



Better Balance between State Authorities - a Priority for Reform in Jordan

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This policy paper explores the history of political reform in Jordan, highlighting key challenges. The most notable concern is the need for reducing the executive authority's influence over other authorities, to strengthen state institutions and the rule of law and establish a society of justice and equality. The paper argues for the need for reviewing constitutional amendments, which ensure the independence and impartiality of the judiciary, activate the role of the legislative branch, and promote the balance between the three branches of government.

Introduction

n 10th June 2021, a royal decree by HM King Abdullah II called for the formation of the "Royal Committee to Modernize the Political System".

This royal committee is one of a series of committees formed by the royal palace in an effort to achieve political reform. Former Prime Minister Samir Rifai was designated as the head of said committee. Rifai's popularity was questioned as citizens recalled the sacking of his government in 2011 after repetitive reform waves at the time. The selection of the 92 members by royal decree reflected a wide array of political, social and tribal streams of Jordanian society. Although some Jordanians expressed hope for the outcomes of this committee, skeptics on the other hand feared that the committee will suffer the same fate as prior committees.²

¹ King entrusts Rifai with chairing Royal Committee to Modernise Political System | King Abdullah II Official WeKing entrusts Rifai with chairing Royal Committee to Modernise Political System | King Abdullah II Official Website. (2021). Retrieved January 16, 2022, from Kingabdullah.jo website: https://www.kingabdullah.jo/en/news/king-entrusts-rifai-chairing-royal-committee-modernise-political-system

² Political will needed for royal committee in Jordan to succeed. (2021, June 15). Retrieved December 18, 2021, from Jordan Times website: http://jordantimes.com/opinion/osama-al-sharif/political-will-needed-royal-committee-jordan-succeed

According to the royal letter sent to the chairman of the committee in 2021, the committee was to produce a new draft for the electoral and political parties' laws and review the potential constitutional amendments connected to the draft laws and the mechanisms of parliamentary work. In addition, it should provide recommendations for legislations regulating local administration, "expanding participation in decision-making, and creating a political and legislative environment conducive to the active engagement of youth and women in public life".³

The Royal Committee came at a challenging time for Jordan, concerning both the international and domestic context. For instance, as seen in a 2019 Arab Barometer report, 89 percent of all Jordanians polled said that "corruption is found within state institutions to a large or medium extent". In 2020, a human rights report issues by the US Department of State described a number of human rights violations, including:

"Cases of cruel, inhuman, and degrading treatment or punishment; arbitrary arrest and detention, including of activists and journalists; infringements on citizens' privacy rights; serious restrictions on free expression and the press, including criminalization of libel, censorship, and internet site blocking; substantial restrictions on freedom of association and freedom of peaceful assembly; serious incidents of official corruption.... Impunity remained widespread, although the government took some limited steps to investigate, prosecute, and punish officials who committed abuses. Information

³ King entrusts Rifai with chairing Royal Committee to Modernise Political System. (2021, June 10). Retrieved December 18, 2021, from Jordan Times website:

https://www.jordantimes.com/news/local/king-entrusts-rifai-chairing-royal-committee-modernise-political-system

⁴ Arab Barometer V Jordan Country Report. (n.d.). Retrieved from https://www.arabbarometer.org/wp-content/uploads/ABV_Jordan_Report_Public-Opinion-2019.pdf

on the outcomes of these actions was not publicly available for all cases".⁵

The Freedom House's 2021 report changed Jordan's ranking from "Partly Free" to "Not Free", mentioning several observations to substantiate this ranking including media restrictions and gag orders issued in relevance to the pandemic and the closure of the Teachers' Syndicate among other issues. The report also notes the interference of the intelligence services in monitoring academic events and campus life. Furthermore, the report mentions the cybercrime legislation and the arrest of a number of activists for posting on social media outlets.⁶

The reported increase in such incidents year after year, highlights the crucial question of whether there is enough will within state institutions to achieve reform that is able to make a substantial change on the ground for a democratic Jordan. In addition, critics have pointed out electoral irregularities to ensure a parliament whose role is to engage in only limited law-making and give an image of a democratic Jordan. Critics also highlighted the low participation in parliamentary elections in correlation to the public's confidence in the role of the parliament. In a poll conducted by International Republican Institute IRI in November 2019, 2% of people participating in the poll expressed a high degree of confidence in the parliament, 72% of the participants said they will not participate in upcoming elections and 52% said that they are unlikely to be able to influence the decision making process in the country. 85% of the polled also said that elections do not reflect the will of the Jordanian people.⁷ As such Jordanians no longer seem enthusiastic to take part in the political process.

⁵ Jordan - United States Department of State. (2021, November 4). Retrieved December 18, 2021, from United States Department of State website: https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/jordan/

⁶ Jordan: Freedom in the World 2021 Country Report | Freedom House. (2019). Retrieved December 18, 2021, from Freedom House website: https://freedomhouse.org/country/jordan/freedom-world/2021

⁷ IRI's Latest Jordan Poll Examines Public's Expectations of Government, Perception of Their Democracy. (2022, February 8). Retrieved February 19, 2022, from International Republican Institute website: https://www.iri.org/resources/iris-latest-jordan-poll-examines-publics-expectations-of-government-perception-of-their-democracy/; Suleiman Al-Khalidi. (2020,

History of Political Reform in Jordan

A cknowledging that all the different royal committees designated for the purpose of political reform were formed in different contexts, the previous committees were not successful in developing the needed provisions to bring about a sustained reform to the political system in Jordan and to achieve a balance between the reform-oriented demands and the conservative security apparatus.

Over 60 years ago, the first and last parliamentary Jordanian cabinet formed by political processes existed. King Hussein at the time, asked the leader of the (National Socialist Party) who won the majority of votes in the 1956 elections to form the cabinet. The majority leader formed a coalition cabinet, including representatives of most of the political parties active at the time. This cabinet did not last more than six months during which its policies clashed with that of the palace. After a military coup by nationalist troops on April 13, 1957, resulting in the deaths of three individuals, the King dismissed the cabinet, discharged the prime minister and put him under house arrest, declared martial law, and dissolved and banned all political parties. The ban on political parties continued until the early 1990s. Since then, no elections took place on a party basis, and no parliament was formed on that basis.

After the April 1989 protests, the Royal Commission for Drafting the National Charter was formed to draft guidelines for political parties' activities, and revoke the laws restricting public freedoms, such as emergency laws, martial law, and the anti-Communism law.⁸ The charter was produced and adopted in 1991 at

November 10). Poor turnout in Jordan elections reflects limits of kingdom's democracy. Retrieved February 19, 2022, from U.S. website: https://www.reuters.com/article/us-jordan-election-parliament-idUSKBN27Q0YT

⁸ Lucas, R. E. (2012). Institutions and the Politics of Survival in Jordan: Domestic responses to external challenges, 1988-2001. SUNY Press. P.25

a national conference in the presence of King Hussein and 2,000 Jordanians who attended by invitation.⁹

Parliamentary elections took place and successfully produced an active parliament. After a four-decade ban on party activities in the country, the Political Parties law was finally endorsed in 1992.¹⁰ Jordan was taking a leap towards a democratic transition, thereby winning the admiration of the Arabs and the world.¹¹ But most importantly, this process reinforced the legitimacy of the regime at the time and was widely welcomed by Jordanians.

This reform process soon relapsed when the one vote electoral law was adopted, and parliamentary elections were held according to the One Vote Law in 1993 and 1997. The political opposition refused to participate in the elections in rejection of this law.

In 1999, King Abdullah II became King of Jordan. As a young monarch, King Abdullah inherited a politically stable country, and due to his young age, which was closer to that of the general population, there were widespread hopes and expectations for a more open and engaged political system. Indeed, at the start of his rule, the King emphasized the need to promote democracy, strengthen the judiciary, enhance the efficiency in the public sector, and strengthen the role of the media in promoting freedom of expression with a focus on economic development.

In 2001, the 13th parliament was dissolved by King Abdullah before the completion of its constitutional mandate. Due to regional tension, the elections were postponed for two years and the following elections in 2003, 2007, 2010, and 2012 resulted in weak parliaments and a "decrease in citizen confidence in parliament as a constitutional institution that plays a key role in governing".¹²

⁹ The Jordanian National Charter. (2021). Retrieved December 18, 2021, from Kinghussein.gov.jo website: http://www.kinghussein.gov.jo/charter-national.html

¹⁰ Lucas, R. E. (2012). Institutions and the Politics of Survival in Jordan: Domestic responses to external challenges, 1988-2001. SUNY Press. P.54-58

¹¹ Ibrahim, S. E. (1989). The Future of Human Rights in the Arab World. The Next Arab Decade. Alternative Future/Ed. By H. Sharadi. L, 39-40.

¹² Torki Bani Salameh, M., 2017. Political reform in Jordan: Reality and aspirations. World Affairs, 180(4), pp.47–78.

In 2005, King Abdullah II formed the Steering Committee for the National Agenda. The aim of this committee was to draw up guidelines for policy-making in the coming 10 years.¹³ The 26 members of the committee presented its recommendations in nine months, covering legislation, infrastructure, investment, financial reform, labor, education and social welfare. The committee, however, failed to recommend changes to the electoral law.¹⁴

With mounting public pressure for political reform, King Abdullah II in 2011 pledged reform leading to a parliamentary government and to fight against corruption. The king ordered his cabinet to form the National Dialogue Committee. The committee was asked to propose new electoral and political parties' laws. The Speaker of the Senate, and a former prime minister, chaired the committee. The 52 committee members were selected in an attempt to represent all political groups and orientations in the country. During the period of this committee, 16 members resigned in protest at a reported crackdown by security forces against political activists.

The King then formed the Royal Committee on Constitutional Review in April 2011, to recommend necessary amendments to achieve the desired political reform and the development of political life in the country. The king emphasized the need to establish a balance between the three authorities in Jordan, and to improve performance of political parties and the parliament. The recommended constitutional amendments resulted in the creation of the Independent Electoral

¹³ King receives National Agenda, Regions Committees recommendations | King Abdullah II Official Website. (2021). Retrieved December 18, 2021, from Kingabdullah.jo website: https://kingabdullah.jo/en/news/king-receives-national-agenda-regions-committees-recommendations

¹⁴ Pike, J. (2022). JORDAN: Year in Brief 2005 – A chronology of democratic developments. Retrieved February 26, 2022, from Globalsecurity.org website: https://www.globalsecurity.org/military/library/news/2006/01/mil-060115-irin01.htm

¹⁵ Timeline of Political Reform. (2011). Retrieved December 18, 2021, from http://jordanembassyus.org/website: http://jordanembassyus.org/politics/timeline-political-reform

Commission in 2011 and the Constitutional Court in 2012. Observers praised the creation of these two institutions as advancing Jordan's democratic process.¹⁶

The government of Prime Minister Abdullah Ensour requested two constitutional amendments in 2014. The first amendment was vesting the power to appoint the chairman of the Joint Chiefs-of-Staff and director of the General Intelligence Department (GID) solely in the King without having the nomination of the prime minister as was the case previously. This was justified as a step to ensure the separation of authorities and that this process would not be affected in the future in case of changes in the dominating political parties. The second amendment was to expand the authority of the Independent Elections Commission (IEC) to supervise and manage all national elections, including non-parliamentary polls instead of only of its original monitoring role.¹⁷

Further amendments to the constitution were approved in 2016. The most controversial being the addition to Article 40 stating "Despite what is stated in Paragraph A, the King shall exercise his powers individually and appoint the Crown Prince, the Regent, Senate president and members, and members of the Constitutional Court, president of the Higher Judicial Council, the army's chairman of the Joint Chiefs-of-Staff and the General Intelligence Department and Gendarmerie Department directors."¹⁸

The recent Royal Committee's mandate is to develop an electoral and political parties' laws by November 2021 and present it to parliament for debate.¹⁹

¹⁶ Laith Nasrawin. (2013, July 2). Positive Trends in Jordan: Constitutional Amendments of 2011. Retrieved February 26, 2022, from ResearchGate website:

https://www.researchgate.net/publication/273896425 Positive Trends in Jordan Constitutional Amendments of 2011

¹⁷ Constitutional changes aimed to enhance political reforms — PM. (2014, August 14). Retrieved February 27, 2022, from Jordan Times website:

http://www.jordantimes.com/news/local/constitutional-changes-aimed-enhance-political-reforms-%E2%80%94-pm

¹⁸ Senate majority approves constitutional amendments. (2016, May 2). Retrieved February 27, 2022, from Jordan Times website: http://jordantimes.com/news/local/senate-majority-approves-constitutional-amendments

¹⁹ King appoints new commission for political reform in Jordan. (2021, June 17). Retrieved December 18, 2021, from Al-Monitor: The Pulse of the Middle East website: https://www.al-monitor.com/originals/2021/06/king-appoints-new-commission-political-reform-jordan

The final structure of the amendments was approved on January 18, 2022. 20 The 30 suggested constitutional amendments highlighted positive changes or as some commented "a move towards the right direction" while critics see more widening of executive authority power over other authorities. These amendments included guarantees for protection of public freedoms particularly political participation and partisan affiliation and a review of all relevant legislation, policies and practices governing public freedoms (such as the Cybercrime Law, the Law on Public Gatherings, the Penal Code, the Access to Information Law, and the Crime Prevention Law). In addition, the committee recommended reviewing the political parties law to ensure political parties encourage women and youth affiliates to hold leadership positions and to recruit persons with disabilities.²² Further amendments were introduced by the government to create a national security council headed by the king which were changed to relieve the king from heading the council. On the other hand, the parliament agreed to widening the king's powers by allowing him to make further senior appointments without the need for referral from the prime minister and the appropriate government minister. This was perceived as a way to avoid a future prime minister whose policies contradict with that of the palace.²³

With subsequent constitutional amendments, the royal palace reaffirms its intent to push for further reforms, establish a constitutional monarchy and pave the way for elected governments. However, critics claim that the executive authority is increasingly taking more of the roles of the legislative authority and that the parliament is becoming weak and influenced by successive governments.

²⁰ Senate passes 2022 draft constitutional amendments. (2022, January 18). Retrieved January 24, 2022, from Jordan Times website: http://www.jordantimes.com/news/local/senate-passes-2022-draft-constitutional-amendments

DAOUD. (2022). Jordan slowly changes constitution to push serious political reform. Retrieved February 26, 2022, from The Jerusalem Post | JPost.com website: https://www.jpost.com/middle-east/article-691629

²² اللجنة الملكية لتحديث المنظومة السياسية. (2021). Retrieved February 26, 2022, from Tahdeeth.jo website: https://tahdeeth.jo/Home/CommitteeRecommendations

²³ Jordan. (2021, November 28). Mixed reaction in Jordan over amendment to expand king's power. Retrieved February 26, 2022, from Arab News website: https://www.arabnews.com/node/1976541/middle-east

With the executive enhancing its political influence, citizens seem to lose confidence in the effectiveness of participation in parliamentary elections.

The Hegemony of the Executive Authority: A Key Challenge to Political Reform

n response to the regional and international changes starting from 9/11 onwards, Jordan adopted an antiterrorism discourse that led to an increased empowerment of the security state institutions over other state institutions.²⁴

Looking at the laws and regulations drafted in this period, such as the political party laws, public meeting laws, publication laws, and the Prevention of Terrorism Act, it is clear that they were "drafted in the spirit of suspicion, caution, and complexity".²⁵ These laws paved the way for more dominance of the security apparatus over the citizen's freedoms.²⁶

After the Arab Spring, King Abdullah openly expressed the desire to engage in serious reforms that would pave the path for a modern and democratic system. These steps towards reform were enthused by popular calls for reform in 2011. The King dismissed the unpopular prime minister at the time, Samir Rifai in February 2011 and replaced him with the Marouf al-Bakhit whose conservative ideas contradicted the potential for real reform. Reform steps at the time were perceived to only scrape the surface and shy from establishing a systematic change.

²⁴ Ryan, C. R. (2016). Five Years after Arab Uprisings, Security Trumps Reforms in Jordan. Washington Post; AlMasri, R. (2014). Jordan's Anti-terrorism Law: A Choice between Security or Speech. Including Unofficial Translation of the 2014 Anti-terrorism Law Amendments. 7iber, April, 30.

²⁵ Torki Bani Salameh, M., 2017. Political reform in Jordan: Reality and aspirations. World Affairs, 180(4), pp.47–78.

²⁶ AlMasri, R. (2014). Jordan's Anti-terrorism Law: A Choice between Security or Speech. Including Unofficial Translation of the 2014 Anti-terrorism Law Amendments. 7iber, April, 30.

In 2012 amendments of the 1998 Press and Publications Laws were introduced. Posing further restriction on freedom of expression and giving the executive authority the power to block news websites and penalize online commentators without a clear reason or a court order.²⁷

A controversial legislation was introduced in 2014 as an amendment to the 2006 Anti-Terrorism Law expanding the powers of the executive authority to detain people without trial for suspicion of affiliation to terrorist groups, charge them with the crime of terrorism and prosecute them in the State Security Court. The legislation came as part of Jordan's response to the regional threats from terrorist groups in bordering states.²⁸ However, critics highlighted that the vague law poses a threat to freedom of assembly, expression and publication. ²⁹

In 2016, a revised association law was proposed that would give the government rights and powers to control and regulate the flow of foreign funding to registered civil society organizations, dissolve these organizations, and implement other restrictions that according to Human Rights Watch did not match international standards of international law, concerning civil society activism.³⁰

Furthermore, in 2016 constitutional amendments were introduced that permit the King to appoint chairman and members of the constitutional court, the

²⁷ Jordan: A Move to Censor Online Expression. (2012, September 10). Retrieved February 26, 2022, from Human Rights Watch website: https://www.hrw.org/news/2012/09/10/jordan-move-censor-online-expression

²⁸ washingtonpost. (2014, April 25). Worried about terror attacks at home, Jordan steps up arrests of suspected Syria jihadists. Retrieved February 26, 2022, from Washington Post website: https://www.washingtonpost.com/world/middle_east/worried-about-terror-attacks-at-home-jordan-steps-up-arrests-of-suspected-syria-jihadists/2014/04/25/6c18fa00-c96d-11e3-95f7-7ecdde72d2ea story.html

²⁹ Jordan: Terrorism Amendments Threaten Rights. (2014, May 18). Retrieved February 26, 2022, from Human Rights Watch website: https://www.hrw.org/news/2014/05/17/jordan-terrorism-amendments-threaten-rights

³⁰ Human Rights Watch Statement on Proposed Amendments to Jordan's 2008 Law on Associations. (2016, August 7). Retrieved December 18, 2021, from Human Rights Watch website: https://www.hrw.org/news/2016/08/07/human-rights-watch-statement-proposed-amendments-jordans-2008-law-associations

chief justice, the commander of the army, and the heads of intelligence and the gendarmerie, without any countersignature by the prime minister.³¹

In 2019, the Jordanian government arrested more than 30 activists for a variety of charges ranging from "insulting the King" ("lengthening the tongue against the king") to the vague charge of "undermining the political regime" and "online slander".³² In the same year, the teachers' syndicate organized strikes and protests, demanding an increase in wages previously promised by the government but never delivered. The government shut the protests down with force, arresting the syndicate's leadership and dissolving the union and cancelling its activities. Although a deal was supposedly reached in late 2019, it was not honored, and in 2020 new protests erupted with teachers again calling for the government to keep its word.³³

According to the presented amendments of 2022, a National Security Council will be formed with wide-ranging political and security powers. The new council will include the prime minister, army chief, directors of the security forces, foreign and interior ministers, as well as two other members that the king will appoint.³⁴ Reactions to these amendments varied. While some applaud these changes while other highlighted critical issues. For example, the idea of a National Security Council as an independent body that offers consultation on national security issues was positively perceived by some while others believe that this creates an unnecessary parallel body to the executive authority which only means that this authority is not fulfilling its duties. Also, for the powers granted to the king including the ability to appoint and fire the chief justice, head of the Sharia

security-and-foreign-policy-council

³¹ Obeidat, S. (2017). Jordan's 2016 Constitutional Amendments: A Return to Absolute Monarchy?. Constitutionnet, May, 27.

³² World Report 2020: Rights Trends in Jordan. (2019, December 12). Retrieved December 18, 2021, from Human Rights Watch website: https://www.hrw.org/world-report/2020/country-chapters/jordan

³³ Jordan: What Happened, Why, and What's Next? (2021). Retrieved December 18, 2021, from POMED website: https://pomed.org/jordan-what-happened-why-and-whats-next/

³⁴ Lower House approves establishment of National Security and Foreign Policy Council. (2022, January 6). Retrieved February 26, 2022, from Jordan Times website: https://www.jordantimes.com/news/local/lower-house-approves-establishment-national-

court, the general mufti, the head of the Royal Hashemite Court and advisers, adding to existing control over the chief of the army, head of the gendarmerie and head of the intelligence service. all these appointments were previously made based on the recommendations of the prime minister. Some perceived this step to be a preparation for an elected government while maintaining the critical issues of security and foreign policy in the hands of the king. While others see this as a risk for the monarchy as the king will be the one responsible for making these choices and will be perceived as responsible for their decisions.³⁵

In a country surrounded by regional conflict and effected by the resulting refugee influx, in addition to its own complex demographics, the monarchy remains a guarantor of the country's stability. However, critics claim that under the current conditions, the executive authority seems to run all the external and internal affairs of the country, deciding all policy "including foreign policy, conducting high-level military and intelligence cooperation with allies in the region and overseas, and controlling all aspects of local administration. For all practical purposes, the King seems to be the only political player in the country, and the political system appears to operate without politicians".³⁶

Monopolization of power in the hands of one authority seem contradictory to modern political systems, the current constitutional provisions give the executive authority wide powers over other authorities constituting a challenge for political reform as well as a challenge for the royal palace's plans for the modernization of political life in Jordan.

³⁵ DAOUD. (2022). Jordan slowly changes constitution to push serious political reform. Retrieved February 26, 2022, from The Jerusalem Post | JPost.com website: https://www.jpost.com/middle-east/article-691629

³⁶ Yom, S. L. (2009). Jordan: Ten more years of autocracy. Journal of Democracy, 20(4), 151-166.

Policy Recommendations

Ascurity is challenging to achieve, a real and comprehensive reform remains a necessity and a national interest to restore the trust of the people in their leadership and their confidence in the ruling system. The desired political reform requires taking a holistic approach through a national strategy comprising of major political and economic steps to overcome the various challenges it faces. This national strategy should refer back to the constitution as it is the only guarantee of individuals' rights and freedoms, and constitutional reform is the most important step to initiate political reform. It is impossible to establish real political reform under constitutional provisions that give the executive authority broad powers over other authorities. This practice challenges the notion of a balance between authorities and contradicts with the King's vision for a democratic Jordan.

1. Ensuring the Independence and Impartiality of the Judiciary

- Reforming and empowering the judicial system which would in turn,
 strengthen the legitimacy of the state
- Strengthen the rule of law, and ensure the legality of actions of the state in line with Jordan's obligations in international treaties and conventions including human-rights conventions.

2. Let the Legislature Legislate

Activating the role of the legislative authority, as the holder of the mandate in legislation; the legislature should have a key role in amending the constitution.

Increasing people's confidence in the parliament as a representative of the people and an authority to which they can share their concerns would actually reflect positively on their perception of state institutions and of the royal palace instead of blaming the palace for every challenge facing the country.

A strong legislative body can encourage the participation of people in the decision making process and as a result feel responsible for the state's decisions, successes and failures.

3. Ending the Hegemony of the Executive Authority

- Putting an end to the hegemony of the executive authority over the rest of the authorities and decision making.
- Stopping the marginalization of state institutions in favor of the security apparatus, which still dominates many aspects of life in the country.
- Holding the responsible authorities accountable for the violations of the country's commitments to international conventions including human rights in the judicial system.
- Finally, the constitutional amendments granting the executive authority wider access over other authorities should be put under review.

The recommendations offered in this policy paper contribute to the realization of the Kings vision in modernizing the Jordanian state structure, bolstering the rule of law, encouraging civic engagement and emboldening the democratic transformation process as voiced in his seven discussion papers, as well as his letter to Samir Rifai, the chairman of the royal committee.³⁷

³⁷ Discussion Papers | King Abdullah II Official Website. (2022). Retrieved February 26, 2022, from Kingabdullah.jo website: https://kingabdullah.jo/en/vision/discussion-papers

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أفكار أردنية - Jordan. The next chapter

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