

Annex II: Response to HRW from the Ministry of Justice of Jordan

**In reference to questions included in Human Rights Watch's research on debt imprisonment in Jordan,
I would like to indicate the below:**

First: On the question resulting from researchers' findings about how debt imprisonment disproportionately affects the poor rather than wealthier individuals who have high debts:

Jordan implements the rule of law and ensures a fair trial and equality for all before the law. All citizens are equal in rights and duties and there is no discrimination. The Hashemite Kingdom of Jordan's legislative system asserts the aforementioned based on Article (6) of its constitution, which states that "Jordanians shall be equal before the law. There shall be no discrimination between them in regards to their rights and duties on grounds of race, language or religion." Consequently, the law is applied indiscriminately on borrowers, whether rich or poor.

Second: Regarding the remark stating that failure to repay even small debts is a crime that carries a penalty of up to 90 days in prison per debt:

Failure to repay debt is not considered a crime, but is subject to the provisions of Jordan's Execution Law no. 25 of 2007, which includes special provisions on the imprisonment of debtors who fail to repay debt, do not propose a suitable settlement to repay the debt, or do not disclose property and funds that are sufficient to repay the debt. The imprisonment period does not exceed 90 days per year per debt. Through these provisions, legislators meant to ensure the rights of both creditor and debtor. It is noteworthy that imprisonment, in case of failure to repay the debt, is not a punishment for a crime, but rather a

means of pressure on borrowers who refuse to repay their debt despite their financial ability, to guarantee that creditors recover their debts and achieve their rights.

These matters are just financial claims. A case of failure to repay can only be recognized based on court rulings after evidence has been established. Also, the case for debt default and inability to pay is only upheld when the verdict is submitted to the Execution Department in light of borrowers' possession of sufficient funds to repay the debt or offer a financial settlement of the debt in accordance with the Execution Law provisions.

Article (22/a) of the Execution Law states that creditors can request that a borrower be imprisoned if he or she fails to repay their debt or offer a settlement commensurate with their financial capacities during the notice period, provided that the first installment as per the settlement is no less than 25% of the due debt.

Legislators have allowed for imprisonment of borrowers as per the provisions of the Execution Law:

- If the debt has not been repaid or if a settlement commensurate with the financial capacities of the borrower has not been offered within 15 days of being given notice;
- If, after questioning the borrower, it is proven to the execution chief that the borrower is capable of repaying the debt. Unlike what the report mentions, courts do not sentence [debtors] routinely. They follow the provisions of the law and function according to the principles and guarantees of fair trial and right to defense. The aggrieved party has the right to object to any decision issued by the execution chief within seven days of being given notice, according to the Execution Law's provisions.
- The decision issued by the execution chief can be appealed before the Court of First Instance in its appellate capacity within seven days of being given notice, and legislators have allowed for the right to appeal the prison sentence.
- The crime of issuing bouncing checks is a different case. Here, the act is considered a punishable crime according to the provisions of the

Jordanian criminal law, on par with different legislations around the world.

Third: On the statement that imprisonment due to failure to repay debt is a violation of Jordan's obligations under international human rights law, which forbids imprisonment of individuals for failing to fulfill their contractual obligations:

The Jordanian government ratified in 2006 the International Covenant on Civil and Political Rights, which was published in the Official Gazette, issue no. 4764. However, the constitutional ratification procedures have not been completed because they have not been presented before the Jordanian parliament for ratification as per Article (33/2) of the Jordanian constitution, because they infringe upon Jordanians' public and private rights.

Article (11) of the International Covenant on Civil and Political Rights states that the borrower shall not be imprisoned on the ground of inability to fulfil a contractual obligation. Consequently, it does not forbid imprisonment of an individual who is capable of fulfilling their obligation.

Fourth: Regarding the questions raised in the report about the following:

- The number of debt default cases examined by courts:

It is not possible to prepare statistics of civil cases of failure to repay debt that are examined by courts because these cases are merely financial claims. A case for failure to repay can only be upheld based on court rulings after evidence has been established, and the case of debt default and inability to pay is only upheld when the verdict is submitted to the Execution Department in light of the borrower's possession of sufficient funds to repay the debt or offer a financial settlement in

accordance with the Execution Law. All of the above cannot be tracked electronically.

- Regarding the cause of the civil execution cases backlog:

This is due to failure of the concerned parties to follow up on the execution claims in execution cases, in addition to the increasing number of claims submitted as civil debt cases.

- Regarding available alternatives to debt imprisonment in law and practice:

The options available to the officiating judge within the provisions of the Execution Law include seizure of funds of the convicted person or imposing a travel ban, in addition to allowing financial settlement according to the financial capacities of the convicted person.

A committee is reviewing the Execution Law in such a way to ensure justice and account for the interests of both parties (borrower and creditor).