

# VERANSTALTUNGSBEITRAG

Konrad-Adenauer-Stiftung e.V.

AUSLANDSBÜRO JORDANIEN

December 3, 2016

## The Road to a Civil Democratic State

DR. MANUEL SCHUBERT  
MONA DEEB

[www.kas.de/amman](http://www.kas.de/amman)

**Date:** 3 December 2016

**Location:** Regency Palace Hotel, Amman

**Organizations:** Konrad-Adenauer-Stiftung Jordan Office  
Nisan Center for Political & Parliamentary Development, Jordan

### Program Outline:

**09:30-10:00 am** **Arrival and Registration**

**10:00-10:20 am** **Opening Session: Introductory Remarks**

HE Mrs. Laila Sharaf (Former Senator and Minister of Information)

HE Mr. Bassam Haddadin (Director General, Nisan Center for Political and Parliamentary Development)

Dr. Manuel Schubert (Resident Representative, KAS Jordan Office)

**10:20-12:10 am** **First Session:**

**Chair:** HE Mr. Bassam Haddadin (Director General, Nisan Center for Political and Parliamentary Development)

#### Speakers:

**HE Dr. Muhammad Al-Hamouri** (Law Professor and Founding Dean, College of Law, University of Jordan)

“The Civil State in the Jordanian Constitution”

**12:10-12:30 pm** **Coffee Break**

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**Second Session:**

**Chair: Dr. Safa' Shweihat** (Assistant Professor, German Jordanian University, Amman)

**Speakers:**

**Dr. Farouk Al-Kilani** (Lawyer and writer)

"Reform of the Judiciary: Where Do We Begin?"

**HE Dr. Sabri Irbeihat** (Former Minister of Political Development, Parliamentary Affairs and Culture)

"Wasta and Accountability"

14:00 pm

Lunch

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## Objectives

The deepening of regional conflicts in recent years, coupled with the subsequent influx of over a million Syrian refugees to Jordan, has taken its toll on the country's limited resources, rendering it more fragile and prone to internal instability. Following the Arab Spring, Jordanians held protests in 2011 and 2012 calling for political reform. In order to ward off negative repercussions, and in an attempt to move towards a more democratic form of government, Jordan's King Abdullah has adopted what has been dubbed as a comprehensive reform strategy, calling for a number of reforms in various areas, including education, the economy and the judicial system, among others.

King Abdullah's six discussion papers, published over the last few years, have focused on ingredients for a democratic transition, chief among which is the rule of law as a fundamental principle of state governance.

In this context, the Konrad Adenauer Foundation's Jordan Office, in cooperation with the Nisan Center for Political and Parliamentary Development, has held a series of four workshops on topics presented by the government as matters of public debate. Those include King Abdullah's Sixth Discussion paper on "Rule of Law and Civil State."

This fourth and last workshop in the series focused on the subject of the civil democratic state, the main topic of the King's most recent discussion paper, and also dealt with the rule of law and judicial reform, subjects that developed out of the King's paper. The participants included legal experts, members of civil society organizations and political parties, former ministers, parliamentarians and youth. The event was held under the patronage of

Former Senator and Information Minister, Mrs. Laila Sharaf.

## Presentations

HE Mrs. Leila Sharaf introduced the workshop by pointing out the importance and timeliness of the topic at hand and said that the discussions would stimulate the participants to present positive ideas that can later be used to build on. Mr. Bassam Haddadin, Director General of the Nisan Center for Political and Parliamentary Development, started the opening session by stressing the necessity of a dialogue around the concept of the civil state and of defining the perimeters of such a state. Mr. Haddadin referred to the King's Sixth Discussion Paper as having "launched the torch of dialogue about the civil state." He said that the King's paper carries democratic ideas, and that what is currently required is to intensify the dialogue around these ideas and enrich their content.

Mr. Haddadin criticized the government for not opening the door to a discourse about the content of the King's paper in an effort to find out the people's opinions before going ahead with forming a committee to implement its contents.

Dr. Manuel Schubert, the KAS Jordan Office Resident Representative, said that the topics to be discussed address issues of concern to all Jordanians. He stressed the importance of democratic and constitutional principles and institutions and the values of justice and active citizenship as essential to the Konrad Adenauer Foundation's goals in Jordan.

During the First Session, which was dedicated to a presentation entitled, "The Civil State in the Jordanian Constitution," Former Minister and constitutional expert Muhammad Al-Hamouri said that the Sixth Discussion Paper presents "progressive

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ideas and a deep and genuine reform process based on the rule of law." He noted that the paper should be the subject of dialogue and implementation, and that there ought to be an exchange of views on its content. Mr. Al-Hamouri added that the principle of the rule of law is considered the foundation for nation-building, and that the leader of the civil state derives his decisions from clear and established constitutional text. He contrasted the civil state with the religious state, where the ruler draws his authority from religious text, adding that this second form of government no longer exists in our modern age, except in a limited number of Arab countries.

Mr. Al-Hamouri went on to say that state governance derives its authority from the people, which constitutes the civil state. He defined the concept of the civil state as the exercise of power according to the rules and regulations specified by the constitution; it aims for the welfare of society and the protection and development of human rights and freedoms within the framework of religious principles and values. It should be noted here that the basis of this last statement is the Jordanian Constitution, which states that Islam is the religion of the state; and the Civil Code, which states that the provisions of Islamic Sharia are considered one of the sources of legislation.

Al-Hamouri indicated that the concept of the rule of law referred to in the King's paper signifies in political and legal terms that the law applies to the ruler and the ruled within the state. That is a guiding principle of state governance. This definition is self-evident, which is why King Abdullah, when he proposed the sixth discussion paper, sought to stimulate the kind of thought through which the rule of law may be implemented.

He also stated that the separation between the two principles of rule of law and legitimacy does not make for a civil state, or one that has "any connection to current reality." What it does is establish a government of individuals who use the authoritarian instruments of the state to practice coercion and suppression.

Mr. Al-Hamouri concluded by saying that "the only way we can remove ourselves from a 'state of persons' to a 'state of law' is to legislate laws on the basis of constitutional legitimacy, so that everyone will commit to them."

During the second session, the two speakers touched on two very important conditions for achieving and preserving the rule of law in Jordan: the independence of the judiciary and the end of corruption and nepotism. The speakers were critical and pointed out the necessary steps to remedy the situation.

Dr. Farouk Al-Kilani, an established lawyer and expert on the constitution, discussed the need for the development of the judiciary, emphasizing that it is the basis for a civil state and a political necessity. He pointed out that the existence of a modern judicial system within the state leads to social stability and the restoration of security. He added that the inability to provide justice and to deal fairly with those who resort to the law to address their grievances, leads to a loss of confidence in the state. In this case, he added, security is compromised, and citizens have no recourse but to take the law into their own hands. The improvement of the judicial system into an effective tool in the dispensation of justice, he concluded, is an absolute civilizational necessity, regardless of any existing barriers.

Dr. Al-Kilani also argued that legal thought which protects these anomalous conditions

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is reactionary and based on primitive inherited concepts that are no longer appropriate for developed societies. He emphasized that a qualified and independent judicial system is vital to the protection of the rule of law.

In his presentation, former Minister Sabri Irbeihat stated that dealing with nepotism and lack of accountability in the public sphere, both considerably widespread in Jordan, can be achieved by reinforcing the rule of law and the idea of the modern state, and by reforming all the negative aspects that have hindered work in the past. He pointed out that society should be addressed as individuals, and not as tribes, noting that the desire for change is often restrained by conservative forces. In order to achieve genuine citizenship, the people must act decisively, and government must be transparent and fair. A lack of clarity allows corruption to become entrenched within society.

### Conclusions

The workshop on the civil democratic state was a success in the sense that it addressed very timely topics that are currently subjects of debate in Jordan. Comprehensive social development is conditional upon a discourse between civil society organizations and the government, and there is clearly an urgent need for such political debate in the country. The presentation topics and ensuing discussions provided a forum for consultation and exchange between government institutions and civil society organizations, contributing to a framework whereby stakeholders can fulfil their democratic role within the state.

The speakers at the workshop were experts in their fields and openly critical of the government for not ensuring the adequate participation of the people at all levels of decision-making. Furthermore,

the event was very well attended and members of the audience felt free to ask insightful questions of the participants. One can assume that the expertise and openness of the speakers and the level of involvement of the audience in the discussions had a considerable effect on the attitudes of the attendees and possibly strengthened their resolve to express their opinions about the topics in question more freely in future. The aims of the workshop, which were to intensify the dialogue around the ideas in the King's paper, and to enrich their content, were realized.

### Press coverage

Al Ghad, Jordanian daily newspaper:  
<http://alghad.com/articles/1289782>