deemed justified by the court, the matter shall be referred to a higher court which shall decide on whether to refer the matter to the Constitutional Court.

## 3. POLITICAL PARTIES

It is generally accepted that political parties are the key components of a vibrant parliamentary democracy. Paragraph 26 of General Comment 25 on the International Covenant on Civil and Political Rights states: "[...] Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights."

### 3.1 Background

Since the re-introduction of direct elections in 1989, with the exception of the Islamic Action Front (IAF) (see below), Jordan's many political parties have remained small entities with limited organisational capacity and reach and with little participation by women and youth. Consequently, most parties still do not play a significant role in Jordan's political life. The older parties still attempt to gain support through core groups of supporters or the patronage of prominent personalities rather than raising their political profile through thematic political programmes and grassroots activities. This said, in the last few years some new parties have attempted to campaign on broad political platforms using modern communication methods, although change is taking place slowly.

One problem parties continue to face is trying to build support in a context where parties were banned from the mid 1950s to the late 1980s,<sup>39</sup> and those that functioned de facto are associated with the political instability of the period.<sup>40</sup> Indeed, even though political activity was legalised in 1992, security agencies continued to harass political activists. This gave the impression that the state authorities continued to disapprove of political activity and because many Jordanians depend on the state for their livelihood, engaging in political activity was, and to an extent still is, regarded as somewhat of a risk.

Most of the parties currently registered are perceived as fragmented and politically peripheral.<sup>41</sup> Another problem is that most parties lack significant financial resources. Taken together, the problems create a 'popularity-resource' paradox; without mass support they struggle to generate the necessary human and financial resources, but without these resources they struggle to reach citizens who could become their supporters.

<sup>39</sup> The Muslim Brotherhood, though not a political party, was permitted to continue its activity during the period which benefited support for its political arm, the IAF, when parties were, in 1989, permitted to register.

<sup>40</sup> During this period, being a member of a political organisation was a criminal offence and many people ceased engaging in political activities out of fear of investigation and harassment by the security agencies.

<sup>41</sup> The large number of leftist parties is one illustration of this fragmentation.



The general weakness of political parties has negatively affected their electoral strength although it is clear that many voters still prefer to elect representatives from their kin networks. Their lack of electoral success of political parties is also affected by the Single Non-Transferable Vote (SNTV) electoral system, which is widely acknowledged to be specifically disadvantageous to the growth of political parties. These factors limit the presence of parties in parliament and, ultimately, the role that parliament plays in the government of the country. Nevertheless, the causality is not self-evident and the weakness of parliament's role in the government of Jordan may create little incentive for people to be more active in supporting political parties.

### 3.2 Legal Framework

Article 16 of the Constitution provides for the right to establish political parties whose objectives are lawful, methods are peaceful, and whose by-laws do not violate the Constitution. The establishment of parties and control of their resources is regulated by law.

While the 1992 Law on Political Parties, allowed for the formation of political parties and did not contain major obstacles to party formation and activity, it did little to facilitate the development of parties and some provisions indicated a degree of mistrust on the part of the state authorities towards parties. In June 2012, parliament amended the Political Parties Law. In general the amendments represent a modest improvement over the previous version of the law (adopted in 2007). Article 4 of the law clearly establishes citizens' right to form and join parties and for parties to contest elections at all levels.

Perhaps the most significant change brought about by the 2012 law, is the removal of the provision requiring founding party members to undergo security clearance (a certificate of good behaviour) and the introduction of penalties for the harassment of party members by state authorities on the basis of their political orientation. These changes convey a political message that the authorities no longer consider parties detrimental to stable political life in Jordan. While the revised law lessens the influence of the Ministry of Interior in registering new parties, the Ministry is still strongly represented on the newly formed Political Parties Affairs Committee (PPAC), thereby leaving a lingering sense of a security mindset in exercising control over the parties.

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 financial transparency. Positively, article 28 of the Law on Parties provides that parties will receive an allocation of state funds although the amount, the conditions and spending procedures will be determined by executive regulations adopted by the Cabinet of Ministers.

However, some Jordanians are critical of the requirement that parties must have at least 500 founding members and a new re-

quirement that parties must draw its founding members from a greater number of governorates than previously<sup>42</sup> and at least 10% of new founder members must be women.<sup>43</sup> While these requirements do not appear overly onerous, the provisions need to be understood in the Jordanian context where citizens, particularly women, are reluctant to join parties and where some of Jordan's 12 governorates are not highly populated.

### 3.3 Established Political Parties

The traditional classification of political parties as right, left, liberal and conservative cannot be accurately applied to political parties in Jordan, neither can they easily be classified as pro- or anti- government because political parties are not substantially represented in the government.

The Islamic Action Front (IAF), the political arm of Jordan's branch of the Muslim Brotherhood, is the strongest political party in Jordan in terms of membership and support base, although estimates of its level of support vary widely. It is also the country's best organised party in terms of internal regulation and ability to reach the public. This IAF enjoys its strongest support in the main cities, especially Amman, Al Zarqa and Irbid. While it is a widely held view that the majority of its supporters are Jordanians of Palestinian origin, this does not mean that the IAF represents this social component. The party's presence is relatively weak in other areas, particularly those numerically dominated by Jordan's tribes. Because its support base is strongest in the urban centres, the IAF is particularly affected by the unfair allocation of seats to these electoral districts. The IAF boycotted the 2013 elections in protest at the election system, the constitutional role of parliament and general concerns over the integrity of the elections.<sup>44</sup>

The other political party with an Islamic orientation is *Al Wasat Al Islamiy* (Islamic Centrist Party, ICP). The party was originally formed by IFA splinter groups. The ICP is not oppositionist even though it has never participated in any government. The party has participated in previous elections believing in the need for presence in the House of Representatives to advocate for change. The ICP won three seats in the national constituency (PR-list) system and 14 independent candidates elected in the districts are affiliated to the party. Together they formed a parliamentary bloc, which currently stands at 15 members.<sup>45</sup>

The IAF and all left wing and nationalist parties in opposition to the government formed a co-ordinating council, but some parties with representatives on the council decided to participate in the

42 The law now requires parties to have at least 5% of their members in each of the seven governorates.

43 Article 6(a) of the Political Parties Law of the year 2012

44 The last elections in which the IAF participated, the 2007 elections, were, like the 2010 elections, tarnished by allegations of electoral fraud.

45 As at 27 February 2013

2013 elections<sup>46</sup> while others decided to boycott the elections.<sup>47</sup>

Jordan has a number of other parties that are neutral towards the government or support the government's positions. While formally their members have not participated in government as representatives of the parties, some members have participated in government in an individual capacity.

Most prominent among these parties are *Al Tayar Watani* (National Current) which may be categorized as a right wing conservative party. Some of the party's most prominent personalities are ministers and previous and current parliament members. The National Current participated in the 2013 elections through the national constituency and in some districts, but contrary to expectations, it won only one list-PR seat and a handful of individual seats. In reaction to its electoral performance, the party decided to withdraw from the House of Representatives, although the decision was reversed shortly afterwards.

The United Front is another prominent party that can be categorized as pro-government. It is usually classified as a conservative party although its economic policies are closer to the political centre-left. This party participated in the most recent elections through the national list and individual candidates and formed an 18-member parliamentary bloc. The ranks of the United Front include a number of members of Jordan's political elite, former ministers and academics.

### 3.4 Other Political Groupings

A number of political groups are operating like parties although they are not formally registered as such. These include the Social Left Movement and the Progressive National Movement, both of which are left wing anti-government movements which boycotted the 2013 elections.

The Democratic Social Party is awaiting registration and its prominent members include several former ministers and parliamentarians. The party positions itself as centre-left in mild opposition to the government.

46 For example, a number of Arab-nationalist and left wing parties in opposition to the government, including the Ba'ath Arab Socialist Party, Ba'ath Arab Progressive Party and Nationalist Movement Party, as well as the leftist Jordanian Democratic People's Party, participated in the nationwide constituency (list-PR) election but did not win any parliament seats.

47 For example the Democratic Popular Unity Party (DPUP) and the Communist Party. The DPUP's reasons for boycotting the elections are similar to the IAF while the Communist Party announced a boycott in protest at the withdrawal of gas subsidies in October 2012.

## 4. THE 2010 PARLIAMENT AND 2013 ELECTIONS TO THE HOUSE OF REPRESENTATIVES

### 4.1 The 2010 House of Representatives

In November 2009, King Abdullah II dissolved the House of Representatives<sup>48</sup> two years before its mandate was due to expire. The King called for new elections based on a new election law as a 'model of transparency, fairness and integrity' and directed the government to develop the electoral process 'in such a manner that the process will be qualitatively improved'. The Cabinet adopted a new 'temporary' election law in May 2010, but the new elections were not held until November 2010 –one year after the parliament was dissolved. The temporary law was presented as the culmination of a political reform process, but contained no major innovations<sup>49</sup> that would significantly improve political life.<sup>50</sup> The IAF boycotted the elections.

In the 2010 elections, 763 candidates competed for the 120 seats available. The official voter turnout was 52.4%, but varied dramatically between Amman, with a turnout of 38%, and Tafileh with a turnout of 75%.<sup>51</sup> The turnout data was not necessarily accurate as the voter lists did not include all eligible voters and relied on the identity card database, the reliability of which was in doubt. The resulting House of Representatives was, like its predecessors, largely composed of politically unaffiliated MPs who represented narrow local interests and whose function was widely regarded to be to channel state resources to their constituents.

### 4.2 The 2013 Parliamentary Elections

The state authorities presented the 23 January 2013 parliamentary elections as the culmination of two years of reform efforts, in particular the introduction of 27 seats elected according to proportional representation (PR).<sup>52</sup> However, while the reforms were generally seen as a modest step in the right direction, many political actors complained that they did not address the country's need for a more far reaching reform of its parliament. Once again, some parties, notably the IAF decided to boycott the elections. The current House of Representatives has the following composition:

48 No reason was given for the dissolution, but many Jordanians speculated that it was because the Executive was dissatisfied by the handling of draft legislation in the House of Representatives.

49 The law increased the number of reserved seats for women from six to twelve and added four seats to under-represented urban governorates. While Jordan's anachronistic system of districting was retained, virtual sub-districts were created inside multi-member districts, which created additional confusion among candidates and voters alike.

50 See Democracy Reporting International, "Much Ado about Little", [http://www.democracy-reporting.org/files/briefing\\_paper\\_6\\_-\\_jordan\\_new\\_election\\_law.pdf](http://www.democracy-reporting.org/files/briefing_paper_6_-_jordan_new_election_law.pdf)

51 The highest participation was in the *adia* with 79%.

52 The other sections of this report analyse the reform initiatives and the electoral legislation.

POLITICAL AFFILIATION	NUMBER OF SEATS	% OF SEATS	NO. OF WOMEN DEPUTIES
INDEPENDENT CANDIDATES	123	82	17
ISLAMIST CENTRIST PARTY	3	2	0
NATIONAL UNION PARTY	2	1.33	0
THE HOMELAND	2	1.33	0
STRONGER JORDAN	2	1.33	1
VOICE OF THE NATION	1	0.67	0
DAWN	1	0.67	0
DIGNITY	1	0.67	0
NATIONAL CURRENT PARTY	1	0.67	0
PEOPLE OF DETERMINATION	1	0.67	0
NATIONAL UNITY	1	0.67	0
CONSTRUCTION	1	0.67	0
FREE VOICE	1	0.67	0
LABOUR AND PROFESSIONALISM	1	0.67	0
THE PEOPLE	1	0.67	0
UNIFIED FRONT	1	0.67	0
NATIONAL ACCORD YOUTH BLOC	1	0.67	0
AL BAYAREQ	1	0.67	0
COOPERATION	1	0.67	0
NATIONAL LABOUR	1	0.67	0
CITIZENSHIP	1	0.67	0
SALVATION	1	0.67	0
NOBLE JERUSALEM	1	0.67	0
<b>TOTAL SEATS</b>	<b>150</b>	<b>100</b>	<b>18</b>

As can be seen from the large number of parties with few seats, the introduction of the PR-list component did not facilitate the emergence of national level political parties.

#### 4.3 Voter Turnout

The credibility of the elections was of the utmost importance to the state authorities and the number of persons registering to vote and subsequently voting was considered an important political issue, particularly in the context of an election boycott. Voter turnout in the 2013 election was 56.6% of registered voters. But it should be noted that only some 64% of eligible electors actually registered to vote. It is notable that the voter turnout was significantly lower in urban areas compared to rural areas – to the extent that some rural areas have over double the level of voter turnout than in Amman. The voter turnout by district can be found at Annex 3.

#### 4.4 Parliamentary Blocs

Parliamentary blocs in Jordan are not related to political parties and do not necessarily reflect the political views of their members or a common approach to voting on legislation. The blocs have no formal rules of procedure or internal structures.<sup>53</sup> In practice, they are fragmented and in constant flux, with no central record being made of changes in their membership or the voting patterns of their members. The blocs do not necessarily represent any political force outside of the House of Representatives and the web of loose affiliations is symptomatic of a political system defined by regional and tribal ties rather than political party identity.

<sup>53</sup> The current parliament is supposed to address this issue through internal regulations.

Immediately after the announcement of the results, deputies began to discuss the formation of blocs to elect the Speaker of the House of Representatives. With the announcement by King Abdullah II that the new Government would come out of consultations with parliament, deputies began to re-form blocs with different compositions to the ones they had only recently established.

#### 4.5 Current parliamentary blocs<sup>54</sup>

NAME	NUMBER OF DEPUTIES <sup>55</sup>
ISLAMIST CENTRIST PARTY	15
FUTURE BLOC	18
WATAN	27
DEMOCRATIC GATHERING	24
FREE PLEDGE	18
NATIONAL ACCORD	18
NATIONAL UNION PARTY	10
<b>TOTAL</b>	<b>130 (OUT OF 149)</b>

#### 4.6 The Representative Nature of Parliament

The deputies elected in 2013 from the 45 election districts were elected with only 41.8% of the votes cast and 23.7% of all registered voters in Jordan. Such a high level of ‘wasted votes’ (i.e. those cast for unsuccessful candidates) raises important questions over whether the largely majoritarian-plurality electoral system can produce a parliament that is truly representative of the political choices of the Jordanian electorate. It is noteworthy that there were far fewer wasted votes in the list-PR component with elected deputies representing 66.8% of the votes cast and 37.9% of registered voters (see Annex 4).

There is also a huge disparity in the number of votes needed by an elected deputy to win a seat in the different districts. In the First District of Amman, the winning candidate secured 19,399 votes but in the second district of Ma’an the highest scoring candidate won a seat with only 1,648 votes, while one of the candidates who won a seat through the women’s quota system did so with just 873 votes. With so few votes being needed to gain a seat, the system encourages candidates to focus on delivering local benefits to a small core group of supporters.

#### 4.7 Consensus on Reform

Political reform has been on the agenda in Jordan since 1989 but has moved at a very slow pace. Various committees have been formed with a mandate to propose reforms which would invigorate Jordan’s political life. However, in many cases their recommendations have been overlooked or the reforms actually put in place were insufficient.

The decision of the authorities to largely ignore the NDC’s proposal for a new election system and the failure to recalibrate the distribution of power in the Kingdom as part of the constitutional review received particularly strong criticism and was cited by the IAF and other parties as the main reason for their boycott of the 2013 elections. The non-participation of these parties diminished the significance of the 2013 elections and representative character of the incoming House of Representatives.<sup>56</sup>

After the 2013 elections, all stakeholders are united in their call for reform, including the reform of the electoral system. The highest official spheres, civil society activists and political groups seem to share a common goal: a parliament which is genuinely representative of the majority of Jordanians. The coming period should be used to translate these ambitions and recommendations into a concrete plan of action.

The move to an election system based largely on proportional representation, as recommended by the NDC, could have a major positive effect on the relevance of parliament, but, as the results of the 2013 elections show, Jordan has few strong political parties. This problem needs to be addressed if parliament is to function effectively.

<sup>54</sup> As of 27 February 2013

<sup>55</sup> As the number of deputies in each bloc fluctuates, these figures are likely to vary.

<sup>56</sup> The IAF announced that it would boycott the 2013 elections due to the limited number of list-PR seats and the authorities’ decision not to revise the constitution so that the parliament decides on the composition of the government.

# ANALYSIS OF THE LEGAL AND ADMINISTRATIVE FRAMEWORK FOR PARLIAMENTARY ELECTIONS

## 5. INTERNATIONAL LEGAL INSTRUMENTS, THE JORDANIAN CONSTITUTION AND DEMOCRATIC ELECTIONS

### 5.1 International Legal Instruments

Jordan has signed or ratified a number of international instruments which are relevant to the country's electoral framework. Most importantly, Jordan ratified the International Covenant on Civil and Political Rights (ICCPR) on 28 May 1975, and it was published in the Official Gazette in June 2006, thereby giving it the force of law.<sup>57</sup> The ICCPR sets out the basic international standards for genuine democratic elections.

Article 25 of the ICCPR, which is the principal article relevant for elections, states:

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.”

Other articles of the ICCPR are also specifically relevant to genuine elections including: article 2, which deals with non-discrimination, access to an effective remedy and enforcement

of remedies where granted; article 12, which deals with freedom of movement and residence; article 14 on the independence and impartiality of judicial bodies; article 19 on the freedom of opinion and expression; article 21 on the right to peaceful assembly; and article 22 on the right to free association. The UN Human Rights Committee (UN HRC) has elaborated a number of ‘General Comments’ on specific articles of the ICCPR, which provide an authoritative interpretation of their meaning.

Jordan is also party to a range of other international instruments, including the International Convention on the Elimination of Racial Discrimination (ICERD) 1966 (ratified in May 1974), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 (ratified in 1992)<sup>58</sup>, the Convention on the Rights of Persons With Disabilities 2006 (ratified in March 2008) and the Convention Against Corruption (ratified in Feb 2005).

This report assesses the Jordanian electoral framework against these international instruments, the comments and opinion of UN Human Rights bodies and the Arab Charter on Human Rights (ACHR),<sup>59</sup> and where relevant electoral ‘good practice’ documents.

### 5.2 Constitutional Framework

The Jordanian Constitution provides guarantees for the protection of fundamental freedoms and rights necessary for holding genuine elections. These include the key freedoms of expression, association and assembly.<sup>60</sup> The Constitution (Article 6) requires that these rights are to be provided without discrimination and provides that “the laws issued in accordance with this Constitution for the regulation of rights and freedoms may not influence the essence of such rights or affect their fundamentals” (article 128).

<sup>58</sup> In 2009, Jordan withdrew a reservation to article 15(4) of, thereby respecting the right of women to mobility and choose their residence without the consent of their husbands or other male family members. The reservation was inconsistent with article 12 of the ICCPR.

<sup>59</sup> The revised version of the ACHR came into force in March 2008 and has been ratified by Jordan.

<sup>60</sup> See articles 15 and 16 of the Constitution.

<sup>57</sup> However, Jordan has not acceded to the ICCPR Optional Protocol which provides for a mechanism to deal with complaints from individuals. Jordan submitted its last (fourth) periodic report in 2010, twelve years late. Jordan's next report is due for submission by 27 October 2014.

The Constitution (Article 67) provides that the members of the lower house are elected by general, secret and direct elections in accordance with the election law which must ensure: the right of candidates to observe the electoral process, the punishment of those adversely influencing the voters' will and the integrity of all stages of the electoral process. While these are good provisions, the Constitution does not specifically the right and opportunity for all citizens, without distinction or unreasonable restrictions, to vote and be elected and does not mention equal and universal suffrage. Beyond the provision that those adversely influencing voters' will shall be punished, it does not include a specific guarantee for the free expression of the will of electors.<sup>61</sup>

It is a requirement of both the Universal Declaration of Human Rights and the ICCPR that elections are held 'periodically'.<sup>62</sup> Under the Constitution, elections for the House of Representatives are required be held every four years but the Constitution still grants the King discretionary power to extend the term "for a period of not less than one year and not more than two years" for whatever reason.<sup>63</sup> Positively, in October 2011, paragraphs 4 to 6 of article 73 were abrogated meaning that the King no longer has the power to postpone parliamentary elections indefinitely, thereby removing the possibility for the arbitrary suspension of the primary democratic institution in Jordan.<sup>64</sup> The King also has the power to dissolve parliament. Since 2001, parliament has been suspended for a period of two years (2001-03) and been dissolved before the expiry of its mandate on two occasions (2009 and 2012).

61 Article 24.3 of the ACHR grants the citizens of the signatories the right to "stand for election or choose his representatives in free and impartial elections, in conditions of equality among all citizens that guarantee the free expression of his will" (emphasis added).

62 The UN Human Rights Committee has commented: "Genuine periodic elections ... are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them. Such elections must be held at intervals which are not unduly long and which ensure that the authority of government continues to be based on the free expression of the will of electors.", UN HRC, General Comment 25, paragraph 9

63 Article 68

64 These powers were invoked to suspend parliament in 2001 and delay elections until 2003.

## 6. OVERVIEW OF THE APPLICABLE LEGISLATION FOR ELECTIONS

In addition to the Constitution, the core pieces of legislation regulating electoral processes are:

- Law No 25 of 2012, the Election Law to the Lower House of Parliament, as amended (hereafter 'the Election Law'), and
- Law No. 11 of 2012, the Law on the Independent Election Commission (hereafter: IEC Law).

From 2003 to 2010,<sup>65</sup> electoral processes were regulated by a series of 'provisional' election laws issued by the Jordanian Government during periods when the parliament had been suspended or dissolved.<sup>66</sup> The adoption of the 2012 Election Law by parliament therefore constitutes an important milestone.

Nevertheless, the Election Law contains numerous flaws. 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. The IEC Law allows the Commission to adopt Executive Instructions and Regulations. The IEC issued 14 Executive Orders and numerous regulations and these form a key part of the legal framework for elections.

Paragraph 25 of General Comment 25 on article 25 of the ICCPR states: "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. It requires the

65 Processes before 2003 were regulated by the 1986 Election Law

66 The laws were issued under the now abrogated article 73.4 of the constitution.



full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.” Therefore, the laws regulating political association, assembly, expression, and access to information can also be considered as highly relevant for the holding of genuine elections.

In its 2010 concluding observations, the UN HRC expressed concerns regarding the laws regulating the right of free association, the freedom of opinion and expression and peaceful public assembly.<sup>67</sup>

The 2008 Public Assembly Act required any organiser of a public meeting on general State policy first to obtain the governor’s written authorization. This could, *inter alia*, impose restrictions on public meetings held as part of candidate or party election campaigns. In May 2011, the Jordanian authorities complied with the UN HRC’s request to amend the law, and now it is only necessary for organisers to notify the authorities of a planned meeting in a public space.

The UN HRC expressed its concern that journalists “continue to risk criminal sanctions if they write articles considered harmful to the State party’s diplomatic relations or relating to the King and the royal family (art. 19).” The HRC requested Jordan to “review its legislation and practice to ensure that journalists and media outlets are not penalized as a consequence of expressing critical views”. In October 2011, article 15.3 of the Constitution was amended by introducing the term ‘mass media’ to the clause guaranteeing the freedom of the press and publications within the limits of the law. Amendments to the new Press and Publications Law were introduced in September 2012. This law does not properly guarantee article 19 rights and is widely considered to be a retrograde step. In particular, many journalists and civic groups condemned the law for extending stringent controls on electronic media to include websites. They regard the law as an attempt by the state authorities to control the freedom of expression and opinion in online publications (see section 15 for further details).

The 2011 constitutional amendments introduced a specific reference to ‘associations’ (in article 16), but to date the 2008 Law on Societies still contains a provision that the government has full discretion in appointing a state employee to serve as temporary president of a newly established NGO, despite a request by the UN HRC to amend this provision.<sup>68</sup>

A variety of other laws are relevant, including: the Criminal Procedures Code (in terms of accountability for electoral offenses), the laws governing judicial procedures (in terms of access to an effective remedy) and legislation dealing with non-discrimination, residence, and issuance of identity cards.

## 7. ELECTORAL SYSTEM

The newly elected House of Representatives consists of 150 elected members.<sup>69</sup> The size of the House of Representatives has almost doubled since 1989, when 80 members were elected. In 2001, the government decreed that the size of the lower house would increase to 104 seats and in 2003 six reserved seats for women were added, bringing the total to 110 seats. In 2010, a further ten seats were added including six more reserved seats for women.<sup>70</sup> The electoral system established by the 2012 Election Law is even more complicated than its predecessors. 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 27 seats allocated by proportional representation (PR).

### 7.1 The Majority-Plurality Component

Until the 2013 elections, all elections held in Jordan after the re-introduction of multi-party politics in 1989, have used the majoritarian-plurality system. 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.

The system used for the 1989 elections used multi-seat districts with a Block Vote (BV), whereby each voter had a number of votes equal to the number of seats in the electoral district. The four elections held between 1993 and 2007 used the ‘single non-transferable vote’ (SNTV) system, whereby electors could only vote for one candidate. However, while most districts elected multiple candidates some districts were only allocated one seat. In effect these districts used the first-past-the-post (FPTP) system. While the architecture of the system was retained for the 2010 elections, electoral districts were divided into virtual (rather than geographical) ‘sub-districts’, with each 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 2012 Election Law 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.<sup>71</sup> 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

<sup>67</sup> UN HRC, Concluding Observations, 100<sup>th</sup> session, Geneva 11-29 October, CCPR-C-JOR-CO-4

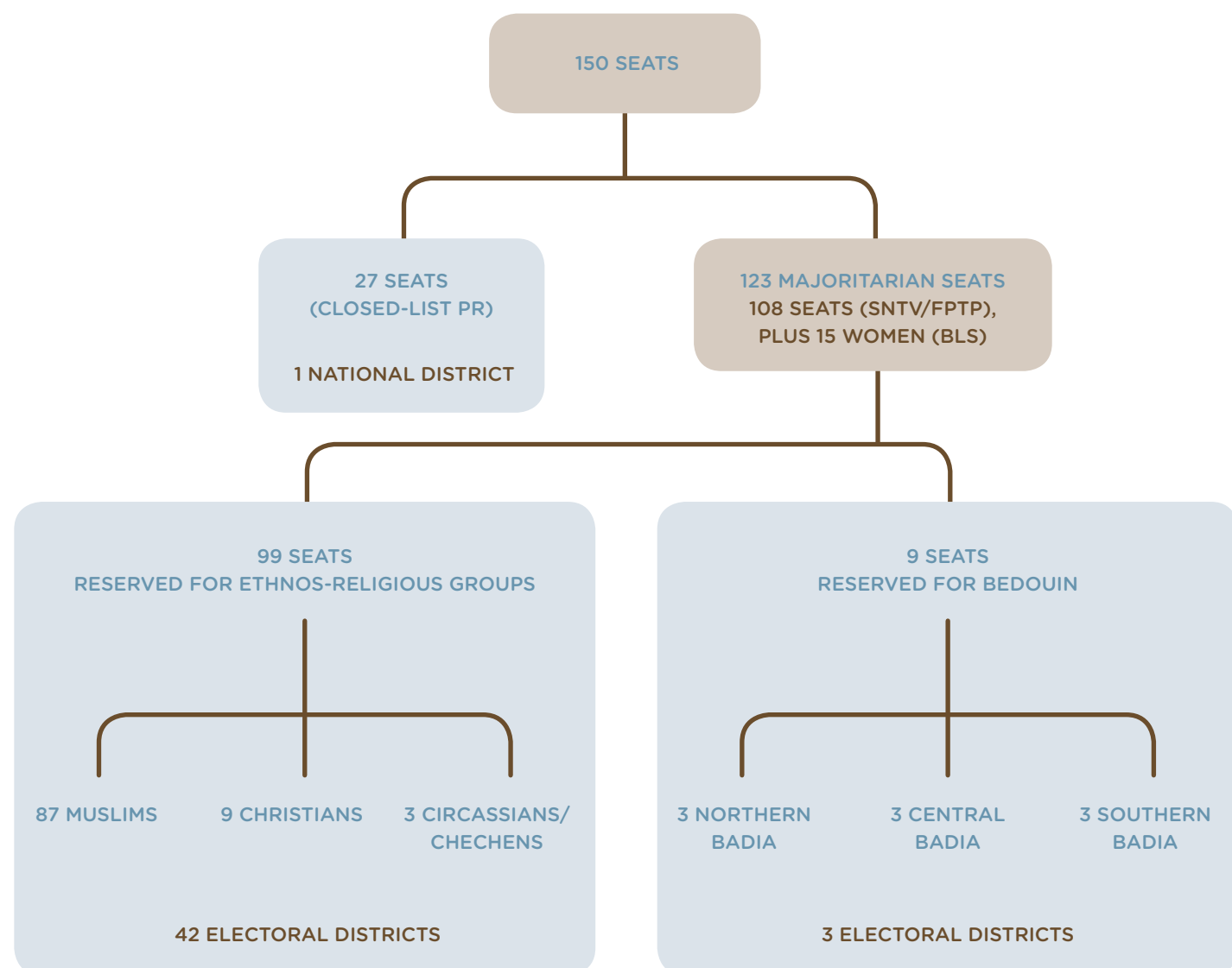
<sup>68</sup> UN HRC, Concluding Observations, 100<sup>th</sup> session, Geneva 11-29 October, CCPR-C-JOR-CO-4

<sup>69</sup> The size of parliament is established by the Election Law (article 8).

<sup>70</sup> Two seats were added for Amman and one each in Irbid and Zarqa.

<sup>71</sup> 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.

## ELECTORAL SYSTEM FOR THE CHAMBER OF DEPUTIES OF JORDAN. 23 JANUARY 2013



districts are created in the south, central, and north *Badia* regions of the country for Bedouin (Badu) voters with each region allocated three seats.<sup>72</sup> In total, 108 MPs are 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. The Election Law introduces an additional three

reserved seats for women MPs, bringing the total to 15 seats. Section 8 specifically deals with the representation of women.

Globally, the SNTV system is seldom used, employed only in Vanuatu, Afghanistan, Libya (as part of a mixed election system), and Kuwait.<sup>73</sup> 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 un-

<sup>72</sup> 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.

<sup>73</sup> SNTV was introduced recently in Kuwait and prompting a strong political backlash.

## DISTRIBUTION OF PARLIAMENTARY SEATS BETWEEN ELECTORAL DISTRICTS<sup>73</sup>

GOVERNORATE	DISTRICT	NUMBER OF SEATS (2013)				NO. OF VOTERS REGISTERED	AVERAGE NUMBER OF VOTERS PER SEAT
		CHRISTIAN	CIRCASSIAN CHECHEN	MUSLIM	TOTAL		
AMMAN	1	0	0	5	5	129,065	25,813
	2	0	0	5	5	187,408	37,482
	3	1	0	4	5	98,649	19,730
	4	0	0	3	3	127,986	42,662
	5	0	1	2	3	74,918	24,973
	6	0	1	2	3	63,277	21,092
	7	0	0	1	1	26,674	26,674
IRBID	1	0	0	5	5	160,314	32,063
	2	1	0	2	3	49,787	16,596
	3	0	0	1	1	24,033	24,033
	4	0	0	2	2	48,656	24,328
	5	0	0	2	2	44,186	22,093
	6	0	0	1	1	44,988	44,988
	7	0	0	1	1	48,701	48,701
	8	0	0	1	1	17,444	17,444
BALQA	9	0	0	1	1	13,251	13,251
	1	2	0	5	7	89,972	12,853
	2	0	0	1	1	24,194	24,194
	3	0	0	1	1	26,588	26,588
KARAK	4	0	0	1	1	49,352	49,352
	1	1	0	2	3	38,409	12,803
	2	1	0	1	2	16,078	8,039
	3	0	0	2	2	31,386	15,693
	4	0	0	1	1	19,233	19,233
	5	0	0	1	1	10,404	10,404
MA'AN	6	0	0	1	1	7,397	7,397
	1	0	0	2	2	18,751	9,376
	2	0	0	1	1	6,733	6,733
ZARQA	3	0	0	1	1	11,109	11,109
	1	1	1	3	5	118,241	23,648
	2	0	0	3	3	49,614	16,538
	3	0	0	1	1	21,795	21,795
MAFRAQ	4	0	0	2	2	86,794	43,397
	1	0	0	4	4	58,817	14,704
TAFILEH	1	0	0	3	3	27,276	9,092
	2	0	0	1	1	10,839	10,839
MADABA	1	1	0	2	3	50,767	16,922
	2	0	0	1	1	20,964	20,964
JERASH	1	0	0	4	4	72,265	18,066
AJLOUN	1	1	0	2	3	54,373	18,124
	2	0	0	1	1	16,675	16,675
AQABA	1	0	0	2	2	31,641	15,821
BADIA	NORTH	0	0	3	3	58,867	19,622
	CENTRAL	0	0	3	3	41,790	13,930
	SOUTH	0	0	3	3	42,521	14,174
TOTAL	45	9	3	96	108	2,272,182	21,039

fair allocation of seats (see below), favours the strongest support base of the governing authorities, namely the rural populations with stronger tribal identities, but can also lead to the election of members of parliament whose main purpose for electors is to ensure the flow of state resources to their support group or locality (so-called ‘service MPs’).

## 7.2 Districting and Equal Suffrage

Paragraph 21 of General comment 25 states that: “Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors. The principle of one person, one vote, must apply, and within the framework of each State’s electoral system, *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* and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely” (emphasis added).

While the election law now includes a schedule of seats allocated to the districts,<sup>75</sup> regrettably it does not set out any criteria for districts to be drawn or seat allocation. This absence has caused the systematic under-representation of urban centres, home mostly to Jordanians of Palestinian origin, as well as some districts in the north of the country and over-representation of tribal areas, particularly in southern districts, the monarchy’s traditional support base, thereby magnifying their political power.

The Jordanian authorities refer to their election system as “one person, one vote”, which gives the impression that voters enjoy equal suffrage. However electors’ “voting power” in different governorates and election districts varies significantly because the number of seats allocated to the governorates and districts does not correspond to their population size (or the number of registered voters). The table below shows the relative voting power across the 12 governorates.<sup>76</sup>

While there is no precise standard regarding deviations in the equality of suffrage stemming from districting and seat allocation, it is a generally ‘good practice’ that voting power should not vary be greater or less 10-15% from the average.<sup>78</sup> In Jordan, the difference between the highest voting power (Tafileh) and the

average is 178%, and the difference between the lowest voting power (Amman) and the average is 32%. Moreover, the range of the voting power between the 42 specific districts established within the governorates is even greater.

However, because Jordan permits voters to register either in their place of residence or their place of origin, comparisons based on resident population can be somewhat misleading. Of the 2,272,182 registered voters, some 400,000 electors registered to vote according to their place of origin rather than the place of their residence.<sup>79</sup> Therefore, it is appropriate to also examine the data for voting power based on the ratio of seats to registered electors per governorate.

The comparison of ratio of seats to governorates based on the size of the governorates’ electorates shows that the deviation from the average voting power (100%) for the ‘most over-represented’ governorate (Ma’an), though remaining high (225%), is reduced to 125% and for the most ‘under-represented’ governorate (Amman) is reduced to 26%. However, basing seat allocation on registered voter data is problematic because Jordan has a hybrid active-passive system of voter registration and many citizens who are eligible to vote decided not to register to vote, notably in Amman. Indeed, it is considered ‘best’ practice to allocate seats to districts based on population size rather than registered voters, as elected representatives represent all citizens resident in the electoral unit.

The charts above show that there is little relationship between the size of a governorate’s population and the number of electoral districts or seats allocated to it: 37% of Jordan’s population live in nine governorates<sup>80</sup> which hold 48% of the seats, while Amman, with 39% of the population holds only 25% of the seats. However, as noted above the voting power issue is complicated because residents of one governorate are able to register to vote in another governorate.

The discrepancies between the number of seats allocated to election districts and their population size is even more unequal than between the governorates; in the most extreme case, the second district of Ma’an has 6,733 registered voters while the seventh district of Irbid has 48,701 – but each elects the same number of MPs.<sup>81</sup> The allocation of seats to districts in Amman, Irbid, Balqa and Zarqa governorates is the most skewed.<sup>82</sup>

74 Data from the IEC and the 2012 Election Law

75 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.

76 [http://www.dos.gov.jo/dos\\_home\\_e/main/index.htm](http://www.dos.gov.jo/dos_home_e/main/index.htm), Jordan Department of Statistics, Statistical yearbook 2012, No population data can be used for the *Badia*, as they overlap with geographical units.

77 The figure of 100% represents the average vote weight.

78 In the European Context, the Council of Europe’s Venice Commission has stated “The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity)”, Code of Good Practice in Electoral Matters, CDL-AD (2002) 23 rev.

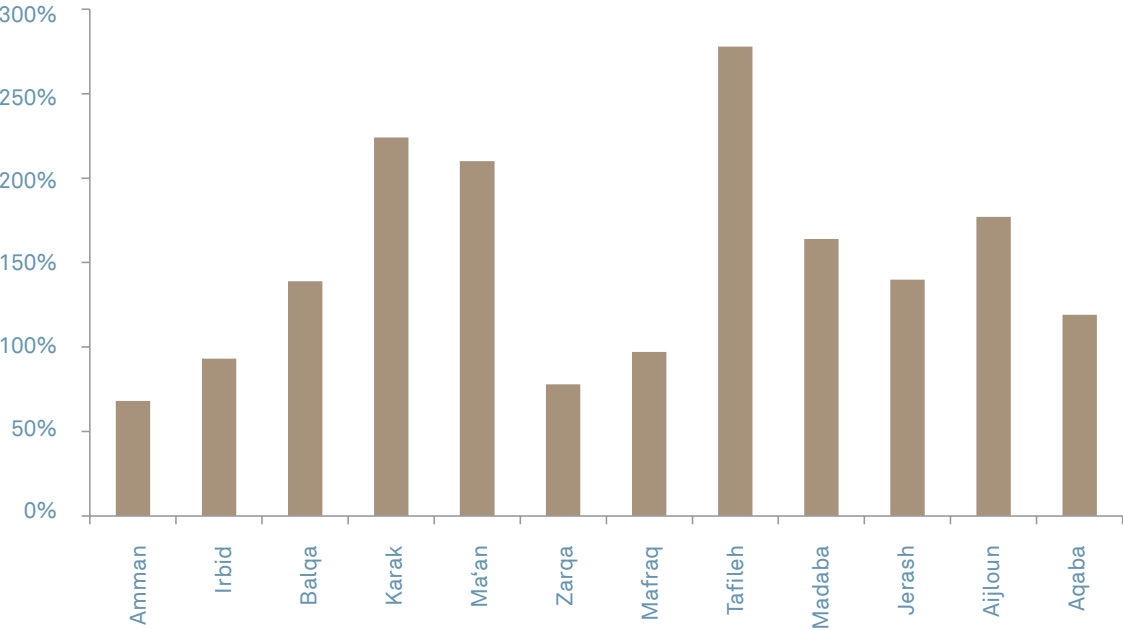
79 Information gathered from the IEC

80 Excluding the three *Badia* districts, whose populations have not been included in the charts.

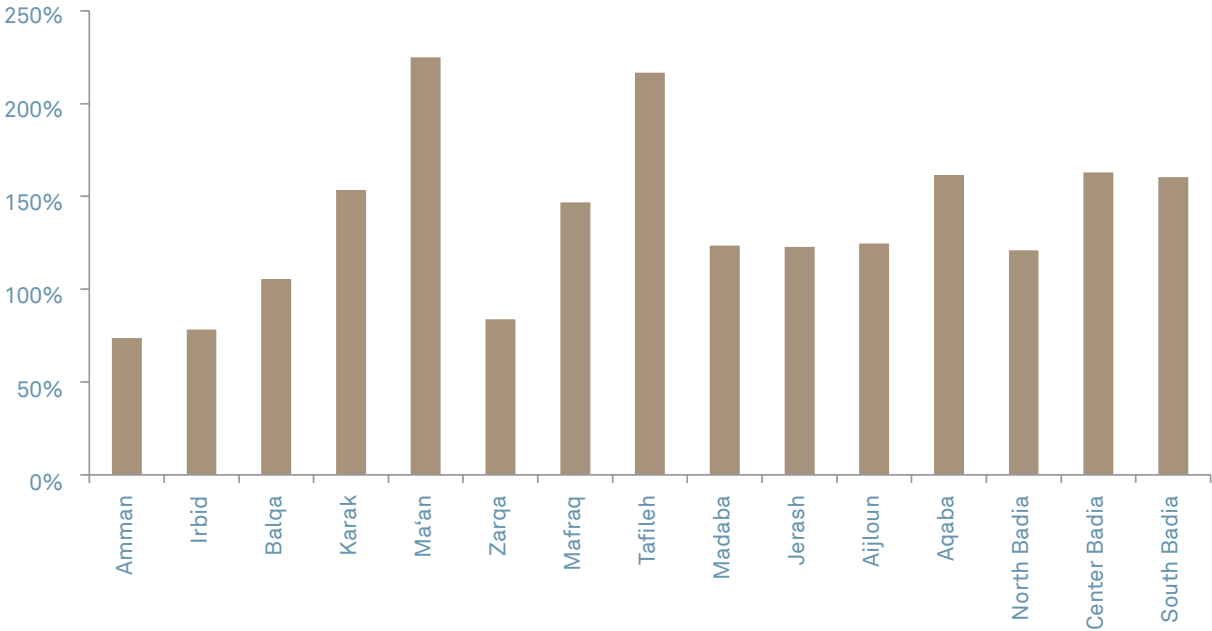
81 Figures based on the final number of registered voters in the districts prior to the 2013 elections.

82 For example, Balqa first district is allocated seven seats with a registered voting population of 89,972, meaning one seat per 12,853, whereas Balqa fourth district has only one seat and a voting population of 49,352, meaning that a vote in the first district has almost four times the weight as one in the fourth district.

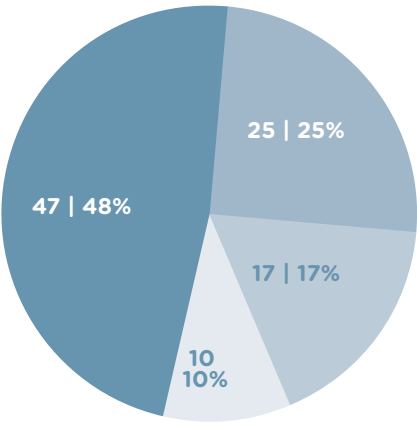
# VOTING POWER BY GOVERNORATE (BASED ON 2012 POPULATION)<sup>77</sup>



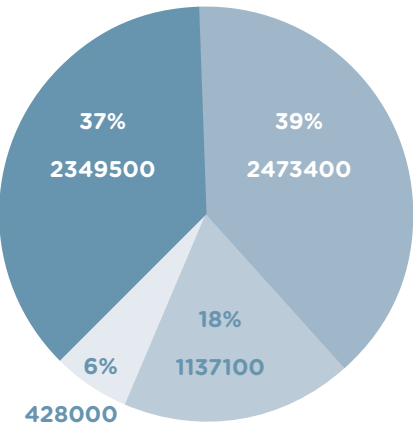
# VOTING POWER BY GOVERNORATE (REGISTERED VOTERS, 2013)



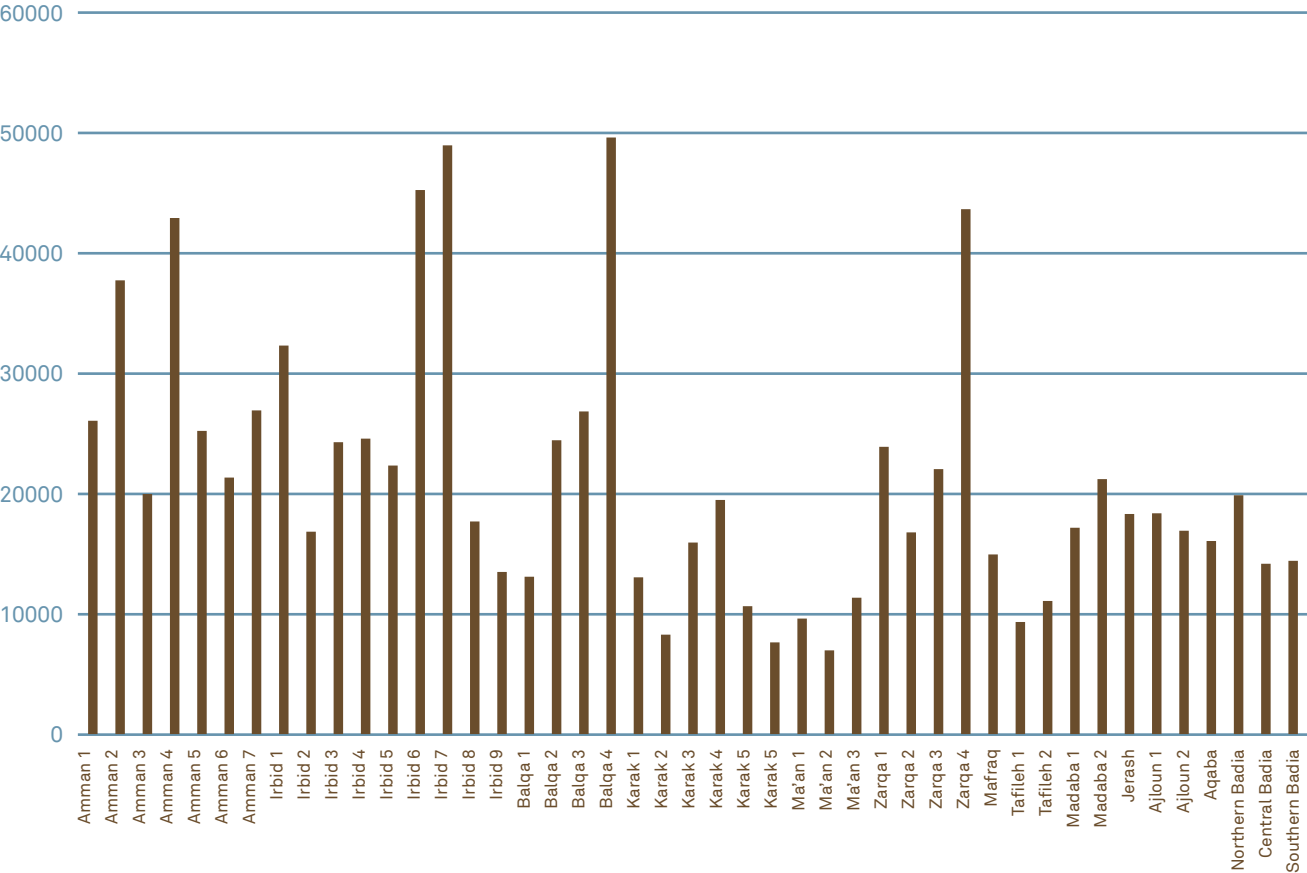
NUMBER OF SEATS PER GOVERNATORE



NUMBER OF REGISTERED VOTERS PER GOVERNATORE



NUMBER OF REGISTERED VOTERS PER PARLIAMENTARY SEAT IN EACH ELECTORAL DISTRICT





### 7.3 The Closed-List Proportional Representation (PR) Component

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 have allowed voters to select individual candidates of their choice from electoral lists with seats allocated using the proportional representation principle (list-PR system). Nevertheless, the draft Election Law presented by the Cabinet largely ignored the NDC's recommendations on the election system. In June 2012, parliament adopted this law without engaging in a genuine public debate or introducing major changes to the Cabinet's draft.

The election system retained the old SNTV districts and reserved seats, but added a nationwide constituency with 17 seats allocated by PR, but based on 'closed' rather than 'open' lists. In response, following a threat by some parties to boycott the next elections, King Abdullah reconvened parliament and asked it to re-examine the law. In early July, the parliament approved the Cabinet's proposal to increase the number of MPs elected through the list-PR system to 27, thereby raising the total number of MPs to 150.<sup>83</sup> The decision to raise the number of list-PR seats did not satisfy some parties, including the IAF, and they continued with the electoral boycott.

The decision to elect just 18 per cent of the seats under a PR system – and to use the closed-list method – heightened the view that the 2011-12 reform process was little more than the latest in a series of cosmetic political changes. Reformists were particularly disappointed that the SNTV system would again be used to elect the large majority of MPs as they believed that it facilitates the election of local "service-MPs" rather than party-backed MPs who are more likely to subscribe to national political programmes. However, the adoption of a PR-list component was significant insofar as it was Jordan's first experience of a PR system and because it increased the number of party-backed MPs in parliament, albeit from a low base.<sup>84</sup>

As expected, the introduction of a PR-list component also, to a marginal extent, redressed the inequality of suffrage caused by the arbitrary allocation of seats to the rural governorates (see Annex 2). For example, at the extremes, the seventh district of Irbid "improves" its voting power from 42.15% to 52.56% and the second district of Ma'an "decreases" its voting power from 365.82% to 317.97%. The following graphs demonstrate the effect of the introduction of the PR-list component.

While further increases in the number of PR seats can be used to further equalise the voting power among the governorates, it would require a very large increase before all districts fall within the range of +/- 15% from the average. However, to bring Jordan's electoral districting in line with its international obligations towards its citizens it may be necessary to either change the electoral system or to reallocate majoritarian-plurality seats on a more equitable basis.

83 The outgoing House of Representatives had 120 members.

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

## 8. WOMEN'S REPRESENTATION

Article of the ICCPR provides that "Each State Party [...] undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." CEDAW (article 7) states: "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies". CEDAW permits the use of temporary special measures to achieve women's de facto equality. These include applying a quota or reserved parliamentary seats for women.

Jordan has ratified CEDAW, albeit with reservations<sup>85</sup> and hence is obliged to advance women's equality. However, its Constitution still does not contain a clause prohibiting discrimination against women despite the fact that it was amended as recently as 2011 and that a campaign took place to include a prohibition on discrimination based on gender. The National Agenda (2007-2017), states Jordan "will remove all forms of discrimination against women in laws and legislation by 2015"<sup>86</sup> The decision not to introduce a prohibition on discrimination against women in the Constitution is a significant opportunity missed.

In 2003 Jordan introduced reserved seats for women in the House of Representatives, although 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 was raised to 15 seats.<sup>87</sup> In 2012, the quota for women in municipal councils was raised from 20% to 25%.<sup>88</sup> That the quota for the House of Representatives was not also raised is somewhat inconsistent with the 'National Agenda', the UN Millennium Development Goals to which Jordan has subscribed,<sup>89</sup> and the ICCPR<sup>90</sup>.

Under the election system in place, female and male candidates

85 At signature, reservations were entered regarding article 9 paragraph 2, article 15 (4) and article 16 paragraph 1 (d and g). The reservation regarding article 15 (4), which deals with the residence of married women, was withdrawn in May 2009.

86 [http://kingabdullah.jo/index.php/en\\_US/initiatives/view/id/2.html](http://kingabdullah.jo/index.php/en_US/initiatives/view/id/2.html)

87 However, because the total size of parliament was also increased, to 150 members, the minimum percentage of women MPs (10%) did not change.

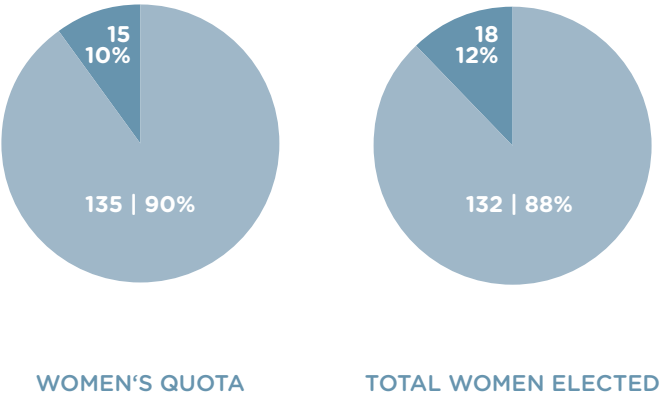
88 However, not all councillors are directly elected, some are appointed. Previously, the quota of women in municipal councils was sometimes achieved by appointing women councillors. One of the main changes in the Municipalities Law is that the number of directly elected seats for the Greater Amman Council has been raised from 50% to two-thirds. However, it is still possible that the 25% quota will be achieved through appointments.

89 The UN Millennium Development Goals aim at parliaments in which women constitute 30%.

90 In its 2010 Opinion of Jordan's Periodic Report under ICCPR, the UN HRC stated its concern about the insufficient participation of women in public life (arts. 3 and 25 of the ICCPR) and urged the State Party to take all necessary measures to increase women's participation in the various areas of public life, raise awareness and increase the minimum quotas for women in the House of Representatives.

# WOMEN ELECTED TO THE HOUSE OF REPRESENTATIVES

2013



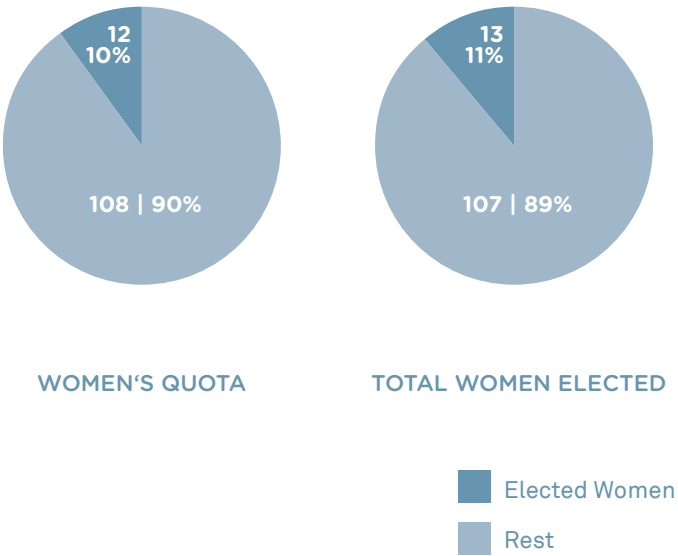
compete together in the 45 election districts. However, women can win a seat in two ways. Firstly, they can secure enough votes to win a seat in the single or multiple seat districts. Secondly, they can win a seat under the ‘best loser system’ (BLS) by being the female candidate that receives the highest percentage of the vote in the districts in a governorate (or *Badia*) who did not receive enough votes to win a seat directly.<sup>91</sup> However, using percentage to determine the winning BLS candidates can lead to anomalous results because women candidates contesting large city districts tend to receive far more votes than their counterparts in smaller rural districts, but often receive a lower vote percentage. The method of applying the quota also encourages tactical voting.<sup>92</sup> Allocating reserved seats to each governorate/*Badia* accentuates the problem of under- and over-representation of specific geographical areas (see section 7) and reinforces the representation of tribal areas in parliament.

Paragraph 15 of General Comment 25 states: “No person should suffer discrimination or disadvantage of any kind because of that person’s candidacy.” However, de facto, women who wish to stand

91 In 2010, because only 12 seats were reserved for women and because there were 15 governorates/*Badia* combined, the three lowest scoring women candidates in these units were not elected. The three extra seats for women means that all governorates/*Badia* will have at least one female MP.

92 For example, a tribal or kin group with fewer clan members in a specific area will be aware that its chance to elect one of its own male members to parliament is limited, but they may be able to elect a female MP under the BLS, as far fewer votes are required.

2010



as parliamentary candidates face gender-specific challenges stemming from traditionalist views of women’s role. In general, many Jordanians still believe that women should confine themselves to the family sphere and not engage themselves in public life, especially politics. Some women candidates face pressure from family members to withdraw their candidacies, with some notable cases publicised.<sup>93</sup>

For the 2013 elections, 1,178,864 women were registered to vote (51.9 % of the total). Of the 1,425 registered candidates, 189 (13.3 % of the total) were women.<sup>94</sup> Of these, 18 won seats: 15 in reserved seats, 2 through direct election at district level and 1 through the PR-list system.

The percentage of women elected in 2013 to the House of Representatives increased slightly – up from 11% in 2010 to 12%.

The election administration also suffers from an under-representation of women from the Board of Commissioners through various levels of management to the lower levels.

93 See: “Seeking a voice, woman candidate punished with divorce”, Jordan Times, 20 January 2013.

94 The figures are for candidates registered in the districts and on the election lists.

## 9. REPRESENTATION OF MINORITIES AND OTHER GROUPS

The Constitution does not mention national, ethnic or religious minorities but establishes that “Jordanians shall be equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion” (article 6).

Some 92% of Jordanians are Sunni Muslims, with a small minority adhering to Shia Islam and Druze faiths. Some 4-6% of the population belong to Jordan’s Christian community. The overwhelming majority of the population are of Arab origin. The largest non-Arab minority are Jordanians of Circassian origin, estimated at 2% of the total population, with smaller minorities with Chechen, other North Caucasian, Kurd and Armenian origins.

Until the establishment of the 27 parliamentary seats elected by the list-PR system, all parliamentary seats were specifically designated as being reserved for Muslims, Christians, Circassians or Chechens, Bedouin tribes of the *Badia*, or women. However, until the adoption of the Election Law, the only legal provision for the reserved seats and an allocation of seats for the first four categories was contained in the Decrees of the Cabinet of Ministers on the establishment of the electoral districts. The new law (article 4) foresees the establishment of reserved seats for Christians, Circassians or Chechens and, as in the past, establishes reserved seats for women but still does not specifically mention reserved seats for Muslims and Bedouin.

The seats reserved for Christians and Circassians/Chechens are, in general, established in the districts where their communities are prevalent.<sup>95</sup> However, a citizen who belongs to one of these communities who is registered to vote in a district reserved for another category may apply to have his or her registration transferred to a district reserved for candidates from his or her community. Only Jordanians of a Circassian or Chechen background can run for the reserved seats for their communities, but it is not clear if they can also contest the 87 seats which are reserved for Muslims. Three regional electoral districts or ‘*Badia*’ (northern, central and southern) are reserved for members of specifically named Bedouin tribes and clans.<sup>96</sup>

A schedule setting out the allocation of seats to the twelve governorates and three *Badia* is included as an annex of the new Election Law. The schedule 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, giving a total of 99 seats. Of these nine seats are reserved for Christian candi-

dates, three are reserved for Circassian or Chechen candidates<sup>97</sup> and 87 are reserved for Muslim candidates. In addition, each of the three *Badia* was allocated three seats each (nine in total). There are 45 districts in the governorates and *Badia* combined.

For the parliamentary seats allocated through the list-PR system, there are no requirements beyond the stipulation that all candidates are Jordanian citizens i.e. there are no quotas based on religion, ethnicity or gender.

## 10. ELECTION ADMINISTRATION

There are few recognised international standards on the formation and composition of election management bodies (EMBs). However, the UN HRC has established that they should be ‘independent’ and have the authority to ensure that the elections are conducted ‘impartially’, ‘fairly’ and ‘legally’.<sup>98</sup> The UN HRC has also established that transparency is an essential principle, with citizens having the right to access information held by public bodies.<sup>99</sup> In its concluding observations to Jordan’s fourth periodic report, the UN HRC added its voice to those who had previously called for the establishment of an independent electoral commission.<sup>100</sup>

The previous Election Law established a temporary ad hoc four-tier electoral administration composed of officials from the Ministry of Interior (MoI), judges, civil servants and local government agencies. While the members of the judiciary sat at the apex of the election administration and, in general, enjoyed public confidence, many electoral stakeholders became increasingly concerned at the dominant organisational role played by MoI and local government staff, blaming these bodies for electoral malpractice. Therefore, the 2011 amendment to article 67 of the Constitution which transfers of the management of national elections to an independent election commission was widely welcomed by political parties and civil society. The law establishing the Independent Election Commission (IEC) as adopted in March 2012.

### 10.1 Competencies of the IEC

According to the legislation currently in force, the IEC has the overall role of supervising and administering all phases of par-

<sup>95</sup> In 2003, a reserved seat for Circassians or Chechens in Amman’s third district was withdrawn and reallocated to Amman’s sixth district. The third district, located in the centre of old Amman holds symbolic meaning for many Jordanian-Circassians as it was one of their first settlement areas following their expulsion from their homeland in the north Caucasus by imperial Russian forces in the late 19th century.

<sup>96</sup> 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.

<sup>97</sup> Two seats are in the Fifth and Sixth Electoral Districts of Amman, the capital, and the third is in the First Electoral District of Zarqa.

<sup>98</sup> Paragraph 20 of General Comment 25 on the ICCPR 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.”

<sup>99</sup> See paragraphs 3 and 18 of General Comment 34. Article 32 of the ACHR also guarantees the right to information.

<sup>100</sup> UN HRC, Concluding Observations, 100<sup>th</sup> session, Geneva 11-29 October, CCPR-C-JOR-CO-4

liamentary elections.<sup>101</sup> Its specific responsibilities include: registering voters (in conjunction with the civil status department of the MoI), registering candidates and electoral lists, adopting Executive Instructions on various issues, monitoring respect for the campaign rules, raising voter's awareness,<sup>102</sup> appointing members of committees formed at district level, approving candidate representatives and election observers, setting the election date, announcing final results and proposing draft laws on the commission's work. However, the IEC was required to conduct the elections on the basis of a flawed legislation. At times it had to adopt regulations which dealt with issues which more appropriately should have been set out in the primary legislation.<sup>103</sup> Indeed, some provisions of its Executive Instructions came close to modifying legal provisions.<sup>104</sup> In these cases the IEC took the precaution of referring substantive issues to the government's Legislative Interpretation Bureau.

## 10.2 Composition, Independence, Impartiality and Transparency of the IEC

The law requires the IEC to perform its tasks independently, transparently, impartially and with integrity. While it is positive that the electoral legislation includes these broad operating principles, it contains few provisions on how transparency is put in practice.<sup>105</sup> However, the IEC's Code of Conduct for electoral officials requires all its employees to observe "transparency in carrying out the elections process, and applying policies and procedures that are clear, documented, and available to all the parties, and observing precision and credibility with regard to collecting and publishing all the data and information relevant to the elections."<sup>106</sup>

While there are no universally agreed criteria to assess the independence of an EMB, there is general agreement on a few key factors, including: the method of appointing its members and their security of tenure, its composition, staffing, financial arrangements, authority to control all aspects of the elections and

regulatory powers.<sup>107</sup> However, formal 'structural' independence may, by itself, not lead to the creation of a truly independent EMB because "a culture of independence and the commitment of EMB members to independent decision making are more important than the formal 'structural' independence."<sup>108</sup>

The Jordanian IEC's main board is composed of a chairman and four members. Commissioners are appointed for six-year, non-renewable terms by Royal Decree. The legislation safeguards commissioners' tenure by stipulating that the service of a commissioner may only be terminated in a few specific situations, by a royal decree, and on the basis of a recommendation signed by three other commissioners. IEC nominees are identified by a committee chaired by the Prime Minister and including the Speakers of the two Houses of Parliament and the President of the Judicial Council. Notwithstanding the inclusion of the President of the Judicial Council in the nominating committee, the 'political' profile of the majority of committee members led some Jordanians to question the impartiality of the nominating body. The IEC members were appointed by the King in May 2012.<sup>109</sup>

The IEC law and Executive instruction No 7 contain many provisions aimed at ensuring the political impartiality and integrity of the IEC and its staff. Article 9 of the IEC Law requires that commissioners must have "a good reputation and conduct and be known for integrity; must not be members of a political party; on the board of any private or public institution and to swear an oath to perform his duties with complete integrity and impartiality. Commission employees may not participate directly or indirectly in any candidate's election campaign. The IEC board is required by law to adopt a Code of Conduct for its members, the Secretary General and employees."<sup>110</sup> The IEC established a disciplinary board to deal with any breaches of the Code of Conduct.<sup>111</sup>

The IEC law provides that the commission has financial and administrative independence with the right to draft its own budget without governmental approval. However, an apparently contradictory provision states that regulations "related to the financial and administrative issues of the commission" are adopted not by the commission but by the Cabinet of Ministers. The IEC accounts are scrutinised by the Auditing Bureau and commissioners and the Secretary General are bound by the provisions of the Financial Disclosure Law. This provides a degree of financial accountability.

101 It may 'supervise' any other elections e.g. municipal elections only upon the approval of the Council of Ministers in accordance with the provisions of other laws e.g. the law on the municipalities.

102 Paragraph 11 of General Comment 25 stipulates that "Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community."

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

104 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 (IEC Regulation 10, article 7).

105 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.

106 See IEC Executive Instruction No. 7 (article 7.B.6)

107 International IDEA's 'Handbook on Electoral Management Design' states: "the term 'independent' embraces two different concepts – that of structural independence from the government (the 'Independent Model' of electoral management); and that of the 'fearless independence' expected of all EMBs, no matter which model is used, in that they do not bend to governmental, political or other partisan influences on their decisions." <http://www.idea.int/publications/emd/loader.cfm?csmodule=security/getfile&pageid=17196>.

108 International IDEA's 'Handbook on Electoral Management Design' (page 22)

109 Abdullah Al-Khatib, who is a former Minister of Foreign Affairs, was appointed as Chair.

110 The Code of Conduct was adopted as Executive Instruction No. 7.

111 Violating the Code of Conduct, participating in a campaign event or not disclosing a relationship with a candidate could result in a term of imprisonment. See IEC Law article 22.

The IEC Law provides that the commission shall “undertake all legal procedures necessary to achieve its objectives” and that “The Board shall issue the necessary executive instructions for implementing the provisions of this law and any other regulations”. However, the Election Law stipulates that the government (Prime Minister and ministers) are “responsible for the implementation of the provisions of the Election Law” and that the Council of Ministers shall issue regulations necessary to implement the provisions of the Election Law.<sup>112</sup> These provisions could create a perception that the IEC has reduced scope to independently regulate the process as well as creating a potentially contradictory legal framework regarding the respective authority of the IEC and the government.<sup>113</sup>

### 10.3 Staffing and Structure

The IEC has an executive apparatus (secretariat) headed by a Secretary General who is appointed and dismissed by the IEC Board. However, a requirement that the Board’s decision must be approved by Royal Decree could lessen the perception of the Board’s independence on issues concerning its staffing.<sup>114</sup> The IEC chair supervises the work of the secretariat. Commissioners, the Secretary General and the executive body work full-time for the IEC.<sup>115</sup> This is a good provision which, in effect, creates a permanent structure, a necessary condition for establishing a professional EMB.

Article 16 of the IEC Law allows the secondment of staff from ministries, government departments and official and public institutions on a full- or part-time basis. Administrative responsibility for seconded staff is transferred to the IEC. However, article 26 provides that the Council of Ministers issues regulations “related to employees affairs”. Some civil society organisations (CSOs) expressed concern that reliance on staff seconded by state institutions, in particular the MoI, created a perception that the IEC was less independent than it should be.<sup>116</sup> While it is almost inevitable that, due to the periodic nature of election processes, any EMB will need to use temporary staff, the IEC should avoid over-reliance on staff seconded from government bodies. In order to better develop institutional expertise it should ensure that at least the secretariat’s departmental heads and persons with a supervisory role are recruited on a full-time basis.

112 Election Law, articles 71 and 69.

113 In practice, in the run up to the 2013 elections, it was the IEC – rather than the Cabinet – which issued the regulations necessary for the implementation of the laws. The IEC was commended by a number of observer groups for its inclusive approach e.g. by consulting with Jordanian CSOs before formally approving its executive Instructions.

114 The Secretary General must fulfil the same eligibility criteria as for Commissioners (see IEC Law, article 9)

115 Election Law, articles 9B and 16

116 According to IFES “the IEC had a fully functional facility in Amman staffed by approximately 100 employees drawn from 25 government ministries and institutions, and a few from civil society and the private sector. The IEC also appointed three-member District Election Committees in each of its 45 electoral districts, supported by roughly 700 staff members seconded from government ministries.” See: <http://www.ifes.org/Content/Publications/Articles/2013/Jordans-New-Independent-Election-Commission-Improving-Election-Administration.aspx>

The IEC board established commissions in all 45 election districts whose main tasks are to organise appoint, supervise and train the members of the voting and counting committees.

The structure of the election administration for the 2013 elections was as follows: (p.33)

### 10.4 Powers of Enforcement

In addition to its administrative, supervisory, and quasi-legislative,<sup>117</sup> quasi-judicial,<sup>118</sup> election officials also have the powers of law enforcement officers.<sup>119</sup> Many Jordanians expected the IEC to be in a position to effectively tackle the deep-rooted electoral problems prevalent in Jordan, for example widespread vote-buying. However, the IEC – which was formed only eight months before the January 2013 elections – does not possess the human resources necessary to effectively ‘police’ the wider environment in which elections take place. It is probably for this reason that the legislation requires all government bodies and public institutions to provide the support and assistance requested by the IEC.<sup>120</sup> Indeed, it is highly unlikely that Jordan will be able to tackle these issues unless the electoral authorities act in close cooperation and coordination with the regular law enforcement bodies, in particular the police and public prosecutor. In cases where certain forms of electoral crimes are committed, including vote buying and selling, it is highly debatable whether the IEC should take the lead or whether the police and criminal justice system should fulfil their role for dealing with all types of crime.

## 11. EQUAL AND UNIVERSAL SUFFRAGE

### 11.1 The Right to Vote

Article 25 of the ICCPR recognizes and protects the right of every citizen to vote and to be elected. However, as already noted, the Jordanian Constitution does not specifically establish the right to equal and universal suffrage.

117 By virtue of its power to adopt Executive Instructions and to propose the necessary draft laws for the work of the Commission (IEC Law, article 12, S)

118 The IEC also has a minor quasi-judicial role in deciding on appeals on voter registration (Election Law, article 5, C1) and the polling and counting committees have this role as regards objections raised by candidates or their representatives to the voting and counting processes (Election Law, articles 42 and 46).

119 Article 68 of the Election Law, states that “for the purposes of applying the provisions of this law, the Chairman and members of the Board, heads of and members of [district] election commissions, heads of the polling and counting committees and heads of any other committees formed under the provisions of this law shall be considered members of law enforcement in accordance with the provisions set forth in the Criminal Procedures Code in force. In such capacity, they shall have the authority to take action regarding any of the offenses committed in violation of the provisions of this law.”

120 Article 5 of the IEC Law



The new Election Law provides that Jordanian citizens who have completed 18 calendar years of age on the date specified for elections shall have the right to vote. The previous law required that to be eligible citizens must have completed 18 years of age on 1 January of the year in which elections took place. The change is positive and in line with previous recommendations.

The ICCPR requires that any restrictions on the exercise of fundamental freedoms and human rights, including the right to participate in an election, are ‘objective and reasonable’.<sup>121</sup> As in the past, the voting rights of members of the Jordanian Armed Forces, General Intelligence, Public Security, Gendarmerie forces and Civil Defence are suspended while they are in active service. Although many Jordanians support this provision – ostensibly due to fears of subordinates being directed to vote for specific candidates – it constitutes a restriction which is at odds with the principle of universal suffrage. The vast majority of democratic states consider that the principle of universal suffrage includes voting by military and police personnel. Some put in place special voting arrangements to better ensure that military and police

service personnel are not unduly influenced by their superiors, for example by requiring that they vote at regular polling stations with the usual guarantees for a secret ballot.<sup>122</sup>

The law denies the right to vote to anyone who has been declared bankrupt and has not been legally rehabilitated and anyone who is mentally retarded, insane or interdicted for any other reason. The provision restricting participation on mental incapacity grounds exists in almost all jurisdictions. However, it is common to require that the condition has been formally established, for example by a court decision. The restriction on un-discharged bankrupts is found in a few countries, but as with military/police personnel it could constitute an unreasonable restriction of the right to vote.

The previous law contained a blanket prohibition which deprived persons held in custody or who had been sentenced to more than one year’s imprisonment for a “non-political crime” of their right to vote. The removal of these restrictions is in line with the views of the UN HRC which has stated that a restriction on the right and

121 See General Comment 25, paragraph 4.

122 The OSCE/ODIHR Election Handbook, 5th Edition, states “Arrangements for voting by members of the military and, where permitted, by prisoners should ensure that their votes are secret and not subject to coercion, and the military should ideally be able to vote with the civilian population, with special voting stations for military voting reserved for extraordinary cases.” See: <http://www.osce.org/odihr/elections/70293>

## NATIONAL

### INDEPENDENT ELECTION COMMISSION



## DISTRICT

### 45 DISTRICT ELECTION COMMISSIONS



## POLLING STATION

THE BOARD OF COMMISSIONERS COMPOSED OF CHAIR AND 4 OTHER MEMBERS, APPOINTED BY THE KING.

SECRETARY-GENERAL AND VARIOUS DEPARTMENTS. MOST STAFF (AROUND 80%) SECONDED FROM VARIOUS MINISTRIES, MAINLY MINISTRY OF INTERIOR.

BOARD COMPOSED OF A CHAIR AND 2 MEMBERS, PLUS STAFF.

ALL STAFF SECONDED FROM MINISTRIES AND OTHER PUBLIC INSTITUTIONS.

### 4069 POLLING AND COUNTING COMMITTEES

CHAIR AND 5 OTHER MEMBERS  
ALL STAFF SECONDED, MOSTLY FROM MINISTRY OF EDUCATION



opportunity to vote of persons held in custody is ‘unreasonable’ in cases where the person has not been convicted of a crime<sup>123</sup> and that the principle of proportionality must apply regarding the restriction of the right to vote of persons who have been convicted of a crime.<sup>124</sup> However, the new law states that in addition to undischarged bankrupts and persons without mental capacity, persons “interdicted for any other reason” shall lose their suffrage rights. The phrase “*interdicted for any other reason*” is very vague, and could be used to unreasonably restrict Jordanian citizen’s right to vote. As a general principle, legislation should be specific in regards to deprivation of suffrage rights.

In contrast with the global trend to provide citizens residing abroad with the opportunity to register to vote and to vote outside the country (i.e. to ensure an effective *opportunity* to vote), the Election Law makes no provision for voting by persons who are residing outside Jordan.

## 11.2 The Right to Stand for Elective Office

Paragraph 15 of General Comment 25 on the ICCPR states: “The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria.” Articles 70 and 75 of the Constitution sets out the criteria for membership of the House of Representatives (and the Senate),<sup>125</sup> which by extension establish eligibility to contest elections in Jordan.

Article 70 provides that members of the House of Representatives must have completed 30 calendar years. The Royal Commission proposed that this be reduced to 25 years of age, but the parliament declined to accept the proposed amendment. The age limit for electoral candidacy in Jordan is higher than in most other Arab states and the parliament’s decision is against the global trend to reduce the age requirement for elective office.<sup>126</sup> The justifications for establishing a candidacy age of 30 years are not known and hence it is not possible to assess whether they are ‘objective and reasonable’.

Article 75 requires that, as for voters, members of parliament must be Jordanians (Jordanian citizens) and must not be undischarged bankrupts or mentally incapable. In addition, they must not hold the nationality (citizenship) of another state,<sup>127</sup> be interdicted where the interdiction has not been removed, have been sentenced to imprisonment for a period exceeding one year for a

non-political crime unless pardoned or be a relative of the King within a certain of consanguinity. It also requires that members of parliament are not under a direct or indirect contract with the government or an official public institution. The Election Law applies these criteria to determine eligibility to stand as a candidate at the point of registration.

Article 11 of the law requires candidates who are: ministers and staff of ministries, government departments, official bodies and public institutions; staff of Arab, regional and international organizations; and elected municipal officials or council staff to resign their positions at least 60 days before the appointed dates for candidate nomination.<sup>128</sup> It appears that the provision aims at preventing abuse of office or conflict of interest during a campaign, and is similar to provisions in many other democratic countries.<sup>129</sup> In Jordan, however, the number of public employees is a sizeable proportion of the working population and in practical terms, the requirement could significantly reduce the field of potential candidates as many public employees, many of whom are women, may be unwilling to resign from their positions.

Although not contained in the Constitution, the Election Law stipulates that a candidate for election to the House of Representatives must have been a Jordanian citizen “for at least ten years”. Paragraph 3 of General Comment 25 states: “Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25 [of the ICCPR]”. General Comment 25 does not however give a clear position regarding restrictions of the right of persons who hold dual citizenship to stand for election.

In contrast to permissible restrictions on the right to vote, it is common practice to exclude serving members of the security forces or undischarged bankrupts from standing as elected officials.<sup>130</sup>

While most of the provisions regulating the right and opportunity to stand for election are reasonable, there is a concern over a disproportionate restriction on the right to stand for election of persons convicted of “non-political crimes”. As for restrictions on the right to vote, there is concern at the vagueness of the text restricting the right to seek elective office for (unspecified) interdictions.

123 See General Comment 25, paragraph 14

124 “If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence.” General Comment 25, paragraph 14.

125 Senators must also comply with criteria set out in article 64 of the Constitution.

126 The candidacy age in Libya is 21 years, in Tunisia it is 23 years, and in the Occupied Palestinian Territories it is 28 years. In 2011, Egypt reduced the age to 25 years.

127 The provision was amended in October 2011. The previous text stated: “Who claims foreign nationality or protection.”

128 The IEC’s Executive Instruction Nos. 8 and 9 require that the resignation is approved before submitting the nomination application. This is problematic in that the failure to approve a resignation made in due time could – through no fault of the candidate – cause their nomination to be rejected.

129 Paragraph 16 of General Comment 25 states: “If there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected by paragraph (b) [of article 25 of the ICCPR].”

130 The law also requires that persons wishing to nominate himself for election to the House of Representatives shall be registered in one of the final voters’ lists. This means that military, police and intelligence service personnel may not stand as candidates.

## 12. VOTER REGISTRATION

Paragraph 11 of General Comment 25 provides that “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. Any abusive interference with registration or voting [...] should be prohibited by penal laws and those laws should be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.”

The voter registers produced for the 2007 and 2010 elections were widely regarded as being unreliable. In part this was due to transferring voter registrations from one district to another to favour the election of specific candidates.<sup>131</sup> Hence it was a priority in the 2013 elections to regain public confidence by creating more reliable voter lists. .

The 2012 Election Law<sup>132</sup> establishes a hybrid passive-active system<sup>133</sup> of voter registration whereby the Department of Civil Status and Passports produces a voter card for every Jordanian who has been issued with an ID card based on place of residence. Citizens must collect the card from the Department’s branch offices. In order to vote, a citizen must be in possession of an ID card and a voter card.<sup>134</sup> The fact that voter lists only include the details of those citizens who are issued a voter card and do not include the names of all eligible electors, even though this information is available, means that voter lists are not as inclusive as they could be (i.e. the universality of the vote). Indeed, only 64% of the country’s estimated eligible citizens were registered for the 2013 elections.<sup>135</sup>

The voter cards issued in late 2012 were only valid for the 2013 elections.<sup>136</sup> The law provides that cards will not be issued to any

of the categories of person whose are deprived of their voting rights or whose voting rights were suspended. The Civil Status Department is also required not to issue a card for deceased persons. The IEC establishes and publicizes the modalities and the timeframe for citizens to collect their voting cards. Although the law stipulates that cards must be collected within one month, the IEC is allowed to extend the period as it sees fit. The duration of the 2012 voter registration period was extended twice.

The IEC issued three Executive Instructions<sup>137</sup> on voter registration issues for the 2013 elections, including the specification of the voter card (Instructions Nos. 1, 4 and 5). Unlike election laws in most other countries, the Jordanian legislation does not contain a specific provision on where registered voters are entitled to vote, i.e. that they should be registered in an electoral district of constituency corresponding to their place of residence. The election law, Article 4 (g), permits citizens to register to vote at their place of origin, i.e. the locale where their family/clan is concentrated, even if the citizen resides in a different district. Allowing electors to register in their place of origin may reinforce the practice of voting for kin. Moreover, the possibility of registering in one of two locations complicates the allocation of seats according to population criteria. The law is not clear whether women can, as an alternative to registering at their own place of origin, register at their husband’s place of origin. It would be possible to argue that such a practice constitutes ‘unequal treatment’ if the option is only open to women but not men.

In most previous elections, Jordanians resident in a governorate could vote in any of the electoral districts which were established within the governorate. This facilitated tactical voting and increased the risk of multiple voting, a problem which was reported by Jordanian observer groups in the 2007 and 2010 elections. The IEC addressed the problem by requiring that an elector must select the polling station at which he/she wishes to vote and that this information will be printed on his/her voter card.<sup>138</sup> The provision introduced an important measure to combat multiple-voting by enabling the creation of polling station specific voter lists.<sup>139</sup>

The IEC’s Executive Instructions authorise an elector’s immediate family members<sup>140</sup> to request and receive a card on their behalf without written approval (hereafter: ‘proxy registration’). Subsequently, the IEC’s permitted the collection of an elector’s voting card by his/her parents’ and descendants’ spouses of the first

131 In addition, the IAF made claims that the national identity card system, which was used to compile the voter registers, had been manipulated in the run up to previous elections – although the authorities disputed the reliability of the data presented by the IAF. See: “Brotherhood lay forged ID cards on table: Are Jordan’s elections rigged?”, <http://www.albawaba.com/news/jordan-corruption-441335>

132 Election Law, articles 4 to 7 set out the procedures for voter registration.

133 An active system voter registration model is where citizens must undertake some form of action in order to be registered. The passive citizen model is where voters are automatically registered to vote.

134 Article 2(a) of the House of Representatives Election Law for the year 2012

135 According to IEC Data, 3,565,139 citizens were eligible to register to vote of which 2,277,077 registered to vote. There are notable variations in the number of citizens registering to vote according to region: in Amman just 50% of eligible electors registered while this figure was over 91% in Ajloun.

136 The final voter registers prepared in 2012 will be used as the basis for subsequent elections. But the new ID cards began to be issued in August 2012 and new ID cards may substitute voting cards in future.

137 Pursuant to articles (4) and (69) of the Elections Law

138 See: article (4), Executive Instruction No. 1 of 2012. However, because the instruction established a procedure not regulated in law, the IEC took the precaution of seeking prior approval for the measure from the asked the government’s Legislative Interpretation Bureau.

139 If voters are not assigned to specific polling stations then the lists at polling station level could contain the names of all registered voters within the electoral unit.

140 Article 5 of Executive Instruction No. 1 permits cards to be issued to “to the voter himself, his spouse, one of his adult family members registered in the same family book or to any of his immediate family members, namely: father, mother, son and daughter”.

degree, their sons and daughters, the brothers and sisters.<sup>141</sup> The measure was presented as necessary in the context of Jordanian society and to lessen the burden on electors imposed by the new 'active citizen' element of the registration process. However, in the context of an electoral boycott by some political parties, the expansion of 'proxy registration' to non-immediate family members was particularly controversial and was viewed by some as an attempt to artificially increase the total number of registrants.

The Integrity Coalition, an NGO observer network led by the Identity Centre, found that 62% of all electors were registered by proxy.<sup>142</sup> While permitting proxy registration led to more inclusive voter lists (i.e. there was a higher number of registered voters than would have been the case if all cards had to be collected in person), this measure caused a number of negative consequences including the registration of persons without their knowledge or consent. The Coalition also found that a large, but unknown number of voting cards issued were not delivered to their rightful owners. In some cases they were retained by the person collecting the cards and in other cases they were used in vote buying schemes and other forms of electoral manipulation.

Positively, the Election Law promotes transparency by requiring that the preliminary and final lists are publicly posted and available on the IEC's website. The law also provides reasonable mechanisms whereby citizens can file complaints<sup>143</sup> and seek administrative<sup>144</sup> and judicial<sup>145</sup> legal remedies regarding their registration as a voter and alleged inaccuracies in the voter lists.

Notwithstanding a number of serious flaws in the legal framework for voter registration, most notably regarding the issuance of voter cards and allowing voters to register in their district of origin, the 2012 voter registration process did meet its main objective, namely to improve the reliability of the voter registers.

## 13. CANDIDATE AND LIST REGISTRATION

Paragraph 16 of General Comment 25 states: "Conditions relating to nomination dates, fees or deposits should be reasonable and not discriminatory." The Election Law sets out the general candidate nomination and registration procedures. These are supple-

mented by the IEC's Executive Instruction No. 8, which deals with registration of individual candidates in the election districts and Instruction No. 9, which deals with the registration of candidate lists.

Candidate registration procedures are established by the Election Law and are relatively straightforward. Nominees must be registered in the voter lists and must pay a non-refundable deposit of JD 500 (approximately €520). Nominations start on a date determined by the IEC provided that it is at least 25 days prior to polling day. Nominations will only be accepted during a nominations period of three days.

For persons nominating themselves as individual candidates, registration points are established in the election districts. Nominations must be made in person by candidates. District committees send the applications to the IEC on a daily basis and the IEC issues its decision to accept or reject the application within seven days. In the event that the IEC rejects an application, it must state its reasons in writing. Rejected applicants may appeal the IEC's decision with the local Court of Appeal within three days and the court must issue its ruling within three days of the day following its receipt of the appeal. The Court's rulings are final and non-contestable.

Applications to contest the 27 seats of the national constituency are filed by the authorised representative of a list with the IEC. A list may not contain the names of more than 27 candidates. There is no legal minimum number of candidates, but the IEC decided not to accept lists with less than nine candidates.<sup>146</sup> The sequence of names on the list determines the order in which any mandates (seats) won will be allocated. The procedures and deadlines to appeal against the IEC's rejection of a list or a candidate on a list are similar to those for individual candidates.<sup>147</sup> The timeframe for approval or rejection of candidate lists and the subsequent appeal process is the same as for individual candidates.

After the courts have issued their rulings on appeals by rejected candidates, the IEC publishes the provisional candidate lists for each of the 45 districts and the names of the election lists registered to compete in the national constituency. Any registered voter may file an appeal against the IEC's decision to accept a candidacy or list application with the local Court of Appeal (for candidates) or the Amman Court of Appeal (for lists) within three days of the publication. Appeals must be substantiated by clear and specific evidence and the courts must issue rulings within three days from the day after the appeal was filed. Thereafter, the field of candidates is considered as 'final'.

All candidates may withdraw by submitting a written request to either the head of the district committee (individual candidates)

<sup>141</sup> See: Executive instructions No. (4), 2012 amending Executive Instructions number (1), 2012.

<sup>142</sup> See: <http://identity-center.org/ar/node/137>

<sup>143</sup> Article 4(h) of the House of Representatives Election Law for the year 2012, and article 10 of the executive instructions no. (1) of the year 2012 related to the voting cards and the preparation of the initial voters registers.

<sup>144</sup> Article 5(c) (1) of the House of Representatives Elections Law for the year 2012.

<sup>145</sup> Article 5(c) (2) and (c) (3) and (5) of the House of Representatives Elections Law for the year 2012

<sup>146</sup> Executive Instruction No. 9, article 6.

<sup>147</sup> Appeals are filed with the Amman Court of Appeal.

or the IEC no later than 10 days before an election day.<sup>148</sup> However, Executive Instruction No 9 stipulates a withdrawal deadline of 15 days prior to election day for candidates on electoral lists.<sup>149</sup> While this deadline may arise for valid practical reasons, for example the need to finalise the field of candidates well in advance of printing the ballots, it is a material change to the legal provisions by a sub-legal act, a situation which, as a matter of legal principle, should not occur.

In cases where the number of candidates in an electoral district is equal to the number of parliamentary seats allocated to that district, the IEC issues a decision that the candidates won the election uncontested. In the 2013 elections, the sole candidate registered in the first district in Zarqa – a seat reserved for the Circassian/Chechen minority – won the seat in this manner.

In general, the legal provisions for candidate registration are reasonable. In conformity with the provisions of the ICCPR, all persons – whether individually or as part of a candidate list – have the right to stand for election regardless of whether they are nominated by a political party.<sup>150</sup> However, the timeframes for candidate registration and the subsequent appeals processes could create practical difficulties, specifically regarding the following provisions:

- Unless the nomination dates established by the IEC are publicly announced and published well in advance, persons who hold public positions and wish to contest the elections may not know precisely when they must resign;<sup>151</sup>
- The nomination period only lasts three days. This may not give all candidates sufficient time to file applications and/or may create unnecessary pressure for the registering bodies;
- The nomination period could open only 25 days before the election while the subsequent appeals processes could mean that the final list of candidates is decided only a few days before election day. This timeframe could create a major problem if by virtue of a court ruling a change in the field of contestants arose after the IEC had printed the ballot papers;
- There are no legal deadlines for the IEC to notify nominees of the rejection of their application or to publish the names of accepted candidates.<sup>152</sup>

148 However, according to Executive Instruction No 9, in the event that the withdrawal of candidates would leave a list with less than nine remaining candidates, the IEC shall not accept the withdrawal unless the authorised representative of the list submits a substitute name and the commission accepts to register him within 15 days prior to election day.

149 Executive Instruction No 9, article 14.B.3

150 Paragraph 17 of General Comment 25 states: “The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties”.

151 See articles 11 and 14 of the Election Law.

152 See article 17 of the Election Law. The Executive Instructions of the IEC state that it notifies candidates and lists of its decision on their acceptance or rejection by mail. This could cause a prolongation of the appeal process, as deadlines are calculated from the time the candidates receive the notification.

## 14. ELECTION CAMPAIGNING

The 2012 Election Law contains more details on election campaigning than its predecessor. While most provisions deal with prohibitions, under article 21, candidates and lists are “free to campaign for election”. If the principle of ‘what is not prohibited is permitted’ is applied then the campaign rules are reasonable with some exceptions, notably the lack of any provisions at regarding campaign financing. The provisions of the law are supplemented by the IEC’s Executive Instruction No 11.

Candidates may begin their campaigns from the day candidate nominations open.<sup>153</sup> Therefore, the length of the campaign period is established by the IEC, subject to the requirement that it shall not start later than 25 days before election day.<sup>154</sup> While for the January 2013 elections, the IEC actually began candidate registration on 22 December, this still only gave candidates and lists a maximum of 31 days to conduct their campaigns which, given the introduction of the list-PR system – with which Jordanians were unfamiliar – was probably insufficient to ensure that voters had enough time to familiarise themselves with the political programmes. The law provides that the campaign period ends on the day before election day.

In conducting their campaigns, *inter alia* candidates are required to: respect the freedom of opinion and thought of others, abstain from carrying out electoral propaganda in public buildings, educational institutions and houses of worship, and abstain from interfering in the campaign of other candidates.<sup>155</sup> Positively, under the new election law campaigning is no longer prohibited in ‘public streets’. However, the prohibition on campaigning in official public institutions could, if applied to public property such as town halls, leave candidates with few venues to hold events.<sup>156</sup> However, in practice most candidates set up temporary campaign venues in large tents.

Candidates are entitled to publish advertisements and statements setting out their political programmes provided that they are clearly attributed and do not use the official state emblem. Other prohibitions on campaign advertising include placing posters at polling places or on public property in a manner that is detrimental to public safety. City and municipal councils are obliged to designate places where candidates may place their advertisements.

153 Election Law, Articles 21 and 26

154 See article 14

155 Election Law, article 22.

156 It is a fairly common practice to allow candidates and parties access to public buildings to address voters and to hold debates so long as access is granted to all on an equal basis.

Campaign materials and statements may not include any opinion which is directly or indirectly prejudiced towards any other candidate or person, incites sectarianism, tribalism, regionalism, provincialism or racism amongst citizens. This provision appears to be in line with article 20 of the ICCPR.<sup>157</sup> According to Executive Instruction No 11, candidates “shall not directly or indirectly defame or libel any candidate or any other person supporting a candidate or list in their electoral propaganda”. However, neither of these provisions should be used as a justification to restrict the candidate’s right to objectively criticise the platforms of other contestants.

Positively, the law contains provisions aimed at ensuring a separation of politics and state structures during the campaign. Employees of the government, municipalities and official public institutions may not campaign for any candidate at their places of work and senior office holders (e.g. ministers) are prohibited from interfering in the campaign or using their positions to serve any candidate or list. There is also a prohibition on using state-owned resources in campaigns. The IEC may request the intervention of the government or municipal authorities regarding the illegitimate posting of campaign material, which during the 2013 elections was, in general, widespread.

The Law makes it an election offense to affect the “freedom of election [...] in any way” and the IEC’s Executive Instructions on campaigning specifically prohibit “any form of pressure, intimidation, [...] for the purposes of influencing voters’ choices and to pressure them to elect or refrain from electing a particular candidate or a specific list.” Candidates may not offer – and voters may not solicit – any gift, donation, monetary or in-kind aid or any other benefits, whether it is offered directly or through others.<sup>158</sup> It is claimed by many Jordanians that this practice, known as ‘vote buying’, is widespread in the Kingdom and hitherto little action has been taken to address the issue.<sup>159</sup> It is also a punishable offence to be unrightfully in possession of another person’s voter card.<sup>160</sup>

The IEC’s Executive instruction No 11, lists a number of other prohibitions including: removing other candidates’ campaign materials, conducting any kind of campaigning inside polling and counting centres during the electoral process and exploiting children or engaging them in activities that would jeopardize their safety. The instructions extend prohibitions to include the actions of candidate representatives and their supporters.<sup>161</sup>

## 14.1 Campaign Expenditure

Article 7 of the UN Convention against Corruption states “Each State Party shall [...] consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office [...]” Furthermore, paragraph 19 of General Comment 25 states that “Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.”

The Election Law is completely silent on the issue of campaign funding and in contrast with almost all other countries, there are no legal mechanisms imposing a ceiling on the amounts that can be spent on election campaigns. The IEC law tasks the IEC with “Establishing the rules and procedures for electoral campaigns and publicity and to monitor them according to executive instructions.” However, the Executive Instruction on campaigning (No 11) contains a single, very weak, campaign finance disclosure provision which allows the IEC to “request any candidate or a list’s agent to disclose the campaign finance resources and expenditures of these resources in a way that does not conflict with the law and these Instructions.” The power of the IEC to *request* candidates to disclose campaign resources is insufficient. The fact that the IEC can request *any* candidate to disclose campaign resources rather than *all* candidates could, if the provision is invoked, open the IEC up to charges of acting selectively. Moreover, the IEC has no specific powers to verify the accuracy of the data submitted or publish the disclosures. The only other requirements are that candidates may not accept any financial or material donations or “support” from foreign states and governments, public and private organizations, foreign companies, or foreigners residing in Jordan” or where candidates or lists know that “the funds have come from illegal sources [...]”<sup>162</sup>

## 14.2 Enforcement of the Campaign Provisions

The legislation<sup>163</sup> requires the IEC to monitor the campaign rules and confers on electoral officials the function of law enforcement bodies.<sup>164</sup> However, in practical terms most EMBs are not in a position to effectively monitor all campaign activity or arrest those who violate the campaign provisions.<sup>165</sup> However, the IEC law al-

<sup>157</sup> Article 20 states: “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

<sup>158</sup> Executive Instruction No. 11 extends the prohibition by forbidding offering inducements in exchange for voter cards (rather than votes).

<sup>159</sup> See Identity Centre’s report on this issue: <http://identity-center.org/en/node/154>

<sup>160</sup> Election Law, article 61 A

<sup>161</sup> Executive Instruction No 11, article 13. This is consistent with article 66B of the Election Law.

<sup>162</sup> Executive Instruction No 11, article 11. The Instruction is unclear about the acceptability of donations from foreigners who are not resident in Jordan. The provisions reflect the relevant articles in the Political Parties Law.

<sup>163</sup> IEC Law, article 12

<sup>164</sup> Election Law, article 68

<sup>165</sup> Electoral officials are often only recruited for specific tasks around election day. With the exception of campaigning at polling stations on election day, most types of violation of the campaign rules do not take place in electoral management premises. The IEC does not have the personnel required to ‘police’ candidates’ campaigns across the country or training in making arrests.



lows it to request the support of government departments and public institutions and Executive Instruction No 11 allows the IEC and the heads of election committees to request these bodies to stop “any form of campaigning” which is in violation of the law. Certain violations of the campaign rules constitute criminal offenses e.g. ‘vote buying’. Therefore, as for other types of crime, the responsibility to investigate alleged offenses should first and foremost be a police matter and it should be for the public prosecutor to bring cases to court where sufficient evidence exists.

The law stipulates that the campaign period shall end on the day before election day and that “holding festivals and gatherings at a distance of less than two hundred meters from the polling and counting centres” is prohibited. Executive Instruction No 11 forbids campaigning *in* polling stations on election day. Nevertheless, active campaigning on election day, including in the vicinity of polling stations, remains a widespread phenomenon in Jordan. In this regard, the IEC and the police should take firmer action to ensure that voters are able to cast their votes without interference.

## 15. MEDIA AND ELECTIONS

Article 19 of the ICCPR establishes the right of everyone to hold opinions without interference, freedom of expression including the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. In its General Comment 34, the UN HRC expressed concern regarding attempts by some governments to “block access during election periods to sources, including local and international media, of political commentary, and limiting access of opposition parties and politicians to media.”<sup>166</sup>

In General Comment 25, the UN HRC also stated that “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 and to inform public opinion without censorship or restraint.” This encompasses the “freedom to debate public affairs, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas”. The close correlation between media freedom as a precondition for public dialogue and the development of political parties as platforms for the exchange of political ideas makes it crucial that legislation does not curb freedom of speech for individuals as well as organisations.

### 15.1 Media in Jordan

As in most countries, Jordan has private and state-owned media sectors, comprising print media, radio, television and internet. Traditionally, television and radio are the most important sectors.<sup>167</sup> While internet penetration has increased to about 38%, it is somewhat lower than the regional average.<sup>168</sup> Jordan Radio and Television (JRTV) is the main public broadcaster. Unlike most other countries however, some of the state-owned broadcast media are run by institutions including the armed forces, the police, and public universities.<sup>169</sup> State-run outlets are controlled by the government rather than being public service broadcasters, for example JRTV’s board is headed by the Minister for Media Affairs and Communication. This compromises its independence and neutrality. The state remains the major shareholder of the major newspapers and continues to exert a strong influence over the Kingdom’s leading daily newspapers (*al-Ra’i*, *Jordan Times*, *al-Dustour*).<sup>170</sup>

Private media, which in theory operates independently of government, is owned and run by either private companies or individuals. There are no rules in Jordan against concentration of media holdings or cross-media ownership.<sup>171</sup> Four private broadcasters: *Josat*, *Nourmina TV*, *A1 Jordan TV* and *Al Haqiqa Al Duwaliya TV* are owned by contestants in the 2013 elections.<sup>172</sup>

While it is positive that Jordan adopted a Freedom of Information Law in 2007, NGO reports have noted that journalists still face problems securing access to official information. In legal terms, there is no direct censorship of the media but international and Jordanian NGOs have reported a wide variety of problems with media freedom in the Kingdom. Some journalists complain that the intelligence services are in touch with editors on a daily basis,<sup>173</sup> and there are numerous reports that journalists practice self-censorship and avoid politically sensitive subjects.<sup>174</sup> Print news outlets must obtain licenses to operate, and journalists must belong to the Jordan Press Association (JPA) to work legally.<sup>175</sup> There are also reports that journalists in the state-run sector are hired and fired based on their personal relationships with the government and political views.

167 According to a 2012 UNESCO report, Jordan has two state-run and 42 private television stations as well as seven public, seven community and 16 private radio stations. <http://www.uis.unesco.org/Communication/Documents/Media-statistics-pilot-survey-report.pdf>

168 See Internet World Stats: <http://www.internetworldstats.com/stats5.htm>

169 Radio *Fann* is owned by the armed forces and *Amen FM* is owned by the police.

170 See: Reporters without Borders, Report on Jordan 2012, <http://en.rsf.org/report-jordan,155.html>

171 Unesco, *ibid*

172 EU EOM Statement, [http://www.eueom.eu/files/pressreleases/english/25113\\_preliminarystatement\\_en.pdf](http://www.eueom.eu/files/pressreleases/english/25113_preliminarystatement_en.pdf)

173 <http://www.reuters.com/article/2011/03/07/us-jordan-protests-media-idUSTRE72643Z20110307>

174 Freedom House, Freedom of the Press, Jordan 2012, <http://www.freedomhouse.org/report/freedom-press/2012/jordan>

175 Freedom House, *ibid*.

166 General Comment 34, paragraph 37



## 15.2 The Legal Framework

According to the UN HRC “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition” and the Committee “expressed concern with laws which provide for severe penalties solely on the basis of the identity of the person that may have been impugned.”<sup>176</sup>

Article 150 of the Penal Code makes it an offense to “stir up sectarian strife or sedition among the nation” and article 195 makes it an offense to insult the King.<sup>177</sup> In 2010, parliament passed an amendment to the Press and Publications Law which established special courts to prosecute violations of its provisions, and in September 2011 passed legislation which criminalised reporting on corruption, including news that defames someone or ‘impacts his dignity’.<sup>178</sup> According to Reporters Without Borders “more than one hundred clauses in national legislation (criminal code, law of exception and others) still allow journalists to be put behind bars”,<sup>179</sup> and fines of up to US\$ 40,000 can be imposed for denigrating the government.

The Press and Publications Law dates from 1998, and has been the subject of a struggle between the government and the private sector for many years. It has frequently been amended, most recently in September 2012. Many journalists and civic groups condemned the latest amendments for further stifling the freedom of expression, in particular for imposing stringent controls on internet content including social networking sites. Under the law, electronic publications<sup>180</sup> are required to register and obtain licenses from government departments and the executive authorities are given the power to close down unregistered sites,<sup>181</sup> restrictions are placed on online content. Website owners are made responsible for comments posted by website users— a provision which contradicts the principle of personal accountability for actions. The Press and Publications Law contains a number of other serious flaws, including:

- Not differentiating between slander, libel and contempt, creating the possibility of prosecuting non-journalists for contempt;
- Giving the Department of Press and Publication the right to block websites without set procedures, thereby raising the prospect of arbitrary application;
- Stating that ‘electric print’ encompasses all websites, whether Jordanian or non Jordanian, although enforcing its provisions to non-Jordanian sites may not be feasible;

- Applying all Jordanian laws dealing with print and audiovisual journalism to websites dealing with news, investigations, articles, or comments, which have to do with the internal or external affairs of Jordan might obligate the websites to appoint an editor-in-chief who must in turn be a member of the Jordanian Press Association, a requirement which could compromise the website's independence.

## 15.3 Election Campaigning in the Media

The Election Law contains only two provisions relating to media coverage of the campaign. Article 22, states that “the official [state-run] media shall treat all candidates during the election campaign with neutrality and equality”, and article 23 allows for candidates and lists to place advertisements. In addition, the IEC Law requires the Commission to “establish the rules and procedures for electoral campaigns *and publicity* and monitor them according to Executive Instructions”.<sup>182</sup> While the media must be neutral towards candidates, some Jordanian NGOs noted that state media's coverage of parties boycotting the elections was limited and at times negative in tone.

Executive Instruction No. 11 on campaigning contains only a single article related to campaigning in the media, which adds little to the legislation, although unlike the legislation it does foresee debates between contestants, requires independence with objectivity and precludes insinuating that the government supports any particular contestants. It also foresees that the principle of equality be followed when providing contestants with paid for election campaign services (advertising) and that advertising should not be published that would offend any of the contestants.<sup>183</sup> However, there is no regulatory requirement for media to distinguish between editorial content and paid advertising<sup>184</sup> and the Executive Instructions do not establish any mechanism to enforce the legal requirement for state media to treat contestants neutrally and equally. Despite much effort, to date it has not been possible to adopt a Code of Conduct for media, including during election periods.<sup>185</sup>

Neither the law nor the Executive Instructions provide candidates and parties with free airtime to present their political programmes. However, the large number of individual candidates creates some practical difficulties in distributing free airtime. Nevertheless, on 17 December JRTV announced that it would provide one minute of airtime to each candidate in the district elections and that representative of the lists would be hosted on a special programme.<sup>186</sup>

176 General Comment 34, paragraph 38

177 Each offense carries a maximum penalty of three years imprisonment.

178 Freedom House, *ibid*

179 *Ibid*

180 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.

181 Some Jordanians have questioned the constitutionality of this provision.

182 IEC Law, article 12 (F)

183 Executive Instruction No 11, article 10

184 EU EOM Statement, *ibid*

185 An attempt by former Prime Minister Samer Rafai to introduce a media Code of Conduct which strengthened media independence was rejected.

186 Ammon news, 17 December 2012, <http://en.ammonnews.net/article.aspx?articleNO=19588>

## 16. TRANSPARENCY

Transparency is vital to the democratic nature of an election process and can be a significant factor towards ensuring public confidence in the genuineness of an election. Paragraph 3 of General Comment 34 states “the realization of the principles of transparency and accountability [are] essential for the promotion and protection of human rights”. General Comment 34 is also significant because it also confirms that Article 19 of the ICCPR (on the freedom of opinion and expression) “embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production.”<sup>187</sup>

The Constitution does not mention ‘transparency’ but the IEC Law requires the IEC to undertake its mandate in a transparent manner.<sup>188</sup> The new legislation also requires the IEC to publicise various pieces of information and data such as voter registers, the lists of candidates, the polling centres, the IEC’s Executive Instructions, preliminary results, and the IEC’s post-election report. These are all positive provisions and reflect the law’s conscious effort to improve transparency in the election process.

Nevertheless, the procedures for the appointment of the IEC are not wholly clear. While there is no dispute that the appointed IEC Board members are reputable persons, some Jordanian CSOs feel that the process of appointing the IEC Board and its staff was not as inclusive or transparent as it should have been.<sup>189</sup> In addition, they cite a degree of opacity regarding the IEC’s tendering and contracting arrangements.

After assuming office, however, the IEC demonstrated a genuine commitment to transparency and consultation. Notably, it adopted an Executive Instruction (No. 7) “related to the conduct and disclosure rules of the Independent Election Commission” to better ensure transparency and other key administrative principles<sup>190</sup> in its own operations,<sup>191</sup> and endeavoured to put the instructions into practice, in particular in their dealings with media and civil society organisations where a number of consultative meetings took place with the latter on the draft texts of Executive Instructions.<sup>192</sup>

187 Paragraph 18 of General Comment 34

188 IEC Law articles 4B and 12 C

189 The appointment body did not undertake any external consultations on the proposed commissioners. All Board members are former senior government officials, despite a request by civil society groups that some members have experience in the non-governmental sector.

190 Namely: dignity, objectivity, independence, competency and the provision of good service.

191 Clause 7 of the Instructions state that IEC officials should “adhere to transparency principles in carrying out the electoral process and adopt clear, announced and trusted working policies and measures available to all the parties, and adhere to accuracy and credibility in relation to collecting and publishing any statements or data related to the elections”.

192 It is particularly commendable that the IEC published the draft text of its instructions on its website and encouraged interested parties to submit commentaries. The commission took their written comments and suggestions into consideration.

### 16.1 Election Observation

Paragraph 20 of General Comment 25 provides that “There should be independent scrutiny of the voting and counting process [...] so that electors have confidence in the security of the ballot and the counting of the votes.”

The IEC law mentions electoral observers in articles 5 and 12, and the IEC is required to “Approve representatives of civil society institutions, media outlets, and any local and international observers to watch and monitor the election process in accordance with executive instructions.” The Election Law also requires that the names of observers are included in the official polling minutes. These articles are the first ever in Jordanian legislation to provide a formal role for election observers.

The IEC adopted two Executive Instructions on election observation<sup>193</sup> which define observation as “Following up, monitoring and evaluating various components and progress of the election process [...] starting from the stages of voter registration, through candidates registration, election campaigns and election day (polling and counting) to the announcement of the results.”<sup>194</sup> This provides a solid legal basis for observing the various electoral phases. In addition, the IEC is required to abide “by the principle of transparency and respect the right of obtaining information for institutions observing the election process through posting all relevant election legislations on the Commission’s website.” While positive, simply posting the legislation on the website may provide an insufficient level of access to information to enable observers to carry out their work effectively.

The IEC accredited over 7,000 local and international observers who were, with some exceptions,<sup>195</sup> able to monitor the 2013 electoral preparations and polling day without undue hindrance. The IEC developed cooperative relations with observer groups, for example, by granting them access to electoral information through a dedicated liaison department, holding IEC-observer coordination meetings and allowing observers to use their media centre, if required.

193 Executive Instructions No. 2 (Observation by Jordanian Organisations) and No. 3 (Observation by International Organisations)

194 Executive Instruction No. 2, article 2.

195 The IEC sought to resolve any access problems where they arose and in general observers could follow, voting, vote counting, results tabulation, results announcement and vote recounting processes. Observers were also able to access the objections and challenges processes at all levels, including court cases. However, some observer groups reported that that poll monitors encountered delayed access to polling stations and that some polling and counting committees were uncooperative e.g. see the primary statement of the Integrity Coalition <http://identity-center.org/ar/node/153>

## 16.2 Scrutiny by Candidates, their Representatives and the Media

International electoral standards contain few provisions on access to the polling process for candidates, notably that “votes should be counted in the presence of the candidates or their agents” (Paragraph 20, General Comment 25). However, a number of documents on Good Practice recommend a strong role for candidate agents in monitoring polling.<sup>196</sup>

Article 33 of the Election Law allows candidates and electoral lists to delegate representatives to monitor the process at each polling station (ballot box) and the IEC’s Executive Instruction No. 12 elaborated further the rights of candidate representatives. The legislation also provides that candidate representatives are also entitled to be present before the start of polling, can file objections regarding the voting and counting processes, can sign the official records after the votes have been counted and be present when the official results are declared. However, the legislation does not elaborate any rights for candidate agents in the period before election day, provide a right to request and receive information from polling official, or receive copies of the polling results.

The IEC Law foresees the accreditation of journalists to follow the polling process and the IEC Executive Instruction No. 13 which set out the accreditation procedures for Jordanian and international journalists, granting them access to polling and counting centres, and allowing them access to the IEC’s media centre and the right to conduct interviews with authorized electoral officials.<sup>197</sup> The IEC held numerous press conferences, issued many press releases and sought to keep the public informed of electoral developments.

## 17. POLLING PROCEDURES<sup>198</sup>

The key obligation regarding polling is for the state to ensure a secret ballot (article 25, ICCPR). A secret ballot implies that “voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant.”<sup>199</sup> The UN HRC has also stipulated that:<sup>200</sup>

- Assistance provided to disabled, blind or illiterate voters should be independent;
- State authorities should take positive measures to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. Specific methods, such as photographs and symbols, should be adopted;
- The security of ballot boxes must be guaranteed;
- Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote, and
- The results of genuine elections should be respected and implemented.

The legal provisions on polling are somewhat vague and contain shortcomings, some of which are at odds with international standards. The IEC endeavoured to overcome these through procedures put in place by its Executive Instructions, for example, Instruction No 10 provides: designated roles for all polling staff; a requirement for the polling committees to record the number of ballots received and the numbers of the polling seals before voting starts; a requirement for the committee to explain to voters how to vote (which was important given the innovation of ballots pre-printed with candidate names and the introduction of the list-PR ballot); arrangements to check the identities of veiled women voters; and that voters may not use any photographic equipment in the voting room.<sup>201</sup>

However, on occasions the IEC felt obliged to consult the Government’s Legislative Interpretation Bureau (LIB) to confirm the legality of procedures initiated by the Commission. Article 30 of the Election Law which states that: “A voter may cast his vote in any polling and counting centre within his local electoral district.” This makes it hard for the IEC to prepare polling station specific voter lists and increases the risk of voters casting multiple votes

<sup>198</sup> This section draws on the findings of the Integrity Coalition, whose reports can be found at [www.identity-center.org](http://www.identity-center.org).

<sup>199</sup> Paragraph 20 of General Comment 25

<sup>200</sup> General Comment 25

<sup>201</sup> See articles 3-10 of Executive Instruction No 10.

<sup>196</sup> See: The Code of Good Practice in Electoral Matters, *op cit*, articles 3(2) (x) and 3.1(d) and (e).

<sup>197</sup> Executive Instruction No. 13 of 2012

at different polling stations, thereby jeopardizing the “genuineness” of the elections. Therefore, the IEC required voters to designate the polling centre in advance (see section 12 of this report). The LIB confirmed the legality this approach.

### 17.1 Secrecy

The Constitution and the Election Law provide for a secret ballot. However, while providing polling places with voting booths, like its predecessor, the law does not specifically *require* voters to mark their ballots in a voting booth. Furthermore, the law retains the provision that voters shall “write the name of one candidate on the ballot paper designated for the local electoral district”.<sup>202</sup> In previous elections, the election administration read the provision as a literal requirement that voters write the name of their preferred candidate in the space provided on the ballot paper.<sup>203</sup> This seriously compromised the secrecy of the ballot for illiterate electors who could not vote without assistance. The IEC’s Executive Instructions addressed the problem by requiring that illiterate voters “write the name of one candidate” by making a mark beside the candidate’s name, which the IEC decided would be pre-printed on the ballot.<sup>204</sup> The ballot also contained a space where literate voters could write the name of their preferred candidate.<sup>205</sup>

### 17.2 Assistance to Illiterate Voters and Voters with Disabilities

Article 40 of the Election Law provides that the IEC shall establish the voting method for illiterate voters and persons unable to write. In accordance with General Comment 25, the IEC printed ballots containing photographs of the candidates and symbols of the lists. The Executive Instructions provide that illiterate voters could mark the photo of the candidate instead of marking a mark (writing) next to the candidate’s name. This allows greater opportunity for illiterate voters to mark their ballots without assistance.

Unfortunately the law does not require that polling locations must be easily accessible by persons with disabilities although the Executive Instructions do provide that voters with disabilities are given a priority to vote. The Instructions also allow for voters who are unable to vote unaided to be accompanied by a person

of their choice (escort). They also contain measures aimed at reducing the risk that the facility is abused by requiring that the name of escorts are recorded, that escorts may assist only one voter, and that the escort’s finger is marked with indelible ink. In the event that voter requiring assistance is not accompanied by an escort, the head of the polling committee shall provide assistance and this fact is recorded in the minutes.

### 17.4 Ballot Security and Integrity

The Election Law contains a fairly standard provisions to: ensure order at polling stations; ensure ballot paper security;<sup>206</sup> provide specifications for a secure ballot box;<sup>207</sup> require that only previously registered electors can vote; establish identity checks for voters and a procedure to record that voters received a ballot; require the public posting of the full list of candidates; and require voters to personally deposit their vote in the ballot box.

The verification of the voter’s identity is multi-layered. By law, a voter must be in possession of his/her voting card and civil status ID. These must bear an identical name and picture. In practice, voters were not permitted to enter into the polling area unless his/her name was listed in the voter register of the specific polling station. The committee also checks that the voter’s name is included in the electronic version of the voter register to which all polling stations should have access. The name of the voter is then recorded in two separate books (one for district and one for national level).<sup>208</sup> The procedures provide sufficient safeguards against voter impersonation. However, article 39 gives the IEC the discretion to decide whether to use temporarily indelible ink to mark voters’ fingers (to prevent multiple voting), rather than making the use of indelible ink compulsory. The IEC decided to use ink, and its Executive Instructions also provided for a check of voters’ fingers prior to receiving a ballot.<sup>209</sup>

### 17.5 Ensuring the Opportunity to Vote

There is no legal provision setting a maximum number of voters per polling station or a specific provision that all voters waiting to vote at closing time shall be able to do so. While the IEC can extend polling by up to two hours, in the event that an overly large

202 Article 39 (d) (1) of the Election Law

203 In previous elections, the procedure was widely exploited, with literate electors who claimed to be illiterate voting in an open manner to publicly demonstrate their political loyalties; a practice which is in clear violation of the requirement that the right to a secret ballot cannot be waived.

204 Article 7 of the executive instructions no. 10 of the year 2012 related to the voting, sorting and aggregating votes. Fortunately, article 39 does give latitude to the IEC to determine the application of the article in its Executive Instructions. However, to ensure that this approach complied with the law, the IEC verified the arrangement with the Government Legislative Interpretation Bureau (LIB). The LIB agreed that placing a mark next to the name of a candidate constitutes ‘writing’.

205 However, as it is not possible to match a ballot with a voter, in practice all voters had the option to either write the name of the candidate or to mark the space next to the candidate’s name/photograph.

206 By requiring that the head of the polling station stamps and signs the ballots and that the number of ballots received is recorded and reconciled before the vote count takes place. The IEC also decided that ballot papers would be printed with special watermarks.

207 The IEC decided to use a ballot box made of semi-transparent material and use ballot box seals with unique numbers. The law requires that the head of the polling committee must verify that the boxes are empty in the presence of candidate agents prior to the start of voting.

208 The terminals also gave access to the results tabulation database. The legislation assumes that the system is continually working on election day, but makes no provision in the event that the system is off line e.g. by allowing polling to continue on the basis of a printed voter list.

209 The IEC’s Executive Instructions also stipulated which finger should be marked with ink and extended the use of ink to mark the small finger of the left hand of those providing assistance to voters in need.

number of voters are registered at a specific polling station there is a risk that if voter turnout is higher than expected, polling stations may not be able to process all voters even within the additional two hours of polling time.<sup>210</sup>

The legislation makes no provision for voting outside polling places. This means that persons whose freedom of movement is limited or restricted (for example the sick, infirm, persons with a serious disability, and persons who are in detention but have not been tried) lose their opportunity to vote.

## 17.6 Observations on the Application of the Procedures in the 23 January 2013 Elections

The law provides (or the IEC adopted instructions on) four main safeguards for the voting process: the use of voting cards; the voters' register (paper copy and the database); the use of a pre-printed ballot paper; and the special ink. These should have been sufficient to ensure that the elections were conducted transparently and credibly. However, the Integrity Coalition found that on election day there were problems with the application of all four of these measures.<sup>211</sup> The electronic network was not accessible for part of polling day in a number of locations;<sup>212</sup> the special ink used at some stations could be removed, and some non-authentic ballots were found – raising questions about ballot security.<sup>213</sup> Moreover, the right to a secret vote was not guaranteed in all locations. The main reasons were: polling committees not following correct procedures; overcrowding stemming from inadequate control over the flow of voters and the limited space available in some polling rooms; poor polling station layout; permitting candidate representative to stand too close to the voting booths; and some voters not being aware of the need to fold the ballot papers prior to leaving the booth, allowing for others to see their choice.<sup>214</sup>

## 17.7 Vote Counting and Results Aggregation

The vote counting and results aggregation processes are crucial stages of any electoral process. Accuracy, transparency and integrity are necessary for voters to have confidence that the results are a genuine reflection of their will. The legislation provides for a reasonable level of transparency (see section 16 of

this report) and procedural checks to ensure the accuracy of the vote count.

Positively, the law requires that vote counting now takes place at polling stations immediately after the end of voting. Prior to opening the ballot boxes, polling committees are required to record the number of voters who cast votes, the number of unused ballot papers, the number of ballot papers issued and the number of any cancelled or damaged ballots.<sup>215</sup> Ballot boxes should then be opened and votes counted in front of accredited candidate representatives and election observers.<sup>216</sup> The law requires that individual votes are read aloud and the accumulated results are tallied on a board which must be visible to those eligible to attend the vote count. In accordance with good practice, the Executive Instructions require that votes for candidates/lists are placed in separate piles.

The law sets out fairly standard criteria to determine whether a ballot is valid or invalid (article 45).<sup>217</sup> However, some of the clauses make reference to the written names of candidates, which following the IEC's decision to prepare ballots pre-printed with the names of candidates, are inconsistent with actual practice, for example article 45(4) stipulates that if a voter writes the name of more than one candidate, only the first name shall be taken into account.<sup>218</sup>

After the vote count is completed, the polling committee prepares minutes (results sheets) for the individual candidate election and list-PR election in five copies and handed over to the Head of the District Committee. The law sets out the information that the minutes should contain and, positively, the Executive Instructions extend the information required.<sup>219</sup> The minutes are signed by the head of the polling committee, two committee members, and if they choose, by candidate representatives.

Although no reference is made to the practice in law, the Executive Instructions provide that "the data entry officer shall enter the minutes [...] in the electronic electoral information system, under the supervision of the head of polling committee".<sup>220</sup> Ac-

215 The Executive Instructions also require the committee to record the serial numbers of the ballot box seals.

216 The law does not require the committee to count the total number of votes in the box before counting the number of votes for each candidate/list, but the IEC's Instructions do. In the event that *after* the counting of votes the number of ballot papers [...] is more or less than the number of participating voters, the head of the polling committee is required to immediately notify the head of the election district who in turn shall notify the IEC Chair.

217 Invalid ballots are those that: were not stamped and signed; contain any writing (except the candidate's name) or the name of the voter; it is not possible to read the candidate's name written by the voter; if it is not possible to determine the list for which the voter voted or when more than one list was marked.

218 As all candidate names are pre-printed on the ballot, it would be illogical to count all votes in favour of the first listed candidate.

219 Compare article 47B of the law with articles 12 and 14 of Executive Instruction No 10. For example the latter requires the recording of the ballot box seals and the number of unused ballot papers, where the former does not.

220 Article 14.11(E), Executive Instructions

210 The legislation provides that voting takes place between 7 a.m. to 7 p.m. and can be extended by up to two hours in case of need. Article 11 C of Executive Instruction no 10 states that polling shall continue in the event that voters are still present at closing time, but article 10B states that polling cannot be extended beyond two hours.

211 Section 12 outlines the issues with the distribution of the voter cards.

212 They relied on internet connection to access the central IEC server for access to the voters register.

213 See: The Integrity Coalition's first report: <http://identity-center.org/ar/node/153>

214 A practical difficulty was the large size of the ballots and the relatively small size of the slot in the ballot box, making it necessary to fold the national constituency ballot multiple times.



cording to the Instructions, the committee sends one copy of the minutes to the district committee and posts a copy at the entrance to the polling station. However, it is not clear from the Instructions where the other three copies of the minutes are delivered. Neither the law nor the executive Instructions entitle candidate representatives or observers to receive a printout of the data entered into information system.

According to the Instructions, the polling committee should pack all polling material in special envelopes and deliver it, together with the copy of the official minutes, to the district committee. The law provides that the polling station results are aggregated by the district committees to calculate the preliminary result for the district-level election and the total votes received by each list. The preliminary results should be announced in front of the candidates and/or their representatives. The committee prepares official minutes for the district level results in five copies and sends these to the IEC together with the notification of any decisions it has made.<sup>221</sup>

In practice, the IEC required that the results which are entered into the electronic database are double checked against the results of the manual count, i.e. the official results sheets.

As for voting, observer reports identified numerous occasions where the polling committees did not follow the legal procedures for vote counting (and those established by the IEC's instructions). In a few instances, mistakes might have affected the results and, at the time this report was drafted, the courts are reviewing legal challenges.<sup>222</sup> Mistakes in the application of the law were mainly due to insufficient training of the polling committees in the new procedures.

### 17.8 Determination of the Winning Candidates and Announcement of Results

The law establishes that after the district committees complete their work, the IEC verifies the preliminary results and an IEC sub-committee calculates the results of the national lists and the winners of the reserved seats for women. The law grants the IEC the exclusively responsibility to announce final election results but does not set a specific deadline by which results must be declared.

There is no requirement for the IEC to publish the individual polling station results or the aggregation of results at the district level on its website, although this information is available at all stages. The publication of this information enables those with an interest in an election outcome to independently verify the ac-

curacy of the results and can therefore serve to raise confidence.

The Election Law provides that the winning district candidates are those who obtain the highest number of votes according to the number of available seats.<sup>223</sup> Article 52 provides that "the seats allocated to the lists in the general electoral constituency shall be distributed [...] according to the percentages of votes obtained by each list." This article is insufficient to explain how seats will be allocated as there are a number of recognized allocation methods.<sup>224</sup> The IEC set out in Executive Instruction, article 9, that the largest remainder system would be used and outlined the mathematical method used to allocate seats.

The reliability of the results was put into question when some discrepancies appeared between the preliminary results calculated at district level and those calculated at national level for both the districts-level elections and the national list. While in most cases the discrepancies did not affect the preliminary declaration of winners at district level, they did have an effect on the allocation of seats for the list-PR component and on two occasions the IEC had to revise the name of the winning list for the 27th seat to be allocated.<sup>225</sup>

<sup>221</sup> In practice, the IEC required that the results which are entered into the electronic database are double checked against the results of the manual count, i.e. the official results sheets.

<sup>222</sup> *Ibid*

<sup>223</sup> Election Law, article 48. In the event that the number of votes for two candidates is equal and therefore the winner(s) cannot be determined, the election is re-held.

<sup>224</sup> There are two main methods: the largest remainder method (e.g. the Hare-Niemeyer method) and the highest average method (e.g. D'Hondt method).

<sup>225</sup> The decision on the allocation of the seat was filed with the Court of Appeal.



## 18. ELECTORAL OFFENSES

The Election Law (articles 59-68) sets out a variety of electoral offenses which can result in the imposition of a fine or term of imprisonment.<sup>226</sup> The list of offenses against the integrity of the election is fairly comprehensive and covers: vote-buying and selling, impersonating a voter, unlawfully being in possession of a voter card, voting more than once, impeding the voting process, tampering with electoral material, affecting the secrecy of the vote and seizing the ballot box.<sup>227</sup>

Paragraph 11 of General Comment 25 provides that “intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced.” Despite listing numerous offenses, the Election Law does not contain a specific penalty for intimidating or threatening voters although it does contain a penalty for actions which “affected the freedom of election [...] in any way whatsoever”. However, the minimum penalty – a fine of not less than JD 500 – is weak.<sup>228</sup> Other serious crimes which carry a relatively modest minimum penalty<sup>229</sup> include:

- Unrightfully being in possession of a voter card (an act which could prevent an elector from voting or registering as a candidate);
- Multiple voting;
- Tampering with ballot boxes, voter lists or ballot papers;
- Entering a polling station with the intention of harming election officials.

The leniency of the minimum sanctions for these crimes stands in contrast to other much more serious penalties for what are, arguably, less serious offenses for example a polling official found guilty of not showing that a ballot box is empty prior to the start of voting faces a minimum sentence 12 months in prison.

The penalty for vote buying and vote selling are strong – three to seven years imprisonment with hard labour. The severest penalty is reserved for seizing the ballot box, which could lead to ten years imprisonment with hard labour. However, there is no specific penalty for bribing, coercing or threatening a polling official or conspiring to alter the election results which, like stealing a

ballot box, has the intention to subvert the will of electors.<sup>230</sup>

There are specific penalties for violating the campaign provisions with the exception of the media failing its obligation to treat candidates neutrally and equally.<sup>231</sup> However, the penalty range is the same for all campaign-related offenses regardless of the seriousness of the offense.<sup>232</sup> Thus, a candidate (or a person acting under his direction) could be sentenced to a year in prison for publishing campaign material without attribution or making statements which “inciting sectarianism, tribalism, regionalism, provincialism or racism amongst citizens”;<sup>233</sup> offenses which are of a very different magnitude.<sup>234</sup>

All election crimes set out in the Election Law shall abide by the statute of limitations after three years from the date of announcement of the final results of the elections.<sup>235</sup> In cases where the crime involved the intention to subvert the will of electors or coercion or threats against electors, the limitation would appear to contradict the requirement that “penal laws [...] should be strictly enforced”.<sup>236</sup>

## 19. ELECTORAL CHALLENGES

Article 2.3(a) of the ICCPR requires each party to the Convention “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”.<sup>237</sup> In addition, the UN HRC has recognised that electoral stakeholders have the right to seek to protect their electoral rights and, in particular, that “there should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process”.<sup>238</sup>

In general, the legal framework improves the arrangements for filing challenges and appeals, notably the amendment to article

226 The Provisions of the Criminal Procedure Code are also relevant.

227 Article 65 also sets out a general provision as follows: “Anyone who commits a violation to the provisions of this law for which no special punishment is provided shall be punished by imprisonment for not less than one month and not more than six months or by a fine of not less than one hundred dinars and not more than three hundred dinars, or both penalties.”

228 However, the maximum penalty is 2 years imprisonment.

229 Potentially a fine of just JD 500, although a term of imprisonment of up to 2 years could be imposed.

230 There is the offence of acting “with the intention of affecting the integrity and secrecy of the election procedures”, but the penalty for this offense – a fine of JD 500 to 1,000 or a prison term of 6 to 24 month – appears too mild to be applied to crimes which attempt to subvert the will of electors.

231 Conceivably the media outlet could be prosecuted under article 65 of the Election Law.

232 A fine of JD 200 to 500 or 3 to 12 months imprisonment may be imposed.

233 See articles 60 C and 23.4

234 Article 66 of the Election Law provides that “nothing in this law precludes the application of any harsher penalty stipulated in any other law in effect”. However, article 15 of the ACHR states: “In all circumstances, the law most favourable to the defendant shall be applied.”

235 Election Law, article 67

236 General Comment 25, paragraph 11

237 This also features in the ACHR (article 23).

238 General Comment 25, paragraph 20

71 of the Constitution<sup>239</sup> which grants the judiciary, rather than members of the House of Representatives, the competence to determine the validity of MPs' elections.<sup>240</sup>

The Election Law provides a single instance appeal process against rejected candidate and list applications (see: section 13) and a two instance appeal process on voter registration issues (see: section 12). In both cases, the law appears to provide an effective legal remedy.

Article 23 of the IEC Law provides that "The IEC's decisions regarding the parliamentary election process are contestable before the specialized court in accordance with the provisions of the Constitution and the Election Law." The Constitution mentions a role for the Court of Appeal (as regards challenges to the validity of an election after the process is completed) and a general provision (article 102) which states that "Civil Courts [...] have the right to exercise jurisdiction over all persons in all civil and criminal matters, including cases filed by the Government or filed against it [...]". Despite these provisions, neither the IEC Law nor the Election Law set out which court has jurisdiction to hear a case which for example challenges the compatibility of an IEC Executive Instruction with primary legislation. Moreover, article 23 only deals with decisions of the IEC. There is no specific legal provision dealing with how a decision, action or inaction of a district, polling or counting electoral committee can be legally challenged.

Apart from specific exceptions which relate to criminal acts, the Election Law contains no provision entitling a candidate or a citizen to file a complaint regarding violations of the campaign provisions for example, the media's failure to comply with its obligation to treat all candidates neutrally and equally. While in practice it may be possible to file complaints with the IEC (by virtue of its responsibility to monitor candidates' campaigns), the law would benefit from a clear provision entitling stakeholders to file formal complaints and outlining the IEC's enforcement and punitive powers.

Candidates and their official agents may file objections regarding and infringement of the voting and counting procedures with the polling and counting committee. The decisions of the committees are recorded in the official minutes and have immediate effect. While this provision potentially establishes a means for candidates to secure a remedy for a violation, it is problematic that the body against which a complaint is made should not act as the final arbiter. There appears to be no possibility to file an

appeal against its decision with a higher electoral authority or a court. The right to file objections on election day appears to rest solely with candidates and their agents. It is unclear how a voter can file a complaint regarding issues which may require immediate remedy for example, an incorrect denial of the right to vote.<sup>241</sup>

The IEC's Instruction No 1 of 2013 allows candidates in the election districts to submit objections regarding the aggregation of polling station results at district results centres, the authorised representative of an election list to object to the IEC's special committee regarding the allocation of mandates and women candidates to file objections regarding the allocation of reserved seats. The Election Law allows the IEC to cancel election results if an irregularity affected the preliminary election results.<sup>242</sup>

Petitions, contestations and appeals submitted under the Election Law and regulations and Executive Instructions, as well as decisions made by the IEC, district committees and the courts are exempt from any fees and stamp duty. This is a positive provision which facilitates access to justice.

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239 Article 71 of the Constitution entitles every voter to file a petition to the Court of Appeal contesting the validity of the election in an election district within fifteen days from the date of the publication of the elections results in the Official Gazette. The petitioner is required to indicate the reasons for the petition. If the court accepts the petition, it shall issue its decision within 30 days from the date of the registration of the petition. Its decisions are final. The Court has the authority to invalidate the election result or name the successful candidate.

240 Under the previous arrangements, the election of an MP could be considered invalid only by a majority of two-thirds of the members; an arrangement which creates an obvious conflict of interest.

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241 General Comment 25, paragraph 20 sets out the importance of the right to file an appeal to an independent body "so that electors have confidence in the security of the ballot and the counting of the votes."

242 Election Law, article 53. In such cases the IEC repeats the polling process.

# RECOMMENDATIONS

DRI notes that many of the recommendations set out the 2007 Assessment of the Electoral Framework of the Hashemite Kingdom of Jordan, prepared in conjunction with the Al-Urdun Al-Jadid Centre, have already been addressed with the adoption of the 2011 constitutional amendments and the 2012 Laws on Elections and the Independent Election Commission. However the electoral framework can still be further improved. Therefore, DRI and the Identity Centre offer the following recommendations for consideration:

## ENSURING THAT PARLIAMENT'S ROLE IN THE GOVERNMENT OF JORDAN IS BASED ON INTERNATIONAL STANDARDS

1. Amend the Constitution to provide the House of Representatives with the right to appoint Prime Minister and the Cabinet, on the basis of a majority vote (in addition to its existing right to pass motions of confidence in the Prime Minister and ministers).
2. The Senate should either be accountable through elections, or not have a significant role in adopting legislation or holding the government to account.<sup>243</sup>
3. Reconsider the modalities for dealing with a situation where the King declines to give consent for a Bill to better ensure a strong legislative role for the House of Representatives, for example, by changing the two-thirds majority required in both houses of parliament to adopt legislation returned by the King by requiring instead that an absolute majority of the members of the House of Representatives approve the Bill.<sup>244</sup>

<sup>243</sup> Around the world, some other upper chambers are unelected. The House of Lords, the United Kingdom's upper chamber is perhaps a relevant parallel. However, while the House of Lords can return draft laws to the House of Commons, it can be overruled by the House of Commons. As such, there is an additional level of scrutiny and consultation, but without a veto over the House of Commons, i.e. the directly elected chamber.

<sup>244</sup> This would put the required majority on the same footing as that required to adopt a non-confidence motion in the Cabinet.

4. To better ensure that elections must be held at reasonable intervals, the constitutional provision which entitles the King to prolong the mandate of the House of Representatives by up to two years should be reconsidered. The period of potential prolongation could, for example, be shortened and only occur in specific, exceptional circumstances.
5. To facilitate the formation of stronger and more coherent political groupings, the legislation regarding the House of Representatives should include provisions setting out the rules for forming parliamentary blocs and their specific rights in parliamentary processes. The parliament's by-law should also be reviewed to strengthen the role of blocs.

## MEASURES TO ENHANCE THE ROLE OF POLITICAL PARTIES

6. The Law on Political Parties does not provide details on the size of state funding for political parties. As a time-limited measure, it may be necessary to grant parties generous financial allocations provided that they are required to spend the funds on their organisational development.<sup>245</sup> It may be beneficial to also grant them media airtime on state-owned channels to raise awareness of their policies.
7. Consideration should be given to amending article 6 of the Political Parties Law to reduce the number of founding members from 500 persons and, given that some governorates have relatively few residents, rescind the requirement that the founding members must be from at least seven governorates.
8. The Political Parties Affairs Committee (PPAC) should function as an independent, non-governmental body. Therefore, it should not be chaired by a member of the government and governmental appointees should not form a majority of its members as this could create a perception of governmental control over parties.

<sup>245</sup> The allocations will be set by the Cabinet in a Regulation.

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## RESPECT FOR CIVIL AND POLITICAL RIGHTS

9. When the Constitution is next amended, serious consideration should be given to introducing a provision which mirrors article 25 of the ICCPR and specifically guarantees the right and opportunity for all citizens, without distinctions or unreasonable restrictions to vote and be elected, equal and universal suffrage as well as specific guarantees for the free expression of the will of electors.
10. The incoming legislator should comply with the UN Human Rights Committee request for Jordan to “review its legislation and practice to ensure that journalists and media outlets are not penalized as a consequence of expressing critical views”.<sup>246</sup>
11. The Penal Code, particularly Articles 150 and 195 should be revised to ensure freedom of speech is guaranteed, allowing the media to fulfil its role in safeguarding democratic principles.
12. The Press and Publications Law should be reviewed to ensure that it complies fully with citizens’ rights established under Article 19 of the ICCPR and General Comment 34 by the UN HRC. In particular, the extension of stringent controls over electronic media to include websites is a restriction on citizens’ right to freely express their ideas and opinions and should be removed.

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## THE ELECTORAL SYSTEM

13. There should be broad public consultation on the selection of the election system. If it is Jordan’s long-term aim to enhance the role parties play in political life, serious consideration

should be given to rebalancing the number of seats allocated through the list-PR system and the majoritarian system, in favour of the former. Instituting a system of ‘open lists’ may be more acceptable to the public as it allows voters who identify strongly with individual candidates on a list to express their specific preferences. Increasing the number of seats allocated to the list-PR system would also reduce the number of wasted votes.

14. While it would run counter to international electoral standards to restrict competition for the PR-list seats to political parties, in order to promote development of political parties, consideration should be given to introducing requirements for lists of independent candidates akin to those required of parties, for example, requiring the lists of independent candidates to present a list of a given number of supporters various governorates.
15. The Election Law should establish objective criteria on which to allocate parliamentary seats to governorates. The allocation should ensure that the vote of an elector in one governorate is broadly equal to the vote of an elector in another governorate.<sup>247</sup>
16. Consideration should be given to granting the IEC or another independent body the responsibility for electoral districting and the allocation of seats. Alternatively, if the current system of allowing voters to register in their place of origin remains in place, consideration should be given to allocating seats to governorates based on the number of registered voters at the previous election.
17. A reasonable limit should be set regarding the permitted variation in the ratio of seats to population between the governorates and in forming any election districts established within governorates. However, dispensing with electoral districts and electing majoritarian candidates at the level of the governorate could equalize the vote further and promote the election of candidates with political programmes rather than on the basis of narrow, localized interests.

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<sup>246</sup> See: “Concluding observations of the Human Rights Committee”, CCPR/C/JOR/CO/4, 18 November 2010

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<sup>247</sup> The conventional way to achieve this is to allocate parliamentary seats on the basis of the size of an electoral unit’s resident population.

18. The Election Law should clearly set out the method of allocating seats to electoral lists under the list PR component of the electoral system.
19. The number of reserved seats set aside for all specific categories of citizens should be established in the text of the Election Law.

## ELECTORAL ADMINISTRATION

20. To better ensure the public perceives the IEC as an independent institution, the IEC should avoid the over-reliance on staff seconded from government bodies and should rather develop its in-house institutional expertise. At a minimum, the Secretariat's departmental heads and persons with a supervisory role should be recruited on a full-time basis. The IEC Law should contain a requirement for the IEC to have a minimum number of women working at the various levels from the Board of Commissioners down.
21. The legislation should provide more clarity over the respective roles of the IEC and other state bodies in enforcing the campaign-related provisions and in pursuing electoral crimes.
22. The legislation should remove any mention of governmental involvement in the IEC's financial and administration arrangements.
23. The IEC should be conferred with regulatory, supervisory and management powers for municipal elections.
24. The IEC should have a formal role as a provider of civic and voter information, which ideally would take place on a continual basis and intensify in the run up to elections.
25. The IEC should continue to work on building its capacity and enhancing the knowledge of its staff through training, apprising them of the latest electoral standards and, if funds are available, by providing opportunities to study the experiences of their counterparts in other countries.
26. The IEC should put in place measures to ensure transparency in its tendering and recruitment procedures.

## UNIVERSAL AND EQUAL SUFFRAGE:

### A. THE RIGHT TO VOTE (INCLUDING VOTER REGISTRATION)

27. To better ensure universal and equal suffrage, the legislation should specifically provide that any person detained on suspicion of committing a crime retains the right to vote and is afforded the opportunity to vote, unless convicted by a court of law.
28. Persons declared bankrupt and members of the police and armed forces should also be allowed to vote.
29. The restriction on the right to vote of persons "*interdicted for any other reason*" is vague and should be reviewed to ensure that it does not unreasonably restrict the right to vote.
30. The authorities should assess the feasibility of introducing a mechanism for Jordanians resident abroad to vote in parliamentary elections.
31. The Election Law should specify that a citizen is eligible to vote in the electoral district of his residence. Serious consideration should be given to dispensing with the provision allowing citizens to register in their place of origin and voters should be required to designate the polling station in advance or, better still, be assigned to the polling station covering the area. This would enhance the idea that MPs represent all citizens in a territorial area rather than specific groups.
32. If voter cards are used in future elections, the law (rather than Executive Instructions) should require that the electors' polling station is recorded on the card. The law should stipulate who is eligible to collect a voter card on behalf of another person (if anyone), and require written authorisation to collect the card. However, it would be preferable to dispense with voter cards and extract the voter registers from the new ID cards database providing that all citizens have received them at the time the next election is held.
33. If the 'active citizen' model of voter registration is retained for future elections, there should be a provision penalising any person pressuring another to register to vote or to refrain from registering to vote.

## B. THE RIGHT TO STAND FOR ELECTION (INCLUDING CANDIDATE REGISTRATION)

34. The parliament should set out its reasons for setting the candidacy age at 30 years to enable Jordanians to assess whether these are objective and reasonable.<sup>248</sup>
35. Persons convicted of 'non-political' crimes who have served their sentence should be permitted to stand for office.
36. It may be preferable to require that only *senior* public officials who wish to stand for election are required to resign their positions and that officials of other levels are required to take a formal leave of absence and, if elected, resign.
37. To ensure public officials wishing to stand for election can comply with the deadline by which they must resign, the IEC should be required to publish the dates for candidate nomination at least 90 days in advance of the polling date. Alternatively, the timeframe for officials to resign should be reduced from 60 days to 30 days.
38. The candidate nomination period should last longer than three days to ensure that all candidates have sufficient time to file applications.
39. The nomination period should be moved earlier in the electoral calendar to avoid a situation where appeals on the candidate registration processes could be decided only a few days before election day.

## C. PARTICIPATION OF WOMEN IN POLITICAL LIFE

40. The Constitution should contain a provision consistent with article 2 of the ICCPR, CEDAW and the National Agenda (2007-2017) to prohibit all forms of discrimination against women.
41. The legislator should increase the quota for women MPs as recommended by the UN HRC. The aim should be to raise the number of women elected to parliament to the current women's quota for municipal councils (25%) and ultimately to the target set by the UN Millennium Development Goals.

42. The current system of determining winning women candidates (on the percentage of the vote) makes it very difficult for women in large constituencies to be elected. Forming electoral districts at governorate and *Badia* levels could help to address this anomaly.
43. The legislation should contain a provision making it an offense to pressurize or induce any candidate to withdraw their candidacy.
44. Consideration should be given to requiring election lists to present lists with both female and male candidates. Lists should not have a sequence of more than three candidates of the same gender (if closed lists are retained) i.e. they should alternate between candidates of different genders (the so-called "zipper list method").

## ELECTION CAMPAIGNING

45. To avoid disproportionate expenditure on behalf of any candidate or party, the legislator should establish reasonable spending limits for election campaigns. The candidates and parties should be required to open campaign-specific bank accounts and to account for all donations and campaign-related spending. They should be required to submit statements of their accounts to the IEC, which in turn should be deposited with the State auditing authority for authentication. Candidates' and parties' statements of their campaign spending should be published on the IEC's website. Serious violations to the campaign finance provisions should be made punishable offenses by law.
46. Certain violations of the campaign rules constitute criminal offenses, for example, 'vote buying'. Therefore, as for other types of crime, the responsibility to investigate alleged offenses should first and foremost be a police matter and it should be for the public prosecutor to bring cases to court where sufficient evidence exists. In general, a serious effort is needed by the state authorities to combat all forms of vote buying.
47. The IEC and the police should take firmer action to ensure that voters are able to cast their votes without interference. Article 23 (5) of the Election Law<sup>249</sup>, which apparently is aimed at campaigning in the vicinity of polling stations, is poorly worded and thus difficult to enforce. Instead, the law should contain a straightforward and simple prohibition on any form of campaign activity in the vicinity of a polling station and appropriate penalties should apply.

<sup>248</sup> Paragraph 15 of General Comment 25 states "Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria."

<sup>249</sup> Article 23 (5) states: "It is prohibited to hold festivals and gatherings at a distance of less than two hundred meters from the polling and counting centres."



48. The legislation should provide a reasonable amount of free airtime on national television for political parties contesting the national constituency to present their electoral platforms and set out what actions can be taken if the media fails to respect its duty to treat all candidates neutrally and equally. The IEC should ensure that free airtime is allocated fairly, in particular as regards peak viewing slots to ensure equal opportunity and treatment of contestants.
49. Private media should be required to set equal tariffs for all election contestants wishing to place paid campaign advertisements.
50. All media should be required to distinguish between paid for advertising and programme/editorial content.
51. The law should set an earlier date for candidate and list nomination as this would enable candidates to begin their campaigns earlier, which in turn could raise public awareness of their political programmes. However, the official campaign period (in which campaign spending is accounted and special media provisions apply) should begin only after the formal notification of the registration of all candidates or lists, as this would allow for equal opportunity for all contestants.

## TRANSPARENCY AND ELECTION OBSERVATION

52. The legislation should require the IEC to publish the results at all polling stations and post the minutes of the IEC's meetings on the IEC's website.
53. Accredited election observers should be specifically granted the right to begin their observation activities on election day from the moment the polling committee begins its work until the completion of all phases of the counting process.
54. Accredited election observers and candidate agents should be granted to right to request and receive non-confidential information from electoral officials in accordance with paragraph 18 of General Comment 34 on the ICCPR.
55. The right of candidate representatives to monitor the electoral process should not be limited to election day proceedings but should be broadened to include all aspects of the electoral process.
56. Accredited candidate representatives and observers should be afforded the right to receive certified copies of the results of polling for each ballot box where they witnessed the counting of votes.

## POLLING PROCEDURES

57. The legislation should set out criteria for selecting polling premises including sufficiency of space and ease of access for persons with disabilities.
58. A maximum number of registered voters per polling station should be established.
59. Polling should be permitted to continue for longer than two hours after the appointed closing time, if there are voters still waiting to vote, or to compensate for any interruption in polling.
60. The Election Law should be amended to specifically provide for the use of pre-printed uniform (standard) ballot papers, which contain symbols for parties and the photographs of candidates.
61. The use of indelible ink to mark voters' fingers should be mandatory for all types of election. The legislation should provide the specifications of the ink to ensure its effectiveness, and require a check of voters' fingers prior to the handing over of ballots to the voter.
62. The legislator should consider instituting special voting procedures to grant citizens who cannot attend polling stations for reasonable reasons (such as infirmity) an effective opportunity to vote. Persons who are in detention but have not been sentenced should be afforded an opportunity to vote.
63. The Election Law should be revised to include the requirements set out in the IEC's Executive Instructions that: polling committees should record the number of ballots received and the serial numbers of the polling seals before voting starts; committees should explain to voters how to vote; arrangements are in place to check the identities of veiled women voters; voters may not use any photographic equipment in the voting room; during the count, votes for different candidates and lists are placed in separate piles; and that all relevant data is recorded in the official minutes (as per the IEC's Instructions).
64. In the event that the electronic network is not functioning, the legislation should set out procedures to enable voting to continue whilst ensuring integrity of the process.
65. The legislation should require voters to use voting booths when marking their ballots.
66. The law should provide the number of official minutes prepared is based on actual need, and stipulate which body receives the copies.

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## ELECTORAL OFFENSES

67. The applicable penalties for election crimes should be reviewed to ensure that they are proportional to the severity of the offense committed or attempted.
68. The Election Law should contain specific penalties for intimidating or threatening voters and for bribing, coercing or threatening a polling official (or otherwise conspiring to affect the election results) with appropriately strong penalties.
69. The law would benefit from further detailing the IEC's enforcement and punitive powers.

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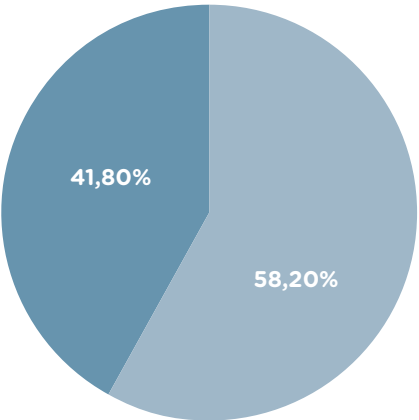
## ELECTORAL CHALLENGES

70. All stakeholders, including voters, should have the right to file a complaint to a higher electoral body or a court against any act, decision or omission that is in apparent violation of the law.
71. The electoral legislation should set out which court has jurisdiction to hear cases challenging the compatibility of an IEC Executive Instruction with primary legislation and how a decision, action or inaction of a district, polling or counting electoral committee can be legally challenged.
72. The law would benefit from a clear provision outlining the IEC's enforcement powers.

FINAL REPORT

ANNEXES

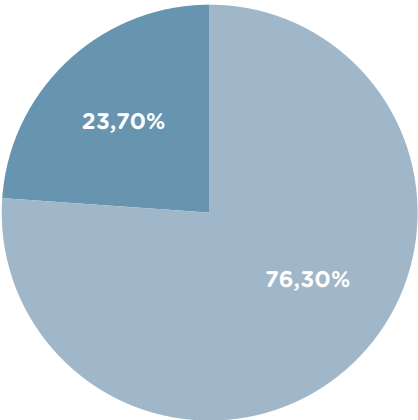
PERCENTAGE OF PARTICIPATING VOTERS WHO CAST VOTES FOR ELECTED DEPUTIES IN THE DISTRICTS



Votes Cast for Winning Candidates

Wasted Votes

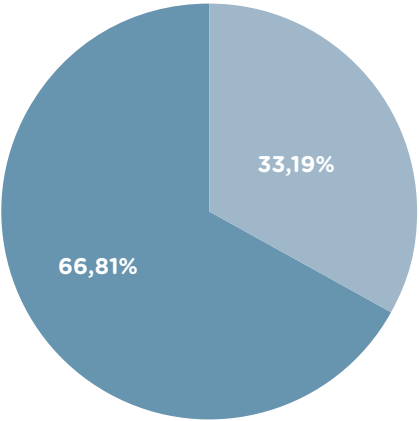
PERCENTAGE OF ALL REGISTERED VOTERS WHO CAST VOTES FOR ELECTED DEPUTIES IN THE DISTRICTS



Votes Cast for Winning Candidates

Wasted plus not voted

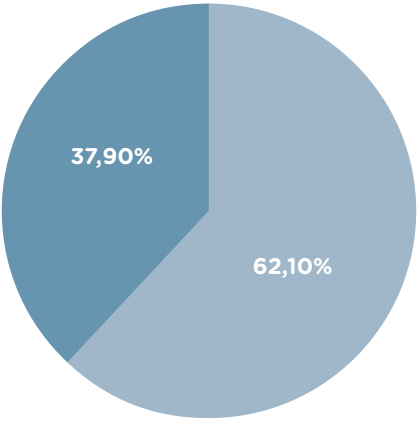
PERCENTAGE OF PARTICIPATING VOTERS WHO CAST VOTES FOR WINNING LISTS IN THE NATIONAL CONSTITUENCY



Votes Cast for Winning Candidates

Wasted Votes

PERCENTAGE OF ALL REGISTERED VOTERS WHO CAST VOTES FOR WINNING LISTS IN THE NATIONAL CONSTITUENCY



Votes Cast for Winning Candidates

Wasted plus not voted

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## 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 world- wide. 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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