

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
صديقه عطوفة حافظه الله عمارة الأكرم

مما أتت به - التي موقوفه ادارياً على قنونه القديمه فقط  
وإنما الآن انشأت ثابته ويشهد الله على كل واحد  
هذا وهو غير المتأخرين لدي

مما أتت به: لقد اضيت بالجيبه فده تلك سنوات وبعدها  
اعادته على قنوني من الاقامة الجبريه على اني  
لم أكون متخلف كونه كنه نزلت ركنه ولكنكم اغتروني  
معتقله ولعادتني الى علقوتكم وعلقتكم امر بتوقيفي  
لقار كفاله عدليه بقبية عشرة الافدينه  
ذلك يوم يتبعوا اهل زبدي فزاله تكفيان فيقولوا  
لهم ان الكفاله مرفوضه - عه ماين للمساويه  
من اهل الموافقه تكفيان للهل الرفاعي والهل

موقوفه ادارياً بسبب قنونه القديمه  
موقوفه لقار كفاله عدليه بقبية عشرة الافدينه  
المؤمنه - تقديم استرهم وطلب العده والمساويه  
من اهل الموافقه على الاقامة على ادارياً  
والموافقه على كفالتين سيدي من اهل  
اسري واطفالي وزبدي والهل المحتاوين في  
في هذه الاوقات التي لا يعلم بها احد  
سوا الله ثم اهل الخير انشاء الله سيدي

JORDAN

# Guests of the Governor

Administrative Detention Undermines Rule of Law in Jordan

HUMAN  
RIGHTS  
WATCH



**Guests of the Governor**

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Rule of Law in Jordan**

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## **Guests of the Governor**

### **Administrative Detention Undermines the Rule of Law in Jordan**

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## I. Summary

I was under supervised residence ordered by the governor for a brawl I was involved in. Then, I took mother to the hospital and was 10 minutes late for reporting to the Ashrafiyya police station. They arrested me, kept me, and sent me to the governor the next day. At the Amman governorate, the cells are upstairs, on the top floor. I called my family and they came. The officials sent a paper to the governor downstairs and my family talked to him for a few seconds, then I was brought down to see him, but I didn't speak. He gave no reason for my arrest. I presented my mother as my guarantor, but he rejected her. The governor set some amount I had to pay as a guarantee and ordered my detention.

I spent one month in Juwaida prison, where I sent faxes to the governor every day. Because of that, they transferred me to Swaqa prison. I have presented 25 petitions for release with a guarantee, with my wife, mother, father, and brothers acting as guarantors. If you don't have [assets] yourself, you have to find someone with land and pay him a fee to present it as a bond, and then pay the government fees. We don't have enough money for that. My family wanted to present a piece of land as my guarantee, worth 10,000 dinars [about US\$14,000], and paid the government fees of around 0.8 percent, but I am still here. I have written many petitions for clemency.

—Wa'il Ahmad, Swaqa prison, August 21, 2007

Wa'il Ahmad, age 23, had already spent 70 days in administrative detention when he spoke with Human Rights Watch at Swaqa prison. His experience encapsulates many of the abuses inflicted on those subjected to Jordan's administrative detention policies.

The government's widespread use of administrative detention fundamentally undermines the rule of law in Jordan. Ministry of Interior officials abuse their powers of administrative detention to lock up persons in an arbitrary manner. These officials have at times detained persons despite judicial orders for their release. At other times, they have jailed persons whose administrative detention did not serve any of the stated purposes set out in the Crime Prevention Law, which authorizes the practice. In almost all instances, governors and district administrators, whom the law empowers to order administrative detention, violated the due process rights of those being detained.

More than one in five persons in Jordanian prisons is an administrative detainee. In 2008 executive officials ordered administration in 11,870 cases, the National Center for Human Rights reported.

The Crime Prevention Law of 1954 allows governors to start procedures against persons who are “about to commit a crime or assist in its commission,” those who “habitually” steal, shelter thieves, or fence stolen goods, and anyone who, if remaining at liberty, would constitute a “danger to the people.” Court verdicts and interviews Human Rights Watch conducted indicated that governors resort most frequently to this last provision.

Among those detained outside of the scope of the Crime Prevention Law are women and men in “protective” custody, and foreigners. Governors invoke the Crime Prevention Law—although it does not explicitly cover such situations—to place women in “protective” custody because family members, generally men, have threatened these women’s lives for perceived moral lapses. The authorities also sometimes indefinitely jail men administratively, ostensibly for their protection, if they face threats of tribal revenge. In both instances, governors stand the principles of justice on their head by punishing the victims instead of prosecuting those responsible for such threats. Authorities occasionally detain foreigners administratively when they lack proper identification or residency documents but cannot be immediately deported. Foreigners and women and men in protective custody remain detained indefinitely, and have no effective means of challenging their detention.

Officials have also used the law to jail personal enemies, to detain persons in order to secure the surrender of a wanted person, and to detain persons simply for acting outside local norms, such as women alone in public at night or in the company of men who are not their relatives, street vendors and beggars, and men suspected of drunkenness or with prior convictions.

The government applies administrative detention most commonly to circumvent the greater rights that Jordan’s ordinary Law of Criminal Procedure gives those arrested, and obligations that law places on the arresting authority, such as bringing a suspect to the prosecutor within 24 hours of arrest to be charged. Governors frankly acknowledged to Human Rights Watch that they administratively detain persons who have been granted judicial bail or who have finished their criminal sentences. One governor went so far as to declare, “We use the Crime Prevention Law ... in cases where the criminal might be found not guilty.... [W]e know he’s a danger but we cannot [otherwise] put him in jail. We administratively detain him for as long as we consider necessary.” In one cell in Qafqafa prison, 20 out of 24 inmates under

administrative detention said they were there despite having been found not guilty, having posted judicial bail, or after the expiry of their criminal sentences.

The Crime Prevention Law has serious deficits affecting due process protections. First, governors have complete discretion to set the monetary guarantee a suspect must present to remain free, irrespective of the suspect's means or personal circumstances; governors also are free to reject guarantors who personally vouch for the suspect or pay the requested guarantee. Second, the law inverts the presumption of innocence by obliging the suspect to convince the governor why he or she should remain at liberty, and imposes only vague standards of evidence—not observed in practice—on the governor before he sets guarantees or orders detention. Finally, the law provides for no regular review by a court or an independent tribunal of administrative detention decisions. Detainees have the right to petition the High Court of Justice, but the associated costs are often prohibitive.

Moreover, governors and other high officials often apply the Crime Prevention Law in ways that violate the procedures set forth in that law. For example, in several cases the administrative detainees had never been brought to the offices of the governor or his deputy, despite the law's requirement that the responsible official investigate the suspect's case in his or her presence. Some detainees also said that officials refused to accept the guarantors and monetary guarantees that they themselves had set as a condition for the suspect's remaining at liberty.

Gender-specific discrimination in the application of the law has additional consequences for women in administrative detention. Governors typically insist that only a male family member can act as a guarantor for a woman in protective custody, yet quite likely this relative had been involved in the threats that led to her original detention. To insist that the same male family members who threatened the woman with violence be the only acceptable guarantors to secure a woman's release is to seal her fate of indefinite detention or expose her to violence upon her release. The only other way for women to be released from detention appears to be marriage, and governors have suggested marriage to unknown men, again violating women's human rights—the right to enter into marriage of her own free will.

In response to indefinite administrative detention, detainees often go on hunger strike to gain attention. Prison directors confirmed to Human Rights Watch that hunger strike forces the governorate to review the detainee's file, and often succeeds in securing the detainee's release. However, prison officials only allow "dry" hunger strikes—that is, they deny striking prisoners access to liquids, even if that is not the inmate's request, in violation of international standards governing the treatment of prisoners. In the absence of effective

means for administrative detainees to challenge the lawfulness of their detention, painful “dry” hunger strikes have been their only recourse to calling attention to and in some cases remedying their plight.

International human rights law permits administrative detention only under narrow circumstances. In Jordan, however, officials primarily use administrative detention for matters that fall squarely within the application of existing criminal law, with the acknowledged intent of avoiding the legal requirement, under the country’s criminal procedure code, of subjecting the grounds for detention to the scrutiny of an independent and qualified justice system. As such, the Crime Prevention Law subverts the rule of law by granting executive officials powers that should properly be the domain of the judiciary.

Human Rights Watch recommends that Jordan repeal the Crime Prevention Law because of its broadly worded provisions and consistently arbitrary application, which has the effect of undermining Jordan’s claims to uphold the rule of law.

## II. Methodology

Human Rights Watch researchers visited seven out of Jordan's 10 prisons for men in August and October 2007 and in April 2008. The prisons we visited were: Muwaqqar, Swaqa, Salt, Qafqafa, Aqaba, Juwaida, and Birain. A team of male and female researchers conducted the interviews, except in Juwaida and Birain, where a male researcher conducted them. One researcher made use of an interpreter, the others spoke Arabic. We interviewed 36 administrative detainees there whose cases we make reference to in this report. Human Rights Watch also visited the Juwaida women's prison in Amman, the only prison for adult women, over three days in October 2007. Human Rights Watch conducted in-depth interviews with 30 Jordanian women held in administrative detention, including five women officially classified as being held in "protective" custody. Jordanian officials agreed to and respected Human Rights Watch's request to choose freely which detainees we wished to speak with, and to speak with them in private.

In most cases Human Rights Watch has not been in a position to ascertain whether the people we interviewed in detention have since been released, or are still in detention at this writing.

Human Rights Watch also spoke with four officials, a former governor, and two current governors and a deputy governor between 2005 and 2009 about the practice of administrative detention. We also spoke with five lawyers who had personal experience with cases of administrative detention. In October 2007 and again in October 2008 we briefed Ministry of Interior officials about our research and concerns. On December 16, 2008, we wrote detailed letters to the ministers of justice and interior requesting statistics and an explanation of legal terms. As of April 18, 2009, we had not received replies.

We have referred to many administrative detainees by name since their accounts do not accuse officials of crimes. We have used pseudonyms for administrative detainees who are women and could face family retribution, as well as for those who requested anonymity.

### **III. Recommendations**

#### **To the Government of Jordan**

- Repeal the Crime Prevention Law.

#### *To the Ministry of Interior*

- Review all cases of administrative detainees within one month, and unconditionally release all persons who are not suspected of having committed a criminal offense.
- Ensure protection for women at risk of violence, including those released from “protective” custody, that respects their freedom of movement and liberty. Allow women to present personal guarantees for women suspects and women at risk of violence.
- Transfer to the Ministry of Justice the files of persons suspected of having committed a criminal offense. Provide all such persons with written explanations of the reasons for their transfer to the responsibility of the Ministry of Justice.
- Suspend all use of administrative detention. Authorities should charge persons suspected of criminal acts under Jordanian criminal law. Authorities should not detain foreigners solely for violating residency requirements. Finally, authorities should investigate and, if warranted, punish persons who threaten others with harm, rather than detain the victims of such threats.

#### *To the Ministry of Justice*

- Assess cases of administrative detainees to determine any applicable criminal charges, and remand in custody where appropriate.
- Prepare a program for the protection of and support to victims of crime, including victims of threats of violence, with particular attention to women.
- Investigate and prosecute persons who threaten violence against specific individuals, in particular women.
- Train additional prosecutors and judges to handle any anticipated increased case load of criminal cases following repeal of the Crime Prevention Law.
- Refer all administrative detainees to the High Court of Justice during the review of their cases, to assess the legality of the administrative detention order or imposition of guarantees. Provide the indigent among them with free legal assistance.

## IV. The Crime Prevention Law

Administrative detention in Jordan is based on the Crime Prevention Law of 1954 (see Appendix 1) authorizing the practice. In 17 articles, the law sets out who has the authority to place restrictions on a person's liberty, under what circumstances, what those restrictions can be, and the procedures for imposing them.

The authority to place restrictions on personal liberty lies with unelected officials of the executive branch—the governors of Jordan's 13 provinces and the administrators of districts (provincial subdivisions). The law provides for no independent judicial authority to assess its lawful application, and includes no mechanism for detainees to appeal the decisions of a governor.<sup>1</sup> The governor may ask the minister of interior to release a person, and the minister may, of his own accord, at any time amend or revoke decisions by the governor in this regard. The person deprived of his or her liberty cannot initiate such a review, but has the right to challenge the lawfulness of a detention order in the High Court of Justice, a court reviewing government decisions.

The Crime Prevention Law allows the governor to start administrative detention procedures against persons who are “about to commit a crime or assist in its commission,” those who “habitually” steal, shelter thieves, or fence stolen goods, and anyone who, if allowed to remain at liberty, would constitute a “danger to the people.”<sup>2</sup> Court verdicts and interviews Human Rights Watch conducted indicated that governors resort most frequently to this last provision.

The governor has a choice of progressively more stringent sanctions at his disposal. All require the suspect to provide a personal “undertaking” to “maintain public security” and to “be of good conduct.”<sup>3</sup> The governor may ask a third person to “guarantee” that the suspect will keep his undertaking, and he may attach an amount of money as an additional guarantee.<sup>4</sup> Undertakings may not extend more than one year, but a governor can impose a new detention order once the old one expires.<sup>5</sup>

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<sup>1</sup> In this report all further references to powers or actions of the “governor” include those of the district administrator (*mutasarriif*), endowed with the same powers under the Crime Prevention Law.

<sup>2</sup> Law No 7 of 1954, Crime Prevention Law, *Official Gazette*, No 1173, March 1, 1954, p. 141, art. 3.

<sup>3</sup> *Ibid.*, art. 5.2 and 5.4.c.

<sup>4</sup> *Ibid.*, art. 6.

<sup>5</sup> *Ibid.*, art. 12. The possibility of renewal is implicit, not explicit.

The law itself does not specify administrative detention, but this is its primary application. That is because the law authorizes the governor to jail a person who fails to give an undertaking or provide third-party or monetary guarantees. The governor sets the size of the monetary guarantee at his discretion; there is no upper limit and no standards to assess the means and circumstances of an individual.<sup>6</sup> The governor may also for any reason “refuse to accept any guarantor whose guarantee he disapproves of.”<sup>7</sup> Furthermore, the governor may revoke existing guarantees of persons he considers to have become “unqualified.”<sup>8</sup> This combination of absolute authority to set monetary guarantees and to reject those prepared to give them leads to the detention of thousands of people not charged with any crime.

The governor may also order that a person be put under police surveillance in lieu of detention, severely limiting his or her movements. Those under surveillance may not travel outside their village or city, are subject to nightly curfews, and must report at least daily to the nearest police station. Under the law, breach of these restrictions automatically leads to imprisonment for up to six months, or a fine.<sup>9</sup>

The law provides no means for a person to protect him or herself against arbitrary detention by the governor. Formally, a governor must issue a summons to a suspect, who must personally “appear before him,” and may only issue an arrest warrant if the suspect fails to appear within a “reasonable time.”<sup>10</sup> The Crime Prevention Law stipulates that ordinary criminal procedure law shall apply to procedures of arrest and investigation, whereby Ministry of Interior officials issue summonses, arrest warrants, and detention orders for those failing to provide non-judicial guarantees.<sup>11</sup>

The law contains presumptions of guilt, it being incumbent upon the defendant to dispel the suspicion of being a “danger to the people,” or “about to commit a crime,” or “habitually” engaging in thievery.<sup>12</sup> The governor does not have to prove that the suspect constitutes a

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<sup>6</sup> Human Rights Watch interview with Ahmad ‘Uthman, lawyer, Amman, April 22, 2006: “There is no specified amount for the guarantee. It can reach from 1 dinar to 1,000 dinars and more. Three weeks ago I had a case of one person for whom the district administrator’s employees had set the guarantee at first at 10,000 dinars, then the district administrator raised it to 30,000 dinars, for the same issue.”

<sup>7</sup> Crime Prevention Law, art. 7.

<sup>8</sup> *Ibid.*, art. 11.

<sup>9</sup> *Ibid.*, arts. 13 and 14.

<sup>10</sup> *Ibid.*, art. 4.

<sup>11</sup> Contrary to international human rights standards, in Jordan prosecutors, not independent judges, issue arrest and detention warrants, which are not reviewed by judges.

<sup>12</sup> The law gives a person, upon being summoned by the governor, an opportunity to “explain whether he or she has reasons **not** to give an undertaking,” in order to retain his or her full liberties. Crime Prevention Law, art. 3, emphasis added.

danger to the public, has habitually stolen, or was about to commit a crime. Rather, it is the suspect who has to convince the governor that such presumptions are unreasonable. The general rule under international human rights law is that detention, in particular pretrial detention shall be the exception, not the rule, and therefore the necessity for it needs to be proved in each case by the authorities.<sup>13</sup>

The governor's broad powers are apparent in the low standards of evidence necessary to impose an undertaking. The governor may start procedures against a person based on entirely subjective "sufficient" reasons that a person's actions fall within the scope of the Crime Prevention Law. This is considerably less than what criminal or civil law requires for convicting a person. In practice, governors often invoke the Crime Prevention Law without any evidence of wrongdoing.

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<sup>13</sup> See, for example, International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 5(3). Jordan ratified the ICCPR on May 28, 1975.

## V. Misuse of Detention

Jordan uses the Crime Prevention Law to place persons in administrative detention in a manner that violates the due process provisions of domestic law (see below), as well as the permissible application of administrative detention under international law.

One set of violations arises from the arbitrary application of the law to individuals or groups of persons who are in situations outside the scope of the Crime Prevention Law: Governors and their subordinates impose administrative detention against victims of crimes, such as women threatened with violence and victims of tribal threats of revenge, who should not be subject to detention in the first place. They abuse their authority against persons with whom they are in dispute or persons who appear to violate traditional social roles: women alone in public at night or in the company of men who are not their relatives; street vendors and beggars; and men suspected of drunkenness or with prior convictions.

Governors stand the principles of justice on their head when they punish victims of crimes with administrative detention, purportedly for their own protection, rather than prosecuting those who perpetrated acts or threats of violence against these victims.<sup>14</sup> The Crime Prevention Law provides no legal basis for this practice of “protective” custody, and governors unlawfully apply its provisions to this group of persons.

### Women in “Protective” Custody

The Crime Prevention Law does not specifically authorize placing women in protective custody, but governors have nevertheless used it for decades to detain women.

Jordanian governors force women who are threatened with violence, including at the hands of family members, into protective custody to protect them from immediate harm, although governmental intervention detaining the threatened woman is not always immediate.<sup>15</sup>

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<sup>14</sup> In at least one case that came to Human Rights Watch’s attention, the governor did detain the person who issued threats of violence, not the victim, but the governor applied administrative detention and not criminal prosecution for threatening harm: We interviewed Samir al-Nu’aimat, an administrative detainee who was prosecuted for threatening his daughter, who said that after serving a five-year sentence for theft in 2005 he found his 18-year-old daughter, M., living with his father (her grandfather), and that he threatened to kill her in 2006 because she was out of the house a lot. M. called the Family Protection Unit and, one year later, on August 20, 2007, the governor administratively detained al-Nu’aimat. Human Rights Watch interview with Samir al-Nu’aimat, administrative detainee, Juwaida prison, October 22, 2007.

<sup>15</sup> On November 30, 2008, a court found a man guilty of murdering his niece in an “honor” crime in front of the governor’s office in August 2007. She had gone there to drop her case against her family who, the court said, had “constantly harassed” her for being in a relationship with a man she later married. Rana Hussein, “Man Convicted of Murdering His Married Niece,” *Jordan Times*, December 2, 2008, <http://www.jordantimes.com/?news=12521> (accessed April 14, 2009).

Women in protective custody find their right to liberty ended with the stroke of the governor's pen. Many remain in prison for years—Human Rights Watch knows of cases where women remained confined in detention for more than 10 years. Yet protective custody has brought about no perceptible decrease in the incidence of so-called “honor” crimes, or threats thereof, in Jordan. In fact, this system allows family members who threaten women to continue to have decision-making power over the women's lives.<sup>16</sup> Social and cultural norms regarding chastity, virginity, and “family honor,” and the stigma attached to unmarried women living alone, contribute to the incidence of administrative detention of women in Jordan.<sup>17</sup>

Jailing women threatened with violence is a failed and perverse attempt to combat one crime by perpetrating another. The government has unlawfully deprived hundreds of women of their liberty with impunity.<sup>18</sup> In January 2007 the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment strongly criticized the government's practice of holding women in protective custody, noting that, “depriving innocent women and girls of their liberty for as long as 14 years can only be qualified as inhuman treatment, and is highly discriminatory.”<sup>19</sup> In its review of Jordan's combined third and fourth periodic reports, the Committee on the Elimination of Discrimination against Women echoed the special rapporteur's concerns, calling on the government to “replace the practice of protective custody with other measures that ensure the protection of women without jeopardizing their liberty, and to accordingly transfer all women currently held in protective custody to the Family Reconciliation Centre or other safe shelters.”<sup>20</sup> The United Nations Working Group on Arbitrary Detention has also stated that “protection” cannot be used as an excuse to arbitrarily detain women, and has called for protective custody to be used only as a “last resort.”<sup>21</sup> Even as a last resort, custody as a measure of protection must remain voluntary and women must be allowed to leave at any time they wish. This is not the case in Jordan.

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<sup>16</sup> See Catherine Warrick, “The Vanishing Victim: Criminal Law and Gender in Jordan,” *Law & Society Review*, vol. 39, no. 2 (2005), p. 343.

<sup>17</sup> *Ibid.*

<sup>18</sup> Human Rights Watch interview with director of a Jordanian nongovernmental organization working to help women in protective custody, Amman, April 2007.

<sup>19</sup> UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Visit to Jordan, A/HRC/4/33/Add.3, January 5, 2007, para. 39.

<sup>20</sup> UN Committee on the Elimination of Discrimination against Women, “Concluding comments of the Committee on the Elimination of Discrimination against Women: Jordan,” CEDAW/C/JOR/CO/4, August 10, 2007, para. 26.

<sup>21</sup> Report of the Working Group on Arbitrary Detention, “Civil and Political Rights, including the Questions of Torture and Detention” (Fifty-ninth session), U.N. Doc. E/CN.4/2003/8, December 16, 2002, para. 65.

Few crimes pose as serious a challenge to the rule of law in Jordan as “honor” killings. These murders, generally perpetrated by family members against women and girls who have entered into a relationship with a man not condoned by the family, or are suspected of so doing,<sup>22</sup> account for the majority of female murders in the country.<sup>23</sup> In 2007 journalist Rana Hussein, who has been tracking cases for years, recorded 18 such cases,<sup>24</sup> and from the start of 2008 to April 6, 2009, she recorded at least another 24.<sup>25</sup>

Only governors have the authority to release a woman from detention and to determine whether she is still at risk of violence, denying her any degree of control over her freedom. Some women and girls have been killed after being returned to their families, which reinforces the inclination of authorities to detain them indefinitely.

The use of protective custody was routine until 2007. In that year, the government opened the Wifaq Center for women at risk of violence, hailing it as a shelter to protect women without compromising their freedom. According to the director of Juwaida women’s prison, 30 women were in protective custody in 2000, while “only” five were in custody in 2007.<sup>26</sup> This development is probably the result of increased awareness about the problems with protective custody at the Ministry of Interior, which undertook a general review of cases of women in “protective” custody that year following advocacy efforts by local nongovernmental organizations. With the help of a local NGO, several women held in protective custody were transferred to Wifaq. By 2008, the government had moved all women who had been in protective custody for years out of prison, but in that year, 2008, governors held a small number of newly-detained women in protective custody.<sup>27</sup> The inability of women themselves to obtain their release has not changed.

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<sup>22</sup> According to a 2007 UNIFEM study on violence against women in Jordan, 25 percent of women killed in “honor” crimes were merely suspected of having such a relationship. “Jordan: Mere Suspicion of an Illicit Affair Often Leads to “Honour Killings” – Study,” *IRIN*, November 26, 2007.

<sup>23</sup> For more information about laws and policies on “honor” crimes in Jordan, see Human Rights Watch, *Honoring the Killers: Justice Denied For “Honor” Crimes In Jordan*, vol. 16, no.1(E), April 2004, <http://www.hrw.org/en/reports/2004/04/19/honoring-killers>.

<sup>24</sup> Rana Hussein, “Police question family members over shooting death,” *Jordan Times*, May 9, 2008, <http://www.jordantimes.com/?news=7732> (accessed May 24, 2008).

<sup>25</sup> Rana Hussein, “Activists: King’s Statement a Boost to NGOs Working to Safeguard Human Rights,” *Jordan Times*, November 11, 2008, <http://www.jordantimes.com/?news=12018>; and Rana Hussein, “Police Question Man Over Alleged ‘Honour Killing,’” *Jordan Times*, April 6, 2009, <http://www.jordantimes.com/?news=15652> (both accessed April 14, 2009). Figures in the two articles omit the period November 11 to December 31, 2008.

<sup>26</sup> Human Rights Watch interview with Hana’a al-Afghani, director, Juwaida women’s prison, Amman, October 23, 2007.

<sup>27</sup> Human Rights Watch interviews with Jordanian human rights activists working on behalf of detained women, Amman, April 2008, and Cairo, April 5, 2009.

Even the transfers from Juwaida women's prison to the Wifaq Center required the agreement of the family members who have threatened the women. The director of the Juwaida women's prison told Human Rights Watch,

The governor starts with the family. Even when we transfer a case to [the NGO], the family needs to know. We find one person to notify. They know where she is and have information about her but the girls don't know. If they did, they would prefer to stay in prison. The family must agree. These are our norms and customs. We are a tribal society.<sup>28</sup>

### *Cases of women in protective custody*

The governor of Amman detained Rihab L., 24, after she remarried without her family's permission. Her cousin killed the man she married when he discovered that the couple had eloped. At the time of Human Rights Watch's visit, she had been detained for two-and-a-half months and had not seen her infant son during that time. She told Human Rights Watch,

The governor of Amman asked me if there was any risk to my life. I said yes. He said, "OK, put her in Juwaida [women's prison] under a monetary guarantee [*kafala*] of 30,000 dinars [about US\$42,500]." I don't have a lawyer. My family says they don't have the money and that I did something really big. I spoke to my family last month and asked them when they're going to release me. I want to see my son. I can live anywhere with my son. I'm not afraid of my family.<sup>29</sup>

The brothers of Miriam N., 23, a divorced woman with three children, evicted her from their home multiple times, although she had even loaned them money. Miriam stayed with her children in the Wifaq shelter, and later slept in a mosque, before renting a flat where she lived on her own after giving her divorced husband custody over the children. Five of her brothers came to her apartment with a gun, threatening her and telling her she needed to reconcile with her husband because it was shameful for her to live alone. The neighbors called the police and the district governor's office. "The police didn't speak to me at all," she said.

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<sup>28</sup> Human Rights Watch interview with Hana'a al-Afghani, October 23, 2007.

<sup>29</sup> Human Rights Watch interview with Rihab L., administrative detainee, Juwaida women's prison, October 22, 2007.

They took me in their car with my head bent down. They said, “We’re afraid they’ll kill you.” They took me to the district governor’s office then the police station [*nazhzhara*] of Juwaida. I stayed one night there. The police woman was very aggressive with me. She made me undress. I thought I was leaving when they asked me to come into the office that morning. I went to the district administrator’s office and four officers used rude language with me. They said, “This girl doesn’t know how to do anything but complain. She’s not normal.” I told the district administrator that I have three children and this is my situation. I know that none of my brothers will post guarantees on my behalf. There’s no case against me. I should be able to be released on my own guarantee.<sup>30</sup>

If the motives of officials imposing protective custody is women’s protection from violence, the case of Amira Z., 37, shows the perversity of the approach even more graphically than Miriam N.’s. A mother of three, Amira Z. was administratively detained in Juwaida in October 2007. Police officers arrested her while she was out shopping, and Amira suspected this was because of a facial scar inflicted by her previous husband: Policemen “asked me why my face was cut up,” she told Human Rights Watch. She continued, “One of the officers slapped me three times on the eye and one of the officers slapped me again when I refused to tell him my current husband’s full name.” At the governorate, she called her husband and asked him to come pick her up. “My husband came and asked them why I was there and why they hit me. They asked him to leave the room and told me that I would be sent to Juwaida.”<sup>31</sup>

The governor of Zarqa administratively detained Azza S., 27, after she was held on suspicion of *zina* (adultery or fornication) when she was a minor, but was never charged. She told Human Rights Watch that she had been detained for a total of 11 years, the last four of which were classified as protective custody. She described the hopelessness she felt about her situation:

I beg the minister of interior, the minister of justice, the queen and the king to let me out of this place. I’ve lived here all of my life. Why are we treated this way? I’ve written so many letters to the Ministry of Interior. So I have a risk from my family? So what? What right do they have to keep people in prison until they die? I’m miserable here. What’s the solution? My three brothers [who threatened me] don’t even live in Jordan anymore. After the

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<sup>30</sup> Human Rights Watch interview with Miriam N., administrative detainee, Juwaida women’s prison, October 23, 2007.

<sup>31</sup> Human Rights Watch interview with Amira Z. Juwaida women’s prison, Amman, October 29, 2007.

*zina* case, I wrote to the governor and he pardoned me. But he won't release me even though I have a lawyer. After the *zina* case, my brother threatened me then I went to the governor's office and he brought me back here. I made a mistake but I've already spent 11 years in prison for it. If the governor won't release me, I may stay here forever.<sup>32</sup>

Juwaida's longest-serving female administrative detainee, Aisha E., 48, was first detained in January 1987 on charges of conspiring to kill her husband. A native of Irbid, she was married at 14 and has six children. Her 20-year sentence was commuted to 10 years, but when it ended the local governor transferred her into administrative detention because he deemed her life at risk. She completed her criminal sentence in 1997 and has been administratively detained ever since. She told Human Rights Watch,

I went to the governor's office after my sentence [ended] and the next day I was back here. The governor is a relative. He told me, "Yesterday I had lunch with your family. How can I let you go? They're going to kill you." He said, "Your family knows you're innocent but the problem is that people talk." Since 1987 until now, I've been outside for one day. I went into the car to the governor's office and back. That's it. I don't know anything about the world.

Having spent much of her adult life in prison, Aisha E. thinks she is no longer able to survive outside of its walls. She told Human Rights Watch that she does not want to leave Juwaida because the prison staff treat her well.<sup>33</sup>

One reason detentions are prolonged is because governors change every few years and are unfamiliar with the cases, and they do not always follow up to determine whether family members continue to pose a threat to the woman's life. Only under pressure from local rights groups did the Ministry of Interior undertake a general review of women in protective custody.<sup>34</sup>

Governors have also invoked the Crime Prevention Law to detain women who have simply run away from home or eloped. While neither of these acts is defined as a crime under the Jordanian Penal Code, authorities have used them as grounds to detain women

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<sup>32</sup> Human Rights Watch interview with Azza S., administrative detainee, Juwaida women's prison, October 22, 2007.

<sup>33</sup> Human Rights Watch interview with Aisha E., administrative detainee, Juwaida women's prison, October 23, 2007.

<sup>34</sup> Human Rights Watch interviews with director of Jordanian nongovernmental organization, Amman, October 2007; and Mukhaimer Abu Jammous, secretary-general of the Ministry of Interior, Amman, October 25, 2007.

administratively as a matter of custom. With respect to runaways, governors treat the person as a suspect rather than a victim who may have run away from an abusive home.

The governor of Karak administratively detained Nisrin S., 26, for over three years. She ran away from home after her uncle sexually assaulted her and then a stranger raped her in the abandoned building where she was hiding. Officers from the criminal investigation unit found her after her uncle reported her missing. She has sent at least 10 letters to the governor of Karak asking to be released. She received two responses asking her whom she would be able to leave with. She responded that she would like to be her own guarantor.<sup>35</sup>

In another case, the authorities misled Basma K., 21, into believing they would guide her to a shelter when police arrested her and brought her to the district administrator after she fled an abusive household. The administrator had detained her in Juwaida for one day at the time of Human Rights Watch's visit. Basma said that her parents beat her regularly and "treated her like their maid." She slept in an abandoned building until the landlord asked her to leave. She found a woman who was willing to let her spend the night in her home but the woman's husband called the police, who sent her to the Marka district administrator, where she arrived with a black eye she said her abusive parents had inflicted upon her. She told Human Rights Watch,

I stayed there for one night. They wouldn't let me leave. My parents never reported that I was gone so on what basis are they holding me? They said they would take me to Dar al-Wifaq [the government-run shelter] but they tricked me. They brought me here. I saw the sign outside the prison but they said they were just bringing me here for some paperwork. This was my first time in prison. I have no case or anything against me. On what basis are they keeping me here? I told them that my family was still posing a threat. I wouldn't have said that if I knew I would be in jail. They kept telling me that they would take me to the shelter. Death is better than being in prison. Why didn't my father come to release me? Maybe he left me here to discipline me.<sup>36</sup>

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<sup>35</sup> Human Rights Watch interview with Nisrin S., administrative detainee, Juwaida women's prison, October 29, 2007.

<sup>36</sup> Human Rights Watch interview with Basma K., administrative detainee, Juwaida women's prison, October 29, 2007.

## Other Victims of Violence

Human Rights Watch encountered numerous cases in which governors punished victims of threats of violence with administrative detention, masked as protective custody, while expending little effort to address the threats to their safety or providing protection without detention to those under threat.

Protection of victims threatened with violence would require addressing the source of the threat and shielding the victim. This would entail timely investigations and, if warranted, prosecutions of those who issue threats, whose identities are usually well-known, and physical protection of the victim, including, where necessary, by providing anonymity and the ability to live outside the reach of those who issue threats. Jordan has not put such mechanisms in place. Instead, it allows persons to issue threats, generally with impunity, and instead punishes the victim with jail.

Human Rights Watch met 'Isam Bastum in Qafqafa prison, where he had been detained on orders of the governor of Irbid for six weeks at the time of our visit. On July 12, 2007, the Major Crimes Court in Amman had ruled that Bastum was not criminally responsible for the death by shooting of an intruder at his farm near Irbid in October 2006. Bastum told Human Rights Watch,

On the same day [of the verdict], I was taken from pretrial detention to Irbid Security Directorate, and from there to the governor on July 13. I signed three papers, one of them giving the governor the right to make a decision to do what he wants. I felt that I did not really have an option of not signing. The governor's secretary, 'Umar al-Shuraida, held the meeting, which lasted 15 minutes. He said he wanted to detain me "for your safety." I went to Irbid prison, and spent 20 days in the detention center there.

Bastum's attempts to gain his release continued. The governor's subordinates dismissed the pleas of his brothers for Bastum's release, saying only that "we fear for him."

Before sending him to Qafqafa, 'Umar al-Shuraida, the governor, summoned Bastum, who had threatened to send an official letter of protest against his detention, and made Bastum sign a paper stating the government bore no responsibility for his safety as a condition of release. Al-Shuraida also asked the family of the deceased man to sign a pledge not to take revenge. When they declined, the governor sent Bastum to Qafqafa prison.

The governor exerted no apparent effort to release Bastum at his own risk, to afford him protection while respecting his right to liberty, or to investigate the nature and source of threats that led the governor to “fear for him” in the first place. Bastum explained that the two families do not live close together, and that the dead intruder, who had dozens of previous convictions for theft, was hardly someone whom many would see as an innocent victim of a murderer. Following the governor’s failure to act, Bastum said that after one month in prison his family sent intermediaries to the intruder’s family to try to reach some kind of peaceful understanding. The family would only pledge not to harm him for one month.

Bastum, an engineer and businessman, did not know what more he could do. “I’m still in prison,” he said. “And apparently I, an innocent man, cannot get out unless the family of a thief pledges not to commit a crime and kill me.”<sup>37</sup>

In the south of Jordan, the governor of Ma’an detained members of the Ghanaimat family over a series of disputes with the Na’ana family, both from Petra. According to accounts the Ghanaimats gave Human Rights Watch in Aqaba prison, Na’anas shot at them in September 2006, injuring three family members. They said that prosecutors eventually ordered the shooters detained and started a criminal case against them. In early 2007, however, a brawl between the two families injured three Ghanaimats. The Na’anas, who suffered no harm, filed a complaint that led to the administrative detention of six Ghanaimat members on the orders of the governor. These six Ghanaimat family members said they had not been accused of a crime, but remained in custody months later.<sup>38</sup>

In an earlier case, the governor of Ma’an, in March 2004 administratively detained Najih Krishan al-Saghir, who that month had completed a jail term for the 1993 killing of a man from another tribe. The governor imposed on al-Saghir a 20,000 dinar monetary guarantee and the “completion of tribal reconciliation,” and forced him to remain in detention, now by executive order. On August 31, 2005, al-Saghir asked the governor to release him, but received no response. On November 20, 2005, he challenged his detention in court. Ten days later, the High Court of Justice found in his favor, citing that the Crime Prevention Law has no provisions for conditioning release on tribal conciliation.<sup>39</sup>

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<sup>37</sup> Human Rights Watch interview with ‘Isam Bastumi, administrative detainee, Qafqafa prison, August 25, 2007.

<sup>38</sup> Human Rights Watch interview with Ghanaimat family, Aqaba prison, August 27, 2007. One of the Ghanaimat family, speaking with Human Rights Watch, attributed their administrative detention to the fact that ‘Umar al-Khraisha, the head of the Security Directorate in Wadi Musa, was “in cahoots with the other family.”

<sup>39</sup> Chief Judge Fu’ad Suwaidan, Judges Karim al-Tarawna, Dr. Mahmud al-Rashdan, Muhammad al-‘Ajarima, and Abd al-Karim Qar’un, Verdict Number 49, Claim Number 468/2005, Jordanian High Court of Justice, November 30, 2005.

## Foreigners

Juwaida prison director Muhammad al-Muhaimid told Human Rights Watch that no foreigners are held in Jordan's prisons on immigration violations, but Human Rights Watch found several foreigners in prisons under administrative detention because they could not be deported. Some had been detained for more than two years. Al-Muhaimid admitted that "there are cases where foreigners who do not have a passport or nationality are detained, and most of them are married to Jordanians."<sup>40</sup>

Lack of valid immigration documents alone is not sufficient ground to detain a person. The UN Human Rights Committee, which provides authoritative interpretation of the International Covenant on Civil and Political Rights (ICCPR), commenting on a case brought by a detainee against Australia in 1997, wrote, "Detention should not continue beyond the period for which the State can provide appropriate justification." Illegal entry or the likelihood of the foreigner absconding or not cooperating with the authorities, the committee continued, may justify detention only "for a period. Without such factors detention may be considered arbitrary."<sup>41</sup> Foreigners who live in Jordan, especially those whose marriage to a Jordanian would indicate little risk of flight, should not be detained pending resolution of their immigration status.

A Jamaican, apparently suffering from mental illness, had already spent two years in Aqaba prison and had been in solitary confinement for days when Human Rights Watch visited him there. Because Jamaica had no diplomatic representation in Jordan, he could not be deported, prison officials said.<sup>42</sup> Artin Gregor, a Lebanese in Juwaida prison, had been detained since 2005 because Lebanon did not recognize him as a Lebanese citizen and he had no identity documents. Prison director al-Muhaimid said he had sent another letter to the Lebanese embassy on Gregor's behalf four days before our visit.<sup>43</sup>

Jordanian authorities had detained Ali Mahir, a 55-year-old Egyptian, for two months at the time of Human Rights Watch's visit to Swaqa prison. He said that he had lost his passport in 2005 and could not provide identification when he came to a random checkpoint in June 2007. Before his arrest, he said, he "had been to the Egyptian consulate many times to try to

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<sup>40</sup> Human Rights Watch interview with Muhammad al-Muhaimid, Juwaida prison director, October 22, 2007.

<sup>41</sup> UN Human Rights Committee, Communication: A. v. Australia, UN doc GAOR A/52/40 (vol.II), p.143, paras 9.3. and 9.4. No. 560/1993, April 3, 1997

<sup>42</sup> Human Rights Watch interview with the Jamaican detainee and with Husain Rawafja, Aqaba prison director, Aqaba, August 27, 2007.

<sup>43</sup> Human Rights Watch interview with Muhammad al-Muhaimid, October 22, 2007.

get a new [passport], but they didn't give me one." According to Mahir, Salt governor Samih al-Majali ordered him detained administratively because he lacked identification papers.<sup>44</sup>

Yahya Bani Fadl, a Jordanian in his early twenties, came from the West Bank to Zarqa in Jordan, where his parents were living, early in 2006. Police released him and two other Jordanian youths 20 days after arresting him on December 20, 2006, for theft. On January 15, 2007, police rearrested Bani Fadl, and Zarqa Deputy Governor Abd al-Jalil al-Salamat put him under administrative detention pending deportation. "He wrote that I was to be deported after asking me if I could go to the West Bank," he told Human Rights Watch. "I said 'Yes,' but then I asked him not to deport me. I have a Jordanian national number and all my family is here." Bani Fadl, who had been detained for over six months at the time of our visit, continued,

Two months ago, I went on a hunger strike with 18 other administrative detainees. All others got out except for me, because I am [originally] Palestinian. I wrote my last petition for clemency three days ago, my ninth altogether. I have no way of knowing if these petitions ever get anywhere. There is no answer. My parents also try to get me out every day, but nothing happens.<sup>45</sup>

Najah Abu al-Hanna, 69, is another Egyptian detained in order to be deported. Abu al-Hanna is married to a Jordanian, with two teenage children, and has lived in Jordan for 33 years, herding cattle in Dhulail. In 2002, he said, police arrested him after he got into a fight with a Jordanian policeman, and charged him with assault. Although a court granted bail, he was unable to meet it, and because his residency permit expired in 2003, the governor detained him administratively. In 2006 Abu al-Hanna secured his release under an amnesty for administrative detainees, but authorities returned him to prison, again under administrative detention, days later. According to Abu al-Hanna, the court in June 2007 ordered his deportation, but he insisted on clearing his name in court, where the assault case was not progressing because the plaintiff failed to appear in court or produce witnesses. Because of his expired residency, he remained in administrative detention. His children left for Egypt in 2007, with their mother, to pursue their education. When Human Rights Watch met him, Abu al-Hanna was on his second day of a "dry" hunger strike to protest his detention, in a foul

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<sup>44</sup> Human Rights Watch interview with Ali Mahir, administrative detainee, Salt prison, August 23, 2007.

<sup>45</sup> Human Rights Watch interview with Yahya Bani Fadl, administrative detainee, Swaqa prison, August 21, 2007.

smelling solitary confinement cell. “I want to call the governor and ask for the reason for my detention,” he said. “My money and my passport are with the police.”<sup>46</sup>

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<sup>46</sup> Human Rights interview with Najah Abu al-Hanna, administrative detainee, Swaqa prison, August 21, 2007.

## VI. Abuse of Power

Human Rights Watch received and pursued two allegations that governorate officials had abused their powers by issuing administrative detention orders based on personal or tribal enmity between the official and the detainee.<sup>47</sup>

In one instance, a verbal dispute on a bus landed Ra'i' Hurani in administrative detention, because the person he argued with turned out to be a Preventive Security officer. Hurani told Human Rights Watch that, after the argument, "I went home. The next day, I was arrested by the police. The police brought me to the governorate. An official there decided to detain me on a 5,000 dinar monetary guarantee."<sup>48</sup> Hurani had been detained for six months at the time Human Rights Watch met him in Swaqa prison.

In Qafqafa prison, Nizar Sa'id told Human Rights Watch, "There is a personal family problem between me and the governor's secretary, Sharif Nu'aim. The governor just had my brother Haitham administratively detained, even though he was able to meet the monetary guarantee. He's now in the *'adawat* room," referring to a separate cell where prison authorities place persons they believe may be in danger of harm as a result of tribal or personal revenge violence. "Then he summoned and detained me, for no reason, other than being Haitham's brother."<sup>49</sup>

The lack of checks on governors' powers to administratively detain persons led to at least one case of mistaken identity among the detainees interviewed by Human Rights Watch. In June 2007 the district administrator of 'Ain al-Basha, in Salt governorate, ordered Hani Shakir, a bus driver, detained because passengers had complained of the driver's conduct. The district manager summoned him two months after the complaint, mistakenly—Shakir told Human Rights Watch—because he worked the day shift, and the complaint was against the driver of the night shift. Shakir said that he even met the district manager, but was unable to make his case. "He sent me down to a cell, and later I learned that I had been arrested administratively. Then I was sent to Salt prison," Shakir said.<sup>50</sup>

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<sup>47</sup> Human Rights Watch separate interviews with two lawyers, Amman, January 22 and 27, 2009.

<sup>48</sup> Human Rights Watch interview with Ra'i' Hurani, administrative detainee, Swaqa prison, August 21, 2007.

<sup>49</sup> Human Rights Watch interview with Nizar Sa'id, administrative detainee, Qafqafa prison, August 25, 2007.

<sup>50</sup> Human Rights Watch interview with Hani Shakir, administrative detainee, Salt prison, August 23, 2007. Human Rights Watch does not know the duration of his detention.

Another case of abuse of power involved Zayid Khalid, 40, who admitted to having three previous convictions for writing “bad checks.” He said, “On July 20, [2007] police had come for my brother, who’s wanted for security reasons. Instead, they arrested me, saying it was for ‘resisting the police,’ and the governor of Mafraq detained me administratively.”<sup>51</sup> (Khalid’s case is also featured in Chapter VIII, “Due Process Violations.”)

In a further case, the district administrator (*mutasarriif*) held an innocent person hostage to bring about the surrender of a wanted relative. In this instance, the judiciary held the district administrator accountable for his unlawful actions. The Mafraq Conciliation Court in 2005 found the district administrator of Mafraq guilty of unlawfully depriving a young lawyer of his liberty in December 2003 and sentenced the administrator to three months in prison. The *mutasarriif* was looking for the lawyer’s father, against whom there was a complaint. Unable to reach the father, however, he detained the lawyer for one day and imposed a monetary guarantee on him.<sup>52</sup> Lawyer Ahmad ‘Uthman, who represented the detained lawyer, told Human Rights Watch that the High Court of Justice reviewed and canceled the order of administrative detention, but that the *mutasarriif*’s refusal to release the lawyer led to criminal action.<sup>53</sup> The sentence of one month in prison against the *mutasarriif* was later exchanged for a fine in line with Jordan’s law that allows such exchanges for prison sentences of under three months. The *mutasarriif* was also sentenced to personally pay 1,000 dinars in compensation to the jailed lawyer.<sup>54</sup>

## Crime Prevention or Social Policy?

The Crime Prevention Law lists three broad situations that may justify placing a person under administrative detention. Two of these situations appear designed to prevent actual crime: the arrest and detention of a person “about to commit a crime,” and the detention of “habitual” thieves. According to interviews with detainees and lawyers and a review of court documents, however, Jordanian governors mostly invoke the third justification for administration, namely, detention of persons who might “constitute a danger to the people.”

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<sup>51</sup> Human Rights Watch interview with Zayid Khalid, administrative detainee, Qafqafa prison, August 25, 2007. Human Rights Watch does not know the duration of his detention.

<sup>52</sup> Ahmad Krishan, “Criminal Conciliation of Mafraq’ Jails a Mutasarrif for Detaining a Person Unlawfully, *Al-Ra’i* (Amman), February 24, 2005, <http://www.mohamoon.net/Categories/Malafs/Malaf.asp?ParentID=45&Type=5&MalafID=10828&MalafPublishDate=20050224&MalafCat=0> (accessed December 4, 2008).

<sup>53</sup> Human Rights Watch interview with Ahmad ‘Uthman, April 22, 2006.

<sup>54</sup> Human Rights Watch telephone interview with Ahmad ‘Uthman, April 20, 2009.

This third legal basis for administrative detention is exceedingly vague. It is clear from the persons governors have detained that the governors are not solely concerned with the safety of others or of private or public property. Rather, governors also detain persons simply for what they consider to be offensive, disruptive, or immoral behavior. Governors arrest women for eloping, running away from home, or engaging in other perceived immoral behavior. Men involved in brawls, alleged drunks, those suspected of prostitution, street vending, or begging, but whose perceived antisocial behavior did not rise to the level of crimes, also face protracted administrative detention. The ease with which governors can administratively detain persons without judicial oversight has allowed them to engage in social policing, removing unwanted persons from public sight, without subjecting them or those suspected of criminal offenses to the criminal justice system.

### *“Suspect” women*

At the time of Human Rights Watch’s visit, 73 women (Jordanians and foreigners) were being held in administrative detention for purposes other than protective custody, out of a total female prison population of 248.<sup>55</sup>

Jordanian authorities administratively detained Najla A., 23, for trying to marry a non-Jordanian. She had served a three-month criminal sentence for having extramarital sex with an Egyptian man with whom she had been in a relationship for four years. Najla told Human Rights Watch, “Our custom is that no woman marries a foreigner. I told my parents that I wanted to marry him but they refused. We tried to get married anyway but we couldn’t, so we made a mistake. My family found out and they notified the police.” Although a judge ordered her released, police transferred her to the governor of Karak, who detained her administratively.<sup>56</sup>

In another case, the governor of Amman detained a non-Jordanian woman and her daughter after her son eloped abroad with a Jordanian girl. When Human Rights Watch met Huda B., a 41-year-old school teacher, she had been detained for eight days with her teenage daughter, who was under the age of 18 at the time. The mother of the Jordanian girl who had eloped with Huda B.’s son had complained to the police and the governor’s office, claiming that Huda B. and her daughter had helped coordinate the couple’s plan to secretly marry in

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<sup>55</sup> Human Rights Watch visited the Juwaida women’s prison on October 22, 23, and 29, 2007. These figures are accurate for October 22, 2007. Non-Jordanian women, mainly Asian domestic workers, are typically administratively detained for overstaying their visas. They are held in custody awaiting deportation.

<sup>56</sup> Human Rights Watch interview with Najla A., administrative detainee, Juwaida women’s prison, October 29, 2007.

Pakistan. Police officers brought Huda B. and her daughter to the governor of Amman on October 16, 2007. She told Human Rights Watch on October 23,

They said I would be there for only 10 minutes. The girl's mother was there talking to the governor. He said "Bring your son [back to Jordan] now." I told him that I couldn't bring him from Pakistan and that they're happy now. He said, "This is our girl, our land, our pride." He wouldn't let me talk with him alone. He told me he was going to detain me. He told me that my son has to come [back to Jordan]. That's the only way out. He phoned my son and told him that if he doesn't return [from Pakistan], he'll put our whole family in jail.<sup>57</sup>

The governor detained Huda B. by administrative order and transferred her the next day to Juwaida women's prison in handcuffs. His office then summoned Huda B.'s daughter for questioning and detained her at Juwaida as well. Huda B. told Human Rights Watch that the governor refused to accept guarantees that her husband's brother posted on their behalf.

When Human Rights Watch visited Juwaida women's prison the following week, Huda B. and her daughter had been released after her son and his Jordanian wife, Samah R., had returned to Jordan. The governor then detained Samah R., a dual Jordanian- American national, until she agreed to divorce her husband and return to her family's home. Samah R. described her treatment by the police during the investigation process:

There was lots of yelling and disrespectful language. They took my things and told me to stand against the wall. They threw all my things on the floor. They wanted to show me that I was nothing.

She went on to recount her experience at the governor's office:

I met the governor on Wednesday. He was so mean. He spoke to me in a vulgar way with his assistant. It was as if I killed his mother. He talked to me like he wanted to discipline me. He said, "Didn't you do something wrong? Nothing happened between you? Are you at risk from your family? No Jordanian man would ever do this, would ever agree to this kind of theft. If you were respectful, you wouldn't have done this." But I didn't do anything

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<sup>57</sup> Human Rights Watch interview with Huda B., administrative detainee, Juwaida women's prison, October 23, 2007.

wrong. He kept talking to me outside of the law. He wanted to teach me my religion. It was clear from the moment I walked in that he wanted to send me here.<sup>58</sup>

Governors have also detained women for other perceived breaches of morality. In three cases we learned about from interviewees, being alone or with a man at night was enough to raise suspicion, with grave consequences for the women. One night in October 2007, Rim D., 27, decided to walk to her sister's apartment following an argument with her husband. A plainclothes officer stopped her and asked why she was out by herself so late in the evening. "I called my husband and begged him to come get me but he refused," she said. The officer took her to the governorate. She was transferred to the police station (*nazhzhara*) where she spent two nights until the governor's office set a guarantee of 20,000 dinars (US\$28,000) for her release. Police officers then brought her to Juwaida women's prison, where she had been detained for seven days at the time of Human Rights Watch's visit. She told Human Rights Watch, "They didn't tell me how long I would be here. What if no one comes to pick me up? What happens then? If no one comes to take custody of me, I may be here forever, right?"<sup>59</sup>

Manal M., 25, was similarly detained simply for being in the company of a Saudi man. She told Human Rights Watch that officers arrested her in his home five days prior to our prison visit in October 2007. She said that she had previously been married to a Saudi and was visiting a friend in order to ask him to purchase some things for her mother from Saudi Arabia.<sup>60</sup>

Human Rights Watch spoke to two other young women, Lina M., 19, and Uhaila B., 18, who had been arrested in Amman together days before we met them in October 2007. Lina M. said that a friend had set them up with a Saudi man, who offered them a substantial sum of money to spend the evening with him. "We know we made a mistake but [our friend] deceived us," she said.<sup>61</sup> Police officers arrested her and Uhaila B. at the hotel, but brought them to the governor, not the prosecutor. There, they separately spoke to the governor's assistant. Lina B. recounted,

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<sup>58</sup> Human Rights Watch interview with Samah R., administrative detainee, Juwaida women's prison, October 23, 2007.

<sup>59</sup> Human Rights Watch interview with Rim D., administrative detainee, Juwaida women's prison, October 23, 2007.

<sup>60</sup> Human Rights Watch interview with Manal M., administrative detainee, Juwaida women's prison, October 23, 2007.

<sup>61</sup> Human Rights Watch interview with Lina M., administrative detainee, Juwaida women's prison, October 29, 2007.

We told him to have mercy on us. He said we would be detained on a 20,000 dinars guarantee. It's too much. My father has no money. He used to be a taxi driver but now he's old and unemployed.<sup>62</sup>

Lina M. and Uhaila B. were still in detention when Human Rights Watch visited them. "We don't know what's going to happen to us. We've sent letters to the governor," they said.<sup>63</sup>

### *"Loutish" men*

Governors detain men for different types of behavior they consider offensive. Altercations are the most common cause of administrative detention, but other cases include instances of street vending and alleged drunkenness.

Yasir Rawwad, 33, told Human Rights Watch that he had no prior criminal record, but that he had already been detained for 37 days at the time of our visit. He said he had been in a fight with another man, and that the governor of Ma'an detained him administratively. Rawwad, who is married and has five children, said he desperately wanted to see his family, but that they hadn't come to visit him, and he did not know if or when he would be released.<sup>64</sup>

An official in the Amman governorate administratively detained 'Anbar Muhammad, 27, for street vending and alleged drunkenness. Muhammad is illiterate, and said the problem started when he could not produce an identity document. He told Human Rights Watch,

I was arrested last Wednesday, one week ago, at 4:30 p.m. I sell Kleenex at traffic lights. I was at the Middle East circle [in Amman] when the police came. They wanted to see an ID, but I didn't have one, so they arrested me. Then they took me to the forensic doctor, on suspicion of drunkenness. But the exam showed nothing.<sup>65</sup>

The governor of Amman detained, by administrative order, at least four men whom police had arrested on suspicion of prostitution on October 22, 2007.<sup>66</sup>

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<sup>62</sup> Ibid.

<sup>63</sup> Human Rights Watch interview with Lina M. and Uhaila B., Juwaida women's prison, October 29, 2007.

<sup>64</sup> Human Rights Watch interview with Yasir Rawwad, administrative detainee, Aqaba prison, August 27, 2007.

<sup>65</sup> Human Rights Watch interview with 'Anbar Muhammad, administrative detainee, Juwaida prison, October 22, 2007.

<sup>66</sup> Muwaffaq Kamal, "Security Raid to Combat 'Homosexuals' and Arrest of 4 'Sexual Deviants,'" *Al-Ghadd* (Amman), October 22, 2007, <http://www.alghad.jo/?news=370031> (accessed November 1, 2008); and Human Rights Watch telephone interview with Dr. Sa'd al-Wadi al-Manasir, governor of the Capital, Amman, November 12, 2008.

## VII. Circumventing Criminal Procedure

The most common use of administrative detention by governors and the police is to circumvent the stipulations of ordinary criminal procedure. Governors resort to the convenience of detention without judicial oversight instead of presenting a criminal suspect to the prosecutor within 24 hours to lay formal charges against him or her, as required by Jordanian law.<sup>67</sup> In other cases, governors ordered administrative detention in spite of a judicial ruling granting a defendant bail. On a few occasions, governors even administratively detained persons beyond the expiry of their criminal sentence.

These uses of administrative detention in order to circumvent criminal procedure hollow out protections against arbitrary arrest and detention, and fundamentally undermine the rule of law. Governors place themselves above the law when they fail to honor judges' rulings of bail or respect the length of criminal sentences judges impose.

Human Rights Watch received allegations of administrative detention in contravention of the rules of criminal procedure from 13 detainees we spoke with in detail. Additionally, in one ward for administrative detainees in Qafqafa prison, 20 of the 24 detainees Human Rights Watch briefly surveyed said they had been administratively arrested after a court found them not guilty, after they posted judicial bail, or after the expiry of their sentence.<sup>68</sup> This points to a high incidence of misuse of administrative detention, and calls into question whether Jordan has any genuine need for administrative detention. Improving and increasing the capacity of the prosecution service and the courts would better meet the needs of justice.

### Cases

'Anbar Muhammad, a Juwaida prison administrative detainee suspected of drunkenness, told Human Rights Watch that police arrested him and brought him to court:

Then they took me to a judge who sent me home. However, the police took me back to the station where I spent the night, and then they took me to the governorate. I was held upstairs in the cells. Then I was taken downstairs to see a policeman who asked, "Were you drunk?" He took my statement, in which I denied being drunk. Then he ordered me detained administratively

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<sup>67</sup> Jordanian law requires a prosecutor to charge a suspect within 24 hours of arrest. Law No 9 of 1961 Criminal Procedure Code, Official Gazette No 1539, January 1, 1961, p.311, art. 100.5.b.

<sup>68</sup> Human Rights Watch interview with Mahmud Musa, administrative detainee, Qafqafa prison, August 25, 2007.

under a guarantee of 10,000 dinars. My wife tried to present a personal guarantee two days ago, and pay the 35 dinars in fees, but the governorate official refused.<sup>69</sup>

The most common cases of administrative detention are those imposed despite judicial rulings granting bail. In one case, police officers ferried Abd al-Hafizh al-Salayima from police station to police station despite the fact that a judge granted him bail after he was charged with using forged banknotes. Within a three-week period from July 15 to August 4, 2007, he said that he was detained initially at Bayadir police station for nine days, then roughly every second day police officers moved him between the Capital police station and a succession of different police stations: he was detained at the Criminal Investigation unit, the North Amman police station, Abu Nusair police station, South Amman police station, Zarqa police station, Mafraq police station, East Amman police station, and Muhajirun police station, with brief stays at the Wihdat and Shmeisani stations, all interspersed with stays at the Capital police station. On August 4, he said, “The governor decided in the end to set bail at 10,000 dinars. My wife, mother, and brother all together presented the 10,000 dinars. You can call my wife, Umm Rami, to confirm.” The governor rejected the guarantee and had al-Salayima transported to Salt prison.<sup>70</sup>

Other administrative detainees paint a similar picture of police and governors disregarding judicial rulings. Muhammad Abu ‘A’isha, of Aqaba, said he turned himself in to the police after a fight with his brother on August 1, 2007. The officers detained him for two days and took his statement to a judge, who ordered him remanded in custody for seven days, which the judge renewed twice. Four days before the end of this period, the judge held a bail hearing and released him on 100 dinars (US\$140) bail, which Abu ‘A’isha paid. He told Human Rights Watch,

[The police] took me back to prison and collected my belongings, and then took me to Medina police station in Aqaba, the same I had gone to before. They held me there for one day, I don’t know on whose orders. By 12: 30 p.m. the next day, they took me to the governorate. I didn’t see the governor, only his secretary, ‘Atif al-Batush. He ... sent me to Aqaba prison.<sup>71</sup>

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<sup>69</sup> Human Rights Watch interview with ‘Anbar Muhammad, October 22, 2007.

<sup>70</sup> Human Rights Watch interview with Abd al-Hafizh al-Salayima, administrative detainee, Salt prison, August 23, 2007.

<sup>71</sup> Human Rights Watch interview with Muhammad Abu ‘A’isha, administrative detainee, Aqaba prison, August 27, 2007.

Mahmud Musa's experience in Irbid was almost identical. Police arrested him and two others on August 3, 2007, for getting into a fight. The next day, a judge at the court of first instance in Irbid "sent me home," Musa told Human Rights Watch, but instead "I was taken to the police station, and from there to the security directorate, and from there to the Northern Police station, where I stayed one day." The next afternoon he was taken to the governorate, where a clerk, not the governor, signed his detention order. "The same day, they took me to Qafqafa [prison]."<sup>72</sup> The experiences of both Abu 'A'isha and Musa in described in further detail in Chapter VIII.

Ahmad Furaihat, an Amman public bus driver nearing retirement, said he can barely feed his family of nine. After a passenger accused him of stealing a briefcase, police arrested him and a judge ordered him detained. When the complainant and his witnesses failed to appear at the second court hearing, the judge released Furaihat on condition that he sign a paper stating that his failure to appear in court in the future would lead to a 100 dinar fine. "Instead," he said, "the police took me to the governorate, [and then] took me to Juwaida prison and ... I learned that the governor had detained me administratively ... and that my bail had been set at at 10,000 dinars."<sup>73</sup>

Hashim 'Atwa and his younger brother Ra'id said their cousin accused them of stealing 150 dinars on a day on which both of them were in Egypt on business. A judge ordered them released on bail, but the police took them back to Quwaisma police station, near Amman. Hashim 'Atwa told Human Rights Watch,

From there, the police took us to the governorate, where an official took our statement, put it on the bottom of the papers that constituted our file, and set bail for us at 10,000 dinars. All they do upon arrest or at the governorate is to look into the computer whether there are prior arrests and administratively detain you if there are.<sup>74</sup>

Khalid al-Sayyid said his arrest was due to an exchange of gunshots between him and the bodyguards of a Qatari prince. Jordanian authorities charged him at the Major Crimes Court in Amman, but a judge released him on bail. His family paid the bail and came to Muwaqqar prison, where he was held, with the letter of release in hand. At that point, al-Sayyid said,

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<sup>72</sup> Human Rights Watch interview with Mahmud Musa, August 25, 2007.

<sup>73</sup> Human Rights Watch interview with Ahmad Furaihat, administrative detainee, Juwaida prison, October 22, 2007.

<sup>74</sup> Human Rights Watch interview with Hashim 'Atwa, administrative detainee, Juwaida prison, October 22, 2007.

The police took me to the Capital [police] station, where I stayed for three days without telephone calls. I was insulted there. Then they took me to the Major Crimes Court, then back, then to Zahran police station, then back. Then the governor detained me administratively.<sup>75</sup>

The accounts of ‘Izzat al-Hirasin, detained in Salt prison, Yahya Bani Fadl, detained in Birain, Firas Nur al-Din, also sent to Birain, Lafi Yusif, in Aqaba prison, and Abdullah al-Hunaiti, sent to Swaqa, all portray governors detaining suspects despite judicial rulings that the detainees said had ordered their release. Further such cases are among those featured in Chapter VIII, “Due Process Violations.”

Like some of the women in protective custody who had earlier served criminal sentences, Abd al-Karim Mahmud said he had served five months in prison for being in a fight, but that after the expiry of his sentence, “I was taken from Muwaqqar prison to the Criminal Investigation Department in Amman’s Northern Hashimi quarter, and on Saturday to Amman’s Marka area *mutasarraf* [district administrator], whose secretary detained me, because on Saturday no one else was there. I’ve now been detained administratively 25 days.<sup>76</sup> Similarly, Ahmad Hasan from Irbid told Human Rights Watch, “Twenty days ago I ended my sentence of three months for a fight, and then the governor detained me, setting bail at 5,000 dinars.<sup>77</sup>

Swaqa prison administrative detainee Wa’il Ahmad recounted that in 2006 “there was an amnesty and many inmates here from Swaqa were freed, but the next day, 40 were returned under administrative detention.”<sup>78</sup>

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<sup>75</sup> Human Rights Watch interview with Khalid al-Sayyid, administrative detainee, Juwaida prison, October 22, 2007.

<sup>76</sup> Human Rights Watch interview with Abd al-Karim Mahmud, administrative detainee, Qafqafa prison, August 25, 2007.

<sup>77</sup> Human Rights Watch interview with Ahmad Hasan, administrative detainee, Qafqafa prison, August 25, 2007.

<sup>78</sup> Human Rights Watch interview with Wa’il Ahmad, administrative detainee, Swaqa prison, August 21, 2007.

## VIII. Due Process Violations

### Unilateral Decisions

Detainee accounts of the procedures applied in their arrests highlight the arbitrariness with which governors wield their powers of administrative detention. In some cases, detainees only learned of their administrative detention status after being transferred to prison, in violation of provisions of the Crime Prevention Law itself.

Sa'd al-Wadi al-Manasir, the governor of Amman, described to Human Rights Watch the official version of what transpires in the detention process:

When determining an administrative detention or a request for a guarantee, witnesses are called, other evidence is presented, the police file is studied, and the person in question is present. He or she has a right to an attorney. Years ago, many attorneys came to represent clients, but then they saw what the law was about and lost interest.<sup>79</sup>

These assertions stand in stark contrast to the consistent accounts of administrative detainees and lawyers who handled such cases. They claim that only rarely is such due process observed.<sup>80</sup> Most, but not all, of the detainees Human Rights Watch spoke with were physically present during procedures leading to their detention, but they rarely met with the governor or district administrator, as required by the Crime Prevention Law. Although the law empowers only the governor and other “administrative rulers” to exercise the powers of the law, in practice lower-ranking governorate officials rubberstamp police arrests as administrative detentions.<sup>81</sup> Usually, those in custody came into brief contact with a clerical official who processed the paperwork for their administrative detention. Sometimes the detainees, who were kept in special cells within the governorate building, did not meet any official other than the police officers who escorted them and picked up paperwork authorizing the administrative detention.<sup>82</sup>

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<sup>79</sup> Human Rights Watch interview with Dr. Sa'd al-Wadi al-Manasir, September 21, 2005.

<sup>80</sup> Human Rights Watch interview with two lawyers, Amman, January 22, 2009.

<sup>81</sup> A former governor told Human Rights Watch that the governor and deputy governor as well as their aides and district administrators had the power to order detention. Human Rights Watch interview with former governor (name withheld), Amman, January 24, 2009.

<sup>82</sup> The same former governor told Human Rights Watch that all suspects are present during procedures leading to their detention. *Ibid.* A lawyer who has experience with administrative detention cases said this was not always true and that

In most cases of administrative detention Human Rights Watch investigated, no meaningful review of the circumstances leading to arrest or assessment of the appropriateness of detention took place. Detainees had no opportunity to effectively challenge the version of events leading to arrest or summons that the police put forward. Several detainees told Human Rights Watch that officials instructed them not to speak at all while officials spent a few minutes reviewing their files and then ordered their detention.

None of the detainees Human Rights Watch spoke to had a lawyer with him or her at the time of their detention review. One lawyer, Nedal Dweik, told Human Rights Watch that Amman's deputy governor, Khalid al-Armuti, with whom he enjoys friendly relations, once tried to bar him from being present during the investigation of his client, and only agreed when Dweik insisted on his legal right to be present.<sup>83</sup> None of the detainees had access to any paperwork in which the governor laid out what actions of the suspect led him to invoke which sections of the Crime Prevention Law. The detainees also did not learn the precise reasons for their detention, regardless of whether the detainee went to the governorate or personally met officials involved in signing the detention order.

Zayid Khalid is one of those administrative detainees who never saw an official at the governorate or learned the reasons for his administrative detention. Khalid told Human Rights Watch,

On July 20 [2007] I was arrested for resisting the police. They took me to court the same day, and the judge let me go free, but the police took me back to the police station, then to the governorate, into a cell. I didn't see anyone. One hour later, the police took me back to their station, and from there we went to Qafqafa [prison]. Only here did I learn that I was administratively detained. I have three previous convictions for writing bad checks.<sup>84</sup>

The police officers who arrested Nizar al-Sa'id similarly arrogated to themselves powers of detention and sought only formal confirmation from the governorate. The governor had obliged al-Sa'id, as part of a previous detention and condition of release, to report to the local police station every day at 10 a.m. and at 4 p.m., and to observe a 6 p.m. curfew. Al-Sa'id told Human Rights Watch,

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detainees often did not see an official empowered to order their detention or release. Human Rights Watch interview with a lawyer, Amman, January 24, 2009.

<sup>83</sup> Human Rights Watch interview with Nedal Dweik, lawyer, Amman, January 27, 2009.

<sup>84</sup> Human Rights Watch interview with Zayid Khalid, August 25, 2007.

On May 24, 2007, I had to go to the hospital for an emergency. A machine injured my arm at work. I had an operation. On [Wednesday] May 30, I got out, and went straight to the head of the criminal investigation branch to notify him of my hospital stay. He sent me to the Madina Police Station, from which they sent me to the security directorate at 5 p.m., and from there to Muwaqqar prison, where I arrived on Thursday, May 31, at 11 p.m. and was placed with the administrative detainees. After three days, I was taken to Juwaida [prison], where I spent 15 days. From there to Qafqafa [prison]. I've been here 60 days.<sup>85</sup>

Firas Nur al-Din also never met the governor or any other official, and had no opportunity to contest the decision to detain him administratively:

I was arrested on May 15 in Dhulail, Zarqa. They took me to Hasan police station, where I spent eight days alone in a cell. On the eighth day, I was taken to the governorate. I stayed in a cell there, and they took a paper upstairs, the governor signed, and I was taken to the police directorate, and from there to Birin [prison]. I did not personally see the governor or anyone else. That was [the extent of] the investigation and decision to administratively detain me.<sup>86</sup>

Ahmad Furaihat, the Amman public bus driver mentioned in Chapter VII, was taken to the governorate by the police who ignored his conditional release by a conciliation court judge, but he only learned he had been administratively detained by the governor from the policeman accompanying him to Juwaida prison.<sup>87</sup> Khalid al-Sayyid, also mentioned in Chapter VII, said of his administrative detention, "I did not go to the governorate or see anyone in this process."<sup>88</sup>

Mahmud Musa, detained in Mafraq governorate, fared a little better. He had a face-to-face confrontation with an official in the governorate late in the afternoon, after "the governor and all others had left," but he did not have an opportunity to challenge the reasons for his arrest. His presence remained without bearing on those procedures. He told Human Rights Watch,

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<sup>85</sup> Human Rights Watch interview with Nizar al-Sa'id, August 23, 2007.

<sup>86</sup> Human Rights Watch interview with Firas Nur al-Din, administrative detainee, Swaqa, August 21, 2007.

<sup>87</sup> Human Rights Watch interview with Ahmad Furaihat, October 22, 2007.

<sup>88</sup> Human Rights Watch interview with Khalid al-Sayyid, October 22, 2007.

I was taken to the governorate, but only got to see the clerk, ‘Umar al-Shuraida, who signed my detention order. The governor and all others had left at that point. There were three policemen with me, they brought my file, but I couldn’t look at it. They didn’t ask me anything except my name. I asked al-Shuraida why I was being detained, and he told me: “Shut your trap.” The whole thing only lasted five minutes. He set bail at 5,000 dinars. A guy called Riyadh al-‘Ababna had the papers signed upstairs while I was sent down to a cell.<sup>89</sup>

Wa’il Ahmad managed to see the governor and to have his family present during his administrative detention by the governor of Amman. Despite this, he said, the governor gave them no reason for the detention and that he “just sent me to Juwaida prison.”<sup>90</sup> Hani Shakir, a bus driver on the Salt-Amman route, was arrested on August 22, 2007, with his boss, Ali Hudaidi, who owned the bus company, because passengers had complained about being dropped off at the wrong stops. He said that he “saw the district administrator for one to two minutes, and was then taken to jail.”<sup>91</sup> Ali Hudaidi, the bus company owner, told Human Rights Watch that “the district administrator of ‘Ain al-Basha summoned me on August 22. I saw him personally. He sent me down to a cell, and later I learned that I had been arrested administratively. Then I was sent to Salt prison.”<sup>92</sup>

### *Rejection of guarantors and guarantees*

In theory, administrative detention is the result of the failure of a person summoned or arrested to give an undertaking regarding their conduct, or the inability of a person making such an undertaking to provide the guarantees set by the governor. In the latter such cases the governor specifies the financial sum that a detainee must present to gain his or her release, usually from around 1,000 to 5,000 dinars (approx. US\$1,400-7,000), but also occasionally rising to 30,000 dinars (\$42,500) . This sum serves to guarantee that the individual in question will comply with his or her undertaking to refrain from behavior that led to the initial arrest and to respect the kingdom’s laws.

There are two types of guarantees. One, the monetary guarantee, the governor imposes directly. To provide this guarantee, proof of assets is not necessary, and the person pays a stamp duty of 0.3 percent of the amount in question, payable at a regular post office. In the

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<sup>89</sup> Human Rights Watch interview with Mahmud Musa, August 25, 2007.

<sup>90</sup> Human Rights Watch interview with Wa’il Ahmad, August 21, 2007.

<sup>91</sup> Human Rights Watch interview with Hani Shakir, August 23, 2007.

<sup>92</sup> Human Rights Watch interview with Ali Hudaidi, administrative detainee, Salt prison, August 23, 2007.

second type, the judicial guarantee, the governor also fixes a monetary value to the guarantee, but the guarantor in this case presents title to an asset, typically a piece of land, as collateral, and pays registration fees of around 0.5 per cent of the value of the guarantee to the clerk of the court.<sup>93</sup> Administrative detainee Wa'il Ahmad told Human Rights Watch, "If you don't have [assets] yourself, you have to find someone with land and pay him a fee to present it as a bond, and then pay the government fees."<sup>94</sup> Human Rights Watch is not aware of any case in which the government actually collected on the collateral for breach of a guarantee.<sup>95</sup> A guarantee can also include a requirement to register once or twice daily at a police station and to observe a nightly curfew ("supervised residence").

Article 7 of the Crime Prevention Law gives a governor the right to "refuse to accept any guarantor." The wording of article 7 would indicate that such a refusal should be limited to persons, for example tribal leaders, village headmen, or their city equivalents, who give personal, not financial, guarantees that a suspect will not misbehave in the future. In practice, however, governors and their officials regularly use this provision also to reject monetary guarantees in the form of collateral put forward by detainees' relatives to secure his or her release.

Wa'il Ahmad told Human Rights Watch that at the time the governor ordered his detention

I presented my mother as my financial guarantor, but she was rejected. Since going to prison, I have presented 25 petitions for release, with my wife, mother, father, and brothers acting as guarantors. They presented a piece of land as a financial collateral, worth 10,000 dinars as specified, and paid the fees of 0.8 per cent on the value set for the guarantee, but I was not released.<sup>96</sup>

Another administrative detainee, Muhammad Abu 'A'isha, said that he, too, had repeatedly tried without success to deposit the monetary guarantee set by the governor. He told Human Rights Watch that having been in bailed from remand custody by a judge (see Chapter VII), police kept him in their custody and the next day

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<sup>93</sup> Human Rights Watch interview with a former governor, January 24, 2009.

<sup>94</sup> Human Rights Watch interview with Wa'il Ahmad, August 21, 2007.

<sup>95</sup> A representative of the Ministry of Justice told Human Rights Watch that in cases where family members of a woman in protective custody harmed her following her release, governors have never collected the monetary guarantees the family members had pledged under the provisions of the Crime Prevention Law to ensure that they would not harm her. Human Rights Watch interview with a representative of the Ministry of Justice, name withheld on request, Amman, October 28, 2007.

<sup>96</sup> Human Rights Watch interview with Wa'il Ahmad, August 21, 2007.

took me to the governorate. I didn't see the governor, only his secretary, 'Atif al-Batush. He said, "I am setting a 10,000 dinar monetary guarantee for you." He went to see the governor and came back. He said we needed to pay 30 dinars now. I called my sister's husband to come and pay, but 'Atif and the governor refused to accept the payment. It all took five minutes. Then they took me back to the station, to the security directorate, and from there to the prison. Yesterday, my sister's husband tried again to pay, with no luck.<sup>97</sup>

Hashim 'Atwa said that the governor ordered him administratively detained, based on a complaint of theft against him:

At the governorate, an official set a monetary guarantee of 10,000 dinars for me. Yesterday, my mother presented the guarantee, but the governorate refused. All they do upon arrest or at the governorate is to look into the computer whether there are prior arrests and keep you locked up if you have [an arrest record].<sup>98</sup>

Two other administrative detainees told Human Rights Watch that they had tried to pay the fees payable on a monetary guarantee or to present a personal guarantor to gain their freedom, because they had no collateral to put forward. In Juwaida prison, 'Anbar Muhammad, a street vendor, said the governor "ordered me detained administratively, with a 10,000 dinar monetary guarantee, which means 35 dinars in fees. My wife tried to pay the fees and present a personal guarantee two days ago, but the governorate official refused."<sup>99</sup> Ra'i' Hurani, in Swaqa prison, said that after Ahmad al-Shiyab, the Zarqa province governor, detained him administratively on a 5,000 dinar monetary guarantee, he tried "six times to have my mother act as my personal guarantor, but the governor rejected this."<sup>100</sup>

Women in administrative detention face additional, gender-based obstacles to regaining their freedom. The lawyer Nedal Dweik, who has represented administratively detained women for over five years, told Human Rights Watch that "a governor is stronger than a judge" and can refuse to release a woman if her sponsor has a criminal record, if the judge perceives a continued threat against her life, or simply in order to teach her a lesson:

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<sup>97</sup> Human Rights Watch interview with Muhammad Abu A'isha, August 27, 2007.

<sup>98</sup> Human Rights Watch interview with Hashim 'Atwa, October 22, 2007

<sup>99</sup> Human Rights Watch interview with 'Anbar Muhammad, October 22, 2007.

<sup>100</sup> Human Rights Watch interview with Ra'i' Hurani, August 25, 2007.

“Governors accuse the [women] of being prostitutes and then detain them. They sometimes refuse their sponsor. They use their authority depending on their mood.”<sup>101</sup> Dweik represented Amira Z., the mother of three mentioned in Chapter III, who defied police suspicious that she was an abuse victim by not giving her husband’s name. The governor refused to allow her husband to act as her sponsor despite his repeated attempts to negotiate her release. Dweik, commented, “Her own husband is willing to be her sponsor but [the governor] refused. What does this mean? He’s trying to teach her a lesson.”

## Challenging Lawfulness of Detention

Detainees can initiate a judicial, but not an administrative review. The Crime Prevention Law does not itself mandate any review—administrative or judicial—of governorate administrative detention.

One former governor told Human Rights Watch that every week officials in his governorate reviewed all cases of administrative detention to determine whether conditions for detention still obtain, although such assertions could not be verified, and other statements of this former official about observing due process stand in stark contrast to observed reality.<sup>102</sup> The minister of interior may also review a governor’s detention orders and amend the conditions of the monetary guarantee or the personal pledge to be undertaken by the detainee. Human Rights Watch has not received replies to its inquiries to the ministry about these reviews and has not heard from any person other than former governors about such regular reviews. What is more, two lawyers interviewed stated that to their knowledge no reviews took place. It is therefore doubtful how regular and how effective these internal reviews are.

Detainees can challenge their detention before the High Court of Justice within 60 days.<sup>103</sup> Lawyer Ahmad ‘Uthman, who has represented clients in such challenges, told Human Rights Watch that the court reviews the legality of the order, which involves only the procedural steps.<sup>104</sup> Other Jordanian lawyers concurred that the court does not assess whether a suspect fulfilled any of the criteria for administrative detention provided for in article 3 of the Crime Prevention Law: That is, detainees cannot challenge whether the conditions of

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<sup>101</sup> Human Rights Watch interview with Nedal Dweik, October 30, 2007.

<sup>102</sup> Human Rights Watch interview with a former governor, January 24, 2009.

<sup>103</sup> Law No 12 of 1992, High Court of Justice Law, *Official Gazette*, No 3813, March 25, 1992, p. 516, art. 12(a). One lawyer, Ahmad ‘Uthman, argued that, under regular procedure, challenges to administrative decisions have to be filed within 60 days, while another lawyer, Nedal Dweik, citing conversations with judges of the High Court of Justice, said that because administrative detention was open-ended, it should be considered as a continuous decision, and can be challenged at any time. Human Rights Watch interviews with Ahmad ‘Uthman and Nedal Dweik, Amman, April 22, 2006, and January 27, 2009, respectively.

<sup>104</sup> Human Rights Watch interview with Ahmad ‘Uthman, April 22, 2006.

personal undertaking match the reasons for arrest, and the judges do not probe whether evidence available to the governor was sufficient for him to determine that the person summoned or arrested posed “a danger to the people.”<sup>105</sup> The High Court of Justice has ruled in at least one instance on the substantive assessment by a governor that a person ordered detained had constituted a “danger to the people,” finding the governor’s order for his administrative detention lawful. In other such challenges, the court confined its review to compliance of the governor’s actions with the law.<sup>106</sup> The court can affirm or overturn a detention order, but cannot amend it, ‘Uthman said.<sup>107</sup> The court also has the authority to award compensation for unlawful detention, and court verdicts have upheld the right to compensation.<sup>108</sup> The Ministry of Justice did not respond to a letter of December 16, 2008, in which Human Rights Watch asked it to clarify whether the High Court of Justice conducts procedural or substantive reviews of orders of administrative detention.

In a rare case of a governor’s failure to comply with the court’s decision, prosecutors filed a criminal complaint against the district administrator in Mafrq following the continued detention of the complainant despite a court order for his release. In 2005 a criminal court found the district administrator of Mafrq guilty of wrongful deprivation of liberty and sentenced him to prison.<sup>109</sup> The administrator had jailed a person in lieu of his wanted father and refused to release him following the High Court of Justice verdict annulling the detention. According to Amman governor Dr. Sa’d al-Wadi al-Manasir, “The governor can be held liable for making wrong decisions. The court has in the past cancelled some orders of detention, but no governor has been judicially or otherwise punished.”<sup>110</sup> Indeed, the Mafrq case is the only one in recent years that Human Rights Watch is aware of in which a governorate official has been prosecuted for wrongful deprivation of liberty.

In practice, judicial reviews are rare. There are three chief obstacles to an effective court challenge. First, it is mandatory to hire a lawyer licensed to appear at the High Court of Justice.<sup>111</sup> The poor do not have the right to free legal assistance, and lawyers’ fees for such cases start at 250 dinars (US\$350) per case. Second, the president of the High Court sets

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<sup>105</sup> Human Rights Watch interviews with a lawyer, Amman, April 15, 2006, and with two lawyers, Amman, January 22, 2009.

<sup>106</sup> Chief Judge Fu’ad Suwaidan, Judges Karim al-Tarawna, Dr. Mahmud al-Rashdan, Muhammad al-‘Ajarima, and Abd al-Karim Qar’un, Claim Number 469/2005, Jordanian High Court of Justice, November 30, 2005.

<sup>107</sup> Human Rights Watch interview with Ahmad ‘Uthman, April 22, 2006.

<sup>108</sup> Law No 12 of 1992, High Court of Justice Law, *Official Gazette*, No 3813, March 25, 1992, p. 516, art.9(b).

<sup>109</sup> Human Rights Watch telephone interview with Ahmad ‘Uthman, April 20, 2009.

<sup>110</sup> Human Rights Watch interview with Dr. Sa’d al-Wadi al-Manasir, September 21, 2005.

<sup>111</sup> Human Rights Watch interview with Ahmad ‘Uthman, April 22, 2006.

fees for cases brought to the court ranging from 30 to 300 dinars.<sup>112</sup> Although administrative detainees usually benefit from low court fees, those already unable to pay the government fees associated with presenting a monetary guarantee to the governor, usually in the range of 20 to 50 dinars, can hardly afford to pay lawyers' and court fees. Third, there is no mechanism to inform detainees of their right to challenge decisions in court and the means to do so, whether at the time of arrest, detention by the governor, or entry into prison. Thus, most detainees do not know about their right and only the more educated and well-off are able to avail themselves of it.

### **Locked Up Indefinitely**

Administrative detention in Jordan, in addition to being highly arbitrary, can last indefinitely when officials repeatedly reject guarantors and guarantees, given the inability to effectively challenge detention orders. The majority of administrative detainees spend less than 12 months in prison, but there is no fixed end date for their detention.

This uncertainty of duration is a significant difference between administrative and judicial detention. Administrative detainees also cannot rely on routine amnesties or case reviews at the governorate or national level. Several women had spent more than 10 years in "protective" custody before 2008, when authorities transferred them to the Wifaq Center, a government shelter. Some foreigners, too, had been in administrative detention for years because their home countries were unwilling or unable to issue them with travel documents, without which Jordanian authorities were unwilling to release them. Jordanian men threatened with tribal revenge may also spend indefinite amounts of time administratively detained.

Ahmad Ali, from Irbid, arrested following a dispute that became physical, said he did not know when he might be released. The governor rejected his brother as a personal guarantor, and fixed a high monetary guarantee. "I don't know how many thousands of dinars [the guarantee was], but I couldn't pay," he said.<sup>113</sup> Ra'i' Hurani, 41, said he had a prior criminal record and spent 20 years of his life in prison. He had been under administrative detention for six months when Human Rights Watch visited him. "I cannot get out, now, and there's no time limit on my detention, as far as I know," he said. "You can go to court, to the Court of

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<sup>112</sup> *Schedule of Court Fees in 2008*, Official Gazette No 4935, November 2, 2008, p. 5076, art.24.

<sup>113</sup> Human Rights Watch interview with Ahmad Ali, administrative detainee, Qafqafa prison, August 25, 2007.

Supreme Justice [sic], but you need 250 dinars to file an appeal, and another 250 dinars for a lawyer. Who has 500 dinars?”<sup>114</sup>

Because of the inherent difficulty of challenging the legality of their detention in court, administrative detainees frequently go on hunger strikes to draw attention to their cases and to force a review, as discussed below.

### *The lot of women: Male sponsors, marriage, or indefinite detention*

Governors place additional, discriminatory conditions on adult women by denying them the same conditions for release that are available under the personal guarantee system available to men. Governors treat adult women in protective custody like legal minors by denying them the right to live on their own and therefore forcing many to endure indefinite detention.

Unlike male administrative detainees, who are generally detained for weeks or months, female detainees typically remain in detention much longer, sometimes indefinitely. Governors allow only family members (generally male relatives) to act as sponsors for female administrative detainees, a restriction not applied to men. Governors also typically hold the release of women in protective custody hostage to a pledge by male family members that they will not harm the woman. The majority of female detainees whom Human Rights Watch interviewed had no relative willing or able to act as their guarantor, and thus have little hope of release. Rania B., 28, an administrative detainee who had faced sexual violence at home (see below), told Human Rights Watch, “What did I do to end up in prison? How’s society going to look at me when I get out? How can I find a guarantor in prison? Governors only know how to send people to Juwaida [prison] but how do we get out?”<sup>115</sup>

A woman’s detention, in and of itself and apart from the accusations that prompted it, is often enough to cause her family to abandon her and refuse to act as her guarantor. While male detainees are often able to reintegrate into society, even if with difficulty, the societal costs of detention for women are far greater. As one women’s rights activist put it, “Their futures are gone.”<sup>116</sup>

Munira F., a 40-year-old woman, was detained in protective custody for 13 years because the local governor refused to allow her to live alone. She told Human Rights Watch,

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<sup>114</sup> Human Rights Watch interview with Ra’i’ Hurani, August 21, 2007.

<sup>115</sup> Human Rights Watch interview with Rania B, administrative detainee, Juwaida women’s prison, October 29, 2007.

<sup>116</sup> Human Rights Watch interview with Afaf Jabri, director, V-Day Karama, Amman, October 28, 2007.

My sister made a mistake with a young man and my family shot her. That's why I'm here. The first time [my brothers and father] beat us, my sister was in my arms. They killed her. They didn't say what she did, just that she made a mistake. I forgave my brother who was charged, so he got out. My parents used to visit me before they died. They kept telling me it's over, come back home with us but I didn't want to. I didn't want to live with my brothers. I just want to live alone. I believe I can live alone but they won't let us.<sup>117</sup>

In the absence of a male relative willing and financially able to act as a woman's sponsor, and to afford her protection, a female administrative detainee's only other prospect for release is through marriage. The director of the Juwaida women's prison told Human Rights Watch that two of the five women held in protective custody a few months prior to our visit had been released after agreeing to marriage. "The fathers told the governor that men asked to marry them and [the women] agreed. The cases were resolved around two months ago," she said.<sup>118</sup>

Governors have themselves suggested marriage as a way to avoid the protective administrative detention of victims of sexual violence. The governor of Karak administratively detained Rania B. on October 30, 2006. She had filed a complaint against her family with the Family Protection Unit in Karak, alleging that her brother had molested her and two sisters. "Last Ramadan, my father also wanted me," she told Human Rights Watch.

I told them my circumstances at home. All the dirty things they were doing. They came to my house and saw everything. They just wrote down the complaint and didn't do anything. They said, "You're 27 years old, we can't intervene in your case." They sent me to the district governor but he refused to take my case so it was sent to the governorate. The governor said "We don't have a place to keep you except Juwaida. How are we going to let you go? Do you know anyone who will marry you?"<sup>119</sup>

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<sup>117</sup> Human Rights Watch interview with Munira F., administrative detainee, Juwaida women's prison, Amman, October 22, 2007.

<sup>118</sup> Human Rights Watch interview with Hana'a al-Afghani, Washington, DC, May 7, 2008.

<sup>119</sup> Human Rights Watch interview with Rania B., October 29, 2007.

## Petitions and Hunger Strikes

As an initial step to draw attention to their cases, administrative detainees sometimes write to the authorities—usually the governor, but also the minister of interior or directly to the king. Juwaida detainee Farhan Sa'idani, in his petition, which he shared with Human Rights Watch, on October 22, 2007, informed the minister of interior, via the governor who had detained him, that

I have been administratively detained by the governor since July 12, 2005, and continue to be, despite a judicial guarantee [set by the governor]. But I am poor and I do not have a person who could present the guarantee imposed on me, and since that date I am detained and nobody knows about my case, and nobody visits me or cares for me. My detention took place without the police conducting a hearing or interview or interrogation of what I was supposed to be involved in. I was arrested without cause and I am not among those who disturb the peace or tranquility, and I have not committed any act that would call for my being shoved into prison in this arbitrary and unjust manner. I have opened all doors and found no one who would hear my voice. I put my sorrow into your hands, Your Excellency.<sup>120</sup>

Detainees frequently send petitions but few receive answers. Wa'il Ahmad told Human Rights Watch about his desperation and the dozens of faxes, petitions, and clemency submissions he had submitted. While in Juwaida, he said, "I sent faxes to the governor every day. Because of that, they transferred me to Swaqa. I have presented 25 petitions for release with a guarantee ... I have written many petitions for clemency."<sup>121</sup>

These petitions usually fail to secure a release, or even a review of the case. Detainees then often resort to hunger strikes. Aqaba prison director Husain Rawafja told Human Rights Watch,

In 2007, until August 17, we had 36 hunger strikes. Ninety-five percent of them are by administrative detainees, and 99 percent of the strikes, which last only one to two days, are successful, in that they obtain their release. We follow up with the governor, families, and other authorities, and that secures

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<sup>120</sup> Petition by Farhan al-Sa'idani to the minister of interior, late October 2007, copy on file with Human Rights Watch.

<sup>121</sup> Human Rights Watch interview with Wa'il Ahmad, August 21, 2007.

their release. Other hunger strikers demand to be moved to prisons closer to their homes.<sup>122</sup>

Juwaida prison director Muhammad al-Muhaimid also told Human Rights Watch that “95 percent of hunger strikers are administrative detainees. They don’t drink water and strikes are usually over within 24 to 48 hours.”<sup>123</sup> Qafqafa prison director Mahmud ‘Ashran and Muwaqqar prison director Rakat al-Hallalat confirmed that hunger strikes usually do not last longer than one to two days; Swaqa prison director Hani al-Majali said that the longest hunger strike had lasted one week.<sup>124</sup> Muwaqqar prison director al-Hallalat said, “We don’t interfere in hunger strikes.... We put the strikers in solitary confinement cells, and we remove the [handle of the] water faucet to comply with their hunger strike.”<sup>125</sup>

The consistency of prison directors saying that hunger strikes are very short, and acknowledging that they deprive strikers of water, indicates a policy of requiring that all hunger strikes be “dry”—that is, without fluid intake. Prison authorities place prisoners declaring a hunger strike in solitary confinement and provide no food or water until they break off their hunger strike. This is contrary to international standards, which oblige prison authorities to provide an inmate with adequate food, and water “whenever he needs it.”<sup>126</sup> It is up to the prisoner alone to decide whether to refuse food and fluids, or only food.

In Jordan, the law requires doctors to examine a detainee before he is placed in solitary confinement, although authorities fail to observe this requirement in practice.<sup>127</sup> Prison doctors have an obligation to counsel the detainee in the best interests of his health. They should warn against the severe and often irreversible effects of a “dry” hunger strike on a prisoner’s health, but in Jordan they do not do so.<sup>128</sup> The World Medical Association’s Declaration on Hunger Strikes (Malta Declaration) advises doctors to “also explain [to the

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<sup>122</sup> Human Rights Watch interview with Husain Rawafja, August 27, 2007.

<sup>123</sup> Human Rights Watch interview with Muhammad al-Muhaimid, October 22, 2007.

<sup>124</sup> Human Rights Watch interviews with Hani al-Majali, director, Swaqa prison, August 21, and Mahmud ‘Ashran, director, Qafqafa prison, August 25, 2007.

<sup>125</sup> Human Rights Watch interview with Rakat al-Hallalat, director, Muwaqqar prison, August 19, 2007.

<sup>126</sup> “Drinking water shall be available to every prisoner whenever he needs it.” United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, Rule 20.2.

<sup>127</sup> Law of Correction and Rehabilitation Centers Number 9 of 2004, *Official Gazette*, No. 4656, April 29, 2004, p.2045, art. 24.

<sup>128</sup> On adverse effects of dry hunger strikes see, for example, Hernán Reyes, “Medical and Ethical Aspects of Hunger Strikes in Custody and the Issue of Torture,” <http://www.icrc.org/Web/eng/siteengo.nsf/iwpList302/F18AA3CE47E5A98BC1256B66005D6E29> (accessed January 21, 2009). The article is an extract from the author’s article “Maltreatment and Torture” in *Legal Medicine/ Rechtsmedizinische Forschungsergebnisse* (Lübeck, Germany), vol. 19 (1998).

hunger striker] how damage to health can be minimised or delayed by, for example, increasing fluid intake.”<sup>129</sup> Doctors may not advise prison administrations to enforce dry hunger strikes:

It is a contravention of medical ethics for health personnel, particularly physicians ... to certify, or to participate in the certification of, the fitness of prisoners or detainees for any form of treatment ... that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment.<sup>130</sup>

Muwaqqar prison director Rakat al-Hallalat told Human Rights Watch that removing the handle of the water faucet in the solitary confinement cells for hunger strikers was done because, in his view, all hunger strikes automatically include a refusal to drink fluids.<sup>131</sup>

When Human Rights Watch visited Muhammad Abu ‘A’isha in Aqaba prison he was on the first day of a hunger strike. Abu ‘A’isha declared, “I will stay here till I am released or I die,” but he also complained that prison authorities had halted his medical treatment when he began his hunger strike: “I have a heart problem, but without food and water, they also stop your medication.”<sup>132</sup> The Malta Declaration is clear: “Treatment or care of the hunger striker must not be conditional upon suspension of the hunger strike.”<sup>133</sup>

Abd al-Hafizh al-Salayima had also just started a hunger strike at the time of our visit. He complained that in solitary confinement the authorities did not provide a blanket, but asserted that he “chose not to have water and food. I am protesting my administrative detention.”<sup>134</sup> Because Jordanian prison authorities allow only “dry” hunger strikes, he did not know that under international standards he could insist on water while refusing to eat food.

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<sup>129</sup> “Declaration on Hunger Strikes,” (Malta Declaration), World Medical Association, Adopted by the 43rd World Medical Assembly Malta, November 1991, editorially revised at the 44th World Medical Assembly Marbella, Spain, September 1992, and revised by the WMA General Assembly, Pilanesberg, South Africa, October 2006, <http://www.wma.net/e/policy/h31.htm> (accessed January 21, 2009), principle 10.

<sup>130</sup> United Nations Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 18, 1982, G.A. res. 27/194, annex, 37 U.N. GAOR Supp. (No. 51) at 211, U.N. Doc. A/37/51 (1982).

<sup>131</sup> Human Rights Watch interview with Rakat al-Hallalat, August 19, 2007.

<sup>132</sup> Human Rights Watch interview with Muhammad Abu A’isha, August 27, 2007.

<sup>133</sup> Malta Declaration, principle 14.

<sup>134</sup> Human Rights Watch interview with Abd al-Hafizh al-Salayima, August 23, 2007.

One administrative detainee in Birain, who did not want to be named, told Human Rights Watch about a hunger strike he undertook at Juwaida prison to secure his release:

I fasted in secret for the first seven days with water, then the administration found out and sent me to solitary confinement. I was only wearing my underwear. After 15 days of hunger strike, I was taken to the [Prince] Hamza hospital. I was in a dangerous state, and they started to forcibly feed me. I had clotting in the liver.<sup>135</sup>

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<sup>135</sup> Human Rights Watch interview with an administrative detainee, Birain prison, April 15, 2008. “Forcible feeding is never ethically acceptable. Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment.” Malta Declaration, principle 21.

## IX. International Standards

International human rights law does not explicitly prohibit all forms of administrative detention—that is, the deprivation of liberty by an administrative rather than a judicial decision. Legitimate administrative detention in non-emergency situations can include deprivation of liberty for remedial education, for reasons of mental health, and for deportation or extradition.<sup>136</sup>

Jordan's Crime Prevention Law regulates administrative detention under the most controversial category that governments sometimes claim as a justification for detention—public order (that is, preventive detention). The European Convention on Human Rights clearly prohibits such detention without a declaration of a state of emergency. Although the International Covenant on Civil and Political Rights is less clear,<sup>137</sup> the UN Working Group on Arbitrary Detention has found that the prolonged preventive detention by the United States of persons without a criminal charge or judicial review to be arbitrary.<sup>138</sup>

Countries that use preventive detention have in fact often done so in the context of organized or mass violence, often under emergency laws, such as India in Kashmir, Malaysia, or Egypt and Syria. Other countries, such as Cuba, Russia, Belarus, Armenia, and Uzbekistan have used administrative detention against political dissidents. In Jordan this is not the case. Administrative detention for the purpose of preserving public order occurs outside the context of organized or large-scale violence, and is chiefly directed against victims of crimes or against socially undesirable persons. Authorities also use it against persons suspected of criminal activity in order to circumvent proper criminal procedure. There is no declaration of a state of emergency or attempt to derogate from the ICCPR.

To be lawful, administrative detention decisions must meet certain tests. Article 9 of the ICCPR, which became law in Jordan 21 years after its ratification, following its publication in the Official Gazette in June 2006, states,

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<sup>136</sup> The European Convention on Human Rights does not permit administrative detention other than for educational reasons or those of public health or for deportation. European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, art. 5.

<sup>137</sup> Unlike the ECHR, the ICCPR does not have an exhaustive list of the permitted grounds for detention.

<sup>138</sup> See Legal Opinion regarding the deprivation of liberty of persons detained in Guantanamo Bay. UN Commission on Human Rights, Report of the Working Group on Arbitrary Detention, E/CN.4/2003/8, December 16, 2002, paras 61-64.

No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law ... Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.<sup>139</sup>

The Jordanian constitution echoes international law in articles 7 and 8, which state, respectively, “Personal freedom shall be guaranteed,” and “No person may be detained or imprisoned except in accordance with the provisions of the law.”<sup>140</sup>

Administrative detention in Jordan is based on procedures “established by law”—the Crime Prevention Law of 1954—and, in theory, administrative detainees can challenge the lawfulness of their detention before the High Court of Justice. In practice, however, a detainee’s ability to challenge his detention in court is so heavily circumscribed as to be unavailable.

The law specifies the situations in which the governor can issue orders of detention (posing a “danger to the people,” “habitual” thievery, and being “on the brink of committing a crime”). It is difficult to see any of these justifications as being necessary—most should be covered by the criminal justice system, that is, through regular prosecutions, including pretrial detention where necessary. Even if special grounds for administrative detention are justified under certain conditions, each individual decision to force someone into administrative detention must also be proportional to the circumstances of the case, that is, being carried out as a last resort, and only for strictly as long as is necessary.<sup>141</sup> The office of the UN High Commissioner for Human Rights, in a manual for judges, prosecutors, and lawyers, cited “particular concerns” in cases of preventive detention “in view of the difficulty inherent in defining such terms [as public order] with sufficient clarity.”<sup>142</sup>

The most problematic, and the most frequently applied, provision justifying administrative detention in Jordan, is article 3.3. of the Crime Prevention Law, which allows a governor to impose a pledge or monetary guarantee, and order detention where no guarantee is

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<sup>139</sup> ICCPR, art. 9.

<sup>140</sup> The Constitution of The Hashemite Kingdom of Jordan, January 1, 1952, arts 7 and 8.

<sup>141</sup> Manfred Nowak, *U.N. Covenant on Civil and Political Rights. CCPR Commentary* (Kehl/Strasbourg/Arlington: N.P.Engel, 2005), p.225.

<sup>142</sup> United Nations Office of the High Commissioner for Human Rights, *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and lawyers* (New York and Geneva: United Nations, 2003), p. 180.

provided, for persons whose “release without a guarantee would constitute a danger to the people.” There is no further jurisprudence to narrow the understanding of which types of danger are intended. This provision is so vague as to invite unreasonable and arbitrary application of the use of guarantees and detention.

Other procedural aspects of the law also invite arbitrary application. The governor’s authority to set financial and personal guarantees at will, and to reject persons who proffer those guarantees, unbinds the governor from any consideration of the legal requirement for proportionality, and renders his decisions liable to arbitrary exercise incompatible with international human rights standards.

When authorities hold detainees for indeterminate periods of time, this detention is arbitrary, even if the initial detention was in accord with applicable legal standards. A detainee who has completed his or her judicial sentence but remains detained is also detained arbitrarily.<sup>143</sup> When the Jordanian government detains persons whom it has not charged or convicted, or who have completed their sentences, it violates the right to liberty of these persons.

As a general matter, administrative detention should not cover acts that fall under established criminal law, which affords those who are accused due process protections that are absent in Jordan’s administrative detention law. Jordan’s Crime Prevention Law includes among its provisions for administrative detention criminal acts such as “theft, sheltering thieves, and dealing in stolen goods,” as well as the preparation of criminal acts (“being on the verge of carrying out a crime,” or “assisting in the commission”). At the same time, it contains detention, a criminal sanction, for non-criminal acts, such as failing to provide a guarantee or breaching movement restrictions. The law makes this abundantly clear by using the terms “punish” and “imprison” for those who breach those provisions.<sup>144</sup>

The title of the law—Crime Prevention Law—anticipates the presumed criminal nature of substantive acts subject to administrative detention. Indeed, one former high-ranking official, who served as governor in at least four provinces as well as in other positions in the Ministry of Interior, told Human Rights Watch that the intention of the law is “to deal with crime, to deter it, to instill fear.”<sup>145</sup>

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<sup>143</sup> United Nations Working Group on Arbitrary Detention, Fact Sheet No. 26, <http://www.ohchr.org/english/about/publications/docs/fs26.htm> (accessed March 26, 2006).

<sup>144</sup> Crime Prevention Law, arts 9, 11, and 14.

<sup>145</sup> Human Rights Watch interview with a former governor, January 24, 2009.

Sa'd al-Wadi al-Manasir, governor of Amman, told Human Rights Watch that the Crime Prevention Law was necessary "because we need to be able to arrest and detain people for the police to do their investigations."<sup>146</sup> Zarqa province's deputy governor, Adil al-'Azzam, explained the government's rationale in using the Crime Prevention Law to circumvent regular criminal procedure:

Administrative detention is used for people who have prior criminal records for things like theft, drug offenses, fights, or carrying knives. We use the Crime Prevention Law to arrest people who are caught in a crime but were then let go after 24 hours and before a trial date has been set, or in cases where the criminal might be found not guilty. Sometimes we imprison persons before they put forward their judicial bail guarantee. So, we know he's a danger but we cannot [otherwise] put him in jail. We administratively detain him for as long as we consider necessary.<sup>147</sup>

Ahmad 'Uthman, the defense lawyer, agreed, explaining,

If a person is arrested by the governor, he should go to court within one week. Depending on what he is accused of, if the crime is buying stolen goods, for example, it falls under the jurisdiction of the court of conciliation. If it is theft, depending on whether it's a misdemeanor or a felony, the conciliation or criminal court has jurisdiction, or, if there is criminal conspiracy to disrupt state security, it goes to the State Security Court.<sup>148</sup>

The title and substance of the law, and these explanations provided by officials and lawyers, make abundantly clear that Jordanian authorities intentionally apply administrative detention to criminal matters to avoid the legal requirement, under the country's criminal procedure code, of subjecting the grounds for detention to the scrutiny of an independent and qualified justice system.

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<sup>146</sup> Human Rights Watch interview with Dr Sa'd al-Wadi al-Manasir, September 21, 2005.

<sup>147</sup> Human Rights Watch interview with Adil al-'Azzam, deputy governor, Zarqa, September 19, 2005.

<sup>148</sup> Human Rights Watch interview with Ahmad 'Uthman, April 22, 2006.

## **Acknowledgments**

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## Appendix: The Crime Prevention Law

*Crime Prevention Law (Law 7 of 1954)*

Published on page 141 of the *Official Gazette No. 1173* dated March 1, 1954<sup>149</sup>

### Article 1:

This law shall be called the Crime Prevention Law for the year 1954 and shall take effect one month after issuance in the official gazette.

### Article 2:

The term “district administrator” [*mutasarri*] shall include the governor of the capital.

### Article 3:

If it is communicated to the district administrator or if he/she has [indications] to lead him to believe that a person within his/her jurisdiction may belong to any of the categories mentioned below, and if the district administrator is of the opinion that there are sufficient reasons to take measures, he/she may issue to the person concerned a notice of appearance in the format included in the first appendix to this law, obliging said person to appear before him/her to explain whether he/she has reasons not to give an undertaking, with or without a guarantee and in the format included in the second appendix to this law, in which he/she undertakes to conduct himself/herself well during a period of time to be specified at the discretion of the district administrator, but not to exceed one year:

1. Anyone present in a public or private place in circumstances that convince the district administrator that he/she was about to commit a crime or to assist in its commission.
2. Anyone who habitually committed burglary or theft or had within his/her possession stolen property, or who habitually protected or sheltered burglars, or who assisted them in concealing stolen property or fencing it.
3. Anyone in a situation in which his/her release without a guarantee would constitute a danger to the people.

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<sup>149</sup> Translation by Human Rights Watch.

**Article 4:**

If any person specified in article 3 is notified with a notice to appear before the district administrator and if he/she fails to appear within a reasonable time, then the district administrator may issue a warrant for that person's arrest provided that a trial of that person take place within one week of his/her arrest.

**Article 5:**

1. When a person appears or is brought before the district administrator, the latter shall begin an investigation into the accuracy of the information on which the measures taken are based, and he/she shall hear any other evidence he/she deems necessary.
2. If, following the investigation, it becomes apparent to the district administrator that there are sufficient reasons that call for him/her to oblige that person to give an undertaking, then the administrator shall issue an order in this regard provided that this undertaking does not differ from the matter mentioned in the notice to appear or the arrest warrant and that the the amount [of money] or the period of time do not differ either from those mentioned in any of the two.
3. If, following the investigation, the district administrator is not of the opinion that it is necessary to oblige such person to give an undertaking, then he/she shall record an explanation thereof in the register, and such person is to be released if he/she was detained solely for the purpose of the investigation.
4. Procedures pursuant to this law, including taking testimony under oath, questioning witnesses and cross-examining them, the presence of lawyers, notification of orders, notices of appearance, and other instruments, as well as the appeal of verdicts and the enforcement of orders, shall be in accordance with the criminal procedures applied in the courts of first instance, provided that:
  - a. The charge shall not be different from the charge mentioned in the information indicated in the notice to appear;
  - b. It is not necessary in the procedures taken pursuant to this law to firmly establish that the accused has committed a certain action or certain actions.
  - c. The undertaking must not go beyond requiring him/ her to maintain [public] security, refrain from carrying out acts that might disturb public tranquility, and to be of good conduct.

**Article 6:**

If a person has given an undertaking on his/her own behalf or on the behalf of others in accordance with the order of the district administrator, which conditions him/her to maintain [public] security, and to refrain from committing acts that might disturb public

tranquility, and that requires his/her good conduct, then the district administrator may, if the person tied by the guarantee has not been found guilty of committing a crime which the law considers a breach of the stipulations of the undertaking, seize the amount of [money tied to] the undertaking, or the administrator may oblige the person tied by the guarantee, or the guarantors, or any of them, to pay the amount of [money stipulated in] the undertaking [sic]. The district administrator's decision in this regard shall be final and shall be enforced according to the applicable procedure of the law regarding the enforcement of civil law verdicts.

**Article 7:**

The district administrator may refuse to accept any guarantor whose guarantee he/she disapproves of for reasons he/she shall record in the register.

**Article 8:**

If the person to whom an order to give an undertaking has been issued in accordance with paragraph 2 of article 5 fails to give an undertaking within the dates of the period shown in the order to give an undertaking, he/she shall be imprisoned, and if he/she is already imprisoned, he/she shall remain so until he/she gives the requested undertaking or until the end of the period specified in the order to give an undertaking.

**Article 9:**

If the district administrator reaches the conviction that the person imprisoned for failing to give an undertaking in accordance with this law can be released without exposing the public or any other person to danger by doing so, then the administrator shall immediately submit a report in this regard to the minister of interior who shall have the right to order the release of said person.

**Article 10:**

The minister of interior may at any time he/she wishes rescind any undertaking given in accordance with this law or amend it to the benefit of the person who gave it.

**Article 11:**

1. Any guarantor, who has given a guarantee that another person will maintain [public] security or be of good conduct, may submit an application to the district administrator requesting the guarantee he/she gave be rescinded. Thereupon, the district administrator shall issue a notice of appearance or an arrest warrant for the

person tied to the guarantee, and when that person appears before him/her, the district administrator shall rescind the guarantee and order the person to give a new guarantee for the remainder of the period. If the person fails to give such a guarantee, he/she shall be imprisoned until he/she gives it or until the period covered by the guarantee expires.

2. If the district administrator is of the opinion that a person who provided a guarantee that another person will be of good conduct, or that he/she maintain [public] security, has become unqualified to provide that guarantee, then the administrator may oblige the person tied to the guarantee to provide another guarantor in lieu of that guarantor in the same fashion and under the same conditions. The administrator may rescind the previous guarantee if the person tied to the guarantee does not do so within the specified period of time.

**Article 12:**

If a person appears or has been brought before the district administrator in accordance with the provisions of article 4 and if the district administrator considers it necessary to tie this person to a guarantee to give an undertaking for his/her good conduct within the meaning of this law, then the administrator may order him/her to be put under police or gendarmerie surveillance for a period not exceeding one year in lieu of giving an undertaking, or [the administrator may order] both.

**Article 13:**

The following restrictions shall be applied in whole or in part on a person under police or gendarmerie surveillance according to what the district administrator decides:

1. He/she shall reside within the borders of any inhabited district, city or village in the kingdom and not move his/her residence to another district, city or village without written authorization from the regional commander.
2. He/she is prohibited from leaving the district, city or village where he/she resides without written authorization from the regional commander.
3. He/she shall inform the regional commander where he/she resides about any change in his/her residence or home.
4. He/she shall appear at the nearest police station whenever the police officer in charge of the district or city where he/she resides requests him/her to do so.
5. He/she shall remain inside his/her home from one hour after sunset until sunrise, and the police or gendarmerie may visit him/her at any time to verify that.

**Article 14:**

If any person placed under police or gendarmerie surveillance fails to abide by any of the conditions stipulated in the order, he/she shall be punished with jail for a period of 6 months at the longest, or with a fine not exceeding 50 dinar, or with both punishments.

**Article 15:**

The council of ministers, subject to the King's approval, may issue regulations to enforce the provisions of this law.

**Article 16:**

The Crime Prevention Law of 1927 (Jordanian) and the Crime Prevention Law of 1933 (Palestinian), as well as the amendments to them and regulation issued in accordance with them, shall be repealed.

**Article 17:**

The prime minister and the ministers of justice and of interior are charged with enforcing the provisions of this law.

January 28, 1954

## Guests of the Governor

### Administrative Detention Undermines Rule of Law in Jordan

Since Jordan ended martial law in 1989 governors across the country have revived the 1954 Crime Prevention Law, which empowers them to detain persons administratively without recourse to the judiciary. There are over 10,000 new cases of administrative detention each year, amounting to one in five inmates in Jordanian prisons today. The length of administrative detention is arbitrary.

The practice of administrative detention in Jordan fundamentally undermines the rule of law. Governors misuse the law, and abuse their powers under it. Instead of detaining persons who are “a danger to the people,” as the law allows, they jail victims of crimes—women threatened with family violence and men threatened with tribal revenge—as well as locking up women and men for perceived immoral behavior. In several cases governors have used their detention powers to pursue personal disputes.

Most often, governors use administrative detention in place of criminal law to avoid judicial review. The Crime Prevention Law permits jailing persons deemed dangerous, persons suspected of being on the verge of committing a crime, and persons who steal, harbor thieves, or deal in stolen goods—all acts that if properly defined should fall under criminal law. Governors use administrative detention against criminal suspects in order to deprive them of the greater rights afforded them under the regular criminal justice system. Administrative detention requires no proof of guilt. Governors also lock up persons administratively after a judge has granted them bail, or after their criminal sentence has expired.

Administrative detainees frequently protest their detention through hunger strikes because judicial challenges, where they are even feasible, are costly.

Jordan should abolish administrative detention and the Crime Prevention Law that allows it.

*Letter written in 2007  
by administrative detainee  
to governor of Amman,  
seeking release.*

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