

# Jordan's Constitutional Amendments: A Coup against the Parliamentary System?

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## ABSTRACT

This paper provides a comprehensive overview of the constitutional transformations in Jordan following the 2011 protests. Firstly, it assesses the degree to which the process reflected principles of legitimacy and participation. Secondly, it examines the responsiveness of the amendments to popular aspirations and demands. Finally, it evaluates the implementation of the amended constitution on the ground, particularly after the subsequent amendments to the 2011 reforms.

The paper establishes that the Jordanian Constitution defines Jordan as a parliamentary monarchy, with the King serving as the head of state, an elected parliament, and a government that is accountable to parliament. It notes that, in practice, the King does not exercise actual authority, resulting in a system of constitutional monarchy.

The paper then delves into the detrimental constitutional amendments that have been introduced in Jordan since the late 1950s. It argues that these amendments have altered the fundamental nature of the country's parliamentary monarchy by consolidating power in the hands of the King, leading to subsequent demands for their reversal.

The paper analyzes the constitutional amendments that have been adopted since 2011 in two main sections. The first section focuses on the 2011 amendments, which were purportedly a response to the protest movement in Jordan and the wider region. While these amendments appeared positive on the surface, they merely aimed at appeasing public discontent without effecting substantial changes in power dynamics. In practice, most of these amendments were not implemented, and the underlying issues that sparked the protests remained unaddressed, as the King and the state apparatus continued to monopolize power.

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The second section examines the amendments introduced in 2014, 2016, and 2022 respectively. These amendments were primarily intended to consolidate power in the hands of the King, undermining the constitutional authorities and their jurisdiction over both the internal and external affairs of the state. As a result, these constitutional amendments effectively undermined the parliamentary monarchy upon which the Jordanian Constitution was originally based, as detailed in the paper.

Keywords: *Jordan's constitutional amendments, coup against the parliamentary system, presidential monarchy, one-person constitution, unclassifiable constitution, dissociation between authority and responsibility.*

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## INTRODUCTION

Beginning in 2011, the Arab region witnessed a mass popular protest movement against tyranny, oppression, and the lack of social justice. In Jordan, the authorities adopted constitutional amendments to absorb the anger unfolding on the streets, but without effecting real change, as shall be demonstrated in this paper.

The paper addresses the main themes that relate to the constitutional transformations in Jordan following the 2011 protests by analyzing: the extent to which the constitutional amendments upheld the principles of legitimacy and popular participation; the extent to which the amended Jordanian Constitution meets popular aspirations and demands; and, finally, the practical implementation of the constitution, especially after the amendments that followed those of 2011.

It is important to begin by explaining the characteristics of the Jordanian Constitution of 1952, as it remains in force with a number of amendments. This constitution was promulgated through an agreement between King Abdullah I and the House of Representatives representing the West and East Banks and which resulted from the decision to unite the remaining Arab parts of Palestine after the 1948 War with the Hashemite Kingdom of Jordan.

The Jordanian Constitution adopted a parliamentary system<sup>1</sup> with an immune head of state (the King), an elected parliament, and a Council of Ministers accountable to that parliament.<sup>2</sup> Article 1 of the constitution stipulates that the “ruling regime is parliamentary with a hereditary monarchy,” and Article 24 states that “the nation is the source of powers,” which means that the people are the source of power and the House of Representatives embodies the will of the people in exercising power. As for kingship, it is hereditary. The King is the head of state, and executive power is vested in him, but he exercises it through his ministers and is therefore protected from all liability and responsibility. His written and verbal orders do not absolve the Prime Minister or ministers of responsibility. Since he reigns and does not rule, the King does not make mistakes. According to Article 40 of the constitution, he exercises his powers through his ministers and his royal decrees, which must be signed by the Prime Minister and the minister(s) concerned.<sup>3</sup> According to this article, a royal decree is a decision taken by the Council of Ministers, which has the confidence of the House of Representatives that embodies the will of the people the source of all power.<sup>4</sup> The Council of Ministers is responsible for administering all internal and external state affairs in the first order followed by all executive bodies; the Prime Minister and ministers are accountable for the state’s public policy and the work of their ministries before the House of Representatives, which is elected through direct and general elections. As for the judiciary, the constitution stipulates that judges are independent and subject to no authority other than that of the law and that judicial rulings are issued in the name of the King.

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<sup>1</sup> The Jordanian Constitution of 1952 is based on the Belgian Constitution, which in turn is based on the unwritten rules of the British constitutional system.

<sup>2</sup> Ali Al-Hiyari, *Constitutional Law and the Jordanian Constitutional System* (Amman: Ghanem Abdo Press, 1972).

<sup>3</sup> Sufian Obeidat, “[Jordan’s 2016 Constitutional Amendments: A Return to an Absolute Monarchy](#),” *ConstitutionNet*, 27 May 2016.

<sup>4</sup> Mohammed Hammouri, *Constitutional and Legal Requirements for Real Political Reform: Why and How* (Amman: Wael Publishing House, 2015).

Since the end of the 1950s and after the coup d'état by the royal palace against the only democratic experience in the history of Jordan, several amendments were introduced to the Jordanian Constitution. The coup d'état took place when a partisan coalition government, formed in 1956, tried to govern in accordance with the provisions of the constitution, which grant it general jurisdiction over the country's internal and external affairs. This experience was met with strong resistance from the King as he felt he did not have sole control, which led him to dismiss the government, prosecute many of its members, ban political parties, and declare martial law.<sup>5</sup> Thus began a long series of amendments to the Jordanian Constitution of 1952, all of which were aimed at distorting the parliamentary system and concentrating power in the hands of the King. Since the 1950s, the King has exercised exclusive power in appointing and dismissing Councils of Ministers, ordering the holding and postponement of elections, dissolving the House of Representatives, appointing and dismissing members of the Senate, and, just as importantly, in appointing, dismissing, and subjecting the army commander and the Director of the General Intelligence Department to his will, in contradiction with the country's constitution,<sup>6</sup> which stipulates that all internal and external state organs are answerable to the Council of Ministers.<sup>7</sup>

In this context, the demands raised in the demonstrations and protest movements that took place in the country in early 2011 were different from the slogans raised by the protesters across the region. The former did not call for the overthrow of the regime, but rather centered on the reform of the country's political system. One of those demands was the implementation of constitutional reforms to address the distortions caused by the amendments to the 1952 Constitution introduced during the previous periods, and which included about 20 constitutional articles. These amendments led to an imbalance of power between state authorities, primarily concentrating power in the hands of the King and making him the sole ruler. In addition to the clear demands to reverse those amendments, there were demands for additional amendments, including the establishment of a constitutional court, the restitution of the power to try ministers, giving civil courts the power to determine the validity of the election of members of the House of Representatives, and the enactment of an electoral law and a law on political parties that would set the stage for parliamentary governments.<sup>8</sup>

The following two sections contain an analysis of the constitutional amendments made since 2011. The first section covers the constitutional amendments made during the year of the protest movement that swept the region, including Jordan. Although those amendments seemed positive and reformist in some respects, in practice, they aimed to appease the anger of the people on the streets without effecting any real change in power.

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<sup>5</sup> The government of Prime Minister Suleiman Al-Nabulsi was the only party coalition government in Jordan's history that was formed from a coalition of parties that won the elections in 1956 and where the leader of the majority party was appointed, although he himself did not succeed in those elections.

<sup>6</sup> Constitution of Jordan (1952, rev. 2011), Article 45.

<sup>7</sup> Sufian Obeidat, *A Reading of the Jordanian Constitutional Amendments 2016: Additional Monopolization of Power*, (Doha: Arab Center for Research and Policy Studies, 2016).

<sup>8</sup> The National Front for Reform was formed on 21 May 2011 from a group of Islamist, leftist and nationalist parties and adopted in its founding statement the demands of the protesters: <https://bit.ly/3t3DsCE>.

This effectively led to the non-implementation of most of these amendments and did not effect any real change to the status quo that ignited the protests in first place. As such, the King and the executive bodies of the ruling authority continued to monopolize power.

The second section covers the amendments that took place over in the years 2014, 2016, and 2022. These essentially revealed that the amendments that were made in 2011 did not lead to any real change due to King Abdullah II's lack of desire to effect fundamental changes in the governance and political decision-making patterns and his rejection of the idea of at least partially ceding the power he exercises to a representative government. The subsequent constitutional amendments were made with the aim of concentrating power in the hands of the King at the expense of the constitutional authorities. As such, governments no longer have any actual power or the mandate to manage the internal and external affairs of the state.<sup>9</sup> It can thus be said that the outcome of these constitutional amendments undermines the system and the principles upon which the Jordanian Constitution was based, primarily the parliamentary system, which is addressed in detail in this paper.

## I. THE CONSTITUTIONAL AMENDMENTS OF 2011

### A. ESTABLISHMENT OF THE ROYAL COMMITTEE TO REVIEW CONSTITUTIONAL TEXTS AND PROPOSE THE REQUIRED AMENDMENTS

At the height of the protest movement in all Jordanian cities, especially in the capital Amman, in April 2011, King Abdullah II formed a committee to review constitutional texts with the aim of proposing constitutional amendments in line with Jordan's present and future needs.<sup>10</sup> The committee was formed under the chairmanship of a former prime minister and with the membership of another former prime minister, former ministers, the Speaker of the Senate, the Speaker of the House of Representatives, and the Chief of the Supreme Judicial Council.

The committee did not take into account the principles of popular participation or the representation of all social groups and political orientations, nor were women represented in it.<sup>11</sup> It further failed to engage in any real or even formal social dialogue before referring its proposed constitutional amendments to Parliament. The committee's deliberations were also confidential. Although some civil society organizations and political parties had submitted proposals to the committee,<sup>12</sup> there was no institutional mechanism available through which the various parties could be consulted regarding the constitutional amendments. The committee was formed according to the previous

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<sup>9</sup> Article 45(1) of Jordan's Constitution stipulates: "The Council of Ministers shall undertake the responsibility of administering all affairs of the State, internal and external, with the exception of those affairs that were or may be entrusted in accordance with this Constitution or any law to any other person or body".

<sup>10</sup> The King's letter appointed Ahmed Al-Lozi as Head of the Committee.

<sup>11</sup> Mohammad Al-Najjar, "[Formation of a Committee to Amend the Jordanian Constitution](#)," *Al Jazeera*, 27 April 2011.

<sup>12</sup> "[Memorandum submitted to the Royal Committee in charge of considering the amendment of the constitution](#)," (Amman: Amman Center for Human Rights Studies, 2011).

governing approach, where the King exclusively controls all decisions made at the state level. The committee's members were also chosen from among the same political elites as before, most of whom were responsible for the circumstances that led to the popular protests in the first place. Indeed, the protests confirmed the people's rejection of the adopted approach by which the King unilaterally appointed governments, committees, and councils.

Although the committee included the Speakers of the Senate and the House of Representatives, it should be noted that the members of the Senate are unilaterally appointed by the King, while the mechanism for the election of the members of the House of Representatives does not represent the will of the people. That is due to the systematic tampering with the elections, whether directly or through the adoption of electoral laws that guarantee the results in advance. In fact, the House of Representatives had given the government 110 votes of confidence out of 130 that same year, yet the King was forced to dismiss it a few days later due to the demands and pressure from the people.<sup>13</sup>

As for the process for the approval of the committee's outputs, it can be deduced from a speech delivered by the King during a celebratory event of the committee's work, in which he directed Parliament to complete the approval process of the constitutional amendments in one month, which Parliament committed to do. This confirms the lack of an actual role by the Jordanian House of Representatives, which is supposed to be the authority responsible for approving or rejecting amendments. This also indicates that these constitutional amendments were approved amid a complete absence of popular participation. In other words, the method by which these constitutional amendments were approved in 2011 was identical to the one adopted during the martial law period, without any actual popular participation.

## **B. THE EXTENT TO WHICH THE JORDANIAN CONSTITUTION MET POPULAR ASPIRATIONS AND DEMANDS AFTER ITS AMENDMENT IN 2011**

About 40 constitutional articles covering the following matters were amended:

### **1. Reversing the constitutional amendments that were adopted during the martial law period between 1958 and 1989**

These amendments imposed the executive's dominance over the legislature when it comes to exercising constitutional powers in two main respects: 1) The executive's ability to dismiss the House of Representatives,<sup>14</sup> which represents the power of the people, for indefinite periods due to the King's power to dissolve the House of Representatives and to postpone general elections without any restraints; and 2) the executive's role in issuing temporary laws.

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<sup>13</sup> Prime Minister Al-Rifai's government was dissolved due to popular protests on 1 February 2011: [https://www.bbc.co.uk/worldservice/news/2011/02/110201\\_jordan\\_nh\\_sl.shtml](https://www.bbc.co.uk/worldservice/news/2011/02/110201_jordan_nh_sl.shtml).

<sup>14</sup> In realistic terms, it is the King's authority, as argued above.

In this context, the following amendments were made:

1. The King and the executive power's ability to postpone the general elections for indefinite periods was restricted,<sup>15</sup> as the government formed after the dissolution of the House of Representatives must now hold legislative elections within four months from the date of dissolution, otherwise the dissolved House of Representatives, by virtue of the constitution, shall assume its full constitutional powers as if the dissolution did not happen and shall remain in office until a new chamber is elected.<sup>16</sup>

The paragraph that gave the King, based on the government's recommendation, the right to hold general elections in half of the kingdom's electoral districts was also repealed.<sup>17</sup> It had been added following the Hashemite Kingdom of Jordan's occupation of the West Bank in 1967, as half of the electoral districts of the Jordanian House of Representatives belonged to the West Bank at the time. After King Hussein's decision in 1988 to disengage legally and administratively from the West Bank, the text was no longer needed.<sup>18</sup>

2. Another safeguard was put in place through the 2011 constitutional amendments, which appears to restrict the executive power's ability to dissolve the House of Representatives by requiring the government under which the House of Representatives is dissolved to resign within one week from the date of dissolution.<sup>19</sup> If the government dissolves the House of Representatives, it must resign so that another government can hold elections and resort to the people to choose the majority that will govern during the next stage.<sup>20</sup> In the same context, another amendment was made where the head of the resigned government who dissolves the House of Representatives cannot be appointed to form the next government. However, sound practices in parliamentary systems indicate that one of the reasons that push the head of state or the King to dissolution is the dismissal of the majority government, the purpose being to consult the people following such dismissal on their stance.<sup>21</sup> As such, prohibiting the prime minister under whom the House of Representatives is dissolved from forming the next government was solely based on the desire of members of the chamber to restrict the government's ability to dissolve the chamber in order to remain in their positions. The amendment may be perceived as a way to prevent the Council of Ministers from recommending to the King the dissolution of the

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<sup>15</sup> Amendment of Article 73 of the Constitution by repealing paragraphs 4 and 5 thereof, which gave the King the power to postpone general elections for indefinite periods.

<sup>16</sup> Constitution of Jordan (1952, rev. 2011), Article 73(1) and (2).

<sup>17</sup> Constitution of Jordan (1952, rev. 2011), Article 73(6).

<sup>18</sup> The decision to disengage administratively and legally from the West Bank was a political decision announced by King Hussein in a televised speech on 13 July 1988. The decision followed the Arab summit in Algeria which confirmed support for the Palestinian uprising (*intifada*) that broke out in late 1987 in the West Bank and that the PLO is the legitimate and sole representative of the Palestinian people. The decision violates Article 1 of the Jordanian Constitution that forbids any part of the Kingdom to be ceded.

<sup>19</sup> Article 74(2) of the Constitution was amended and now requires the government under which the House of Representatives is dissolved to resign within one week from the date of dissolution.

<sup>20</sup> There is no partisan life in Jordan or electoral laws that allow access to such democratic theories of governance.

<sup>21</sup> Mohamed Kamel Leilah, *Political Systems: The State and the Government* (Beirut: Dar Al-Nahda Al-Arabiya for Printing and Publishing, 1969).



House of Representatives except for serious reasons. However, while this may be true in theory, in reality, Jordanian Councils of Ministers do not reflect a representative majority but are rather appointed by the King and are subject to him and his own standards.

3. The role of the executive power in issuing temporary laws was restricted in the absence of a House of Representatives (that is, granting the government legislative powers). Prior to the amendments, the government could issue temporary laws if the House of Representatives was dissolved or not in session (ie, in recess). This power was subsequently limited to the event of dissolution of the House of Representatives only.<sup>22</sup> That is a good practice, as it enables the government, by royal decree and at any time, to summon the house that is not in session for an extraordinary session to pass any law. The members of the house can, through a petition signed by an absolute majority, request the convening of an extraordinary session in presence of the King.<sup>23</sup> If we take into account the amendment to Article 74 of the constitution, to which we referred earlier, the government can only issue temporary laws within a four-month limit, given that the House of Representatives may not be absent for more than that period in the event of dissolution.

An amendment was further made to the conditions that must be met to grant the government the power to pass temporary laws if the House of Representatives is dissolved. This amendment stipulates that these laws should exclusively relate to public disasters, war, emergencies, and the need for necessary and urgent expenditures that cannot be postponed. Prior to the amendment, the law stipulated that such temporary laws could be issued with respect to “matters which require immediate measures or which necessitate urgent expenditures that cannot be postponed.” However, the amended article remained ambiguously worded, allowing governments to loosely interpret it, especially the phrase “which necessitate urgent expenditures that cannot be postponed.”

In any case, these provisions, which give the government the power to issue temporary laws from a theoretical point of view, are based on a false assumption in Jordan resulting from the executive authority’s historical practice of dissolving most Houses of Representatives before the end of their term. However, the House of Representatives represents the first pillar of the system of government and therefore must not be absent. Also, the dissolution of the House of Representatives is an exception to the fundamental rule as stipulated in Article 68(2) of the constitution, which requires the holding of general elections during the four months preceding the end of the term of the house. If the elections do not take place by the end of the term of the house or if they are delayed for any reason, the house shall remain in office until the election of the new house.<sup>24</sup> This text is a pillar of the parliamentary system which prevents the absence of any of its constituent elements, especially the House of Representatives.

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<sup>22</sup> Amendment of Article 94 of the Constitution.

<sup>23</sup> Constitution of Jordan (1952, rev. 2011), Article 82 (1) and (2).

<sup>24</sup> Constitution of Jordan (1952, rev. 2011), Article 68.

As for the government's claims that it is unfair for deputies to compete with the rest of the candidates while in office, they reflect an understanding of the House of Representatives as a council that provides services; hence, deputies would be better placed to offer such services to their constituents. This perception contradicts the very essence of the parliamentary system, which is based on the fact that the House of Representatives has a legislative, political, and financial function; it is not a local services council, and deputies do not represent their constituency alone, but the whole nation. This is the norm in democratic countries.<sup>25</sup>

In order to better demonstrate that the dissolution of the House of Representatives is an exception to the fundamental rule stating that the absence of the House of Representatives is inadmissible, it is sufficient to review the provisions of Article 74 of the constitution, which requires a valid reason for the decision to dissolve the House of Representatives: "If the House of Representatives is dissolved for any reason, the new house may not be dissolved for the same reason." This constitutional obligation has been violated in most, if not all, the decisions to dissolve the House of Representatives, as they were all issued without any justification.<sup>26</sup>

Another amendment regarding the government's power to pass temporary laws<sup>27</sup> is the enforcement of a time limit for Parliament to approve temporary laws submitted by the government. The time limit is equal to two consecutive ordinary sessions, after which those laws will be annulled.

Despite the previous positive amendments, the constitutional legislator maintained the executive power's fundamentally dominant role over the legislative power regarding temporary laws by enabling the Council of Ministers and the King to decide on the temporary laws that Parliament rejected or that were not approved within the time limit. Indeed, the amended constitution maintained the provisions requiring the Council of Ministers to declare the temporary law null and void and the King to approve that decision in order for the temporary law to be effectively revoked, instead of determining its invalidity from the date of its rejection by Parliament, thus ensuring that the Council of Ministers does not abuse its power by not declaring it null and void or delaying such declaration.

## 2. Amendments to the Powers of the Judiciary

1. The constitutional amendments returned the power to try ministers to the civil courts.<sup>28</sup> Prior to the amendment, the Jordanian Constitution had created a special court, the High Tribunal, to try ministers for crimes committed in the performance of their ministerial functions. Although the constitution had

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<sup>25</sup> Leilah, *Political Systems*, 842-844.

<sup>26</sup> Decisions to dissolve the House of Representatives in 2016 and 2020.

<sup>27</sup> Constitution of Jordan (1952, rev. 2011), Article 94.

<sup>28</sup> Constitution of Jordan (1952, rev. 2011), Article 55.

stipulated that the High Tribunal had to include five judges from the Court of Cassation in order of seniority, the presidency of the High Tribunal was held by the head of the state with three Senators as members.<sup>29</sup> Another amendment abolished the status of the House of Representatives as a public prosecutor before the High Tribunal in cases in which ministers are tried before it; instead, the House of Representatives has the right to refer ministers to the Attorney General through a majority vote of its members. In the event that the Attorney General accuses a minister referred to them by the House of Representatives, the said minister shall be suspended from office, and their resignation shall not prevent the institution of proceedings against them or the continuation of their trial<sup>30</sup>

2. The right of the House of Representatives to decide on the validity of the prosecution of its members was abolished. Previously, any challenge related to the validity of the prosecution of any elected deputy was submitted to the House of Representatives, and the prosecution was not invalidated except by a decision issued by a two-thirds majority of the members of the House of Representatives. This competence was withdrawn from the house and given to the civil courts. Jurisdiction now lies with the Court of Appeal of the electoral district of the deputy whose representation is contested, and its decisions are final and not subject to appeal.<sup>31</sup>
3. One of the most dangerous amendments that have been falsely marketed as a victory for the rights and freedoms of Jordanians is related to the judiciary. Article 101 of the constitution was amended to stipulate that no civilian may be tried in a criminal case where all its judges are not civilians, with the exception of treason, espionage, terrorism, drug crimes, and currency forgery.
4. Although such an amendment could be seen as a guarantee for the rights and freedoms of Jordanians on the grounds that the general rule is that persons should be tried before civilian courts, in practice, the State Security Court has been constitutionalized. This is a military court that does not have fair trial guarantees, despite the fact that it is composed of civilian judges, for the following reasons:
  - The law on the State Security Court<sup>32</sup> stipulates that the Prime Minister holds the right to form the court from one or more bodies of civilian or military judges, and military judges are appointed by a decision of the Prime Minister upon the recommendation of the Chairman of the Joint Chiefs of Staff, whereas the Judicial Council designates<sup>33</sup> civilian judges.<sup>34</sup>

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<sup>29</sup> Before the amendment of the Constitution in 1958, the President of Jordan's highest civil court was the President of the High Tribunal. Under Article 122 of the Constitution, the High Tribunal interprets the provisions of the Constitution at the request of the Council of Ministers, the House of Representatives, or the Senate.

<sup>30</sup> Constitution of Jordan (1952, rev. 2011), Article 56.

<sup>31</sup> Constitution of Jordan (1952, rev. 2011), Article 71.

<sup>32</sup> State Security Court Law No. 17 (1959), and its amendments.

<sup>33</sup> When Article 101 of the Constitution was amended, the State Security Court Law gave the Prime Minister, upon the recommendation of the Minister of Justice, the right to appoint civilian judges before the law was amended at a later stage.

<sup>34</sup> State Security Court Law No. 17 (1959), and its amendments, Article 2.

- The State Security Court prosecutor is a military prosecutor in all cases, even in civilian trials, where the court's law requires the Army Commander to appoint the Director of Military Justice or one of their military legal assistants as a prosecutor in the court.<sup>35</sup>
- Under the law regulating it, the court was granted<sup>36</sup> broad jurisdiction beyond the crimes of treason, espionage, terrorism, drugs, and currency forgery, including crimes against the state's internal security, public safety, and crimes committed in violation of the provisions of the Protection of State Secrets and Documents Law.
- The constitution referred crimes falling under the Anti-Terrorism Law<sup>37</sup> to the State Security Court. This law includes vague provisions that have led to the trial of dozens of protesters and advocates for political and economic reform before that military court.<sup>38</sup>
- The law regulating the court granted the Judicial Police Corps (members of the Public Security Directorate or General Intelligence Department) broad authority beyond what is applicable in the criminal proceedings of civil courts in accordance with the Code of Criminal Procedure.<sup>39</sup> The Judicial Police Corps (security and intelligence personnel) were granted the authority to retain the defendant for a period not exceeding 7 days<sup>40</sup> instead of the 24 hours mentioned in the Code of Criminal Procedure. Judicial Police Corps are not judicial officials authorized to detain individuals, and Article 9 of the International Covenant on Civil and Political Rights requires that a defendant be brought promptly before a judge or an official authorized by law to exercise judicial functions such as the Public Prosecution, which is considered part of the judicial system in Jordan.
- The court legislation also grants the military Public Prosecution the powers to detain persons accused of misdemeanors for a period not exceeding 15 days renewable for a maximum of two months instead of the seven days renewable for a period not exceeding one month mentioned in the Code of Criminal Procedure.<sup>41</sup> This contradicts the constitutional and human rights principle that every accused person is innocent until proven guilty.

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<sup>35</sup> State Security Court Law No. 17 (1959), and its amendments, Article 7(1).

<sup>36</sup> State Security Court Law No. 17 (1959), and its amendments, Article 3.

<sup>37</sup> The Anti-Terrorism Law No. 55 (2006), as amended, is vague in its definition of a terrorist act, whereby acts that are not defined in the Criminal Code or have multiple interpretations, such as causing sedition, disturbing public order, or causing damage to the environment, were considered terrorist acts.

<sup>38</sup> Several individuals and partisans have been prosecuted under the Anti-Terrorism Law before the State Security Court under vague charges such as disturbing relations with a foreign country because of social media posts expressing individual opinions on the policies of other countries.

<sup>39</sup> Criminal Procedure Law No. 9 (1961) and its amendments.

<sup>40</sup> State Security Court Law No. 17 (1959) and its amendments, Article 7(b)(1).

<sup>41</sup> State Security Court Law No. 17 of 1959 and its amendments, Article 7(b)(2).

### 3. Amendments to the general mandate of the government and the House of Representatives' oversight power through the no-confidence mechanism

1. Prior to the amendments, Jordan's Constitution stipulated that the Council of Ministers shall be entrusted with administering all affairs of the state, both internal and external, with the exception of such matters as were or may be entrusted by the present constitution or by any legislation to any other person or body.<sup>42</sup> The amendment replaced the phrase "or by any legislation" with the phrase "or by any law." This meant that the Council of Ministers' jurisdiction may not be withdrawn except under the provisions of the constitution or a law passed by Parliament, rather than under any legislation, which may also include regulations issued by the government.
2. The voting mechanism on the ministerial statement for the government to obtain the House of Representatives' confidence was amended. Originally, the constitution required the issuance of a no-confidence vote by the absolute majority of deputies in order for the government to be dismissed. However, after the amendment, the new government had to obtain the confidence of the House of Representatives by an absolute majority of its members. This is a better alternative as the government requires an absolute majority and cannot obtain the vote of confidence by a number of deputies lower than the absolute majority if any deputies abstain from voting for example.<sup>43</sup>

### 4. Establishment of new constitutional powers under the 2011 constitutional amendments

#### A. Independent Electoral Commission

An independent electoral commission was established to administer parliamentary, municipal, and any general elections in accordance with the provisions of the law. It also supervises any other elections that the Council of Ministers entrusts the commission to administer or supervise.<sup>44</sup>

The justification for the establishment of the commission was that the formation of an independent and impartial authority to administer parliamentary elections, instead of the government and its organs, would ensure an acceptable degree of integrity and impartiality, especially since parliamentary elections in the country have historically witnessed interference through electoral laws or direct tampering with the ballot boxes. In practice, however, this amendment did not achieve its stated purpose for the following reasons:

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<sup>42</sup> Constitution of Jordan (1952, rev. 2011), Article 45(1).

<sup>43</sup> Amendment of Article 53 of the Constitution.

<sup>44</sup> Adding a paragraph to Article 67 of the Constitution which included the establishment of the Independent Electoral Commission.

- The lack of guarantees of autonomy, mainly in the method of appointment.<sup>45</sup> The members of the commission are nominated by a committee chaired by the Prime Minister and which includes the Speaker of the Senate, the Speaker of the House of Representatives, and the President of the Supreme Judicial Council as members. This list is submitted to the King for approval. Since the King appoints three of the committee's members, including the President of the Supreme Judicial Council, this body is de facto linked to the executive power, whose authority and security agencies have been accused of electoral fraud and interference.<sup>46</sup>
- Since the main reason for establishing an independent commission to supervise and administer elections is to prevent fraud, the fact that it is not given effective powers over the security agencies involved in maintaining electoral security makes the establishment of such a commission in Jordan futile.
- In light of the continued control of the executive power and its agencies over state decisions, the very act of resorting to so-called independent bodies gives cover, if not legitimacy, to the party violating the law by painting a false façade and creating an illusion of democracy and rule of law among the people. For example, the General Intelligence Department gives itself powers beyond the scope of the law, such as issuing “Certificates of Good Conduct” to citizens for work and education paperwork, which is practically a certificate of good political conduct.<sup>47</sup> It also interferes in parliamentary elections by supporting some candidates and opposing others, tampering with the will of voters before and during the electoral process, and influencing deputies' performance and opinions in cases in which the intelligence services seek to achieve certain parliamentary positions to serve a particular direction. This is in addition to the approvals issued by the intelligence services for appointments to governmental and non-governmental positions,<sup>48</sup> including within the Independent Electoral Commission.

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<sup>45</sup> The commission shall consist of a chairman and four commissioners selected from a list of nominations drawn up by a committee chaired by the Prime Minister and with the Speaker of the Senate, the Speaker of the House of Representatives, and the President of the Supreme Judicial Council as members in accordance with Article 6 of the law regulating the commission.

<sup>46</sup> In light of the subsequent amendments to the Constitution in 2016 and 2022, the King now appoints these members unilaterally without the signature of the Prime Minister and the minister concerned.

<sup>47</sup> The General Intelligence Department states on its [website](#) that this certificate is issued at the request of some Arab and foreign embassies and bodies in Jordan for the purposes of granting work and residence visas, and that it does not force anyone to obtain it. However, the truth of the matter is that the authority to issue this certificate provides a means for pressuring individuals, because it allows the Intelligence Department to determine an individual's political conduct, which means the department keeps a political criminal record of citizens.

<sup>48</sup> Sufian Obeidat, *Security Reform in Jordan: Where to Start?* (Beirut: Arab Reform Initiative, 2009).

## B. Constitutional Court<sup>49</sup>

A constitutional court was created for the first time in Jordan, replacing the High Tribunal, which, prior to the amendments, was tasked with interpreting the provisions of the constitution and was considered an independent judicial body.<sup>50</sup>

The constitution defined the jurisdiction of this court, which is to review the constitutionality of the laws and regulations in force,<sup>51</sup> in addition to interpreting the provisions of the constitution if requested to do so by a decision of the Council of Ministers or by a decision of one of the two houses of Parliament by majority.

Although the establishment of the Constitutional Court was considered a step towards fulfilling popular demands, strengthening constitutional control of laws, and interpreting the provisions of the constitution, the following conditions were necessary to achieve the purpose behind the establishment of such a court:

- Ensuring the court's independence. The most important aspect of that independence lies in the power of appointment, dismissal, and conditions of membership, whereby the constitution stipulates that all members of the court, including its president, are appointed by the King. Also, the constitution did not stipulate that the court's judges cannot be dismissed; rather, it referred the method of termination of membership<sup>52</sup> to the law, which specified the instances as follows: either by the expiration of the six-year term, death, or resignation after having received the King's approval, or by royal decree to terminate the service of any member based on the recommendation of six other members exclusively for specific cases.<sup>53</sup>
- Limiting the bodies that have the right to appeal the constitutionality of laws and regulations to those that formulate and approve these laws and regulations, namely the Council of Ministers, the Senate, and the House of Representatives. Also, it is not enough for the court adjudicating a dispute between litigants to be convinced of the seriousness of the motion of the unconstitutionality of a law or regulation in

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<sup>49</sup> Reviewing the constitutionality of laws was a prerogative given to every judge in Jordan prior to the establishment of the Constitutional Court; however, the review only allowed judges to refrain from applying the law but not to repeal it. Accordingly, judicial review of the constitutionality of laws existed in Jordan prior to this amendment. The amendment limited its exercise to a single body; the Constitutional Court.

<sup>50</sup> Article 58 of the Constitution states: "A Constitutional Court shall be established- by a law- the headquarters of which shall be in the Capital; shall be considered as an independent and separate judicial body; and shall be composed of nine members at least inclusive of the President, to be appointed by the King". Article 61 specifies the conditions for such appointment whereby a member must be Jordanian having the nationality of no other country, be fifty years of age, and have served as a judge in the Court of Cassation and the High Court of Justice, or be a university professor of law holding the rank of professor, or be a lawyer who has spent no less than fifteen years in the practice of law, or a specialist to whom the conditions of membership in the Senate apply.

<sup>51</sup> Unlike the Moroccan constitutional legislator, the Jordanian constitutional legislator did not grant the court the jurisdiction to consider draft laws or regulations.

<sup>52</sup> Constitutional Court Law No. 15 (2012) and its amendments.

<sup>53</sup> Article 21 of the Constitutional Court Law specifies cases of membership termination by forfeiture of any of the conditions of membership, including ill health, loss of civil capacity, or the General Board's authorization to prosecute the member for a criminal complaint.

question to refer it directly to the Constitutional Court. This is subject to complex procedures, and the motion must first be referred to the Court of Cassation, which must also agree to refer this motion to the Constitutional Court unless the case is pending before the High Administrative Court, which may refer the case directly.<sup>54</sup>

## 5. Amendments related to the rights and freedoms of Jordanians

In 2011, several amendments related to the rights and freedoms of Jordanians were made to the Jordanian Constitution, most of which were pro forma and consisted of vague structural texts such as preserving the rights of young people, protecting motherhood, childhood, and the old-aged, guaranteeing the freedom of scientific research, defense of the country, its territory, the unity of its people, and maintaining social peace as a sacred duty of every Jordanian. Overall, these are supreme human values which do not need to be enshrined in the constitution. A paragraph was added to the amendment that criminalized attacks on the rights, freedoms, and sanctity of the private life of Jordanians.<sup>55</sup>

A text was also added preventing any party from restricting the movement of Jordanians. These are all positive texts, but the dilemma remains in the permanent gap between the text and its application. For example, there is a provision in the constitution that has existed since 1952 prohibiting the deportation of Jordanians, yet this did not prevent the government from forcibly deporting Jordanian citizens in 1999.<sup>56</sup>

An amendment was also made by which an article to the constitution was added stating that “The laws issued in accordance with this Constitution for the regulation of rights and freedoms may not influence the essence of such rights or affect their fundamentals.”<sup>57</sup> Nevertheless, it is difficult to apply this provision to determine the extent to which many laws regulating freedoms affect the essence of those freedoms, given the complex procedures put in place by the constitutional legislator to appeal against the constitutionality of laws and due to the lack of real independence of the Constitutional Court, as previously indicated.

Since women were not represented on the Royal Committee for Constitutional Review, these amendments also did not explicitly reflect any development regarding women’s rights and the prohibition of discrimination against them. Article 6 of Jordan’s Constitution since 1952 stipulates in its first paragraph that Jordanians are equal before the law without discrimination in rights and duties, even if they differ in race, language, or religion. Although the term “Jordanians” refers

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<sup>54</sup> These procedures were amended by the 2022 amendments to the Constitution, whereby the motion is referred directly by the court hearing the case: Article 60(2) as amended in 2022, by the amendment published in Issue 5770 of the Official Gazette of 31 January 2022, and Law No. 22 (2022) mending the Constitutional Court Law.

<sup>55</sup> Constitution of Jordan (1952, rev. 2011), Article 7.

<sup>56</sup> The government of Prime Minister Abdul Raouf Al-Rawabdeh expelled Khaled Mashaal, head of Hamas’ political bureau at the time, and forcibly placed some of the movement’s leaders on a plane that came from Qatar to deport them despite the fact that they hold Jordanian citizenship. Bassel Rafaiyah, “[Political Crisis between Jordan and Qatar](#),” *Al Jazeera*, 16 June 2001.

<sup>57</sup> Constitution of Jordan (1952, rev. 2011), Article 128(1).



to both men and women, there are many laws that still discriminate between them, such as the social security, retirement, personal status, and nationality laws, prompting many civil society organizations to demand the addition of the phrase “even if they differ in race, language, religion, or sex” to Article 6 of the constitution. However, this demand faced strong opposition on many fronts, from within and without the Royal Committee, the government, and Parliament, for fear that this would lead to amendments to the personal status law or that it would affect the demographic composition of Jordan.<sup>58</sup>

## II. THREE STAGES OF CONSTITUTIONAL AMENDMENTS IN 2014, 2016 AND 2022

These constitutional amendments have been grouped here together even though they were made over the span of eight years, because for the most part they shared the same objective: to concentrate power entirely and unilaterally in the King’s hands at the expense of other authorities, especially the executive and the legislature. Even before these amendments were introduced, the King, contrary to the essence of the constitution, had appointed and dismissed governments, held and postponed elections, dissolved the House of Representatives without stating the reasons for it, and even appointed high-level positions in the state such as the Director of Intelligence, the Army Commander, the Director of Public Security, the Speaker of the Senate and its members, in addition to other sensitive positions. All of this was done of the King’s own volition, and the role of high-level officials, from heads of government to ministers, was limited to signatures without any real say in decision-making. However, constitutional formalities at least required the signatures of the Prime Minister and the ministers concerned, which was necessary to preserve the system of government, at least formally, as well as the application of the rule that conjoins authority and responsibility. No system in the world may absolve the person to whom the constitution grants unilateral decision-making powers from liability for their actions and decisions.<sup>59</sup>

But these constitutional amendments gave constitutional cover to these powers, leading to the transfer of significant powers from the government to the King, who holds unilateral power. As a result, we now have to contend with a hybrid constitutional system. The constitutional system in Jordan is no longer parliamentary, because parliamentary systems are based on the separation of the King and government, whereby kingship is inherited and the government’s power comes from the people. Because the people in this system are the source of power and they exercise it through a House of Representatives that embodies their will to legislate and exercise oversight, and gives its vote of confidence to a government that exercises executive power as the holder of a general mandate, the King holds no unilateral constitutional power under the parliamentary system, except to halt the amendment of the Constitution.<sup>60</sup>

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<sup>58</sup> There are concerns among these parties that the provision relating to equality between men and women in the Constitution will allow women to pass on citizenship to their children, which will increase the percentage of Jordanians of Palestinian origin in the country and will lead to calls for amending the personal status law.

<sup>59</sup> Article 30 of the Constitution states: “The King is the Head of State and is immune from every liability and responsibility”.

<sup>60</sup> Hammouri, *Constitutional and Legal Requirements*.

This is why the King was given immunity against all liability and responsibility. This immunity is protected through the criminalization of insults against the King. As long as the King does not exercise power, there is no fault of him that requires responsibility, based on the rule that states that the King can do no wrong.<sup>61</sup>

All these principles of the parliamentary system were violated by these constitutional amendments. The amendments undermined the very system of government, turning it from a parliamentary hereditary monarchy, into an unprecedented hybrid system that is effectively a return to absolute monarchy.

All these recent constitutional amendments aimed to concentrate actual state powers in the hands of the King, as explained below.

#### A. EXPANDING THE KING'S POWERS THROUGH THE CONSTITUTIONAL AMENDMENTS OF 2014 AND 2016

The amendments mainly focused on Article 40 of the constitution, which regulated how the King could exercise his powers. Before being tampered with, this article stipulated that the King exercises his powers by royal decree, and that such decree should be signed by the Prime Minister and the minister(s) concerned, and that the King expresses his consent by affixing his signature above the aforementioned signatures.

This means that even if the King issues an order to his Prime Minister or to a minister and they carry it out, and then it turns out to be erroneous, the King is still exempt from responsibility because the Prime Minister would be held liable as he could have avoided this liability by exercising his right to not execute the order.

In 2014, Article 40 of the constitution was amended whereby a clause was added to it stating that the King exercises his powers by royal decree without the signature of the Prime Minister or the minister(s) concerned when appointing the Chairman of the Joint Chiefs of Staff (Army Commander) and the Director of the General Intelligence Department. In 2016, the King's unilateral powers were expanded by adding a new paragraph to Article 40 of the constitution, which gave him the power to appoint the Speaker of the Senate and its members, the president and members of the Constitutional Court, the head of the Judicial Council, and the Director-General of the Gendarmerie without the signature of the Prime Minister or the ministers concerned.

The amendments also changed the term of the presidency of the House of Representatives, where it became two years instead of one year. An amendment was also made to Article 50 of the constitution which prevented the government from being considered resigned in the event of the death of the Prime Minister. This amendment only suggests a tendency to reduce the regard for and importance of the Prime Minister, who is supposed to be the leader of the majority – that is, if the government were truly a parliamentary government. What if that

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<sup>61</sup> Mohammed Hammouri, "[Farewell, Constitution of 1952: May God have Mercy on You, the Finest of Constitutions,](#)" *Arab Jordan*, 25 April 2016.

parliamentary government is a coalition government, and the Deputy Prime Minister or the most senior minister belong to the minority party participating in a governmental coalition or do not belong to any party? Is it acceptable for the parliamentary government to be headed by a minister from the parliamentary minority or a technocratic minister if the Prime Minister dies?<sup>62</sup>

An amendment to the 2011 Constitution that prevented foreign nationals from holding the position of minister, membership of the Senate, and running for parliamentary elections was reversed, and foreigners were permitted to do so again.<sup>63</sup>

## B. COMPLETING THE COUP AGAINST THE PARLIAMENTARY SYSTEM THROUGH THE CONSTITUTIONAL AMENDMENTS OF 2022

In mid-2021, King Abdullah II formed a committee called the Royal Committee to Modernize the Political System and entrusted its chairmanship to former Prime Minister Samir Al-Rifai, who was dismissed in 2011 in response to popular movements demanding reform at the time. The King defined the tasks of that committee by reviewing the electoral and political party laws and constitutional amendments exclusively related to those laws. The committee comprised 92 members, and some opposition factions, including Islamists, participated in it. Its functions included making recommendations for the development of legislation governing local administrations, expanding the scope of participation in decision-making, and creating a legislative and political environment that guarantees the role of youth and women in public life.<sup>64</sup> Although the number of women was considered high in comparison to the previous royal commissions (17 women out of 92 members), their representation was on an individual basis, as women's civil society organizations, especially the Women's Union, which dates back to the 1940s, remained absent. The Jordanian Women's Union, as well as the Jordanian National Commission for Women, established by a 1992 decision of the Council of Ministers, and which is considered the official commission for women in Jordan, were also absent. This reflects the lack of seriousness in ensuring the participation and institutional representation of women's demands within the royal committee.

The establishment of the committee was accompanied by the promotion of the idea that these laws will encourage partisan and parliamentary life, leading to parliamentary governments that are supposed to govern through parties or alliances within the House of Representatives and have general jurisdiction over the internal and external affairs of the state.

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<sup>62</sup> Obeidat, *A Reading of the Jordanian Constitutional Amendments 2016*.

<sup>63</sup> Articles 42 and 75 of the Constitution as amended in 2016.

<sup>64</sup> "[The King Entrusts Al-Rifai with Chairing the Royal Committee to Modernize the Political System](#)," *Royal Hashemite Court Official Site*, 21 June 2021.

All of this rhetoric, of course, is in contrast with the actual practices of the authorities, including the insistence on appointing a president who had been dismissed based on the people's demands for political and economic reform.<sup>65</sup> In any case, and since this paper is not related to the outputs of that committee, we found it necessary to provide context for the circumstances that accompanied the recent constitutional amendments in 2022, which came as a result of the committee's work and the King's guarantee of its outputs.

The executive authority and its organs have sought to show that the way in which the constitutional amendments were issued in 2022 was different from all the constitutional amendments that preceded them, given that they were examined and studied by the Committee to Modernize the Political System, which included many representatives of civil society organizations, including some opposition parties, thus suggesting that these amendments were made through reasonable popular participation. However, this narrative does not match the fact that all the amendments proposed by that committee were limited to proposals related to amendments to the electoral and party laws. In addition, the amendments related to promoting the participation of women and youth were vague and did not result in any real changes. Although the composition of the committee appeared pluralistic, the majority of its members were from groups whose interests coincide with those of the executive power. This was later reflected in the appointment of some members of the royal committee as ministers and members of the Senate. In any case, since the recommendations of the committee were approved by the government and referred as part of the same package with the constitutional amendments proposed by the government to Parliament, we will address the most important of these together, as they were issued from a constitutional point of view by one party—the government.

While the government adopted all the recommendations of the Royal Committee to Modernize the Political System, it added a set of constitutional amendments without conducting any real or even pro forma social dialogues prior to referring those amendments to Parliament. The reasons for all the proposed constitutional amendments (including both the recommendations of the Committee to Modernize the Political System and the amendments proposed by the government itself) were expressed as follows:

“Consolidating the principle of the rule of law, enshrining the principle of separation of powers, and enhancing the autonomy of parliamentary work in a way that ensures the effectiveness of programmatic blocs, guaranteeing the constitutional and oversight role of members of Parliament, developing and promoting legislative performance, and empowering women, the youth, and people with disabilities and enhancing their role and status in society. The amendments also aim to develop the mechanisms of parliamentary work to keep pace with the political and legal developments witnessed by the constitutional system since the issuance of the constitution in 1952. The purpose is to enhance party activity and political life in general, grant members of the House of Representatives the right to choose the Speaker of the house and evaluate their performance annually, grant two-thirds of the members of the house the right to dismiss its Speaker, and grant immunity to political parties, protecting them from any political influences and giving the independent body the jurisdiction to supervise the establishment of parties and follow up on their affairs, in its capacity as a neutral body independent of the government.

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<sup>65</sup> “[The King of Jordan Dismisses Al-Rifai Government](#),” *Al Jazeera*, 1 February 2011.

This promotes the principles of justice, equality, and equal opportunities, prevents any governmental influence, unifies case law resulting from appeals against the validity of deputies' membership, enshrines the principle of transparency and equal opportunities among candidates to parliamentary elections, prevents conflicts of interest, and tightens restrictions on actions that members of the Senate and House of Representatives are prohibited from carrying out during their term. The National Security and Foreign Policy Council shall be established to handle all issues related to the defense of the Kingdom, national security, and foreign policy.”<sup>66</sup>

These amendments, like those of 2014 and 2016, constituted a systematic process aimed at destroying the pillars of the parliamentary system and fully concentrating executive power in the hands of the King while denying the government any role, even a nominal one. As such, Article 40 of the constitution was voided of meaning. This article, which is considered one of the pillars of the concept of constitutional monarchy, had previously stipulated that the King does not exercise his powers except by signing a decree coupled with the signature of the Prime Minister or the ministers concerned, in the sense that all decisions issued by royal decree are actually decisions issued by the Council of Ministers and that the King's signature is merely symbolic, as the absence of ministerial signatures from these decisions renders them null and void.<sup>67</sup>

The most relevant 2022 amendments to the constitution are addressed below:

1. Article 40(2) of the constitution was amended by adding new provisions giving the King the power to appoint both the Chief Justice and the Head of the Judicial Council, accept their resignations and terminate their services, appoint the Chief of the Royal Hashemite Court, the Minister of the Royal Hashemite Court, and the King's advisers, accept their resignations, and terminate their services, without needing the signature of the Prime Minister and the minister(s) concerned on the royal decree.<sup>68</sup>

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<sup>66</sup> The reasons given by the government to justify the constitutional amendments can be consulted here:

<https://bit.ly/3UdRBZU>.

<sup>67</sup> A decision had been previously unanimously issued by the High Tribunal on 4 January 1956 (Decision No. 1 of 1956, published on page 1149 of the Official Gazette No. 1255 dated 5/1/1956). The High Tribunal had convened in order to interpret Article 34 (3) of the constitution and determine whether it allows the dissolution of the House of Representatives by a royal decree signed unilaterally by the Prime Minister or whether the decree must be signed – along with the King – by the relevant minister(s) in addition to the Prime Minister. The High Tribunal was also required to determine whether a royal decree issued to dissolve the House of Representatives and unilaterally signed by the Prime Minister meets the constitutional requirement. The decision referred to: Article 34 of the Constitution, which relates to the King's power to dissolve the House of Representatives; Article 40, which stipulates that the King exercises his powers by royal decree and that royal decrees shall be signed by the Prime Minister and the relevant minister(s) and that the King expresses his consent by affixing his signature above the mentioned signatures; Article 30, which states that the King is the Head of State and is protected from all liability and responsibility; Article 51, which indicates that the Prime Minister and ministers are jointly responsible before the House of Representatives for the public policy of the State; and Article 49 of the Constitution, which stipulates that the King's verbal or written orders do not absolve ministers of their responsibility. The decision concluded that although Article 34 granted the King the right to dissolve the House of Representatives, Article 40 sets out the manner in which the King exercises that right or any of his other rights related to public affairs by royal decree signed by the Prime Minister and the relevant minister(s). This rule derives from the basic principle that absolves the King from any responsibility and places it on ministers. Since the Council of Ministers, in carrying out its executive power, is responsible for public policy, it must participate in signing the decrees in which the King exercises his powers in order to assume responsibility in accordance with the rules of ministerial responsibility stipulated in the constitution.

<sup>68</sup> This amendment was not proposed by the Committee to Modernize the Political System, but by the government.

2. The Independent Electoral Commission was granted the power to consider and decide on applications for the establishment of political parties<sup>69</sup> and other pro forma amendments that do not enshrine any rights and do not result in substantive provisions. These include the amendment of the title of Chapter II of the constitution, which was changed from “Rights and Duties of Jordanians” to “Rights and Duties of Jordanian Men and Women” without it translating into a substantive provision. The amendments also included the state’s guarantee of women’s empowerment and support to play an active role in building society in a way that ensures equal opportunities on the basis of justice, equity, and protection from all forms of violence and discrimination. The state also ensures the promotion of the values of citizenship, tolerance, the rule of law, and empowering young people to contribute to economic and social life by supporting their capabilities as much as possible.<sup>70</sup>
3. Article 52 of the constitution was amended. It stipulated that the Prime Minister or a minister who is a member of the Senate or House of Representatives holds the right to vote in his chamber and to speak in both chambers. This article also prohibited a minister receiving a ministerial salary from receiving salaries from either of the two chambers at the same time. The Prime Minister, ministers, or their representatives now have the right to speak in the Senate and the House of Representatives and to take precedence over other members in addressing the two chambers.
4. The aim of this amendment is to harmonize this constitutional provision with the amendment to Article 76 of the constitution, which, for the first time, prohibited a person from being simultaneously a member of the Council of Ministers and of the Senate or the House of Representatives.
5. In addition, this amendment further erodes the principles of the parliamentary system, which is basically based on the fact that the party or coalition of parties that achieve a majority in parliamentary elections assigns its president with forming the government while having full jurisdiction to choose its members, whether from within the parliament or not.
6. The mechanism of appeal before the Constitutional Court<sup>71</sup> was amended so that courts of different types and degrees that hear a lawsuit in which the constitutionality of a law or regulation is challenged, have the right to refer it directly to the Constitutional Court without the need for the referral to be made through the Court of Cassation as was stipulated in the previous text.
7. Article 54 of the constitution was amended to prevent the Prime Minister from which the House of Representatives withholds confidence from being tasked with the formation of the next government. This amendment is superfluous, as the House of Representatives holds the power to approve the formation of any new government, whether with or without that same Prime Minister, by submitting a ministerial statement to obtain confidence in any government for the purposes of exercising its work.

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<sup>69</sup> Article 67 (b-2), of the Jordanian Constitution as amended in 2022.

<sup>70</sup> Article 6 (2), (5), (6) and (7) of the Jordanian Constitution as amended in 2022.

<sup>71</sup> Article 60 of the Jordanian Constitution as amended in 2022.

8. The age of membership of the House of Representatives was reduced from thirty years to twenty-five years, and a constitutional provision was developed allowing the introduction of additional conditions for membership in the House of Representatives under the electoral law in order to allow parties to participate in parliamentary elections through lists limited to partisans.<sup>72</sup> The term of the presidency of the House of Representatives was reverted to one year as it was in the 1952 Constitution after it had been amended to two years in 2016,<sup>73</sup> in addition to giving two-thirds of the members of the House of Representatives the right to dismiss its Speaker.<sup>74</sup> An amendment was made to consider the resignation of a deputy effective from the date of its submission without requiring its approval or its rejection by the house.<sup>75</sup>
9. In relation to the Senate and the House of Representatives' role to oversee the budget of the government and its bodies, Article 112 (1) of the constitution was amended so that the government is obligated to submit a general budget draft which includes the Governmental Units Budgets to Parliament. The text previously required the submission of the Governmental Units Budgets in a separate draft law. Article 119 of the constitution was also amended so that the Senate and the House of Representatives deliberate the report of the Audit Bureau during the same session in which it is submitted or the following session at the latest.<sup>76</sup>
10. The financial oversight role of Parliament does not actually apply to the budget of the Ministry of Defense/Armed Forces, which includes the budget of the General Intelligence Department, because it is listed in the general budget as a closed item and its figures are not discussed.<sup>77</sup> The General Intelligence Law stipulates that the Director of General Intelligence shall inform the Prime Minister only of the estimated annual expenditure and the outcomes of the annual audit report of the General Intelligence, and the General Intelligence budget shall be listed within the state budget as one item only without any details.<sup>78</sup>
11. Under these amendments, the laws governing elections, political parties, the judiciary, the Independent Commission, the Audit Bureau, the Integrity and Anti-Corruption Commission, nationality, and personal status have been fortified, so that the majority required to approve or amend these laws became a two-thirds majority of the members of the Senate and the House of Representatives instead of the majority of the votes of the members present, similar to all decisions of the two chambers regarding other laws. This restricts the role of any future parliamentary majority.

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<sup>72</sup> Article 70 of the Jordanian Constitution as amended in 2022.

<sup>73</sup> Article 69 (1) of the Jordanian Constitution as amended in 2022.

<sup>74</sup> Article 69 (c-3) of the Jordanian Constitution as amended in 2022.

<sup>75</sup> Article 72 of the Jordanian Constitution as amended in 2022.

<sup>76</sup> Article 119 (1) of the constitution stipulates that: "An Audit Bureau shall submit to the Senate and the House of Representatives a general report containing the irregularities committed, the liability resulting therefrom, its opinions and comments at the beginning of every ordinary session and whenever either House requests it to do so."

<sup>77</sup> None of the previous houses of the National Assembly have ever formed a security and intelligence committee as is the case in advanced democracies.

<sup>78</sup> General Intelligence Law No. 24 (1964), Article 10.

The most serious amendments to the constitution in 2022 were the establishment of a National Security Council consisting of the Prime Minister, the Minister of Defense, the Minister of Foreign Affairs, the Minister of Interior, the Army Commander, the Director of the General Intelligence Department, the Director of Public Security Directorate, and two members appointed by the King in accordance with the provisions of Article 40 (2) of the constitution (that is, without the signature of the Prime Minister and the minister concerned).<sup>79</sup> This council has been granted powers in security, defense, and foreign policy matters. The council convenes, when necessary and at the request of the King, in his presence or in the presence of his delegate, and its decisions are enforceable upon approval by the King.<sup>80</sup>

This newly established authority transformed the system of government in the Hashemite Kingdom of Jordan into a hybrid constitutional system, and it nullified the principle that the people are the source of power because the people no longer hold any power, as all powers were concentrated in the hands of the King as follows:<sup>81</sup>

- The council was given general jurisdiction over the internal and external affairs of the state by granting it jurisdiction related to security, defense, and foreign policy. The council is not an elected body, neither directly nor indirectly, and therefore the constitutional principles upon which the parliamentary system is based have been eroded. The most important of these principles is that the people are the source of all power and that the House of Representatives exercises power in the name of the people through general elections that embody the people's will.
- The constitution requires the state and all its authorities to implement the decisions issued by the council as soon as they are approved by the King, meaning that neither Parliament, nor the government, nor the judiciary have any power to oppose the decisions of the council.<sup>82</sup>
- This unelected council, which does not embody the will of the people, and which has been granted general jurisdiction over all state affairs, is not accountable because the King appoints the majority of its members, namely the Director of the Public Security Directorate, the Director of the General Intelligence Department, the Commander of the Army, and two members chosen by royal decree without being signed by the Prime Minister or ministers concerned.
- Even if one assumes that the Prime Minister, the Defense Minister (who is usually the Prime Minister),<sup>83</sup> the Foreign Affairs Minister, and the Minister of Interior represent a parliamentary government that has the support of a majority of the members of the House of Representatives, they are still a minority within the council.

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<sup>79</sup> Article 122 of the Jordanian Constitution as amended in 2022.

<sup>80</sup> The amendments issued by the government stipulated that the King presides this Council, but the House of Representatives amended the article as per its current content.

<sup>81</sup> This amendment was not part of the recommendations of the Committee to Modernize the Political System; it was added by the government.

<sup>82</sup> Article 122 of the Constitution, which was added by the amendments of 2022.

<sup>83</sup> From 1972 to the present day, the Prime Minister has held the portfolio of the Ministry of Defense: <https://www.pm.gov.jo/ar/CustomPages/SearchGovernment>.



Therefore, the result of these constitutional amendments is that the person who exercises absolute rule over all state affairs cannot be held accountable according to the constitution. Paradoxically, all these constitutional amendments aimed to hand the elected governments that the people had demanded for decades the reins of administration without granting them any real power.

## CONCLUSION

During the period that came to be known as the Arab Spring, a Jordanian popular movement emerged with a set of demands. These included turning the Jordanian monarchy into a constitutional monarchy to limit the powers of the King. The people also demanded that governments be representative of a parliamentary majority that embodies the will of the people through a fair electoral law and a transparent election process. The protesters demanded security, political, social, and economic reforms and the establishment of a constitutional court. To calm popular discontent, the King accepted constitutional amendments. But soon afterwards, Jordanians were horrified by the bloody events in Egypt and Syria. This put an end to their movement, and the authorities set up a scenario where they were to implement reform in exchange for security and stability.<sup>84</sup> Consequently, constitutional and political reforms that were possible were no longer pursued, and the principles upon which the Jordanian Constitution was based were eroded.

The Jordanian Constitution lost its identity and stature among the political systems known to the world today. The Jordanian constitutional system cannot be considered a parliamentary system, because the latter is based on the separation of the King and the state, where kingship is rooted in inheritance and government comes from the people, as stipulated in Article 24 (1) of the Jordanian Constitution.<sup>85</sup>

Parliamentary and presidential systems in the world are founded on a fundamental principle that guarantees the of power, which is that authority is synonymous with responsibility. However, the amendments to the Jordanian Constitution have granted the King exclusive powers without making him accountable for their exercise.

In the absence of any theoretical description of the system to which the Jordanian Constitution belongs, one can only conclude that Jordan has become a one-person constitution and a one-person state.

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<sup>84</sup> Obeidat, *A Reading of the Jordanian Constitutional Amendments 2016*.

<sup>85</sup> Hammouri, "Farewell, Constitution of 1952".

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