

**A Comparative Study of Jordanian Anti-Corruption Law & the UN Convention  
against Corruption**

**Kholood Sami Aloran**

A thesis submitted to

The University of Gloucestershire

In accordance with the requirements of the degree of

Doctor of Philosophy

In the Faculty of Business, Education and Professional Studies

October 2017

## **AUTHOR'S DECLARATION**

NAME: KHOLOOD SAMI ALORAN

TITLE OF THESIS: A Comparative Study of Jordanian Anti- Corruption Law & the UN Convention against Corruption.

FIRST SUPERVISOR: Professor Davies Barry

DEPARTMENT: Faculty of Business, Education and Professional Studies

I certify that I am willing that this thesis be made available for consultation in the University of Gloucestershire library and for inter-library loan use in another library. It may be copied in full or in part for any *bona-fide* library or research worker on the understanding that it is copyrighted material and that no quotation from the thesis may be published without proper acknowledgment.

SIGNED

DATE 4 /10/2017

## **ABSTRACT**

The present thesis addresses two questions, expressed broadly as: how comprehensively is the United Nations Convention against Corruption (UNCAC) embedded in Jordanian national law? and how readily do Jordanian courts apply the provisions of UNCAC?

UNCAC is the first legally binding international anti-corruption instrument. In its 8 Chapters and 71 Articles, the UNCAC obliges its State Parties to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem. The significance of UNCAC can be seen in the fact that by July, 2017 140 states parties had signed the convention. The questions are asked in the light of the need to combat corruption in the pursuit of countries' development, where its presence has long been seen as a major impediment.

Despite Jordan's participation in drafting the Convention, some elements of the convention are still missing in Jordanian law. So for the first question, it can be seen that missing elements include bribery in the private sector; bribery of foreign Public Officials and officials of public international organizations; trading in influence, and concealment. For the second question, it appears that Jordanian courts do not favour using UNCAC in coming to their verdicts, as Judges consider that Jordanian legislation is enough to deal with corruption cases.

A comparative approach between the Jordanian national law and the international treaty is initially adopted, incorporating (textual) analysis contrasting different elements of national legislation in Jordan and UNCAC. A wide range of government documents and international organizations' reports are considered. This doctrinal style of research then leads to a second phase. Thirty face-to-face expert structured interviews were then conducted. The interviews examined opinion concerning the application of UNCAC's provisions by Jordan. This served to identify opinion on the strengths and challenges in current Jordanian statutes, and suggest the potential im-

pact that any statutory changes might have in reducing corruption in Jordan. The results demonstrate a relatively high level of agreement amongst the experts concerning the current state of Jordan's law in relation to UNCAC. The research suggests that use of the law has potential to further reduce corruption in Jordan.

This twin-track approach leads to insights into the nature of corruption offences in an Arab and largely Islamic context. The research provides guidelines for the implementation of the UNCAC in Arab jurisdictions sharing elements of the Jordanian situation. Consideration of the international review process provides insight into how such implementation might best be accomplished.

The thesis contributes both to theory-building and practical understanding of how legislation may be used to combat corruption.

## **ACKNOWLEDGEMENT**

I thank mighty God for his mercies and kindness, without God's mercies, nothing would have been possible!

I would like to express my gratitude to those who gave me the chance to complete this thesis. Specifically, Professor Barry Davies, my first supervisor, whose experience and skill have guided and advised me. He is a wonderful counselor who helped me to shape this thesis and taught me methods, which helped me in different ways to research the problem. I will be always very grateful and thank him deeply.

I also would like to thank my colleagues at work. Without their expert guidance and opinion, I couldn't have completed this thesis.

I am grateful to Dr. Philippa Ward, who facilitated my work and progress.

Finally, I would like to mention my Mom whom I cherish and appreciate deeply. Her prayers are always around me. My sisters, Lana, Wesam, thank you, may mighty God keep and protect you. Lana you are the youngest but you are the greatest. I praise all my family, my husband and my children for being patient with me (Tarek, Hamzeh, and Leith).

Thank you and God bless you all.

*In the Name of God, the Compassionate, the Merciful.*

*Corruption has appeared on earth and at sea because of what the hands of men have wrought; in order that God may make them taste the consequences of their actions; so that they might return.*

*(Al- Rum, 41)*

بسم الله الرحمن الرحيم

"ظهر الفساد في البر والبحر بما كسبت ايدي الناس ليذيقهم بعض الذي عملوا لعلهم يرجعون "

الآية 41 سورة الروم

## Table of Contents

<b>AUTHOR'S DECLARATION .....</b>	<b>2</b>
<b>ABSTRACT .....</b>	<b>3</b>
<b>ACKNOWLEDGEMENT .....</b>	<b>5</b>
<b>TABLE OF CONTENTS .....</b>	<b>7</b>
<b>TABLE OF CASES .....</b>	<b>10</b>
<b>TABLE OF LEGISLATION.....</b>	<b>11</b>
<b>ABBREVIATIONS.....</b>	<b>13</b>
<b>CHAPTER ONE: INTRODUCTION .....</b>	<b>15</b>
1.0 INTRODUCTION.....	15
1.1 RESEARCH GOALS.....	18
1.2 RESEARCH QUESTIONS.....	23
1.3 STRUCTURE OF THE THESIS .....	24
<b>CHAPTER TWO: LITERATURE REVIEW &amp; IMPLEMENTATION INTRODUCED .....</b>	<b>26</b>
2.0 INTRODUCTION.....	26
2. 1 THE IDENTIFICATION OF CORRUPTION.....	26
2. 2 HISTORICAL REVIEW OF CORRUPTION IN JORDAN .....	30
2. 3 CURRENT PERSPECTIVE .....	36
2. 4 THE IMPACT OF CORRUPTION IN JORDAN.....	38
2. 5 THE IMPORTANCE OF FIGHTING CORRUPTION IN JORDAN.....	44
<b>CHAPTER THREE: METHODOLOGY .....</b>	<b>46</b>
3.0 INTRODUCTION.....	46
3.1 DESCRIPTION.....	47
3.2 DOCTRINAL METHODOLOGY .....	49
3.3 JUSTIFICATION .....	55
3.4 STRUCTURED INTERVIEW .....	60
3.5 CODING: .....	61
3.6 PROBLEMS OF RESEARCH METHODOLOGY .....	69
<b>CHAPTER FOUR ANTI- CORRUPTION COMMISSION &amp; THE UNITED NATIONS CONVENTION AGAINST CORRUPTION .....</b>	<b>71</b>
4.0 INTRODUCTION.....	71
4.1 OVERSIGHT BODIES IN JORDAN .....	72
4.1.1 ANTI- CORRUPTION COMMISSION.....	81
4.1.2 AUDIT BUREAU .....	92
4.1.3 OMBUDSMAN BUREAU .....	96
4.2 THE UNITED NATIONS CONVENTIONS AGAINST CORRUPTION.....	101

4.2.1 JORDANIAN LEGAL SYSTEM & INTERNATIONAL LAW:.....	105
4.2.2 GAP ANALYSES AND REVIEW MECHANISM.....	113
4.2.3 CRIMINAL LIABILITY FOR CORRUPTION OFFENCES IN THE UNCAC: .....	118
4.2.4 CRIMINAL LIABILITY OF LEGAL PERSONS:.....	118
4.2.5 IMMUNITIES:.....	119
4.2.6 SANCTIONS SYSTEM IN THE UNCAC .....	120
<b>CHAPTER FIVE: CRIMINALIZATION AND LAW ENFORCEMENT (CHAPTER III) OF THE UNCAC UNDER JORDANIAN LAW. ....</b>	<b>123</b>
5.0 INTRODUCTION .....	123
5.1 CRIMINALIZATION AND LAW ENFORCEMENT – CHAPTER III OF THE UNCAC .....	128
5.1.1 BRIBERY: .....	129
5.1.1.1 - BRIBERY OF NATIONAL PUBLIC OFFICIALS, ARTICLE (15) OF UNCAC .....	129
5.1.1.2 - BRIBERY OF FOREIGN PUBLIC OFFICIALS AND OFFICIALS OF PUBLIC INTERNATIONAL ORGANIZATIONS, ARTICLE (16) OF THE UNCAC.....	133
5.1.1.3 . BRIBERY IN THE PRIVATE SECTOR. ARTICLE (21) OF THE UNCAC .....	135
5.1.2 EMBEZZLEMENT: .....	135
5.1.2.1 EMBEZZLEMENT BY PUBLIC OFFICIALS: .....	136
5.1.2.2 EMBEZZLEMENT OF PROPERTY IN THE PRIVATE SECTOR: .....	136
5.1.3 TRADING IN INFLUENCE .....	137
5.1.4 ABUSE OF FUNCTIONS.....	139
5.1.5 ILLICIT ENRICHMENT .....	140
5.1.6 LAUNDERING OF PROCEEDS OF CRIME .....	141
5.1.7 CONCEALMENT.....	143
5.1.8 OBSTRUCTION OF JUSTICE.....	144
<b>CHAPTER SIX: CRIMINALIZATION AND LAW ENFORCEMENT REGARDING CORRUPTION UNDER THE JORDANIAN LAW.....</b>	<b>147</b>
6.0 INTRODUCTION	
6.1 CRIMINALIZATION OF OFFENCES UNDER JORDANIAN LEGISLATION .....	147
6.1.1 CORRUPTION OFFENCES CONTRARY TO PUBLIC OFFICE ARE DEALT WITH IN THE JORDANIAN PENAL CODE: .....	147
6.1.1.1 LEGAL ASPECTS (EXPERTS’ OPINION) .....	153
6.1.2 CORRUPTION OFFENCES CONTRARY TO PUBLIC TRUST (PENAL CODE) :.....	160
6.1.2.1 LEGAL ASPECTS (EXPERTS' OPINION) .....	173
6.1.3 CORRUPTION OFFENCES ARISING FROM ECONOMIC CRIMES (ECONOMIC CRIMES LAW) ARE AS THE FOLLOWING:.....	178
6.1.3.1 LEGAL ASPECTS (EXPERTS’ OPINION): .....	204
6.1.4 CORRUPTION OFFENCES CONTRARY TO THE ANTI- CORRUPTION COMMISSION LAW ARE AS THE FOLLOWING:.....	210
6.1.4.1 LEGAL ASPECTS (EXPERTS’ OPINION): .....	216
6.2 CRIMINAL LIABILITY FOR CORRUPTION OFFENCES UNDER JORDANIAN LEGISLATION.....	221
6.2.1 CRIMINAL LIABILITY OF LEGAL PERSONS:.....	221
6.2.2 IMMUNITIES:.....	223



6.2.3 SANCTIONS SYSTEM :.....	223
6.2.4 LAWSUIT FOR PUBLIC RIGHT AND STATUTE OF LIMITATIONS: .....	225
6.3 CROSS CASE ANALYSIS (CASE REVIEW): .....	228
<b>CHAPTER SEVEN: CONCLUSION.....</b>	<b>244</b>
7.0 INTRODUCTION.....	244
7.1 EVALUATION OF THE QUESTION OF WHETHER THE JORDANIAN COURTS FULLY IMPLEMENT THE PROVISIONS OF THE UNCAC.....	250
7.2 EVALUATION QUESTION NUMBER 4: WHAT MIGHT BE DONE, IN TERMS OF LAW, REGULATION, POLICY AND PROCESS, TO FURTHER EMBED THE PROVISIONS OF THE UNCAC IN JORDAN? .....	255
7.3 THE REASONS BEHIND THE AMENDMENTS OF JORDANIAN LEGISLATIONS/ JACC LAW. ....	256
7.4 CONTRIBUTION OF THIS STUDY TO KNOWLEDGE. ....	269
7.5 FUTURE RESEARCH:.....	274
7.6 EVALUATION:.....	274
7.7 RESEARCH QUESTIONS:.....	278
<b>APPENDICES .....</b>	<b>284</b>
APPENDIX 1: THE INTERVIEWS (ENGLISH) .....	284
APPENDIX 2: RESPONDENTS' NAMES AND JOBS.....	291
APPENDIX 3:.....	294
EVALUATION OF THE QUESTION OF WHETHER THE JORDANIAN COURTS FULLY IMPLEMENT THE PROVISIONS OF THE UNCAC.....	294
<b>LIST OF FIGURES: .....</b>	<b>295</b>
<i>List of tables:</i> .....	296
<i>List of charts:</i> .....	298

## TABLE of CASES

### C

Court of Cassation Case No. (936/1993) The Bar Association of 1996 Vo (1), P (5)

Court of Cassation Case No. (3965/2003) <http://www.jc.jo/ejthadat>

Court of Cassation Case No. (7309/2003) <http://www.jc.jo/ejthadat>

### H

High Criminal Court v Al-Dahabi Case No. (151/2012)

High Criminal Court v Al- Hawatmeh Case No. (32/2008)

High Criminal Court v Al- Jaradat Case No. (221/ 2011/)

High Criminal Court v Al- Khawalda Case No. (1585/2008)

High Criminal Court v Al- Lawzi Case No. (5572/ 2008/)

High Criminal Court v Al- Masaadeh Case No. (113/2010)

High Criminal Court v Al- Masaaeed Case No. (119/2010)

High Criminal Court v Al- Momani & Al- Fakhori Case No. (17916/2008)

High Criminal Court v Al- Shroug Case No. (302/ 2009/)

High Criminal Court v Al- Soud Case No. (122/ 2010/)

### M

Ministry of Justice v Arab Bank Case No. 3577/2012 (Court of Cassation) <<http://www.adaleh.com>> accessed 7/11/2012.

### R

Rogers v. Tennessee, 532 U.S. 451 (2001).

### S

State Security Court v Shahin. Qudah. Rifai and Rwashdeh Case No. (1027/2010)

## **TABLE of LEGISLATION**

### **A**

Access to Information Act (2007)

Anti- Corruption Commission Act (2006) No. 62 amended Integrity and Anti-Corruption Act (2016) No. 13

Anti-Money Laundering and Financing of Terrorism Regulations (2010) No .48

Anti-Money Laundering Act (2007) No. 46

Anti- Terrorism Act (2006) No. 55

Audit Bureau Act (1952) No. 28

### **B**

Banking Act (2000 ) No. 28

### **C**

Central Bank of Jordan Act (1971) No .23

Civil Act (1974) No. 43

Civil service regulations (2007) No. 30

Criminal Procedure Act (1961) No. 9

Custom Act (1998) No. 20

### **E**

Economic Crimes Act (1993) No .11

### **F**

Financial Disclosure Act (2006) No. 54

### **I**

Income Act (2014) No.34

### **J**

Jordan Constitution (1952)

Jordan Ombudsman Act (2008) No .11

Judiciary Independence Act (2001) No. 15 amended (2014) No.29

## **M**

Magistrate Courts Law 1952 No. 15

## **P**

Penal Code (1960) No .16

## **S**

Sale Tax Act (1994) No. 6

Securities Commission Act (2002) No .76

## **T**

The Regular Courts Formation Act (2001) No. 17

Treaties (EC) Vienna Convention on the law of treaties (with annex) [1969] Vienna on 23 May 1969

## **U**

United Nations Convention against Corruption (2004)

USA Constitution 1787

## **V**

Vienna Convention on the Law of Treaties (1969)

## **ABBREVIATIONS**

<b>ACCL</b>	Anti- Corruption Commission Law
<b>AML</b>	Anti-Money Laundering
<b>CBJ</b>	Central Bank of Jordan
<b>COSP</b>	Conference of State party
<b>CPI</b>	Corruption Perception Index
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>FDI</b>	Foreign Domestic Investment
<b>FIU</b>	Financial Investigation Unit
<b>ICAC</b>	Independent Commission against Corruption
<b>IMF</b>	International Monetary Fund
<b>JACC</b>	Jordan Anti-Corruption Commission
<b>JACCL</b>	Jordanian Anti- Corruption Commission Law
<b>JOB</b>	Jordan Ombudsman Bureau
<b>JSC</b>	Jordan Securities Commission
<b>MOU</b>	Memorandum of Understanding
<b>MS</b>	Member State
<b>NGOs</b>	Non-Governmental Organizations
<b>OECD</b>	Organization for Economic Co-operation and Development
<b>SP</b>	State Party
<b>TI</b>	Transparency International

<b>UN</b>	United Nations
<b>UNCAC</b>	United Nations Convention against Corruption
<b>UNCHR</b>	United Nations Commission on Human Rights
<b>UNDP</b>	United Nations Development Programme
<b>UNODC</b>	United Nations office on drug and crimes
<b>UNTOC</b>	United Nations Convention against Transnational Organized Crime
<b>US</b>	United States
<b>USAID</b>	United States Agency for International Development
<b>WB</b>	World Bank

## CHAPTER ONE: INTRODUCTION

### 1.0 Introduction

Particularism is the enemy of modernization around the globe<sup>1</sup>. Particularism, an idea due to Talcott Parsons, may be thought of as the situation where judgments are made on the basis of the actors or individuals involved, and not on the basis of uniform criteria (universalism). Universalism, where the judgemental or decision criteria are explicit, formal, shared, is seen as the guarantor of individual rights and of equity in the dispensing of justice. Mungiu-Pippidi uses particularism to encompass:

“deviation from ethical universalism as the norm of public-resource allocation (as defined in law, rules, and the modern principles of administrative impersonality, impartiality, and equality), resulting in undue benefits for groups or individuals”<sup>2</sup>.

It is her position that particularism is the enemy of modernity, and thus of progress. She views particularism as broader than corruption, as particularism may include nominally legal principles. In this way, she positions what we are to understand as corruption as having an essential quality of illegality. She does highlight the centrality of the United Nations Convention Against Corruption (UNCAC) as a particular milestone in the quest for international development:

“More than 160 countries have signed this pledge of allegiance to the very essence of modernity—ethically universalistic treatment of citizens, delivered impersonally by a state that is not beholden to private interests”<sup>3</sup>

At the core of the desire for modernity lies a belief that the economic prosperity of the Western democracies owes something (perhaps a great deal) to the quality of their institutions. Where corruption is perceived to be lower, prosperity is generally higher. The research of Mungiu-Pippidi and her collaborators in the EU-funded AN-TICORRP project have produced a good deal of econometric evidence to support

---

<sup>1</sup> Mungiu-Pippidi, "The Quest for Good Governance: Learning from Virtuous Circles' [2016] 27 (v) *Journal of Democracy* 96 <<http://www.journalofdemocracy.org/sites/default/files/Mungiu-pippidi-27-1.pdf>> accessed 27 November 2017. E Journal.

<sup>2</sup> *ibid*

<sup>3</sup> *ibid*

this view, and also a number of country case-studies examining the implementation of good governance systems to combat corruption.

Corruption even in its more limited form, as will be shown, is a problem affecting us in many ways. It is not confined to a particular country or particular sector but has become a disabling and disturbing phenomenon militating against development in many countries. Corruption is difficult to measure, to police and to eradicate:

“Corruption is [also] elusive in that it takes place usually away from the public gaze; it cannot be accurately measured; only estimated through its effects. It also has multiple causes and, like water always finding its way to lower ground, it naturally gravitates towards real power; where there is power, there is the potential for its misuse. Corruption is always subversive, running counter to the norms of the system in which it operates; and if left unchecked it can take over and destroy that system. Once established, it quickly becomes not just deep-rooted, but also contaminating; corruption breeds quickly. It thrives on weakness, both moral and institutional, and is facilitated by unstable politics, inequality, poverty and precarious societies. One thing is always certain, however: corruption favours the “haves” at the expense of the “have nots.” Corruption can be contained to an extent, and even controlled. But it can never be eliminated.”<sup>4</sup>

Given its widespread nature and deleterious effects, it is no surprise perhaps that there are international agreements that serve to aid states in the control of corruption. UNCAC stands as the clearest expression, the pledge of allegiance, of intent in this regard. Development is a target of most countries of the world; corruption frequently blocks development, making the fight against corruption a priority for the development process. Because of that, the international community, including Jordan, have placed the issue on the table and discussed how States can cooperate in the fight against corruption and its negative effects on development.

While corruption disturbs development in a country, the measurement of the extent of corruption is problematic, as Abjorensen notes. Many who work on corruption cases understand that in dealing with these cases, they are usually surrounded by secrecy, and therefore it becomes impossible to accurately measure the extent of corruption. The control of corruption requires not just passing laws or urging people to be good<sup>5</sup>; also, some other factors that may be beneficial in reducing corruption in any country are:

---

<sup>4</sup> N Abjorensen Combating Corruption – Implications of the G20 Action Plan for the Asia-Pacific Region (Konrad Adenauer Stiftung, 2014)

[http://www.kas.de/wf/doc/kas\\_40089-544-1-30.pdf?150107025755](http://www.kas.de/wf/doc/kas_40089-544-1-30.pdf?150107025755). Accessed 20 July 2015

<sup>5</sup> Robin Theobald, Corruption, Development and Underdevelopment (Palgrave Macmillan 1989)



*Implementation of the law:* There is a need for a framework of laws and credible sanctions, with well-executed implementation<sup>6</sup>. *Reform policies:* The absence of a clear strategy in fighting corruption will have a bad result; government needs a strong clear will to fight corruption<sup>7</sup>.

*Improving public administration:* there is a need for the existence of good management and better institutional design<sup>8</sup> *Accountability and transparency* are very important; corruption arises in the absence of any system does not apply accountability<sup>9</sup>.

The phenomenon of corruption has negative effects on moral values and political, economic and social life. Corruption is no longer a local matter, it is a transitional crime that crosses borders and affects all societies. This makes it imperative for the international community to combat and fight corruption through conventions and regional and international treaties.

Indeed, regarding the effect of the corruption in the development countries such as Jordan, mentioned in a report by Transparency International, issued in 2005, it was noted that the size of financial corruption in the world is estimated at one thousand billion dollars, of which three hundred billion are in the Arab world alone.

The annual estimated cost of corruption is equal to more than 5 percent of global GDP (\$2.6 trillion), with over \$1 trillion paid in bribes each year.<sup>10</sup>

In the first report issued by the European Commission concerning the fight against corruption in the countries of the European Union, it was noted that corruption alone is estimated to cost the European Union economy EUR 120 billion per year, just a little less than the annual budget of the EU.<sup>11</sup>

---

<sup>6</sup> GAN Integrity Solutions, 'Business Corruption in Jordan' (2014) <<http://www.business-anti-corruption.com/country-profiles/middle-east-northafrica/jordan/snapshot.aspx>> accessed 21 December 2014.

<sup>7</sup> James Wilson, (1989) *Corruption: The shame of the States*”, in *Political corruption. A handbook* (Heidenheimer et al., eds , Transaction Publishers, New Brunswick/London).

<sup>8</sup> Basem Sakijha, *Report on Corruption in Jordan* ( 2001).

<sup>9</sup> Robert E Klitgaard. *Controlling corruption*. (1st ed. Berkeley, Calif.: University of California Press 1988).

<sup>10</sup>International Chamber of Commerce, Transparency International, UN Global Compact, World Economic Forum, ‘Clean Business is Good Business’ (2009) <<http://www.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>> accessed 15 October 2014.

<sup>11</sup>European Commission, 'Report from the Commission to the Council and the European Parliament EU Anti-Corruption Report' [2014] (COM(2014) 38 final) <[http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr\\_2014\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf)> accessed 3 February 2014.

Corruption is the disease of this century, and Jordan, like any other country, has suffered from corruption, which in turn led to destabilization of the country's economy, increased the size of its debt and caused a high budget deficit.

Many citizens in Jordan agree on one matter that the outflows of the country resources, aid and grants obtained in previous years, have been exposed to a lot of mismanagement because of a lack of transparency and accountability.

The proportion of high indebtedness in Jordan led to the imposition of increased taxes and fees on the Jordanian citizens, which made them feel that their job was only to cover the debts of the State, and that their money was spent by some corrupt officials in ways which were not in the best interest of the country.

### 1.1 Research Goals

No research has been undertaken in Jordan to address the impact or the effectiveness of the national legislation in relation to corruption. This is what this research proposes to address. The intention is to identify the strengths and challenges with the current statutes. It also aims to analyse the effectiveness and the capability of Jordanian legislation in relation to the United Nations Convention against Corruption (UNCAC). The research outcomes would support the identification of the impact that any statutory changes might potentially have in reducing corruption in Jordan. In my workplace, I am involved with developing such laws.

This deficiency led me to develop a professional interest in determining the current position of the Commission; to determine if the legislation is enough to support the nation's best interests, and to ascertain the best tools with which society might further reduce corruption in Jordan. Before any amendments are made to current law through revision of the legislation, the current situation requires examination in order to understand what effective practices may help to reduce corruption in Jordan.

The present research will examine *criminal* corruption offences under both the United Nations Convention against Corruption (UNCAC treaty, 2004), and the Jordan Anti-Corruption Commission Law and its amendments (JACCL - 2006). A key idea is to determine the relationship between them. Then, in turn, the question of whether amendment is needed for Jordanian national law in terms of corruption offences is considered. It is doubtful (based on evidence from JACC's case review- see chapter

6)<sup>12</sup> that local courts in Jordan implement the United Nations Convention against Corruption, in terms of criminal corruption offences. This study will investigate the reasons behind this position and suggest possible solutions.

This study focuses on chapter three of UNCAC, which address the criminalization of corruption acts. The research aims in particular to identify the compatibility of the Jordanian laws to this third chapter of UNCAC.<sup>13</sup> To this end, by considering the Jordanian anti-corruption legal framework forms a critical point that brings this study into the field of public law.<sup>14</sup>

Basically, “law” is divided into two major branches, which are: the “public law” and “private law”<sup>15</sup>. Firstly, public law organizes the relationship between the state and its citizens, where the state has the capacity of power and of sovereignty. Whereas private law governs the relations between individuals, including the state, in, for instance matters of civil law, commercial law, company law...etc.<sup>16</sup>

In contrast, the term ‘public law’ covers constitutional law, administrative law, tax law and the criminal law.<sup>17</sup> Based on that, since main area of this thesis addresses the criminalization of corruption acts in the UNCAC and the Jordanian legislation, thereupon, this study belongs to the criminal law as a branch of the public law.<sup>18</sup>

The research also aims to provide the reader with a clear understanding of the work of the regulatory bodies in Jordan in relation to Jordan Anti-Corruption Commission Law. The research concerns the following:

- A. If the JACCL complies with the UNCAC.
- B. If the Jordanian courts fully implement the provisions of the UNCAC.
- C. What else Jordan can do to fulfill its obligation under the UNCAC.

Finally, it will observe and examine possible amendments to the JACCL, after a review process, to examine its compatibility to the UNCAC.

---

<sup>12</sup> Jordan Anti- Corruption Commission, 2015. Annual reports 2008- 2013. [online] Available at: <http://www.jacc.gov>. Accessed 3 February 2016

<sup>13</sup> UNCAC, United Nations Convention against Corruption (2004). Chapter III.

<sup>14</sup> Dr.- Ayad Haroon Mohammed, “Effectiveness of the Arabic Criminal Laws in Combating Corruption” Jordan University, Sciences of Share’a and Law Magazine , Issue 43(4) 2016 Pg. (1739-1750).

<sup>15</sup> Tawfiq Hasan Faraj, Introduction to the Legal Sciences: “Summary of the Theory of Law and Right”, Alexandria-Egypt, Institution of AL-Thaqafah Al-Jameyeh Pg. (39-45).

<sup>16</sup> *ibid.*

<sup>17</sup> Elizabeth A. Martin (2003). Oxford Dictionary of Law (7th ed.). Oxford: Oxford University Press. ISBN 0198607563.

<sup>18</sup> Ramzi Bin AL-Sedeeq, “The Role of Criminal Protection to the Integrity of the Public Office in Accordance with the Prevention and Anti-Corruption Law” (Master’s Degree- University of Warqalah, 2012/2013).

The Jordanian Government has, in the recent past, taken a number of steps (of which more below) to address the problem of corruption. This need to address corruption became even more urgent after the start of a revolution in Jordan during the recent 'Arab Spring' (Tunisia, Egypt, Yemen, Libya and Syria). Because of the effect of corruption on economic, political, social and all other aspects of life, in many Arab countries, during the past three years the practices of corruption were a major concern of policy and administrative bodies.

Amongst the steps taken in Jordan, the establishment of the Commission in 2008 remains a high-water mark, fighting corruption became the JACC's responsibility, after Jordan signed the UNCAC.

Jordan is one of the leading States in the Arab Region, which has acted to modernize the legislative and institutional framework to combat corruption. King Abdullah II brought, on June 26 2005, a demand to the Prime Minister to launch an autonomous body to fight and prevent corruption, and because of this initiative, the Anti-Corruption Law (No. 62) for the year 2006 was established.<sup>19</sup>

Jordan has assured the international community of its serious intent in fighting corruption, and its intention to comply with the UNCAC. The world recognizes this convention as a rallying point.<sup>20</sup> Therefore, the study problem involves an investigation into the extent of the amendments that were made to existing Jordanian law. The research has become more essential since Jordan became an engaged member of the international community, thus needing to reduce this problem of corruption as early as possible.

At the same time, implementation of the Convention in any country requires proper gathering and analysis of data, and more information on legislation, and compliance gaps.<sup>21</sup> All these processes will lead to reforms, new policy, implementation steps, and monitoring of the work done by such commissions.

In order to answer the research questions posed in this chapter, the initial approach is doctrinal. The thesis first examines the *extent* to which Jordanian Law covers the provisions contained in UNCAC. This involves close textual attention to JACCL and UNCAC. The UNCAC is considered in both its English and Arabic versions (and

---

<sup>19</sup>Anti-Corruption Commission Law 2006, No (62) Amman and its amendment No (10) of 2012' online Available at :< <http://www.lob.gov.jo/ui/laws/index.jsp>> accessed 23 June 2014.

<sup>20</sup> UNDP (2010) Guidance Note, UNCAC self-Assessments: Going beyond the Minimum. Keen Media.

<sup>21</sup> *ibid.*

these are found not to be perfectly aligned conceptually or linguistically) and the JACCL in Arabic. There is already room to doubt that the JACCL is not sufficient to tackle corruption; according to all of the international reports (World Bank, EU) and the CPI (Corruption Perception Index, published annually by Transparency International since 1995) results. This sense of lack of complete coverage will be examined further by the second method to be employed in this research, interviews with acknowledged experts.

This approach is believed acceptable as JACCL is based on the interpretation of statutes and cases. Indeed, it is important to recognize through examination of JACCL, that the study is based on logic, which is not science. Instead any conclusions to be reached must be considered judgments, which can draw on other factors, such as history, culture, politics and economics.<sup>22</sup> Though it employs expert interviews, the thrust of this research at core is not socio-legal research. Its primary aim is to provide an in-depth examination of JACCL, plus an examination of the UNCAC, an international treaty that is ratified and implemented by a large number of UN Member States. Through examining both laws, it will need to look at the Jordanian legislation's history, to see its defined and historical roots, which will take us to social and economic factors; but it is not to answer the research questions from socio-legal perspective. It is, as Vick identified, that 'the researcher is using a set of methods to bring order and to assess a particular area of the law'.<sup>23</sup>

The doctrinal approach requires qualitative analysis of legal materials; this approach involves critical analysis of certain legal rules that are identified. This, in turn, will enable the researcher to propose recommendations and possible solutions to issues identified.

The thesis may be viewed as utilizing a comparative method, to examine the extent to which Jordanian law meets the provisions in the UNCAC, to determine if JACCL provisions comply with the UNCAC and if they are enough to fight corruption in Jordan. UNCAC is the most comprehensive international treaty on anti-corruption<sup>24</sup>, and it is widely accepted as the principal international framework guiding the fight against corruption; it is the *sine qua non* of legislative requirement, the 'pledge of allegiance' to contemporary modern standards, in this area.

---

<sup>22</sup> Oliver Wendell Holmes Jr., 'The Path of the Law' [(1897)] HarvL Rev 457, 465-6., 10:8 .

<sup>23</sup> Douglas Vick, 'Interdisciplinarity and Discipline of Law' (2004) 31 JL & Soc 163, 164.

<sup>24</sup> <https://www.cmi.no/publications/file/3769-uncac-in-a-nutshell.pdf> (2010, updated 2017) Accessed 13 December 2018.

Jordan has stated that it intends to meet the requirements of the Convention as part of its approach based on the fulfillment of international obligations. Later in this research, it will be noted that many of the texts and the provisions of the Convention were incorporated in Jordanian legislation for some years, before ratification of the Convention. The Jordanian national legislation contained many texts, rules and regulations, which exceeded those required by the Convention, as efforts were made to keep up with developments, in line with the times. However, there are some provisions of the Convention, which were not covered in Jordanian legislation. Therefore, the Anti-Corruption Commission has worked to amend the Jordanian law and measure the extent of harmonization of legislation of Jordan with the requirements of the United Nations Convention against Corruption, in addition to determining the degree of risk for not covering all the Articles in the UNCAC.

The specific aims of this research are as follows:

1. To examine the Jordanian Anti-Corruption Commission Law (JACCL), with a view to establishing the extent and clarity with which it incorporates the provisions of the UNCAC.
2. To examine Jordanian corruption cases, so as to determine the number and proportion of cases where the court utilizes the provisions of the UNCAC.
3. To obtain, from experienced experts in the same field and region (Jordan), perceptions of actions that might serve to further embed the UNCAC in Jordanian Law.
4. To panel expert opinion, in Jordan and elsewhere in order to provide, if possible, guidelines for the implementation of the UNCAC in jurisdictions sharing Arab Islamic or post- colonial aspects of the Jordanian situation.

The hope is that the research will offer insight for the protagonists in Jordanian institutions, the legislators, the competent courts and the people who draw the country's policy. It should provide a view of the gap between the Jordanian Legislations and the International Convention, and thus reduce the chances of people committing crimes of corruption with impunity in Jordan.

An attempt will be made, as part of this study, to provide international donors, and international organizations, my views about the weak areas of the Commission, and where it needs help and support, in order to help them to carry out the national scheme to battle corruption in Jordan.

The last, and perhaps biggest, contribution of this research is to serve to reduce corruption; through informed amendment of the legislation that concerns corruption of-

fences in Jordan. This is thought, normatively, to help preserve the resources of the country, to contribute to making Jordan a rich country - free of debt, taxes and charges accumulated through corruption on the shoulders of Jordanian citizens. This should mean a better Jordan free of corruption, for the greater future of Jordan and Jordanians, and personally for a safe and productive future for my children and my grandchildren.

## 1.2 Research Questions

The research questions, which this study intends to address, are:

1. To what extent does the Jordanian Anti-Corruption Law (JACL) provide a basis for operationalizing the United Nations Convention against Corruption (UNCAC) in courts in Jordan?
2. To what extent do Jordanian courts implement the provisions of the UNCAC?
3. What might be done, in terms of law, regulation, policy and process, to further embed the provisions of the UNCAC in Jordan?
4. To determine if the Jordanian experience might provide guidelines for effective implementation of the UNCAC in jurisdictions operating in similar contexts.

In an attempt to answer the research questions, this study investigates the relationship between the JACC and the UNCAC regarding corruption offences. Furthermore, the research presents the local courts' position towards the implementation of the UNCAC. The research methodology chosen by the researcher is doctrinal comparative approach. This approach to the research makes a complete, detailed description of the topic possible, in the view of some experts<sup>25</sup>. This approach requires three essential steps in this study:

- Critical analysis,
- Interviews,
- Cross-case analysis.

During the interviews, selected experts are to be asked about the perceived sufficiency of the JACCL, or any proposed amendments in relation to corruption offences. Around 30 experts are to be interviewed using a structured interview to reach the an-

---

<sup>25</sup> Caroline Stenbacka, (2001) Qualitative research requires quality concepts of its own, *Management Decision*, Vol. 39 Iss.

swers to these questions. Some of the experts are recognized as international experts<sup>26</sup> in relation to their contribution to the work of Jordan Anti-corruption Commission; some experts worked at JACC since its establishment in 2008, as judges, prosecutors and lawyers. The respondents are to be given the chance to compare the corruption offences in both JACCL and the UNCAC. In their responses, they address what might be done, in terms of law, regulation, policy & process, to further embed the provisions of the UNCAC in Jordan, and whether Jordanian courts are implementing the provisions of the UNCAC.

### 1.3 Structure of the Thesis

This study is divided into seven chapters; Chapter 1 introduces the research goals and questions and highlights the structure of the study.

Chapter 2 provides a literature review concerning general aspects of corruption, definitions, and a historical review of the fight against corruption in Jordan. Theories and practices will be evaluated by reviewing related sources on the subject. Chapter 2 also reviews the importance of fighting corruption in Jordan and identifies the review mechanism adapted by United Nations Office on Drugs and Crimes (UNODC), which is a tool to facilitate the provision of information on implementation of the UNCAC. Through a gap analysis, UNDOC will identify the reform priorities and technical assistance needs for every state member, including Jordan.<sup>27</sup>

Chapter 3 presents the methodology, the approach taken and presents a justification of why the interview/questionnaire method is employed. To support the doctrinal and comparative elements, a number of cases that were dealt with by JACC from 2008-2013 are examined in detail. This gives a more insightful perspective to Chapter 3, and also shows if the verdicts in these cases were based upon the provisions of the UNCAC.

Chapter 4 reviews the oversight bodies in Jordan, their main tasks and their relationship with the Commission.

---

<sup>26</sup>UNODC, 'Jordan Experts' Available at: [https://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/Jordan\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/Jordan_E.pdf).

<sup>27</sup> UNDP (2010) Guidance Note, UNCAC self- Assessments: Going beyond the Minimum. Keen Media.



Chapter 5 evaluates and highlights the comparative analysis of criminalization and law enforcement under the UNCAC. This chapter identifies the corruption offences under the UNCAC, areas of difference and possible areas of challenges in Jordan, in order to respond to the research questions. Here, the interviews with individuals who worked on important Anti-Corruption cases are asked about these offences, and if the treatment in Jordan actually complies with Jordanian legislation. Some legal issues regarding the UNCAC are also be discussed.

Chapter 6 evaluates and highlights corruption offences under Jordanian legislation, areas of difference with UNCAC and possible areas of challenge in order to address the research questions. Responses from the expert interviewees illustrate offences under Jordanian law and if they comply with the UNCAC. Any legal issues regarding Jordanian anti-corruption law will be discussed and analysed.

Chapter 7, the final chapter, presents a summation of how respondents answered the interview questions regarding the implementation of the UNCAC at local Jordanian courts, especially with regard to offences not presented for investigation under the JACCL. Also, the experts provide views on the insufficiencies of the JACCL, and any amendments they might propose in relation to corruption offences. The chapter also includes summaries of the core arguments and findings of this thesis, the lessons learned, research contributions identified, and a few suggestions for policy consideration.

## CHAPTER TWO: Literature Review & Implementation Introduced

### 2.0 Introduction

The thesis has identified several factors that have an influence on corruption and its control. The literature concerning these factors will be introduced and examined in this chapter. The topics that follow demonstrate scholars' opinion on these factors concerning the subject matter of this thesis.

#### 2.1 The Identification of Corruption

The concept of corruption is not new but as William argued, "academic study is primarily a late twentieth century phenomenon".<sup>28</sup> The World Bank (1997) and UNDP (1999)<sup>29</sup> formally defined corruption as the abuse or misuse of public office for personal gains.<sup>30</sup> Klitgaard explained that corruption can come in a variety of a manners and a wide array of behaviours and it may be extortion, bribery, nepotism, graft, pilferage, fast money, theft, and falsification of records, embezzlement, kickbacks, influence peddling and contributions for electoral campaigns.<sup>31</sup> In the public sector, corruption is widely common, though it also exists in other areas of governance such as political parties, the private sector and NGOs<sup>32</sup>. Corruption is classified into two types according to the UNDP<sup>33</sup>: institutionalized (or systemic), and spontaneous. In societies where there are strong morals and ethics in public service, corruption is likely to be spontaneous, occurring in separate instances driven by circumstance, while institutionalized corruption is common in societies where corrupt behaviours are extensive perennially, or in other words, pervasively. Corruption has become a way of life in such societies, a goal and an outlook towards

---

<sup>28</sup> Robert Williams, Alan Doig, *Controlling Corruption: The Politics of Corruption* (Vols. 1-4) (Chatham, Edward Elgar Publishing Ltd., 2000).

<sup>29</sup> United Nations Development Program, 'Fighting Corruption To Improve Governance In FYR Macedonia | UNDP'(Undp.org, 2014).

<sup>30</sup> Robert D. Kaplan, 'World Development Report 1997: The State In A Changing World' [1997] Foreign Policy.

<sup>31</sup> Robert E Klitgaard. *Controlling corruption*. (1st ed. Berkeley, Calif.: University of California Press 1988).

<sup>32</sup> USAID, 'USAID Anticorruption Strategy' (USAID 2004).

<sup>33</sup> United Nations Development Program, 'Fighting Corruption To Improve Governance In FYR Macedonia' UNDP' (Undp.org, 2014)

<[http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects\\_and\\_initiatives/Fighting-corruption-improve-governance-FYROM/](http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects_and_initiatives/Fighting-corruption-improve-governance-FYROM/)> accessed 21 December 2014.

public posts. There are three broad layers in government corruption: first, within the broader political system that involves electoral politics and the wide-ranging use of patronage in appointments to political posts etcetera. Second is corruption within the public sector, which is usually focused on three main problems: illicit behaviour, spotty performance of mechanisms for distinguishing and sanctioning employees that are involved in corrupt practices and consideration for employment, and pay and procurement in governments. Third is the specific agency corruption that comprises grand corruption and petty corruption; it happens at the point where the public sector interfaces with the private sector. Incentives or bribery are created whenever there is a discretionary power bestowed on a Public Official over the distribution towards the private sector of a cost or benefit.<sup>34</sup> Hence, corruption is very reliant on the magnitude of the costs and benefits under the discretion and control of a particular Public Official. In order to obtain benefits and avoid costs, private firms and entities are willing to pay. It is hence dependent on the State when such act is branded as illegal corruption and when it is not. Politics and money have very deep ties and the resolution of the temptation to corruption is variable and unique in each and every country. Rose-Ackerman suggests that incentives can be isolated (by economic analysis from payoffs given to government agents) to evaluate results and suggest new procedure.<sup>35</sup> The pervasiveness of corruption is also variable in each and every country and within each individual country some government departments and lower bureaucratic levels and industries are very corrupt while others are not. There is no way to measure corruption in large and widely diverse countries such as India, the United States and China, wherein the reliable data to rule out corruption is difficult to detect and identify, or may not exist at all.<sup>36</sup>

Klitgaard<sup>37</sup> suggested that there is a certain formula that provides for the appearance of corruption. When monopoly of power is combined with the absence of accountability and discretion it will lead towards corruption. This is best represented with the formula:

---

<sup>34</sup> Susan Rose-Ackerman, *Corruption And Government* (Cambridge University Press 1999).

<sup>35</sup> *ibid.*

<sup>36</sup> *Corruption and the Global Corporation: Ethical Obligations and Workable Strategies,* in Michael L. Kosky and Joseph Perkovich, eds., *The Globalisation Challenge to Transnational Law?*, Butterworths UK, 2002, pp. 148-171.

<sup>37</sup> Robert E Klitgaard. *Controlling corruption*. (1st ed. Berkeley, Calif.: University of California Press 1988).

$$C = M+D+A$$

Where C = corruption

M = monopoly

D = discretion

A = accountability

On the other hand, the UNDP improved the formula suggested by Klitgaard by augmenting other dimensions such as transparency and integrity. This creates the formula:

$$C = (M+D) - (A+I+T)$$

Where in addition to the elements above,

I = Integrity

T = Transparency

This formula is very significant because when dimensions that were added by the UNDP are missing or nonexistent (the absence of accountability, integrity and transparency), it implies that there is weak governance in addition to monopoly and discretion, which absolutely equates with corruption. Hutchcroft,<sup>38</sup> on the other hand, suggested another school of thought, attempting to explain that corruption is the consequence of the privilege of politics and its advocates and followers who in turn are pushed to be involved in corruption to widen the benefits of a corrupt regime. Jensen and Meckling add that, principal-agent theory can explain this<sup>39</sup>. In the case of corruption, the bureaucrats and politicians are the agents who are capable of abusing the advantages that are offered by their discretionary power. In the event of that, advantages are offered by such a power of discretion amidst the incoherent interest of the principal, who in this case is the public.

Corruption is always rooted in the policies of the country, political development, bureaucratic traditions and social history as research indicates, though nevertheless

---

<sup>38</sup>Paul D. Hutchcroft, 'The Politics of Privilege: Assessing the Impact of Rents, Corruption, and Clientelism on Third World Development'. (1997) *Political Studies*, 45(3).

<sup>39</sup>Michael C. Jensen and William H. Meckling, 'Theory Of The Firm: Managerial Behavior, Agency Costs And Ownership Structure' (1976) SSRN Journal.

there is a pervasive pattern that shows that it flourishes when there are weak institutions.<sup>40</sup> What makes corruption even more difficult to control are the characteristics of transition and development. Promotion is not related with performance and low civil service salaries that are declining are some of the factors that may impair the motivation of public sector employees.<sup>41</sup>In addition, staff may be demoralized with inadequate supplies and equipment, dysfunctional budgets of the government, budget, and funding delay. A termination of organizational purpose may also impair the motivation of public sector employees. A characteristic that is definitive of the environment in which corruption may be present is the deviation between the informal and formal rules that govern the public sector.<sup>42</sup> When corruption is in the system and is what we call systemic, informal rules supersede the formal rules, even if they remain in place.<sup>43</sup>For example, bribing a Public Official is considered as a crime, but when the law of bribery is not enforced, or is applied in a way that is partisan, the informal rules then prevail. Shifting the emphasis towards the formal rules is a strengthening factor for institutions to battle against corruption, because it takes more than the right legal rules and laws before a strong legal framework can control corruption.<sup>44</sup> By first understanding the informal rules and the causes of deviation from them, we can address the source of informality.

After these general arguments regarding the definition of corruption, this thesis proceeds with the meaning of corruption in specific Jordanian legislation, as recognized in corruption offences in Article (5) in ACCL No. (62), year 2006: which was amended and published in the Official Gazette, Issue No. 5397, page 2578 on 16/5/2016; under the name Integrity and Anti- Corruption Law No. (13) of 2016.

“For the purposes of this Law, the following shall be deemed as corruption: Article (16):

- a) Offences contrary to public office duties as stipulated in the Penal Code No. (16) of 1960 and any amendments thereof.

---

<sup>40</sup> Naila Moseley, 'Corruption: A Debilitating Effect'  
<[https://web.stanford.edu/class/e297c/trade\\_environment/wheeling/hcorrup.html](https://web.stanford.edu/class/e297c/trade_environment/wheeling/hcorrup.html)>accessed 21 December 2014.

<sup>41</sup> *ibid.*

<sup>42</sup> *ibid.*

<sup>43</sup> *ibid.*

<sup>44</sup> Naila Moseley, 'Corruption: A Debilitating Effect'  
<[https://web.stanford.edu/class/e297c/trade\\_environment/wheeling/hcorrup.html](https://web.stanford.edu/class/e297c/trade_environment/wheeling/hcorrup.html)>accessed 21 December 2014.

- b) Offences contrary to the public trust as stipulated in the Penal Code No. (16) of 1960 and any amendments thereof.
- c) Economic crimes as specified under the Economic Crimes Law No. (11) of 1993 and any amendments thereof.
- d) Money Laundering.
- e) Illicit Enrichment.
- f) Not declaring or not disclosing of investments, properties, or benefits that may lead to conflict of interest if laws and regulations require that, of which personal benefits can be directly or indirectly gained for him who refrained from declaring or disclosing.
- g) Any act or refrainment, which may lead to the infringement of public funds.
- h) The abuse of authority, contrary to the provisions of the law.
- i) The acceptance of nepotism and favouritism, which revokes a right or validates what is void.
- j) All actions provided for in international agreements acceded to by the Kingdom, which relate to anti-corruption".

This illustrates Williams' and Doig's argument that with the definitions of corruption "one cannot assume that corruption always means the same thing or has the same... motivation"<sup>45</sup>.

UNCAC itself avoids defining corruption; rather, there is provision for cataloging individual kinds of corruption.

## 2. 2 Historical review of corruption in Jordan

Jordan started early in the fight against corruption involving misspent public money, after events which had shaken the confidence of citizens in government institutions. Initially a body intended (on the first hand) to fight corruption in Jordan was formed

---

<sup>45</sup> Robert Williams, Alan Doig, Controlling Corruption: The Politics of Corruption (Vols. 1-4) (Chatham, Edward Elgar Publishing Ltd., 2000).

in 1996; it was located as one of the sections of the General Intelligence Department, under the name of "Anti-corruption Directorate."<sup>46</sup>

Later, in the year 2000, a supreme committee was established to combat corruption, headed by the Prime Minister. Then 2003 saw the formation of a national committee to combat corruption and nepotism involved in both the public and private sectors.<sup>47</sup>

Jordan participated in the negotiation of the UN Convention against Corruption (UNCAC), which took place over two years in seven sessions (2002-2003), where Jordan was one of the first countries to sign on 09.12.2003, a law of ratification of the UN Convention against Corruption No. (28) for the year 2004; Jordan officially ratified the Convention on 26.06.2005.<sup>48</sup>

Jordan has worked to provide and develop a legislative and institutional framework to combat corruption in parallel to this. The *effectiveness* of any developed framework is of significance. Maria Mousmouti suggests that *measuring* the effectiveness of legislation has great importance, because effectiveness expresses the extent to which law can do the job. She argues that effective legislation is the result of 'complex mechanics in the conceptualization, design, drafting, enforcement, and implementation of the law'. In addition, she shows that the effectiveness of legislation is greatly determined by the way the legislation is integrated into the legal system, and when the law is implemented.<sup>49</sup> Mousmouti posits four steps in assessing legislative effectiveness: Does legislation have a clear purpose?; Is the substantive content of legislation realistic, aligned to purpose and conducive to results?; Is there adequate information to measure the results of legislation?; How do the new provisions interact with the legal order? Attention is paid to these matters in this research, though the third does not provide a central focus. By starting with UNCAC, the assumption here is that it provides a basis for legislation with a clear purpose. The engagement with Mousmouti's second step is part of the core of this work. The case analysis provides some little evidence in relation to the third, and the fourth,

---

<sup>46</sup> W. Andrew Terrill & Anthony H. Cordesman. (2010). *Global security watch*. Santa Barbara, Calif.: Praeger.

<sup>47</sup> Historical paper done by the Intelligence department in Jordan.

<sup>48</sup> Jordan legislations' Available at: <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwejor.htm>.

<sup>49</sup> M. Mousmouti 'The "effectiveness test" as a tool for law reform' IALS Student Law Review | Volume 2, issue 1, Autumn 2014 Special Issue, pp. 4-8|

considered from an expert perspective as well as legal outcomes, forms the complementary part of this study.

His Majesty King Abdullah II issued a decree on June 26, 2005 demanding the Prime Minister establish an independent body to combat and prevent corruption. Later, on 30/11/2006, the Anti- Corruption Law (No. 62) was published in the Official Gazette, under the No. 4794, Page 4534,<sup>50</sup> and the Commission started work on 01/01/2008.

Also, as part of the Arab region, Jordan joined the Arab Convention against Corruption, which was signed on 21.12.2010. Later a law was passed to ratify the Arab Convention against Corruption (21) - dated 17.06.2012, and the Convention entered into force on 29/06/2013.<sup>51</sup>

The Carter Center designed an implementation assessment tool (IAT), initially to see if 90 countries implement a statutory right to information. The purpose of this tool is to provide an implementation roadmap for the government, and to see if these countries are fully effectively implementing their laws.<sup>52</sup>

The first step was to study the current legislation; the Center arranged a group of well-known experts to consider the value and efficacy of an implementation assessment instrument and to provide inputs for its basic design implementation. The benefit of the Implementation Assessment Tool is that it provides government agencies with specifics on how to improve their capacity to implement access to information legislation.<sup>53</sup> The fundamentals of this assessment tool - Policies, Regulations and Rules/Guidelines; Implementation Plan; Designated Information Officer and Human Resources; Capacity Building; Budget; Infrastructure; Internal and external dissemination are elements that are perhaps required in the effective application of any regulatory framework, subject to contextual variation, such as compliance officers rather than designated information officers, for example.

These concerns for effectiveness and the measurement of its extent sit below the more general concept of the extent in a jurisdiction of the 'rule of law'. The new

---

<sup>50</sup> King Abdullah Official Website < <http://www.kingabdullah.jo> > accessed 25 June 2013.

<sup>51</sup> Anti- Corruption Commission website < [www.jacc.gov.jo](http://www.jacc.gov.jo) > accessed 20 Jan 2014.

<sup>52</sup> The Carter Center, Implementation Assessment Tool, <https://www.cartercenter.org/resources/pdfs/peace/americas/iat/iat-methodology-manual.pdf>.

<sup>53</sup> *ibid*



concept concerning of the rule of law, according to Juan and Ponce, are nine basic concepts, or factors —limited government powers; absence of corruption; order and security; fundamental rights; open government; effective regulatory enforcement; access to civil justice; effective criminal justice; and informal justice.<sup>54</sup>

The formal elements are concepts that are important tools in determining if the Jordanian legislation is effective, and whether it offers the basis to operationalize the UNCAC in the Jordanian courts. The elements invite considerations such as whether government officials are accountable under the law, and whether legal institutions protect fundamental rights and allow ordinary people access to justice<sup>55</sup>

According to the Jordan Anti-Corruption Commission (JACC),<sup>56</sup> the effective confrontation of corruption, as international experiences had shown, requires and necessitates a coherent and strong strategy that is fundamentally based on international standards and adheres to the context of the particular country. Many countries have established and developed strategies towards national anti-corruption; most especially during the period subsequent to the United Nations Convention against Corruption adoption in 2003. State Parties are urged, in the Fifth Article, to establish, execute and maintain effective, coordinated policies for anti-corruption work that promotes the participation of society and reflects the principles of the rule of law, public property, proper management of public affairs, transparency and accountability.

In October 2013, the Jordan Anti-Corruption Commission (JACC) joined<sup>57</sup> experts on anti- corruption from around the world and national planning authorities from East and Southeast Asia in Kuala Lumpur in order to discuss the lessons learnt and good practices from comparative experiences in this part of the world. A statement, called the Kuala Lumpur Statement on Anti-Corruption Strategies, was issued afterwards. It provides detailed recommendations and guidelines for countries in terms of the anti-corruption strategies of the national governments. Among other things, the Kuala Lumpur Statement recommended the need for strategies to include

---

<sup>54</sup> Botero, Juan Carlos and Ponce, Alejandro, *Measuring the Rule of Law* (November 30, 2011). Available at SSRN: <https://ssrn.com/abstract=1966257> or <http://dx.doi.org/10.2139/ssrn.1966257>

<sup>55</sup> *ibid*

<sup>56</sup> [Jacc.gov.jo](http://www.jacc.gov.jo), 'Anti-Corruption Commission Law' (2014) <<http://www.jacc.gov.jo/enus/knowledgebase/anticorruptioncommissionlaw.aspx>> accessed 21 December 2014.

<sup>57</sup> 'Kuala Lumpur Statement on Anti-Corruption Strategies' (2013) <[http://www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala\\_Lumpur\\_Statement\\_on\\_Anti-Corruption\\_Strategies\\_Final\\_21-22\\_October\\_2013.pdf](http://www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala_Lumpur_Statement_on_Anti-Corruption_Strategies_Final_21-22_October_2013.pdf)> accessed 21 October 2013.

the drafting of clear and effective monitoring and evaluation mechanisms, in addition to the development of an effective information-gathering system. In addition, the Kuala Lumpur Statement highlighted the significance of developing indicators that are measurable and are based on dependable data generated from multiple sources. In addition, the Statement suggested the importance of developing *regular* reports that measure the improvements achieved in the implementation of the strategies and the use of these reports by the authorities concerned. The Statement recommends establishing a specific commission with delegated responsibility and providing it with the necessary institutional and financial support. During the Fifth Session UN Panama, from November 25-29, 2013, the Statement was presented to the United Nations Convention against Corruption and was mentioned in the Resolution of the Conference No. 5/4. By 2014, six Arab countries had implemented a national anti-corruption strategy. They were Jordan, Palestine, Iraq, Mauritania, Yemen and Saudi Arabia.<sup>58</sup> Most of the countries were attempting to implement the first version of their strategies. Some had already initiated and developed and to some extent implemented a second version. A shift has been achieved in the manner in which Arab countries respond to corruption through the adoption of explicit Strategies, while before, corruption had been a taboo and an issue lacking serious and open discussion. This is despite the Arab reforms in the 1990's.<sup>59</sup>

Jordan was able to develop an Anti-Corruption Strategy at a national level in the period of 2008-2012 with the support of the European Union (EU). Certain levels of success were achieved<sup>60</sup>, but there is an agreement by stakeholders that the implementation efforts did not match the level of ambition. The first version of the Strategy lacked specified evaluation and monitoring indicators, as well as achievable, measurable, realistic and time-oriented goals. The parties concerned have worked to prevent this reoccurring when creating the second version of the Strategy for the period of 2013-2017. There has been success in implementing the second version and important progress achieved.<sup>61</sup> A vision, mission and fundamental principles were included in the second Jordanian Anti-Corruption Strategy, as well as particular goals and clear methods of achieving the vision. The Strategy now identifies the

---

<sup>58</sup> *ibid.*

<sup>59</sup> *ibid.*

<sup>60</sup> Palicarsky Constantine. Whitton Howard. Al- Jazy Omar (2008) *Short-term technical assistance for the Anti- Corruption Commission for the Hashemite Kingdom of Jordan*, Berenschot: E.U.

<sup>61</sup> Anti- Corruption Commission website < [www.jacc.gov.jo](http://www.jacc.gov.jo) > accessed 20 Jan 2014.

responsibilities of the different parties concerned in its execution, as well as a timetable for implementation, revision and assessment.

The Strategy builds on the evaluation and revision of the previous version, as well as on the results of the assessment of the regulatory, legislative and institutional framework for corruption prevention in Jordan.<sup>62</sup> The foundations include the commissioning of letters addressed to successive governments and the initiatives launched by the King (e.g. The Royal Committee for the Improvement of the Integrity System). Also significant is the initiative promoted as “We are all Jordan”, and the National Agenda arising from the 2011 Country Report that reviewed the Jordanian implementation of UNCAC, particularly Chapter 3 - (Criminalization and Law enforcement) and Chapter 4 - International Cooperation.<sup>63</sup>

The national Strategy has also sourced information and data through various consultations with the public and private sectors and civil society organizations, as well as by conducting online surveys. The pattern of implementation is informed by the results of applying a risk management methodology. This analysed and identified key risks that might prevent future events that would affect the attainment of the goals of the Strategy. The evaluation and monitoring noted that the basic principles are in place, but that they need to be triggered. The monitoring highlighted the need to implement measures and procedures in order to develop performance indicators to assess progress by bodies concerned with implementing the work plan. This requires the development of detailed indicators and instruments for each party concerned within the framework of the Strategy. In addition, it requires implementing periodic revisions concerning the goals of the Strategy and the activities of the work plan according to the risk assessment. Lastly, the preparation of progress reports over the period of the Strategy assessing its effectiveness was required.

On 02/12/2012, a Royal Decree established a "Royal Commission to Enhance the Integrity System", headed by the Prime Minister. The Commission is intended to review the legislation, study the situation of all regulatory authorities, and determine the problems they face.<sup>64</sup>

---

<sup>62</sup> *ibid.*

<sup>63</sup> *ibid.*

<sup>64</sup> Anti- Corruption Commission website < [www.jacc.gov.jo](http://www.jacc.gov.jo) > accessed 20 Jan 2014.

## 2. 3 Current Perspective

The Jordan Anti-Corruption Commission was established to meet a variety of local and international requirements.

### *Firstly, the Legal and Legislative Requirement.*

The creation of the Anti - Corruption Commission did not come about by chance, nor was the implementation of government policies carried out at a certain stage. It is a strategic goal initiated by King Abdullah II Bin Al-Hussein and addressed to the government of Dr. Adnan Badran, after Jordan signed the United Nations Convention against Corruption. It required drawing a roadmap to fight corruption; establishing an independent body concerned with fighting and preventing corruption, which had become a threat to the structure of government and society.

Based on this Royal Message, an independent anti-corruption commission is established under Article (3) of Law No. (62) for the year 2006 and its amendments<sup>65</sup>:

- a) "A Commission named the "Anti-Corruption Commission" shall be established in the Kingdom, associated with the Prime Minister, it shall have a juridical personality and shall be financially and administratively independent; in this capacity, it may undertake all necessary legal actions to achieve its objectives, and shall have the right to enter into contracts and the right of litigation. The Commission shall be represented by the Civil Attorney General in judicial procedures, and by the Chief of Administrative Public Prosecution in administrative actions.
- b) The Commission shall freely and independently undertake its tasks and duties without any influence or intervention by any party.
- c) The Commission's head office shall be located in Amman."

### *Secondly, International and Regional Requirements.*

The Hashemite Kingdom of Jordan ratified the United Nation Convention against Corruption under Law No. (28) for the year 2004. This met the requirements of paragraphs -1 and 2- of Article (6) of the UN Convention against Corruption.<sup>66</sup>

---

<sup>65</sup> Anti- Corruption Commission website < [www.jacc.gov.jo](http://www.jacc.gov.jo)> accessed 20 Jan 2014.

1. "Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

- a. Implementing the policies referred to in Article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
- b. Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this Article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided."

In addition to the Joining of the Arab Convention against corruption, paragraphs (10 and 11) of Article (10) of the Convention also stipulate that:<sup>67</sup>

"Each State Party shall, in accordance with the fundamental principles of its legal system, and the existence of a body or bodies, as appropriate, ...prevent and fight corruption..." and "Each State Party shall, in accordance with the fundamental principles of its legal system, grant the body or bodies referred to in Paragraph (11) of this Article the necessary independence, to enable the body or bodies to carry out their functions effectively and free from any undue influence. [They] should provide the necessary material resources and specialized staff ...training ...to carry out their jobs."

*Third, Citizens' Requirements.*

The 'Arab Spring' is a major movement that reached several countries in the region. In Jordan "the main goals of the protests were to lower food prices, amend the electoral law - free and fair elections, ending government corruption and [provide] a

---

<sup>66</sup> United Nations office on Drugs and Crime website [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

<sup>67</sup> Anti- Corruption Commission website < [www.jacc.gov.jo](http://www.jacc.gov.jo) > accessed 20 Jan 2014.

responsible and representative government”<sup>68</sup>. These effects were sought because of corrupt government, and the Arab Spring had exposed the prevalence of this issue. Forging out into unknown territory, Jordan, like the other regional countries affected by the Arab Spring, pushed its position in the Arab Spring for reaching a settlement and agreement between the people and the government as a necessity for reform, and highlighted the need to fight corruption and open files on corruption.

Reform and the fight against corruption were priorities of King Abdullah II since taking the throne; he sought the same object and purpose throughout the Arab Spring.

The leadership in Jordan succeeded in containing the Arab Spring. Realizing the best way is to reform the government policy, all in positions of responsibility dealt with the Arab Spring carefully and peacefully. The situation did not prejudice the country's security and stability.

#### 2. 4 The Impact of Corruption in Jordan

The consequences of corruption, particularly in government have been summarized in the following manner<sup>69</sup>:

1. Lesser investment, including a decrease of foreign domestic investment (FDI)
2. Reduced growth in the economy
3. Less productive activities by the government, especially in the service sectors such as the health sector, and education sector.
4. Bigger disparity and high incidence of poverty.
5. Violation of human rights in the criminal justice system.
6. Increase in the exposure to a currency crisis in the country

Taking each of these points in turn, their particular effect on Jordan will be considered.

##### *1. Lesser investment, including a decrease of foreign domestic investment (FDI)*

Transparency International ranked Jordan as 66 of the 177 countries in the Corruption Perception Index in 2013 with a score of 45 out of 100, 0 being the most

---

<sup>68</sup> [http://www.sourcewatch.org/index.php/Arab\\_Spring](http://www.sourcewatch.org/index.php/Arab_Spring).

<sup>69</sup> Ahmed Mashal, 'Corruption And Resource Allocation Distortion For ESCEWA Countries' (2004) 1 International Journal of Economics and Management Sciences.

corrupt and 100 being the most clean<sup>70</sup>. “In terms of its foreign direct investments statistics (FDI), Jordan does not maintain official detailed statistics of FDI. Aggregate inflows tracked by the Central Bank of Jordan (CBJ) give an indication of the overall volume, while registered capital and projects that benefit from Investment Promotion Law provide a breakdown of FDI by source and market segment, reflected in the figure (1)”<sup>71</sup>. Corruption can affect FDI directly by the country’s investment, as well as foreign domestic investment. There is a double-digit improvement of over 15 points in Jordan in its Corruption Perception Index in the ranking by Transparency International in the same period. This may be correlated with the improvement in its FDI.<sup>72</sup>

**Figure (1)**

<b>1Period</b>	<b>(\$ millions)</b>
<b>2010 (Jan- Sep)</b>	<b>1,366</b>
<b>2009</b>	<b>2,433</b>
<b>2008</b>	<b>2,833</b>
<b>2007</b>	<b>2,626</b>
<b>2006</b>	<b>3,549</b>

**Source: Central Bank of Jordan**

## *2. Reduced growth in the economy*

It is noteworthy that Jordan succeeded in increasing investments in the country, through bureaucratic, anti-corruption and economic reforms that yielded solid

<sup>70</sup> TI, 'Transparency International - News Feature - Jordan, South Africa and Tunisia Join the Movement'(2013)<[http://www.transparency.org/news/feature/jordan\\_south\\_africa\\_and\\_tunisia\\_join\\_the\\_movement](http://www.transparency.org/news/feature/jordan_south_africa_and_tunisia_join_the_movement)> accessed 21 December 2014.

<sup>71</sup> U.S. Department of State, '2011 Investment Climate Statement- Jordan'  
<http://www.State.gov/e/eb/rls/othr/ics/2011/157301.htm> accessed March 2011.

<sup>72</sup> Devrim Dumludag, 'How Does Corruption Affect Foreign Direct Investment In Developing Economies? | Talkin'business Online Magazine' (2012)  
<<http://www.talkinbusiness.net/2012/09/how-does-corruption-affect-foreign-directinvestment-in-developing-economies/>> accessed 21 December 2014.

economic growth rates. However, corruption is still a challenge in Jordan because some of its forms are still lingering in the values of the society such as 'wasta' or middleman systems, which can make the implementation of reforms very challenging<sup>73</sup>. The economic freedom score of Jordan is now 69.2, making the Jordanian economy in 2014 the 29<sup>th</sup> freest. However, its score is 1.2 points worse than the previous year, primarily because of the deterioration in regulatory effectiveness. Corruption is blamed for its impact on this economic deterioration, as the lack of transparency obstructs the fairness of government procurement and dispute settlement, the use of business, family and other connections to advance one's business agenda (which is regarded as a cultural and social norm in Jordan)<sup>74</sup>. The current position shows that there are mixed results for the anti-corruption efforts in Jordan.

3. *Less productive activities by the government; especially in the service sectors such as the health and education sectors.*

Jordan's State budget is weakened in terms of the context of political corruption<sup>75</sup>. According to Tanzi and Davoodi<sup>76</sup>, as well as Tanzi<sup>77</sup> and Johnson<sup>78</sup>, the State revenue of Jordan had been reduced. On the other hand, arguably, there is a variable impact of corruption in public spending. On the one hand it can *increase* public expenditure as some have demonstrated<sup>79</sup>, while on the other, it may have no significant impact on public spending. Government spending in Jordan is always oriented according to favouritism and is not in line with providing goods and services

---

<sup>73</sup>GAN Integrity Solutions, 'Business Corruption in Jordan' (2014) <<http://www.business-anti-corruption.com/country-profiles/middle-east-northafrica/jordan/snapshot.aspx>> accessed 21 December 2014.

<sup>74</sup>Heritage.org, 'Jordan Economy: Population, GDP, Inflation, Business, Trade, FDI, Corruption'(2014) <<http://www.heritage.org/index/country/jordan>> accessed 21 December 2014.

<sup>75</sup>IMF, 'Corruption, Public Finances and the Unofficial Economy' (1998).

<sup>76</sup>Vito Tanzi and Hamid Reza Davoodi, 'Corruption, Public Investment, And Growth' (1997) 97 IMF Working Papers.

<sup>77</sup>Vito Tanzi, 'Corruption Around The World: Causes, Consequences, Scope, And Cures' (1998) 45 Staff Papers - International Monetary Fund.

<sup>78</sup>Karin Hilmer, Lars Johannsen . (2014). *Corruption: Commonality, Causes and Consequences Comparing 15 ex-Communist Countries*. PhD. University of Aarhus, Russia.

<sup>79</sup>Paolo Mauro, 'Corruption and Growth' (1995) 110 the Quarterly Journal of Economics. Hanouz, pp. 681-712.



towards the greater majority of Jordan<sup>80</sup>. Chiefly, public spending in Jordan is focussed on the military, expanding the public sector and providing subsidies. However, it does not meet the general needs of the greater public constituent of Jordan. It allows secrecy and a lack of transparency, which can pave the way for corruption<sup>81</sup>.

#### *4. Bigger disparity and high incidence of poverty*

There is a strong correlation between poverty and corruption, as pointed out by Corruption Perception Index (CPI), with a notable concentration of impoverished States at the lowermost part of the ranking<sup>82</sup>. In the results of the CPI, a strong correlation exists between corruption and poverty. The perspective is that corruption may partly be the cause of poverty for the majority, as a minority enrich themselves. Jordan is included in the list of Transparency International where poverty is high within the spread of corruption.<sup>83</sup>

#### *5. Violation of human rights in the criminal justice system*

There is a clear effect of corruption on the issue of human rights, which is relevant and common to all people in Jordan<sup>84</sup>. Corruption attacks the main pillars of the criminal justice system, which has an impact on human rights. The Convention for The Protection of Human Rights and Fundamental Freedom listed these rights in Article (6): regarding the accused prior to the trial and at the stage of the trial, meaning the right of the person involved with the criminal proceeding in the time of political and judicial investigation<sup>85</sup>. The violation of human rights in the criminal justice of Jordan arises from a lack of necessary specialization, and personal

---

<sup>80</sup> Sufyan Alissa, *Rethinking Economic Reform in Jordan* (Carnegie Endowment for International Peace 2007).

<sup>81</sup> *Ibid.*

<sup>82</sup> TI, 'Transparency International - News Feature - Jordan, South Africa and Tunisia Join the Movement'(2013)<[http://www.transparency.org/news/feature/jordan\\_south\\_africa\\_and\\_tunisia\\_join\\_the\\_movement](http://www.transparency.org/news/feature/jordan_south_africa_and_tunisia_join_the_movement)> accessed 21 December 2014.<[http://www.transparency.org/news/feature/jordan\\_south\\_africa\\_and\\_tunisia\\_join\\_the\\_movement](http://www.transparency.org/news/feature/jordan_south_africa_and_tunisia_join_the_movement)> accessed 22 December 2014.

<sup>83</sup> TI. '2006 Corruption Perceptions Index reinforces link between poverty and corruption. Transparency.org'. (2014) <[http://www.transparency.org/news/pressrelease/20061105\\_2006\\_corruption\\_perceptions\\_index\\_reinforces\\_link\\_between\\_poverty](http://www.transparency.org/news/pressrelease/20061105_2006_corruption_perceptions_index_reinforces_link_between_poverty)> accessed 18 October 2014.

<sup>84</sup> Jeremy Pope, 'The Impact Of Corruption On Human Rights: What Can The Profession Do?' (1997) 23 *Commonwealth Law Bulletin*.

<sup>85</sup> *ibid.*

interference in the independence and integrity of the criminal justice system. The lack of modern technology for the judges, the administrative monitoring of judicial decisions (by the Executive), the slow proceedings of trials, the giving of orders of which cases to see first, the disorder in the files kept and the continuing domination of traditions. Less frequently it arises from the poor ethics of the police in the process of police arrest, by reliance on fake evidence and bribery, or through police illegally detaining a person<sup>86</sup>.

Access to legal proceedings is a major issue for human rights, hence anti-corruption measures need to be developed, so that human rights in justice procedures may be protected and preserved in Jordan. There is a great emphasis placed on the requirement that no person is to be charged in the absence of evidence, which is one principal that can be undermined readily through corrupt practices, especially by the State authorities<sup>87</sup>. Injustice problems and unfairness inside the court framework in any country may be because of political corruption, which indicates that there is no balance in the distribution of powers, most particularly in the powers of the administration of justice<sup>88</sup>. Aside from that, direct violations of human rights may be caused by corruption, which is also present in the legislation of public services. Thus, there must be a considerable attention made towards the legislative aspect, which comprises refining the legal and legislative process and improving transparency. In this particular area, it is remarkable that a lack of transparency and poor supervision are behind the power abuse of appointing and selecting employees not on the basis of qualifications or equities.

Another issue in the violation of human rights is related to protecting a corrupt person. This may be through avoiding the legal consequences of a crime of corruption. Offences where this is known include the arrest, or attacking of journalists, threatening witnesses in order for the truth to be impaired before a competent court, or discrimination by public officers and police on the basis of colour, religion or race or any other foundation, in contravention of Article 6 of the 1952 Constitution of Jordan.

---

<sup>86</sup> Sathita Thaipradita, 'the Ethics of the Police In Investigation Of Criminal Case: The Case Study Of Che Rry- Ann Dancanl' (Masters, Political Science, Ramkhang University, Bangkok 2004).

<sup>87</sup> *ibid.*

<sup>88</sup> *ibid.*

## 6. Increase in the exposure to a currency crisis in the country

There is an effect of corruption on currency, which can trigger a mild crisis in Jordan. When the share of foreign direct investment in the capital inflows is lowered, or where the short-term debt is high against the reserve ratio, Jordan may run into a currency crisis. Such events happen in Jordan<sup>89</sup>. One possible reason for this is that lending banks and other portfolio investments are more likely to be sentiment driven, which is traced to the very reason that corruption affects the composition of the inflow of capital, which in turn affects economic development, in ways that increase its propensity for a crisis of its currency.

Jordan is passing through a period of market recession. It started its process of economic reforms in 1989 with the help of the World Bank after it was hit by a severe economic crisis that resulted in the currency of Jordan being devalued by 60 percent. This crisis resulted in political turmoil in the country. Furthermore, the parliament had only been restored in the same year, which began the era of economic and political reform in the country.<sup>90</sup>

The continuing economic crisis is the result of deep-rooted corruption in Jordan. There is this lack of transparency, the embezzlement of public funds and the trend to bring in large-scale projects for the purpose of achieving commissions, which are followed by disordered employment based on connections in the administrative and political system<sup>91</sup>.

The phenomenon of corruption and its devastating effect on the economy of Jordan is as described above; but corruption still has many faces and forms, such as: misconduct behaviours during employment performances, abuse of public funds, the presence of accounting mischief, and the emergence of mediation, bribery and fraud. These result in a decline in the standard of living and the collapse of the economy.<sup>92</sup>

---

<sup>89</sup> Shang-Jin Wei & Yi Wu. 'Negative alchemy? Corruption, composition of capital flows, and currency crises'. (2002) University Of Chicago Press, 461--506.

<sup>90</sup> Jordan legislation available at: <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwejor.htm>.

<sup>91</sup> Margareta Hanouz, Sherif El Diwany, Tarik Yousef. (2007) *The Arab World Competitiveness Report 2007*. Doha: *World Economic Forum*.

<sup>92</sup> Jacc.gov.jo, 'Anti-Corruption Commission Law' (2014)

<<http://www.jacc.gov.jo/enus/knowledgebase/anticorruptioncommissionlaw.aspx> > accessed 21 December 2014.

Corruption also affects education, as education has become available only to those who have money and wealth. “Arab universities must acknowledge the hidden costs of corruption – which often involve giving those with better connections more money or certain family names privileged access to universities and higher grades. Corruption undermines the legitimacy and meritocracy that universities claim to provide. This works against the long- term interest of the country as a whole”<sup>93</sup>.

## 2. 5 The Importance of fighting corruption in Jordan

According to Sakijha<sup>94</sup>, there are many attempts to fight corruption; but in fact, little action has occurred for the following reasons:

1. Constitutional; since not all sectors are subject to prosecution for corrupt offences.
2. Legal; there are clashes between laws.
3. Political; no real representation in the parliament.
4. Civil society; it is weak, and the population is not involved in fighting corruption.
5. Economic; the private sector's contribution to the economy is not sufficient.
6. Cultural; traditions and the culture of society encourage certain corrupt practices such as favouritism and nepotism.

In the annual report of Transparency International, Jordan's level of corruption scores highly. Many donors, investors and creditors know from their experience and from the corruption in other countries, that corruption is a very big obstruction. Political activists, young demonstrators and legislators who want jobs believe that corruption is a big problem in Jordan<sup>95</sup>. In his speeches, the King himself highlights the importance of taming the levels of corruption. In the 2006, Jordan stepped up its

---

<sup>93</sup>Elizabeth Buckner, ‘Arab Universities Must Admit the Cost of Corruption’ <<http://www.al-fanarmedia.org/2013/10/arab-universities-must-acknowledge-the-cost-of-corruption-2/>> accessed 9 October 2013.

<sup>94</sup> B Sakijha, Report on Corruption in Jordan ( 2001)

<sup>95</sup> Yahia Shukkeir, 'Jordan | Giswatch' (Giswatch.org, 2012)  
<<http://www.giswatch.org/en/countryreport/internet-and-corruption/jordan>> accessed 23 December 2014.

fight against corruption and adopted the Anti-Corruption Law, which considers bribery *inter alia* as a criminal act<sup>96</sup>.

The political situation in Jordan is little different to other Arab countries that experienced a revolutionary uprising in the last few years. Specifically, there are strong elites presently dominating the economy of the country and its administration practices widespread corruption, so limiting public freedom and thereby losing touch with the public, through temporary laws that are (literally and importantly) contradictory to the country's constitution<sup>97</sup>. Moreover, elites suppress the opposition, and use various media to defend themselves against any allegations of corruption and despotism; they seek to impede the demands for comprehensive reforms. They challenge the demands for the penalization of those linked to corruption and the collection and embezzlement of public money<sup>98</sup>. The purpose here is to take away recognition from the advocates of reform in general and, most particularly, from their leadership. The ruling elites gain sympathy from the tribal groups of Jordan by urging them to declare loyalty to King Abdullah, in an attempt to hide the corrupt reality and arbitrary practice, using old-fashioned ways<sup>99</sup>.

This led the Arab Spring in Jordan, uniquely in the Middle East, to be less violent and quieter when compared to its Arab neighbours. The Syrian, Egyptian, and other regional conflicts had dampened the population's appetite in Jordan for a drastic change in their own country. On Fridays, tens of anti-government protests could be heard across the country because of the corrupt practices of the elite as described above<sup>100</sup>. The Muslim Brotherhood organized the majority of the protests, though the Jordanian Youth Movement (or Hirak) - whose slogans often crossed red lines - organized others. It is in this regard that the fight against corruption became a significant initiative for the Jordanian government, as the protests accused the present government itself of corruption<sup>101</sup>.

---

<sup>96</sup> *ibid.*

<sup>97</sup> Ali Mahafzah, 'Al Jazeera Center For Studies - Reports - Jordan: The Difficult Path Towards Reform' (Studies.aljazeera.net, 2012) <<http://studies.aljazeera.net/en/reports/2012/12/2012121995612798705.htm>> accessed 23 December 2014.

<sup>98</sup> *ibid.*

<sup>99</sup> *ibid.*

<sup>100</sup> Osama Al Sharif, 'Is Jordan's 'Arab Spring' over? - Al-Monitor: The Pulse of the Middle East' (2013) <<http://www.almonitor.com/pulse/originals/2013/09/jordan-arab-springover.html>> accessed 23 December 2014.

<sup>101</sup> *ibid.*

## CHAPTER THREE: Methodology

### 3.0 Introduction

In order to answer the research questions; it is necessary to choose the appropriate methodology and methods to reach this goal. There is difference between methods and methodology, “methods are the tools, techniques or processes that we use in our research, such as surveys, interviews, or participant observation”; methodology is how the research is done, and how we find about things<sup>102</sup>. The research draws on my experience as an insider in the understanding of the application of laws relating to corruption, and my knowledge and understanding of the legal doctrines identified as relevant. In this sense, the thesis reflects the ‘privileged voices’ of the legislature, judges, advocates and other experts; it does not consider the voices of those who are victims, witnesses or perpetrators.

This chapter will introduce the research methods selected in order to achieve the research aims. Hopefully, this thesis will assist both other researchers and other anti-corruption agencies in the region. It should provide recommendations or ideas that could help other Arab countries establish new agencies to fight corruption. In this way, it conforms to the practices highlighted by Westerman:

“So after first depicting what the new development actually consists of, my colleagues commonly addresses the question of how the new development can be made consistent with the rest of the legal system, in which sense other related concepts are affected and how current distinctions should be adapted and modified. After having described all this, they usually recommend steps in order to accommodate for the new development.<sup>103</sup>”

---

<sup>102</sup> McGregor, S. L., & Murname, J. A., 'Paradigm, methodology and method: Intellectual integrity in consumer scholarship' [2010] *International Journal of Consumer Studies* 419-427., 43(3).

<sup>103</sup> Westerman P, 'Open or Autonomous? The Debate on Legal Methodology as a Reflection of the Debate on Law' in in Mark Van Hoecke (ed) *Methodologies of Legal Research Which Kind of Method for What Kind of Discipline?* (Hart Publishing, 2011).

This thesis cannot itself solve the problems of corruption in Jordan, but it does provide an analysis of the national legislation and examines whether it conforms to international criteria in the UNCAC. In this manner, the thesis stands in the tradition of reform-oriented doctrinal writing identified by Hutchinson and Duncan. They argue that

“When a researcher undertakes doctrinal work, the outcome is totally dependent on the voice and experience of the individual. Doctrinal research requires a specific language, extensive knowledge and a specific set of skills involving precise judgment, detailed description, depth of thought and accuracy.<sup>104</sup>”

Having sufficient knowledge of the specific (legal) language (both in Arabic and English), extensive knowledge concerning corruption and its legal treatment in Jordan because of employment experience, with the JACC, the hope is that the thesis demonstrates some mastery of the skills of judgment, description and accuracy, to say nothing of depth of thought.

### 3.1 Description of Approach

Doctrinal researchers in the law first have to identify what the relevant law is in its sources (which may be many and complex, as is the case with Jordanian law in this context). This might be called the identification of what is known as ‘positive theory’, following John Austin, the eminent legal scholar of the nineteenth century, in his influential work of 1832, ‘The Province of Jurisprudence Determined’.

The primary method that is then applied to this positive theory is deductive reasoning, as the laws themselves are treated as ‘given’ through the legislation. The situation in Jordan law, especially JACCL, is viewed as the “positive theory”; that is, it is seen as statements about what is, or what happens (‘facts’) in talking about a case and how things occur in Jordan. On the other hand, the the international treaty (UNCAC) is the “normative theory”; which states how a thing should be (‘values’): the best practices in fighting corruption. Normative legal theories are “ideal”; that is, they are theories about what the best legal rule would be, could the law be adequately enforced. In following Taekema<sup>105</sup>, pragmatist naturalism is the basis for connecting facts to normativity. Laws are an ‘ideal-oriented social practice(s)’. They are hard to

---

<sup>104</sup>Terry Hutchinson & Nigel Duncan, 'Defining and describing what we do: doctrinal legal research ' [n.d.] DEAKIN LAW REVIEW 116, V 17:1.

<sup>105</sup> S. Taekema, 'Theoretical and Normative Frameworks for Legal Research: Putting Theory into Practice' 2018, Law and Method, 02.

understand without the value-orientation that lies at their root. Therefore, Taekema argues, one way in which facts and values (as a form of normativity) are related in law is through its character as a naturally arising practice through which people try to realize values<sup>106</sup>. In this thesis, this pragmatic practice is adopted. Here, comparisons and contrasts are drawn between these two types of theory, positive and normative, between facts and values. (An example of the usefulness of this approach is that of Malaysia, which enjoys approval as a success case in fighting corruption (more detail, page 114) and which reduced its corruption level by implementing the UNCAC, while working through its national legislation in analogous fashion). In this formulation, doctrinal research is a two-step process as described by Westerman, and following the trajectory she describes, the third step is to go on to make recommendations as to what should be done ‘to move the law forward.

This thesis also employs a comparative stance, with its analysis of the national and international laws. This thesis thus utilizes qualitative research of a doctrinal nature, along with a comparative approach, within a framework of pragmatic naturalism. In the comparative legal method, “we can observe three broad variables that legitimately affect the shape of comparative law methodology. One is the researcher’s concept of a legal source and how far non-official sources (those lying beyond statutes, scholarly writings and judicial decisions) will be pursued. Will he (sic.) investigate what practitioners are actually doing with the legal rules? Will he examine standard forms, conduct surveys, and hold interviews, collect data from newspapers, issue questionnaires, gather oral history, and penetrate within agencies to see within them? How far will he go to establish “the law” in action as opposed to the law on the books? ... Since there are theoretically no stopping points to the pursuit of information about legal rules, only the practical constraints imposed by a sense of relevance, available time, and limited resources apply.”<sup>107</sup>

The concept of legal source used *here* encompasses the codes/statutes, scholarly writing and judicial decisions. As an insider, it may be said that it ‘penetrate(s) within agencies. As Van Hoecke noted “So, today, there is a somewhat schizophrenic situation in which one discipline, legal doctrine, is basically studying law as a normative system, limiting its ‘empirical data’ to legal texts and court decisions,

---

<sup>106</sup> Taekema, op cit.

<sup>107</sup> Vernon Valentine Palmer, ‘From Lerotholi To Lando: Some Examples Of Comparative Law Methods’ [2004] 4 Global Jurist Frontiers, Iss 2,



whereas other disciplines study legal reality, law as it is.”<sup>108</sup> This split is avoided here through two additional points. Firstly, the identification of UNCAC as normative, and the implementation of corruption legislation as positive; secondly through the inclusion in the study of interviews with experts, particularly within the JACC itself. The focus here is on the law in action, on the measures undertaken in this field, in particular by Jordan, to implement its obligations under international conventions. The information-generating method seeks to assure comprehensive and precise issues-assessment. It is limited by considerations of relevance (being particularly for Jordan, but potentially other countries sharing cultural and legal elements), of time (it is constrained by its individual doctoral nature) and of available resources. The primary sources focus chiefly on the review of Jordanian legislations such as laws, journals, articles, reports and institutional documents. These provided insight into: scholars' and organizations' perception of corruption issues, policy documentation on aspects of corruption, transparency, and accountability of governance in Jordan. The material studied includes documents related to corruption, and the opinions and analyses of international donors, such as the European Commission (EU) and United Nations Development Programme (UNDP).

In Chapters 5 and 6 a comparative context between the Articles in both JACCL and the UNCAC is conducted, which is another source of data. This subject is a new one in Jordan, where there is no previous academic study, nor any well-known publication on a review process.

The second source of primary data stems from a qualitative method using a series of interviews (face-to-face) using structured questionnaires. The intent is to capture the perspectives and experiences of experts (i) towards the Anti- Corruption Commission Law and (ii) as to whether this law is seen as complying with the UNCAC, in terms of corruption offences. This approach provided valuable information that cannot be found in public records. The nature of the experts' work will ( should) yield well-defined thoughts of what can be done and why. This research will also deal with a small number of available offences- comparisons that are case-oriented.

### 3.2 Doctrinal Methodology

---

<sup>108</sup> M Van Hoecke: Legal Doctrine; which kind of methods for what kind of discipline? In Methodologies of legal research Ed. Mark Van Hoecke. Oxford, UK: Hart Publishing, 2011. 1–18.

The approach is broadly acceptable within the tradition of doctrinal research, as the JACCL itself is based on the interpretation of statutes and cases (which form the material for traditional doctrinal research). Indeed, it is important to note that the examination of JACCL, is based on deductive (logical) conclusions, which are not science, instead they are judgment, which can involve other factors, such as history, culture, politics and economics.<sup>109</sup> McCrudden identifies this type of approach as involving the researcher as having an ‘internal’ perspective, i.e. one that necessarily sits inside the law itself. McCrudden says that the internal perspective involves the study of the law ‘using reason, logic and argument’ and the ‘primacy of critical reasoning based around authoritative texts’. This internal perspective includes the ‘analysis of legal rules and principles taking the perspective of an insider in the system’<sup>110</sup>

Through examining both laws (UNCAC and JACCL) it requires a look at Jordanian legislative history, to see its defined and historical roots, which will take a turn towards social and economic factors. However, this turn is elaborative rather than a change of research approach and the thesis does not try in any way answer the research questions from a socio-legal perspective. The research squarely resides in the area of Law. It is, as Vick mentioned, that ‘the researcher is using a set of methods to bring order and to assess a particular area of the law’.<sup>111</sup>

The thesis is doctrinal in its methodology *because* it employs qualitative analysis of legal materials using a deductive approach. This approach involves critical analysis of certain legal rules; this enables the researcher to identify recommendations and solutions, which are already within the UNCAC to implicate them within the Jordanian legislations.

This approach involves identifying and analysing certain legal rules and investigating the relationship between the JACC and the UNCAC regarding corruption offences. The study tackles the local courts' position towards the implementation of the UNCAC. This thrust requires the three essential steps first introduced in Chapter 1:

- Critical analysis,
- Interviews,
- Cross-case analysis.

Each of these is now considered in a little more detail.

---

<sup>109</sup> Oliver Wendell Holmes Jr, ‘The Path of the Law’ (1897) 10:8 HarvL Rev 457, 465-6.

<sup>110</sup> Christopher McCrudden, ‘Legal Research and the Social Sciences’ [October 2006] Law Quarterly Review 688.

<sup>111</sup> Douglas Vick, ‘Interdisciplinarity and Discipline of Law’ (2004) 31 JL & Soc 163, 164.

### *Critical analysis*

To identify the relationship between the UNCAC and JACCL about criminal corruption offences, each offence under both laws is first examined. This is accomplished by a close reading of the texts where they concern the same concept (of a particular offence). There are cases of common areas where some offences are criminalized under both laws. However, the context of the UNCAC in general is broader than that of the Jordanian law.

The main sources of the data for doctrinal research are the legal instruments themselves, as identified above. In addition, identified and collected relevant Jordanian anti-corruption legislation, as well as data on other relevant national authorities and partners is subject to analysis. The data has been organized according to its link with the criminal offences falling under the following Jordanian laws as follows:

- Jordan Constitution;
- Anti-Corruption Commission Law;
- The Penal Code;
- Criminal Procedures Law;
- Anti-Money Laundering Law and related regulations of the Central Bank of Jordan;
- Anti-Terrorism Law;
- Economic Crime, Law;
- The Banking Law;
- Civil Law;
- Income and Sale Tax Law;
- Customs Law;
- Financial Disclosure Law;

- Securities Law;
- Code of Implementation of Foreign Judicial Decisions;
- Law of the Extradition of Fugitives;
- Judicial Independence Law;
- Gendarmerie Forces Law;
- The Public Security Law;
- Law of Access to Information;
- The State's Secrets and Documents Protection Act;
- Code of Conduct in the Public Sector.

This list was compiled following an extensive review of Jordanian legislation that potentially had connection to issues of corruption. This relatively extensive list of core documents gives rise to the view that the number of potential offences may be large; this is of significance in determining where the study should sit in relation to a major intellectual question in this area.

The number of 'cases' that form the ground for a study is one of the key concerns in a comparative legal study. This concern is one that is a prominent issue in social science generally: the question of how many cases (in this instance we are focusing on legal offences) should be considered. The distinction between studies with many legal offences (referred to often as large-N studies) and those with few legal offences (sometimes referred to as small-N studies) has led to the emergence of a major typological division of comparative social science research.<sup>112</sup> The use of a large amount of data is considered to be a quantitative comparative approach, however here the research uses only a small amount of data (a qualitative comparative approach). The use of the comparative method with fewer cases for Lijphart is the critical difference between the statistical method and the comparative method – as little statistical control can be implemented in the analysis of survey data. A three-

---

<sup>112</sup> Arend Lijphart, 'Comparative Politics and the Comparative Method' [2011] Vol. 65 (No. 3 (Sep., 1971), ) The American Political Science Review <<http://dcpis.upf.edu/~raimundo-viejo/docencia/girona/Lijhardt.pdf>> accessed 10 March 2011.

part division is adopted by Landman<sup>113</sup> into comparing many offences, comparing few and single-case studies.

*How many legal offences should be compared?*

A study of a single anti-corruption offence typically can be very intensive and conducted in substantial detail. The more offences, the less intensively each individual offence will be studied.

**Figure (2)**

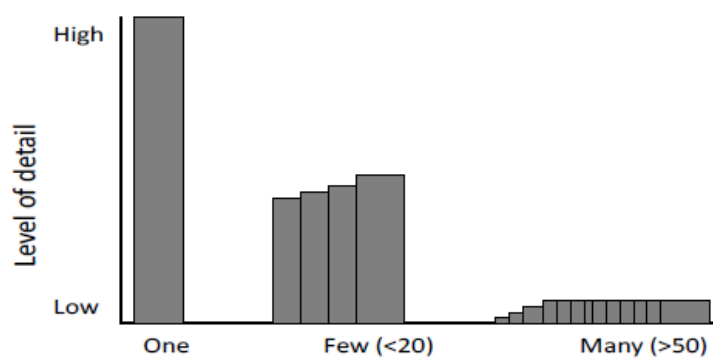


Figure (2) above illustrates that comparative studies lie within a continuum; the core difference between studies at each end lies in the number of countries covered and the level of detail offered about each. The continuum indicated could also be perceived from another angle: the extent of abstraction. The more offences are included in the study, the higher the extent of abstraction. All comparative studies, regardless of the number of offences, as Landman<sup>114</sup> insisted, are based in a single logic of inference, which is part of a programme of hypothesis testing, theory building and prediction. If this implies that there is just one epistemological and ontological basis for all comparative research, such a view appears to be over simplified. So there is no single answer to the question as to ‘how many’ *should* be compared. Here, there is a relatively low level of abstraction – each offence is considered singly and in some detail – so the study eschews a statistical approach, for the most part.

### *Interviews*

---

<sup>113</sup> Landman, Todd ‘Corruption and Human Rights: Empirical Relationships and Policy Advice’ ((2007)[https://www.researchgate.net/publication/238790101\\_CORRUPTION\\_AND\\_HUMAN\\_RIGHTS\\_EMPIRICAL\\_RELATIONSHIPS\\_AND\\_POLICY\\_ADVICE](https://www.researchgate.net/publication/238790101_CORRUPTION_AND_HUMAN_RIGHTS_EMPIRICAL_RELATIONSHIPS_AND_POLICY_ADVICE) accessed Sep 14, 2017.

<sup>114</sup> *ibid*

‘Indirect’ methods (outside the comparative thrust) include questionnaires, interviews and meetings. The aim is to gain information concerning subjective indicators.

Experts who are working on important anti-corruption cases are interviewed and asked about the implementation of the UNCAC by local Jordanian courts, with regard to offences not provided for by JACC law. In summation, the experts are asked about the adequacy of the JACC law, or any proposed amendments in relation to corruption offences. About 30 experts are interviewed using a structured interview. The respondents are interviewed face-to-face and the purpose of the structured interview is explained to them. While the interview is conducted in Arabic, the language used to complete the structured interview questionnaire is English, as all of the experts are conversant with the offences' terms in English. They may, however, add any free-text comments they wish in Arabic. For all interviews, the use of a structured questionnaire, which correlates with the research questions, allows a certain kind of discussion.<sup>115</sup>

In order to arrange personal access to such senior individuals, the interviews are arranged through personal contact. This involved prior contact through letters of introduction, telephone calls and email requests for interview. The selection of respondents utilized judgmental sampling<sup>116</sup>: This involves judgmental sampling: choosing as interviewees individuals who were likely, given their roles and seniority, to have extensive prior knowledge of the law in this area.

Additionally, it is necessary to interpret the statements of the interviewee not only on their content, but to analyse also their personal background. The participants are well known to the public in their work, so it is beneficial to distinguish the person as a participant of the inquiry. In order to follow the ethical rules of interviews, all the participants had the opportunity to reexamine what they said before publication in the thesis and make a declaration that they consented to the publication of their names in this inquiry, i.e. that they were content to forgo anonymity.

---

<sup>115</sup> Fares Abu Zeina, *Scientific Research Methodologies: Qualitative Research Methods*. Amman: Al-Masseer for Publishing & Distribution, 2011

<sup>116</sup> T Palys, Purposive sampling. In L M Given (Ed.) *The Sage Encyclopedia of Qualitative Research Methods*. (Vol.2 Sage: Los Angeles, 697 2008).

### *Cross case analysis*

Another source of data in doctrinal research are the cases themselves that arise under the law; since the establishment of the Commission, several cases have been dealt with, most of which relate to offences contrary to the duties of the office such as bribery, embezzlement, misuse of public office, assaults of freedom, abuse of power, and breach of public officer duties. One of the most famous cases that the JACC dealt with concerns Jordan's former spy chief, who ran the country's intelligence agency from 2005 to 2009, one of the countries most feared and powerful officials. He was found guilty of money laundering, embezzlement and abuse of power, and was sentenced to 13 years in prison and ordered to return \$30 million.<sup>117</sup>

Another famous case relates to the Jordan Petroleum Refinery Expansion Project, which was suspended in 2009 because of a corruption scandal involving company officials. Four people involved in the scandal were sentenced to three-year prison terms for bribery and abuse of public office.<sup>118</sup> More details of the cases above will be discussed in chapter (6).

The number of cases is analysed according to the annual report of the JACC for recent years in order to determine the nature of the criminal corruption offences, and the judicial trend is studied while dealing with each case. In analysing the case decisions, the thesis will determine whether the current legislation is capable of dealing with these offences. There is also the value in using these cases conducted under JACCL to evaluate JACCL's ability to cope with the international treaty.

### 3.3 Justification

The research method chosen by the researcher arises because a number of legal experts are of the opinion that this method of research aims at making a complete, detailed description of the research topic undertaken.<sup>119</sup> However, the quantitative

---

<sup>117</sup> BBC News, (2011) 'Jordan's ex-spy chief jailed for corruption', [online] Available at :<<http://www.bbc.co.uk/news/world-middle-east-20286407>> Accessed 11 November 2011.

<sup>118</sup> Al-Khalidi S, ' Jordan sentences ex-spy chief to 13 years jail over graft' [2011] <<http://www.reuters.com/Article/2012/11/11/us-jordan-corruption-prison-idUSBRE8AA03520121111>> accessed 15 January 2013.

<sup>119</sup> Caroline Stenbacka, (2001) *Qualitative research requires quality concepts of its own*, Management Decision, Vol. 39 Iss: 7

methodology of research is not rejected for the purpose of this research outright. I would also like to point out that in the initial phase, the researcher may just possess an estimation concerning what to look for; it is in the later phases of the research that the concept becomes more vindicated, the research emerges, and the study unfolds further. It is the realization that the former stages of research this method aid in granting more freedom for exploration to the researcher concerning the research problem, as there is no strict plan that needs to be followed<sup>120</sup>. In addition, qualitative data has been seen to be more productive, though with a lesser scope for generalization. This type of method has been found to be particularly advantageous in legal research as researcher attempt to discern in-depth detail of the laws that directly bear upon society, nation and hence their compliance and advance.<sup>121</sup>

Qualitative data tends to be in the form of words rather than numbers and can be richer in meaning than quantified data. In addition, it has been pointed out that qualitative methods using diverse data sources could provide better information and richer data about the participants' views, opinions and ideas concerning the problem to be examined, as they bring the researcher directly in contact with and close to the people, situations and phenomena under study. Qualitative research is considered suitable approach in conducting social science and legal research.<sup>122</sup> The focus of this method is on the use of specific definitions and the careful operationalization of the meaning of concepts, definitions and variables in a research study. Furthermore, a qualitative method of research helps in providing more emphasis on interpretation and provides the researcher with complete views keeping in mind the context and its understanding.

It has been indicated that the selection of a methodological approach to study is influenced by the research questions. All the queries asked in this research are aimed to advance deeper understanding of the research problem and to find potential solutions to manage it.

The selection between quantitative and qualitative research method is determined by what is best for my research, in my initial opinion. A quantitative method is

---

<sup>120</sup> Jack Brannen, (1992) *Mixing Methods: Qualitative and Quantitative Research Theory and Practice*. Avebury.,

<sup>121</sup> Saunders M, Lewis P and Thornhill A. *Research methods for business students*. Financial Times/ Prentice Hall, 4th ed. (2006).

<sup>122</sup> Ibid.



concerned with numbers, measurement, and aspects of the social world that are expressed in numbers and percentages,<sup>123</sup> while a qualitative method tends to be formed of words, perceptions, feelings, etc. William stated that "qualitative data collection methods emerged after it has become known that traditional quantitative data collection methods were unable to express human feelings and emotions".<sup>124</sup>

Table (1): Relationship of comparative methodological choices to metatheory

Comparative research design	Many- country comparison	Few- Country comparison	Single- Country Study
Comparative strategy	Variable- oriented	Variable- oriented Case- Oriented	Case- Oriented
General Methodology	Quantitative	Mixed Methods Quantitative	Qualitative Mixed Methods
Metatheory	Positivism	<i>Post positivism</i>	Interpretivism

**Table (1)**

Table (1) above shows the relationship of comparative methodological choices to metatheory.<sup>125</sup>

I, according to this figure, have chosen a single- country study (Jordan). The research philosophy is interpretivist. Interpretive research focuses on analytically disclosing meaning-making practices, while showing how those practices configure to generate observable outcomes<sup>126</sup> Here, qualitative methods are used on a case –oriented study that is rooted in interpretivism.<sup>127</sup> Here, in this research I have chosen an interpretive position for conducting the research, as its focus is to understand and analyse these two laws and the effect of the international best practices on Jordan legislation. This

<sup>123</sup> King N. & Horrocks C. (2010) *Interviews in qualitative research*, London: Sage, Chapter 2: Philosophical assumptions. Pp.6-24.

<sup>124</sup> Nicholas William, *Your Research Project* (2edn, Saga, London) 85

<sup>125</sup> Peter Lor. *International and Comparative Librarianship*, Chapter 4.

<sup>126</sup> University of Utah Website [Online] Available at: <http://www.ipia.utah.edu>.

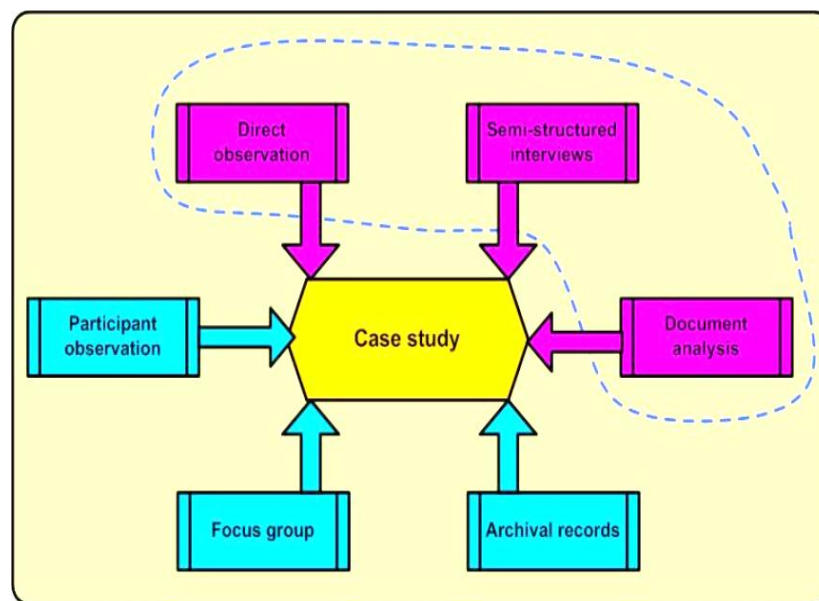
<sup>127</sup> King N. & Horrocks C. (2010) *Interviews in qualitative research*, London: Sage, Chapter 2: Philosophical assumptions. Pp.6-24.

research approach has enabled me to investigate these Articles in order to deliver a clear picture of whether or not there is a need to change or amend Jordanian law.

A comparative method assists in distinguishing particular features in the law. A key issue may be that, for example, JACCL is capable of dealing with corruption offences found in Jordan, whereas the UNCAC provisions may not. The comparative method also help in identifying the conflicts and similarities in legal concepts.<sup>128</sup>

The researcher's aim in selecting his or her choice of methodology is to help him/her to observe (research) the situation of interest. The process of collecting observational data in this manner is supported through reading different kinds of primary and secondary (re)sources. In this research, the researcher is a *participant* who observes. This gives the researcher an advantage, particularly useful for researchers working within their own organizations.<sup>129</sup> The primary resources in this research are regulations. Researchers should use high quality data, and ensure that confidentiality is maintained during the analysing process.

**Figure (3)**



Drawn up in 2003, the figure (3) identifies six sources of evidence for case studies. These are: document analysis, archival records, interviews, direct observation, participant observation and a focus group. Among these, a boundary is drawn around

<sup>128</sup>Mark Saunders, Philip Lewis and Adrian Thornhill, *Research methods for business students* (5thedn, Pearson Education Limited, Harlow).

<sup>129</sup> Harvard University, *Research Methods* [online] Available at: <http://isites.harvard.edu>.

the three methods used in the current research which include: semi structured interviews, direct observation and document analysis to distinguish them from other sources of evidence".<sup>130</sup>

The process of observation ran throughout the research period in the field. This procedure was used alongside the structured questionnaire. The process of research allowed the researcher to obtain a deep analysis of the JACC law to reach a better understanding of its fit with the UNCAC.

In the exercise of these methods, the researcher is not limited by way of the available choices or methods to ascertain the results. It gives the researcher a chance to use the strengths of one method and to overcome the weakness of another method in a given situation by using both of them at the required phases of research. This is recognized as the rule of complementarity<sup>131</sup>. There are chances that a detail or some knowledge maybe missed when solely one exclusive method is strictly observed. Complementarity therefore increases the chance of the researcher of having a better grip on the subject. Thus, when using both observation and interviewing experts using a structured questionnaire, it may result in producing more wide-ranging information essential in order to compare theory and practice.

The conception of the research aims to create a consistent understanding of the problem and to then proceed with the research in a designed fashion. In the first place, the researcher's role is in thematizing the research problem with the purpose of recognizing what is going to be studied, why the study is important, and how the researcher intends to study it. The next job is identifying the research design, where the methodological steps are planned and prepared. It also involves recognizing a time schedule and interrelating the different steps involved.

Next the researcher goes out to generate data on the research problem. This may take the form of various processes that he/she can employ for this purpose, such as interviewing, sampling and observation. Several primary and secondary sources need to be recognized for that purpose and each of them requires a thorough interpretation. The researcher should follow procedures s/he puts in place to ensure data generation

---

<sup>130</sup> Robert K. Yin. (2003) Case Study Research Design and Methods, London: Saga, Third Edition.

<sup>131</sup> R. Burke Johnson and Anthony J. Onwuegbuzie Mixed Methods Research: A Research Paradigm Whose Time Has Come (2004) 33/7 Educational Researcher  
Stable URL: <http://www.jstor.org/stable/3700093>.

is of reasonably high quality, and both accurate and reliable. S/he should ascertain that the integrity and confidentiality of the gathered data are preserved during the research process and during the loading. Next comes analysing. The researcher should analyse the available generated data in order to come out with his/her own ideas after (depending on the research situation and stance) testing the hypothesis, testing propositions, developing insight. Placing doctrinal legal research in this context, the *outcomes* are likely to be propositions or hypotheses concerning the future development of the law and legal process. Usually, such outcomes in other areas of research are the result of a largely inductive process, moving from the observed specific to potential generalizations. In doctrinal research however, as the starting point is the current positive theory (the law as it stands) the intellectual process is a deductive one, drawing on the logic of the law to generate propositions (see Westerman, op. cit.) The next role is to work towards verifying the findings. Verification involves the process of testing the reliability of the research findings and also testing the validity of it. Later on, the role of the researcher is reporting his/her findings; when a researcher goes out to make a report of his/her findings in a written format for presentation.

#### 3.4 Structured Interview

Qualitative interviewing is a method that can uncover peoples' opinions and views; a significant benefit is that, during the qualitative interview, the researcher guides the interviews, s/he asks structured questions, and encourages the respondents to share their experience, feelings and thoughts in detail.<sup>132</sup>

##### *Structured Interviews:*

In this sort of a structured interview, the researcher puts the same questions to all respondents and requires them to respond within pre-set response categories. Their response is limited, except where open-ended questions are practiced. The researcher controls the interview by asking the questions in a standardized and straightforward manner. At the same time, the researcher's role in the structured

---

<sup>132</sup>Rubin Herbert, Rubin Irene, (1995) *Qualitative Interviewing: The Art of Hearing Data* (3edn, Sage Publications, Inc., Thousand Oaks, California)

interview is neutral and should not influence respondents' opinion. Therefore, according to Punch, it emphasizes rational rather than emotional responses.<sup>133</sup>

### 3.5 Coding:

Coding is in essence “heuristic” (from the Greek meaning ‘to discover’) – an exploratory problem- solving technique without specific formulas to follow. Coding is only the initial step toward an even more rigorous and evocative analysis and interpretation”.

“Coding is not just labeling; it is linking: “It leads you from the data to the idea and from the idea to all the data pertaining to that idea”<sup>134</sup>

A code in qualitative inquiry is most often a word or short phrase that symbolizes or assigns a summative, salient, essence-capturing, and/or evocative attribute for confluence of language-based or visual information. The data can consist of interview transcripts, participant observation, field notes, journals, documents, literature, artifacts, photographs, video, websites, e-mail correspondence, and so on.<sup>135</sup>

Any researcher who wishes to become proficient at doing analysis must learn to code well and easily the most important element in this process is to maintain a simple way of coding. The excellence of the research rests for the large part on the excellence of the coding<sup>136</sup>

The importance of the selection of target respondents to the structured questionnaire is very important; this will help to increase the credibility of the study and to achieve the objectives of this thesis. Because JACC is a new commission with new mandates, few people know its mandates and laws. Therefore, the research selected people who were involved in drafting or amending the JACC law, or people who worked at the Commission, and are familiar with corruption offences. In this way the chosen respondents conform to the tenet of doctrinal research that requires specialist knowledge of the positive theory of the law on the part of the researcher.

---

<sup>133</sup> *ibid*

<sup>134</sup> Lyn Richards, Janice Morse, *Read me First for User's Guide to Qualitative Methods* (2nd edn, Thousand Oak Sage Publications Inc., CA)

<sup>135</sup> Johnny Saldona, *The Coding Manual for Qualitative Researchers* (2nd edn, Saga, London)

<sup>136</sup> Anselm L Strauss, *Qualitative Analysis for Social Scientists* (1st, Cambridge University Press 1987).

Thirty experts were interviewed; the respondents are anti- corruption officials (investigators), lawyers, judges, law school professionals, and experts who are recognized by Jordan as international experts. More details of the list of experts in Jordan can be found at: -

[http://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/Jordan\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/Jordan_E.pdf)

In addition, some officials at other oversight bodies are also involved, such as the Ombudsman Bureau and Jordan Securities Commission (JSC). During the interviews the researcher identified several additional experts, some of them starting as lawyers and judges before going on to work on the Commission. More details of their names and jobs (which they have all agreed may be disclosed) will be found in Appendix 2. The interviews not only provide a question framework, but also bring the benefit of allowing the researcher to ask follow up questions. For the purposes of analysis, responses can be grouped into corresponding themes.

Structured questionnaires were distributed (see Appendix 1 for a sample). The idea of selected sampling is to get the views of experts who are familiar with both the JACCL and the UNCAC.

Analysing the interviewees' responses to the questionnaire was done using the SPSS program. The SPSS program (Statistical Package for the Social Sciences) has now been in development for more than thirty years. Originally developed as a programming language for conducting statistical analysis, it has grown into a complex and powerful application with uses that now stretch to both a graphical and a syntactical interface, providing dozens of functions for managing, analysing, and presenting data. Its statistical capabilities alone range from simple percentages to complex analyses of variance, multiple regressions and general linear models. Researchers can use data ranging from simple integers or binary variables to multiple response or logarithmic variables. SPSS also provides extensive data management functions, along with a complex and powerful programming language.<sup>137</sup> Its promoters also now say 'With SPSS predictive analytical software, you can predict

---

<sup>137</sup>SPSS (Statistical Package for the Social Sciences) Available at: [http://www.datastep.com/SPSSTutorial\\_1.pdf](http://www.datastep.com/SPSSTutorial_1.pdf).

with confidence what will happen next so that you can make smarter decisions, solve problems and improve outcomes'.<sup>138</sup>

Each question in the questionnaire was analysed separately; the questionnaire has four major questions , one with a number of sub-questions:

- 1- How did you gain your expertise in this subject?
- 2- In your point of view, have Jordanian courts fully implemented the provisions of the UNCAC?
- 3- In your opinion, how closely are JACCL and UNCAC aligned?
  - There are four groups for this question:
    - a. Corruption offences contrary to public office (Penal Code).
    - b. Corruption offences contrary to public trust (Penal Code).
    - c. Corruption offences arising from economic crimes (Economic Crimes Law).
    - d. Corruption offences contrary to Anti- Corruption Commission Law.
- 4- What might be done, in terms of law, regulation, policy and process, to further embed the provisions of the UNCAC in Jordan?

*Analysing Question Number 1 in the questionnaire: How did you gain your expertise in this subject?*

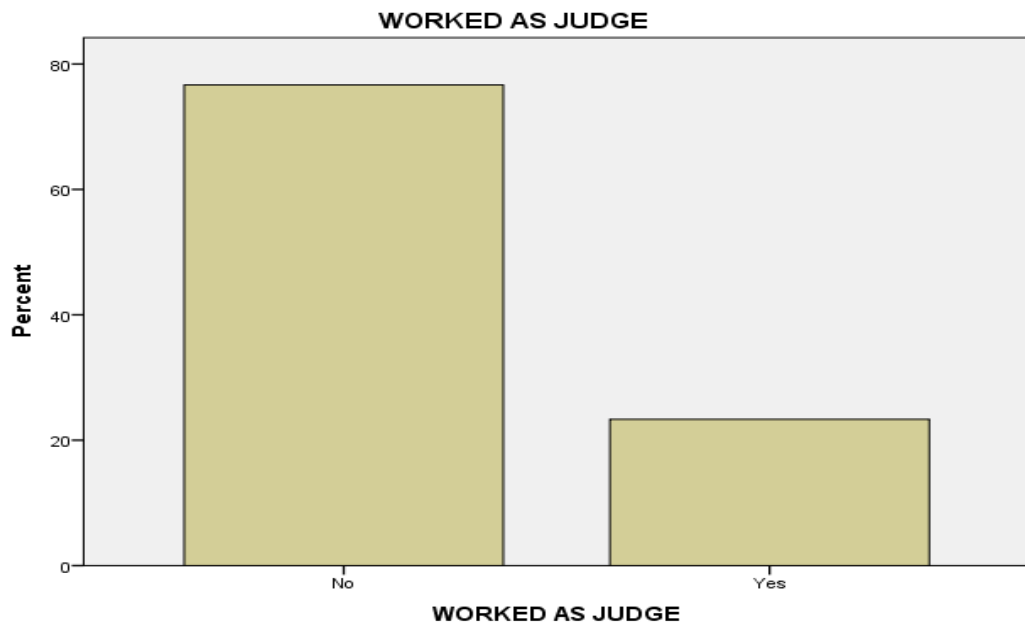
Thirty persons have answered my questionnaire; many of them worked in more than one position (58 roles were reported). The tables and graphs below show more specific details as shown below:

- Seven persons worked as judges;
- Fifteen persons worked as lawyers;
- Four persons worked as an international expert;
- Eighteen persons worked in the JACC;
- Fourteen persons worked in another organization; **Table (2)**

		Frequency	Percent	Valid Percent	Cumulative Percentage
<b>Valid</b>	<b>No</b>	23	76.7	76.7	76.7
	<b>Yes</b>	7	23.3	23.3	100.0
	<b>Total</b>	30	100.0	100.0	

<sup>138</sup>SPSS Software ‘Predictive analytics software and solutions’ Available at: <http://www01.ibm.com/software/analytics/spss/>

**Figure (4)**

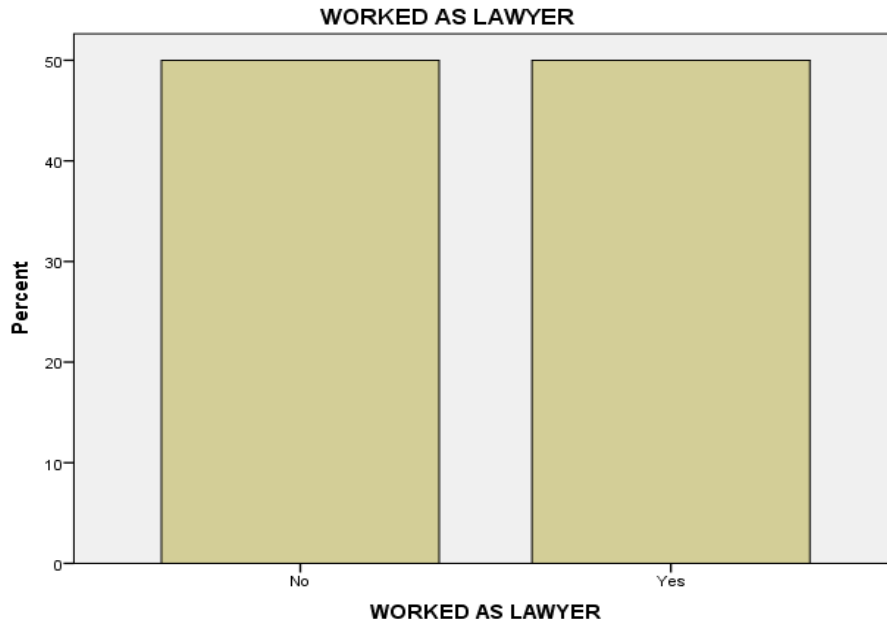


<b>WORKED AS LAWYER</b>					
		<b>Frequency</b>	<b>Percent</b>	<b>Valid Percent</b>	<b>Cumulative Percentage</b>
<b>Valid</b>	<b>No</b>	15	50.0	50.0	50.0
	<b>Yes</b>	15	50.0	50.0	100.0
	<b>Total</b>	30	100.0	100.0	

**Table (3)**



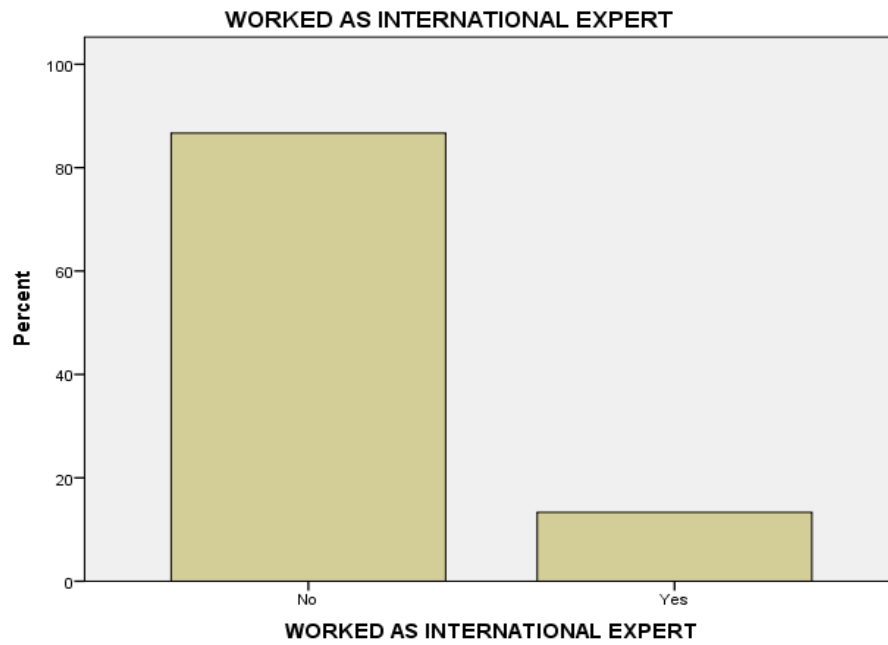
*figure (5)*



WORKED AS INTERNATIONAL EXPERT					
		Frequency	Percent	Valid Percent	Cumulative Percentage
Valid	No	26	86.7	86.7	86.7
	Yes	4	13.3	13.3	100.0
	Total	30	100.0	100.0	

*Table (4)*

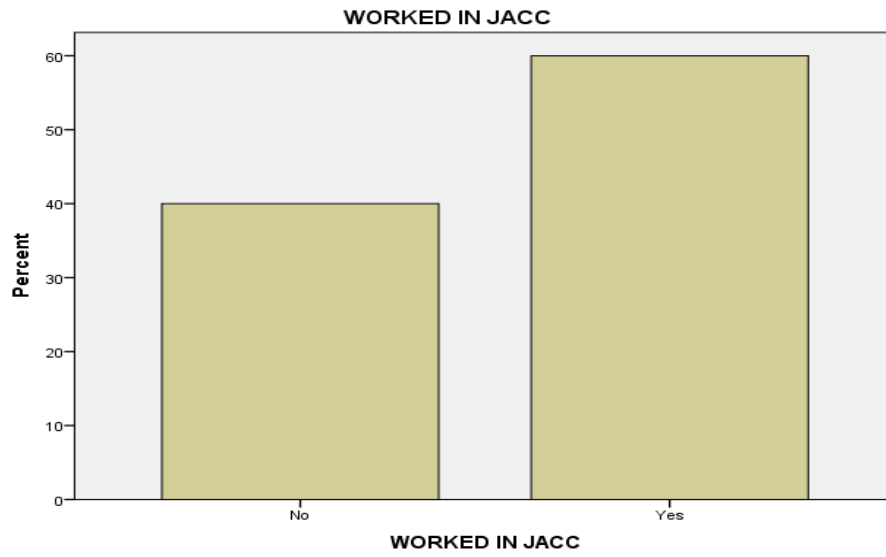
**Figure (6)**



WORKED IN JACC					
		Frequency	Percent	Valid Percent	Cumulative Percentage
Valid	No	12	40.0	40.0	40.0
	Yes	18	60.0	60.0	100.0
	Total	30	100.0	100.0	

**Table (5)**

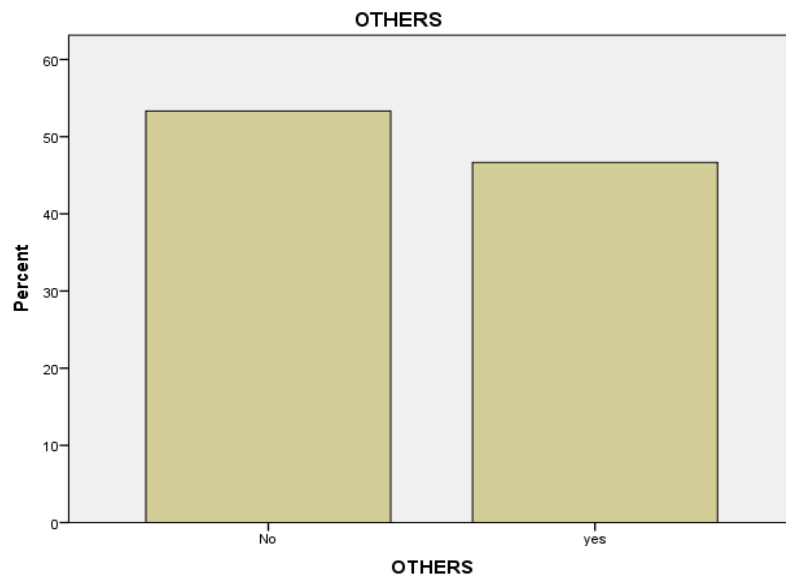
**Figure (7)**



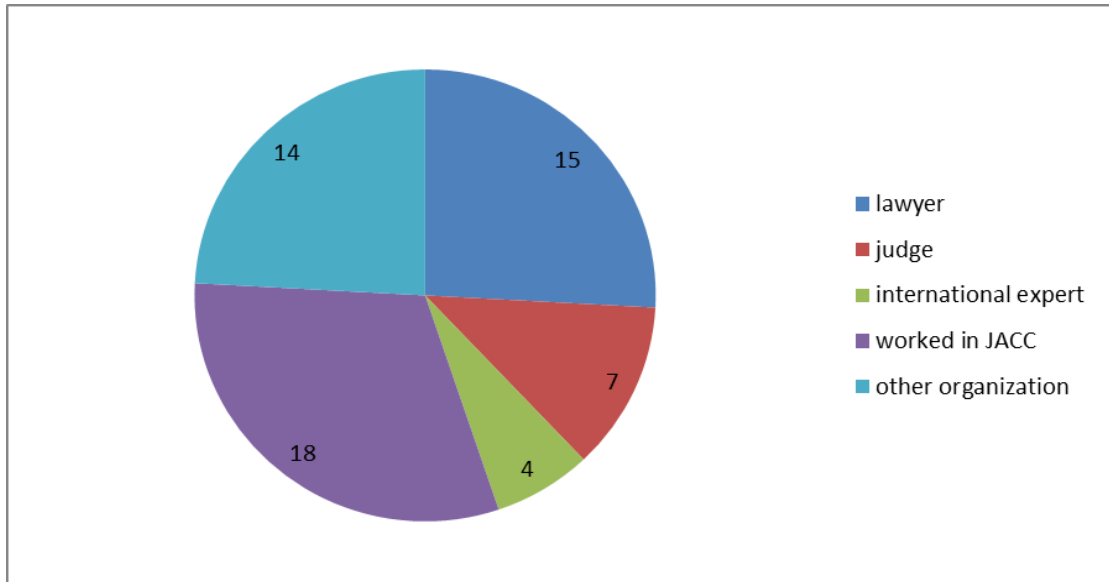
<b>OTHERS</b>					
		<b>Frequency</b>	<b>Percent</b>	<b>Valid Percent</b>	<b>Cumulative Percentage</b>
<b>Valid</b>	<b>No</b>	16	53.3	53.3	53.3
	<b>Yes</b>	14	46.7	46.7	100.0
	<b>Total</b>	30	100.0	100.0	

**Table (6)**

**Figure (8)**



**Figure (9)**



Other organizations are as follows in the table (7):

No.	Some of the interviewees' positions and jobs in addition to the above are the following:
1	Investigator of Ombudsman Bureau.
2	Legal researcher at Bureau of Legislation
3	Auditor at Ombudsman Bureau.
4	Vice president of Ombudsman Bureau.
5	Company Controller.
6	Prosecutor.
7	Auditor at Audit Bureau.
8	Law Professor.
9	Teacher at university level.
10	Legal researcher.
11	EX-Chairman of Audit Bureau.

*Table (7)*

### 3.6 Problems of Research Methodology

- In general one of the problems is that the respondents are government officials. Some thought that this would affect their work regarding secrecy, while others were very busy.
- The Governments' records were difficult to handle due to the need for a series of approvals. This did not help matters as certain documents were meant for internal use only.
- A primary problem was dealing with lawyers, as every single one of them attempted to describe any offence arising from the questionnaire from his/her point of view, when actually the principal data required was whether or not the offences in the JACCL are similar to the offences in the UNCAC

The researcher faced the following problems while using the questionnaire:

1. Problems of the information gathered: the type of information gathered needed people who are conversant with the legal terminology used in some offence cases. Also some of them have no knowledge about the Convention.

2. Language: the researcher had to rely on a lower fluency in English, and even broken English in some cases. (Arabic was used to supplement English, where necessary)
3. Conducting a face-to-face survey, taking into consideration the time of day.
4. Response rates – this was likely to be lower if the questionnaire is long or contains many open questions.
5. Audio- recording: all of the respondents refused to allow the recording of their interviews, since they spoke in non-fluent or broken English (all of them insist on responding in English).

## **CHAPTER FOUR Anti- Corruption Commission & the United Nations Convention Against Corruption**

### 4.0 Introduction

In order to understand the nature of the work of the Anti - Corruption Commission, this research will identify the main oversight bodies in Jordan; their tasks, duties, responsibilities, and their relation with the Commission.

The ACC in Jordan works in a context of a number of other bodies having somewhat over-lapping responsibilities in this area of legislation. The tasks, duties, responsibilities and relationship of these bodies to the ACC are examined in this chapter. Particularly emphasized are the Audit Bureau, the Ombudsman Bureau, and the General Prosecutor, as these bodies are the most significant. (in my view, based experience of working in this field).

Oversight bodies in Jordan differ according to the nature of their work and the sector they regulate; some have similar work and interfere with one other; the tasks of each body and duties are stipulated in detail according to their laws. This chapter will identify each one of them and their remit, according to their laws of establishment.

The oversight bodies in Jordan are:

- Anti- Corruption Commission,
- Audit Bureau,
- Ombudsman Bureau,
- Anti-Money Laundering Unit / Central Bank,
- Jordan Securities Commission,
- Financial Disclosure Department,
- The National Centre for Human Rights,
- The Constitutional Court,
- The Public Prosecutor,
- The Judicial Council,
- Internal Control Units within Government Institutions.

In general 'oversight' means following and evaluating the activities and procedures executed by individuals (employees) directly or through a series of activities, or

through committees in the government institutions. This is to ensure they are in accordance with the national legislations. Oversight takes two key forms, either general control of independent institutions, or private (internal) oversight through oversight units (internal oversight units) within each institution in the government.

General control of the government institutions is through independent bodies (institutions) such as the Audit Bureau, which monitors government revenues and expenditures and methods of dispensing, the Ombudsman Bureau, which observes mistakes made by the administrative arm of government, and the Anti-Corruption Commission, whose works are based on detection made by the departments in government institutions. There is, as will be shown, confusion between the work of the Anti-Corruption Commission and other oversight bodies which are in some way similar to the work of the Commission, such as the Ombudsman Bureau and Audit bureau and the General Prosecutor. More details will be later discussed in this chapter.

#### 4.1 Oversight bodies in Jordan

This section highlights the work of the various Oversight Bodies in Jordan, drawing on their respective law of establishment to sketch their chief responsibilities and remit.

##### *1. Jordan Anti - Corruption Commission (JACC)*

The Jordan Anti-Corruption Commission (JACC) is charged with the responsibility for enhancing and increasing awareness on corruption, assessing the effectiveness and risks of corruption as well as implementing the necessary initiatives and measures for the process of preventing corruption<sup>139</sup>. The Commission has the power to investigate cases of corruption and to prosecute its perpetrators. The powers and responsibilities of the Jordan Anti-Corruption Commission are aligned with the requirements of the UNCAC. The essential functions of the Jordan Anti-Corruption Commission will be discussed in detail in Section 4.1.1.

##### *2. The Audit Bureau*

The Audit Bureau was established after the stipulation of the Audit Bureau Law No.

---

<sup>139</sup> Patrick Meagher, 'Evaluation of UNDP Support to the Jordan Anti- Corruption Commission: Final Report' (2012).



28 of the year (1952) from its Article 3<sup>140</sup>, where the responsibilities of the Audit Bureau are laid out. These are the auditing of: the expenditures and revenues of the State, deposits, the manner of spending, loan settlements and the monitoring of government warehouses<sup>141</sup>. It is responsible as well for the auditing of public money in order to ensure that it is expended soundly, in the most effective manner and within the legal perspective. Furthermore it oversees the decisions of the administrative arm, and ensures that the procedures adopted by entities falling under the supervision of the Bureau are in agreement with the applicable rules. The Bureau also provides advice to the entities falling under its jurisdiction.

It is worth noting that the work of the Audit Bureau begins after a competent authority has made a decision; this means that the oversight comes later to the decision emerging from financial and administrative impact. The essential functions of the Audit Bureau will be discussed in full details in Section 4.1.2.

### *3. Jordan Securities Commission (JSC)*

The Jordan Securities Commission was established by the Provisional JSC Law No. 76, which was promulgated in 2002<sup>142</sup>. Article 8 of this particular law States that the purpose of the Jordan Securities Commission is to protect the investors in securities, to promote efficiency and transparency, to foster the regulation and development of the capital market, and to ensure fairness and protection of the capital market from any potential risks<sup>143</sup>. In order to attain these goals, the issuance and trading of securities are regulated and monitored by the Jordan Securities Commission to ensure that there is a full disclosure on the part of securities issuers and a prompt provision to investors of the disclosure information. The Jordan Securities Commission also regulates licensing and registration, as well as monitors the activities of licenses and registered persons. Furthermore, it promotes the monitoring and regulation of the Amman Stock Exchange, the investment companies and mutual funds in securities.

---

<sup>140</sup> Audit Bureau Law 1952 No. 28.

<sup>141</sup> Intosaiitaudit.org, 'Mandates of the Supreme Audit Institution' (2014)

<<http://intosaiitaudit.org/mandates/mandates/Mandates/Jordan.html>> accessed 23 December 2014.

<sup>142</sup> Bashar Malkawi and Haitham Haloush, 'Reflections On The Securities Law Of Jordan' (2008) Am. U. Int'l L. Rev 763 , 23 Volume.

<sup>143</sup> Jordan Securities Commission Law 2002 No .76.

#### *4. Jordan Ombudsman Bureau*

According to Jordan Ombudsman Law No.11 of 2008, the jurisdictions of this Bureau are the investigation of incoming complaints that are related to and associated with any public office and administration or its employee's decision. The Jordan Ombudsman Bureau (JOB) is also tasked with the prevention of abuse of omission or procedure thereof, which can include the violence of law of injustice, abuse or inequality<sup>144</sup>. The Jordan Ombudsman Bureau issues recommendations for the simplification of the administrative procedures in order to enable citizens to benefit from the services provided by the public administration effectively and conveniently.

The task of the Ombudsman Bureau starts with the complaint of the injured party relating to decisions or actions, practices or acts of omission of any of the public administrations or their personnel. It does not take any action until after an imbalance in government organizations and victim complaints to Article (12) law No. 11 of 2008.<sup>145</sup> The essential functions of the Jordan Ombudsman Bureau shall be discussed in full details in Section 4.1.3.

#### *5. Financial Disclosure Department*

The Financial Disclosure Department was founded by the Ministry of Justice in accordance with financial disclosure provisions of Law No. (54) of 2006 issued on 01/11/2006, which is one of the National Integrity laws that are approved and entered into force by government<sup>146</sup>.

Financial disclosure law No. 54 of 2006 stipulates that senior government officials have to submit their financial Statements, including those of their spouses and underage children, before they assume their office and duties. These include the Prime Minister and Ministers, the President and members of the Senate, the Speaker and members of the Parliament, the President and members of the Constitutional Court, judges, the Central Bank governor and deputies thereof , Heads and members

---

<sup>144</sup>Jordanian Ombudsman Bureau, 'Strategic Plan' (2014) <[http://pdf.usaid.gov/pdf\\_docs/PA00JDDN.pdf](http://pdf.usaid.gov/pdf_docs/PA00JDDN.pdf)> accessed 23 December 2014.

<sup>145</sup> Jordan Ombudsman Law 2008 No .11.

<sup>146</sup> Jordan Ministry of Justice, 'Financial Disclosure Department' (2014) <<http://www.moj.gov.jo/Pages/viewpage.aspx?pageID=144>> accessed 15 February 2014.

of the tender and procurement committees in governmental departments, amongst others.

This disclosure includes any property, movable or immovable, interest, and subsequent interest rights that is gained by any individual who is subject to this particular law, either for personal gain or for others because of investing his or her capacity or position. This is also the case if there is a sudden increase in the property of the children (minors) of that person after the assumption of office and position which does not equate with his or her resources, and if he or she fails to demonstrate a legitimate source to explain such an increase, the gains shall be regarded as a direct consequence of the investment of his or her capacity or position.<sup>147</sup>

#### *6. Anti-Money Laundering Unit*

The Anti-Money Laundering and Counter Terrorist Financing Law No. (46) established the Unit in the year 2007<sup>148</sup>. The Anti-Money Laundering Unit (AML) is the agency that is responsible for inter-agency cooperation and information exchange with the aim of investigating and subsequently prosecuting offences related to money laundering<sup>149</sup>. Jordan's Financial Investigation Unit (FIU) is located within the central bank and has a significant degree of financial, operational and administrative autonomy<sup>150</sup>. It has its own particular budget and staff and the head of the FIU is appointed by the National Committee of the AML, though it does not interfere with the operation of the FIU. The FIU has full access to the databases of related domestic authorities and has full powers to subpoena and requests for additional information from both relevant authorities and reporting institutions in addition to its own operations. Relevant regulators carry out the AML inspections. Various AML regulations and manuals (with the exception of the insurance sector) have been issued to related regulators. These AML regulations and manuals have been issued to direct reporting institutions across different sectors to fulfil their obligation under the AML regime<sup>151</sup>. For the years 2008, 2009 and 2010, statistics indicated that respectively 195, 150 and 190 suspicious transactions were carried out (these were

---

<sup>147</sup> Financial Disclosure Law 2006 No .54.

<sup>148</sup> Anti-Money Laundering Law 2007 No. 46.

<sup>149</sup> Bankersacademy.com, 'Anti Money Laundering (AML) In Jordan - Banker's Academy' (2014) <<http://www.bankersacademy.com/resources/free-tutorials/323-aml-jordan>> accessed 23 December 2014.

<sup>150</sup> Central Bank of Jordan Law 1971 No .23.

<sup>151</sup> Anti-Money laundering and Financing of Terrorism Regulations 2010 No .48.

filed by the FIU)<sup>152</sup> and sufficient security measures were taken to guarantee the security of relevant information. Unconfirmed reports suggest that the Anti-Corruption Commission (ACC) had received 21 and 11 intelligence reports from the FIU in 2008 and 2009 respectively<sup>153</sup>. The Commission could also not confirm if any of the intelligence/ information sent to the FIU had led to prosecution or conviction. Recently, in 2012, the FIU became a member of the Egmont Group. This Group was formed in 1995, and took its name from the palace in Brussels where the meeting took place.

The goal of the Egmont Group is to provide a forum from FIUs around the world and provide support to its members in order to improve cooperation in the fight against money laundering and financing of terrorism. This it does by expanding international cooperation, exchanging information and offering training to FIUs' employees.<sup>154</sup> This will increase Jordan's ability to exchange information with the various national FIUs<sup>155</sup>. A Memorandum of Understanding (MOUs) was signed by the AML together with four other countries with the purpose of the exchange of required and necessary information. The unit does not provide information and intelligence to other FIUs except on request.

The Central Bank of Jordan (CBJ), in addition to housing the FIU, is the regulator of the financial sector comprising banks and other financial institutions. The FIU cooperates with the CBJ and the ACC and sends relevant information to them to assist their work, such as in banking secrecy cases provided by the banking law in force, so aiding the lifting of banking secrecy. Any information that is accessible by the FIU is acquired from the reporting entities with respect to AML laws.

### *7. Internal Control Units*

According to Internal Control Unit Regulations No (3) of the year 2011, Article (4) paragraph (a); each government institution has to establish a unit called an Internal Control Unit, which ensures that all financial and administrative transactions are

---

<sup>152</sup> UNODC, 'Conference of the States Parties To the United Nations Convention against Corruption' (Implementation Review Group 2012) COSP/IRG/2011/CRP.12 CAC.

<sup>153</sup> UNODC, 'Working Group' Available at: <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/18-22June2012/V1187236a.pdf>.

<sup>154</sup> Wikipedia, 'Egmont Group' (2014) <[https://en.wikipedia.org/wiki/Egmont\\_Group\\_of\\_Financial\\_Intelligence\\_Units](https://en.wikipedia.org/wiki/Egmont_Group_of_Financial_Intelligence_Units)> accessed 26 December 2014.

<sup>155</sup> EGMONT, 'Membership' Available at: <http://www.egmontgroup.org/membership/list-of-members>.

within the provisions of the laws. The aims of this unit are to maintain public money and ensure that it is used wisely, through ensuring accuracy of data, accounting information and financial Statements. It verifies the effectiveness and efficiency of financial operations, fosters protection of financial resources and assets from misuse, ensures compliance with the legislation in force to detect and reduce errors, and demands commitment to approved government departmental financial policy.

These units within the government institutions consolidate the principles of integrity and good governing, improve internal control, and implement and establish codes of conduct in public sector institutions. All must be attained through the development of efficient and effective legislations, policies and operational procedures.<sup>156</sup>

#### *8. Judicial Council*

The Jordanian Constitution in Article 97 guarantees the independence of the Judicial Branch, which clearly States that judges are subject only to the law and no other authority<sup>157</sup>. In Jordan the Nation still is the source of power and it exercises this power through three branches: Legislative Power- comprising His Majesty the King and the Parliament (the Senate, and House of Representatives), Executive Power - consisting of His Majesty the King and his Council of Ministries, and the Judicial Branch, of which part is the Judicial Council.<sup>158</sup>(Articles 24-26)

The appointment and dismissal of judges is under the discretion and approval of the King, so (in practice) judges have independence from the government, and are solely supervised by the Judicial Council and the Directorate of Judicial Inspection<sup>159</sup>. With regards particularly to the issue of corruption, and according to the Article (14) of JACC law, the Judicial Council (at the request of the chair of JACC) delegates numbers of Public Prosecutors to perform their tasks and duties in accordance with the applicable legislations.

---

<sup>156</sup> 'Jordan legislations' Available at: <http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwejor.htm>.

<sup>157</sup>Muddather Abu- Karaki, Raed S. A faqir and Majed Ahmad K. Marashdah, 'Democracy & Judicial Controlling In Jordan: A Constitutional Study' (2011) 4 JPL.

<sup>158</sup> Jordan Constituion 1952.

<sup>159</sup> Muddather Abu- Karaki, Raed S. A faqir and Majed Ahmad K. Marashdah, *Democracy & Judicial Controlling In Jordan: A Constitutional Study*' (4JPLedn).

**The Courts:** Chapter Six of the Jordanian Constitution talks about the Judiciary, and in Article (97) of the Constitution it mentions assurance of the independence of Judges.”<sup>160</sup> Article 99 of the Constitution divides the courts into three categories<sup>161</sup>:

- 1- Civil Courts: having jurisdiction over all persons in all matters, whether civil or criminal, but they do not have jurisdiction over religious or special courts within the constitution.

There are four levels as follows<sup>162</sup>:

- Magistrate Courts: which are found in every region in the Kingdom, and it has one Judge as Magistrate Judge. It looks into juristic cases, trade disputes, damage and harm as well as lease and all contravention and misdemeanours where the maximum punishment does not exceed two years imprisonment.<sup>163</sup>
- Courts of First Instance: the bench of a court of First Instance is formed of a presiding judge and several other judges as the case may require. It looks into cases which are beyond the jurisdiction of the Magistrate Courts or (in its extraordinary capacity) it assesses judgement issued by the reconciliation courts and stipulated to be appealed before this court. The punishment in the criminal cases could be as heavy as the death penalty.
- Courts of Appeal: is formed of three judges; the majority of votes will make the decision.

There are also High Administrative Courts, which hear cases relating to administrative matters, while the Constitutional Court was set up in 2012 in order to oversee the constitutionality of the applicable laws, rules and regulations, in the name of the King<sup>164</sup>.

- 2- Religious Courts are the second category of court: these are also divided into two Courts: Firstly Sharia Courts, dealing with Moslem matters such as the personal status of Moslems, and cases concerning blood money (Diya) where the two parties are Moslems or where one of the parties is not a Moslem but nevertheless both parties consent to the jurisdiction of the Sharia Courts, and

---

<sup>160</sup> Jordan Constitution 1952.

<sup>161</sup> *ibid.*

<sup>162</sup> The Regular Courts Formation law 2001 No. 17.

<sup>163</sup> Magistrate Courts Law 1952 No. 15.

<sup>164</sup> ‘Jordan’ (Wikipedia, 2015) <<https://en.wikipedia.org/wiki/Jordan>> accessed December 21.

Matters pertaining to Islamic Waqfs. Secondly, the tribunals of other religious communities exist for the non-Moslem religious communities.

- 3- Special Courts exercise their jurisdiction in accordance with the provision of the laws constituting them. Three examples are: the Police Court, the Military Court, and the State Security Court.

#### *9. The Public Prosecutor*

The Public Prosecutor represents the public and community in the prosecution process<sup>165</sup>. His/her main duties and tasks are to investigate at the beginning, then later follow up the case in court. The Ministry of Justice supervises the Public Prosecutors in an administrative capacity only, while there is no intervention in the prosecution function. As mentioned above, the Judicial Council is responsible for delegating numbers of Public Prosecutors to the Commission at the Commission's request in order to perform their duties. Both judges and prosecutors are governed by a specific code of conduct. In terms of the conditions of service, judges and prosecutors are the same<sup>166</sup>.

The Public Prosecutor at the Commission views the case referred to him/her by investigators at JACC who are members of the judicial police. After the Commission receives a complaint, the investigators at JACC collect evidence, testimonies and written evidence, and prepare a case file for the Prosecutor. Later on, the Prosecutor weighs up the evidence and introduces all the evidence or a part thereof, or evidence not yet introduced, as an expansion of the investigation and then decides to prosecute a suspect. He/she then refers the case to the competent court or decides to stop the trial.

The Commission begins its work of investigating crimes, collecting evidence, and arresting the perpetrators, as set out in Article (8) of the Criminal Procedure Law as amended, no. (9) of 1961:

1. Law enforcement officers shall be in charge of investigating crimes, collecting evidence, and arresting and referring perpetrators to the courts, which have the competence to punish them.
2. The tasks of law enforcement officers shall be undertaken by the attorney-

---

<sup>165</sup> UNODC, 'Conference of the States Parties To the United Nations Convention Against Corruption' (Implementation Review Group 2011)COSP/IRG/2011/CRP.12 CAC.

<sup>166</sup> Acauthorities.org, 'Anti-Corruption Commission | Anti-Corruption Authorities (Acas) Portal' (2014) <<http://www.acauthorities.org/country/jo>> accessed 23 December 2014.

general, his/her assistants, and magistrate judges at the centre where no attorney-general exists, in accordance with the rules of the law".<sup>167</sup>

The Commission's judicial police (investigators) assist the delegated Prosecutor assigned to the Commission by investigating crimes and collecting evidence, according to an Article (9) of the Criminal Procedure Law: "1. In performing the tasks of law enforcement officer, the attorney-general shall assist the following:

- Governors.
- Director of public security.
- Police directors.
- Heads of police stations.
- Police officers and personnel.
- Employees charged with criminal investigations.
- Mayors.
- Masters of sea and air vessels.
- Any personnel granted a law enforcement authority under this Law, and relevant rules and regulations.

3. The above mentioned officers shall carry out law enforcement officers tasks within the authorities granted to them by this Law and the laws by which they are governed".<sup>168</sup>

Therefore, the role of the investigator for the Commission ends when he/she has transferred all the collected data and evidence to the delegate Prosecutor in the Commission; since the General Prosecutor is the chief law enforcer according to Article (15) of the Criminal Procedure Law<sup>169</sup>, "1. The attorney-general shall be the chief law enforcement officer in his area and all law enforcement officers shall be subject to his control."

---

<sup>167</sup> Criminal Procedure Law 1961 No .9.

<sup>168</sup> *ibid.*

<sup>169</sup> *ibid.*



4. However, the tasks of law enforcement officers, appointed according to Article 9 and 10, shall not be subject to the control of the attorney-general, except in so far as the acts conducted by them are in connection with the said tasks'

In this case the Prosecutor in the Commission exercises his/her authority according to the power provided by the Criminal Procedure Law Article (51), to refer the case to a competent court, or he/she may decide to stop the trial<sup>170</sup>:

"1. If the act constitutes a felony or an offence that falls within the competence of the Court of First Instance, the attorney-general shall complete the investigation, which he carried out, or the documents which were sent to him by the law enforcement officers and shall issue his decision accordingly.

2. However, if the act constitutes a felony or an offence that falls within the competence of the Magistrate Court, the attorney-general may refer the documents directly to the competent court.

3. In any of these events, the referral shall be accompanied by the claim of the attorney-general and the attorney-general may request taking any action he deems necessary".

In order to understand the differences between the investigators at the Commission and the General Prosecutors, the following explains in detail the various tasks of ACC's investigators and of the Prosecutors.

To understand the work of ACC, it is important to note that a number of other bodies have somewhat over-lapping responsibilities in this area of legislation. The tasks, duties, responsibilities and relationships of these bodies to the ACC are examined in detail below. (These bodies are the Audit Bureau and the Ombudsman Bureau.)

#### 4.1.1 Anti- Corruption Commission

King Abdullah II in 2005 directed the government to establish a commission that is independent in nature and draft a law that combats corruption<sup>171</sup>. Later on, JACC law no. (62) of 2006 entered into effect, which afterwards lead to the creation of the Anti-Corruption Commission (ACC). In March 2007, the members of the ACC were

---

<sup>170</sup> *ibid.*

<sup>171</sup> Jordan Anti- Corruption Commission, 2015. Annual reports 2008- 2013. [online] Available at: <http://www.jacc.gov.go>.

appointed<sup>172</sup>. As provided for by the same law of 2006, the Anti-Corruption Commission (ACC) has both administrative and financial independence and has freedom from any executive interference<sup>173</sup>. In 2008, a new action strategy for 2008-2012 was developed for the Commission, with the sole objective of pursuing the perpetrators and combating Corruption<sup>174</sup>.

Further, a new National Anti- Corruption strategy for 2013-2017 was launched which represents the second phase of the national strategy for the fight against corruption (2008-2012)<sup>175</sup>. The employees of the Commission with the involvement of relevant institutions prepared this strategy.<sup>176</sup> The information and data were obtained through consultation with the public and private sectors and civil society organizations, through conducting questionnaires over the Internet, as well as through examining the results of the risk management methodology. This identified and covered all possible (foreseeable) future events which could influence the achievement of the objectives of the strategy. The strategy included seven goals which intended to:

1. Raise awareness and educate on corruption and Anti- Corruption efforts.
2. Strengthen the prevention of corruption.
3. Strengthen the capacity of the JACC employees.
4. Promote active participation of society members in Anti- Corruption enhancement activities.
5. Enhance the efficiency of investigation and prosecution in corruption cases.
6. Enhance international cooperation in the Anti - Corruption field.
7. Develop national legislation to comply with anti-corruption, international standards and requirements and ensure efficient implementation.

---

<sup>172</sup> *ibid.*

<sup>173</sup> Dr. Ali Al-Dabbas, *'Right To Access To Information In The Hashemite Kingdom Of Jordan'* (The National Center for Human Rights 2008).

<sup>174</sup> Yahia Shukkeir, 'Jordan | Giswatch' (Giswatch.org, 2012)  
<<http://www.giswatch.org/en/countryreport/internet-and-corruption/jordan>> accessed 23 December 2014.

<sup>175</sup> ArabStates.undp.org, 'Jordan Launches the National Anti-Corruption Strategy 2013-2017 |United Nations Development Programme In The Arab States' (2013)

<<http://www.arabStates.undp.org/content/rbas/en/home/presscenter/Articles/2013/06/30/jordan-launches-the-national-anti-corruption-strategy-2013-2017/>> accessed 23 December 2014.

<sup>176</sup> ACINET. 'Monitoring and Evaluating the National Anti - Corruption Strategy'. Amman: Arab Anti-Corruption and Integrity Network (ACINET).[http://www.undp-aciac.org/publications/Final\\_Prog\\_Jordan\\_Training\\_NACS\\_11062014\\_EN.pdf](http://www.undp-aciac.org/publications/Final_Prog_Jordan_Training_NACS_11062014_EN.pdf) accessed 9 December 2014.

The Anti-Corruption Commission (ACC) may conduct any investigation, as far as any corruption-related offences are concerned, *motu proprio* (of its own accord) for any offences that are related to corruption or based on any information from any party. The Anti-Corruption Commission has the right to seize the perpetrators' movable or immovable assets, impose travel bans and request the relevant authorities to suspend them from work and stop their salaries<sup>177</sup>. The Anti-Corruption Commission is a new agency, however, since 2008 when it became operational, it is noteworthy that in the first 10 months of the same year, it was able to examine 465 cases and from there, it was able to transfer 82 cases towards the courts or other relevant institutions<sup>178</sup>. In 2009 it was able to examine 834 and in 2010,<sup>179</sup> 1823 cases. Since the establishment of the JACC many measures were taken: an adequate domestic regime for freezing was put in place by Jordan, and assets flowing from the offences- as prescribed by the United Nations Convention against Corruption (UNCAC)- were confiscated and seized. The optional requirements (set forth in Article 31, paragraph 8 of the United Nations Convention against Corruption (UNCAC)), which concern the reversal of proof as to the lawful source of proceeds resulting from corruption, have not been adopted and executed by the national authorities, due to the particularities and limitations of the national legal system<sup>180</sup>.

The victim of the crime can initiate a civil forfeiture, though there is no established charter for a non - conviction based on confiscation. The court has the power to confiscate the assets without conviction where an accused has absconded. The New Amendment of the Anti-Corruption Commission (ACC) Law provides that the court may maintain its proceeding with the case for the purpose of confiscating assets that are sourced from corruption offences, regardless of whether the criminal case is dropped or there has been a waiver of penalty. The provision of the domestic legislation states that for assets that are under interim seizure, the Directorate of General Security in accordance with the processes of the court should carry out seizure. There is no legal framework yet for an agreement regarding plea bargains concerning the cooperation of a perpetrator of a corruption-related offence with the

---

<sup>177</sup> Anti- Corruption Commission Law 2006 No. 62 Article (7).

<sup>178</sup> Yahia Shukkeir, 'Jordan | Giswatch' (Giswatch.org, 2012)

<<http://www.giswatch.org/en/countryreport/internet-and-corruption/jordan>> accessed 23 December 2014.

<sup>179</sup> Jordan Anti- Corruption Commission, 2010. Annual report 2009-2010. [online] Available at: <http://www.jacc.gov.go/annual2010>.

<sup>180</sup> UNODC, 'Conference of the States Parties To the United Nations Convention Against Corruption' (Implementation Review Group 2011) COSP/IRG/2011/CRP.12 CAC.

authorities of law enforcement, but there can be negotiations for mitigations depending on the circumstance<sup>181</sup>.

Since the JACC started working, the law has been amended twice; the first amendment is on the Amendment Law of the Anti-Corruption Law No. (10) of 2012, that was published in the Official Gazette issue No. 5151, and the second is on the Amendment Law of the Anti-Corruption Law No. (16) of 2014, that was published in the Official Gazette issue No. 5278.

The Jurisdictions of ACC are according to Articles (7), (17), plus Article (16) of JACCL and its amendments No. (62) of the year 2006.

Article (7): "The Commission shall, in pursuit of its objectives, undertake the following tasks and authorities:

a) Investigate financial and administrative corruption, uncover violations and breaches, gather evidence and information, initiate investigation and proceed with the necessary administrative and legal procedures.

b) Prosecute all those who commit any corrupt act, seize their movable and immovable assets, impose a travel ban on them, request the relevant authorities to suspend them from work and stop their salaries, allowances and all financial entitlements if necessary, and amend or revoke any of the said decisions in accordance with the applicable legislations.

c) The Commission may initiate any necessary investigation in pursuit of any corruption case, at its own discretion or based on a notification from any party. Should the findings of the investigation or inquiry reveal that the notice is false or malicious; the person who submitted the notice should refer to the competent judicial authorities in accordance with the applicable legal procedures.

d) Notwithstanding the provisions of any other legislation, the Commission shall render its decisions within a period not exceeding three months, extendable by the

---

<sup>181</sup>Carlos Lopes and Thomas Theisohn. Ownership, Leadership, And Transformation (Earthscan Publications 2003).

board for an additional period not exceeding three months<sup>182</sup> of the date of commencing the investigation and inquiry procedures.

e) Article (17): Subject to the provisions of applicable legislations, the Commission may, in the course of performing its duties, request any data, information or documents from any party, which shall, subject to legal liability, be obliged to promptly respond to such request.

f) Any refrainment or unjustified delay in providing the data or information or documents required pursuant to the provisions of paragraph (a) of this Article, is subject to punishment by imprisonment for a period not exceeding three months or a fine not exceeding five hundred Dinars.<sup>183</sup>

g) The Commission, during the course of its investigation of any corruption case, may entrust any person or company or specialized party, to carry out the technical, financial and management audit on any person, body, ministry, institution, union, association or company that is subject to its supervision, in order to verify the validity of its financial Statements, records, accounts and all financial transactions.<sup>184</sup>

Article (16) States that: "The Chairman and Members shall have the capacity of the judicial police, for the purpose of carrying out their duties, and the Board shall determine the Commission's employees who shall enjoy such capacity".

The tasks and authorities of the ACC are:

- **Law enforcement**, according to Article (7) of the law of JACCL and its amendments (No. 62) (2006). The law enforcement included the following tasks: the investigation of financial and administrative corruption, the detection of irregularities, the gathering of evidence and information, and the prosecution of all those who commit any corrupt act<sup>185</sup>, the seizure of perpetrators" movable and immovable assets, and the imposition of a travel

---

<sup>182</sup> This paragraph was modified by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>183</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (10) of 2012 that was published in the Official Gazette issue No. 5151.

<sup>184</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (10) of 2012 that was published in the Official Gazette issue No. 5151.

<sup>185</sup> This paragraph was modified by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

ban on them. It is also tasked with requesting the relevant authorities to suspend them from work and stop their salaries, allowances and all financial entitlements if necessary.

- **Protection of whistleblowers and witnesses** provides personal protection and legal authority for any person who reports acts constituting the offence of corruption if there is a possibility of danger to that person. This is stated in paragraph (a) of Article 23 of the JACCL and its amendments (No. 62) from 2006 on:

“a) The Commission shall provide sufficient protection for informants and witnesses and whistleblowers and experts in corruption cases, and for their relatives and other persons close to them, from any assault or potential retaliation or intimidation .....

- Recovery of stolen assets and amnesty refers to Article (28) which describes proceedings and penalties for corruption and the recovery of funds derived from criminal acts by prescription according to amnesty. In addition to the contraindications or lack of responsibility, it does not preclude the continuation of the hearing to decide on the recovery of funds derived from corruption:

a. "Notwithstanding the provisions of any other legislation, the issuance of a court order to drop the lawsuit for public right or cessation of prosecution or amnesty due to punitive exemptions or lack of responsibility does not preclude the litigation to recover the proceeds of corruption.

b. The public right to litigate and punishments related to corruption are excluded from the statute of limitations. Furthermore, the recovery of proceeds of corruption is excluded from the statute of limitations."

- **Prevention of corruption:** This means the follow-up and checking of entries and records of Chambers under the Commission Law in order to ensure compliance with the legislation in force. Awareness is raised through: specialized training courses for public servants, an awareness campaign for

different sectors in the community, lectures for various components of society, workshops and cooperation with civil society institutions.

- **International cooperation:** includes all aspects of international cooperation such as: extradition, mutual legal assistance, law enforcement cooperation, assistance in the recovery of criminal proceeds resulting from acts of corruption, and international cooperation for purposes of confiscation.

The table below (8) shows statistics regarding the number of cases which were handled by the ACC according to the annual reports of JACC for the year (2008-2013).

	2008	2009	2010	2011	2012 <sup>186</sup>	2013
Complaints received by JACC	538	834	1823 (625 from previous years + 1198 received in 2010)	901	1074	1808 <sup>187</sup>
Cases handled by JACC					453	385
Cases referred to the Public Prosecutor	106	142	112	107 (43 from previous years + 64 from 2011)	88 (52 from previous years + 36 from 2012)	99 (41 from previous years + 58 from 2013)
Cases referred to the Parliament <sup>188</sup>			-	3	-	-

<sup>186</sup> Establishment of the Complaints section which acted as a center to receive all incoming complaints, filter them according to JACC jurisdiction, and refer them AS CASES to the relevant sections.

<sup>187</sup> (1151) complaints dropped, (57) complaints under consideration, (61) joint with previous related cases, (539) referred to relevant sections as follows: (199) to intelligence and investigation sections, (85) to Public Security Directorate officers seconded to JACC, (20) joint with previous cases at the Public Prosecutor, (235) to concerned authorities to rectify the irregularities

<sup>188</sup> fall within the jurisdiction of the parliament since *ministers* are involved.

Cases referred to the State Security Court <sup>189</sup>			-	7	-	-
Dropped or included in the Amnesty Law	432	679	800	316	181	91
Transferred to the concerned authorities to rectify the irregularities			66	104	92	79
Under Investigation	-	-	220	407	144	168

**Table (8)**

The numbers of cases were categorized as: complaints received by JACC, cases handled by JACC, cases referred to the Public Prosecutor, cases referred to the Parliament, cases referred to the State Security Court, cases dropped or included in the Amnesty Law, cases transferred to the concerned authorities to rectify the irregularities, and cases under investigation. The number of complaints received by the JACC increased every year; at the beginning in 2008 there were 538 complaints, while in 2013 the number is 1808. At the same time, the number of cases transferred to the public prosecutor decreased, since some of the complaints were not considered as corruption offences, or were not under the jurisdiction of the JACC. In 2009 the number was 142, while it dropped in 2013 to 99. This is because of the limitations of jurisdiction regarding some complaints; either the cases were referred to by the Parliament because they fell within the jurisdiction of the Parliament since ministers were involved, or cases were referred to the State Security Court since they were Economic Crimes and therefore fell within the jurisdiction of the State Security Court, or cases were dropped or included in the Amnesty Law.

Also, by reading more about the number of cases and through the review of the annual reports for the years 2011, 2012 and 2013 in Table No (9), and Figures No (10), it is clear that there is a decrease in the number of cases that the Department of Information and Investigation into the Commission dealt with; this because of the

---

<sup>189</sup> Fall within the State Security Court since they are Economic Crimes.

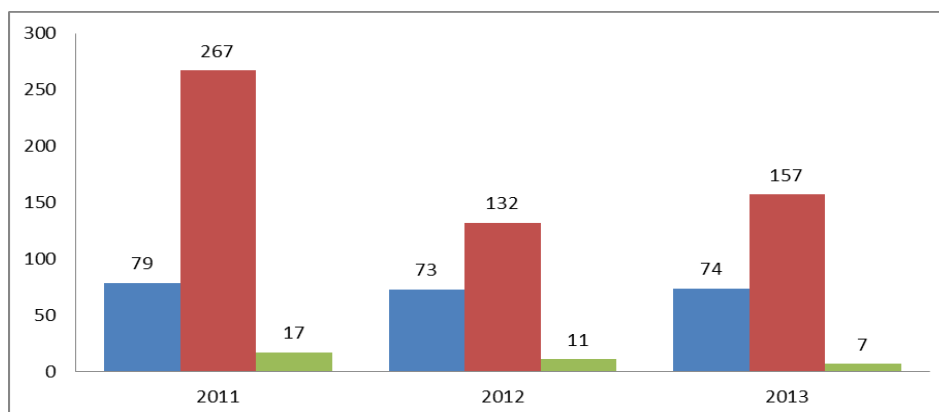


reasons mentioned above. Table (9) categorizes the number of cases as: cases referred to the Public Prosecutor, cases referred to the Parliament, cases referred to the State Security Court (Special Courts), cases dropped or included in the Amnesty Law, and cases transferred to the concerned authorities to rectify the irregularities.

<b>Year</b>	<b>Cases referred to the Public Prosecutor</b>	<b>Dropped or included in the Amnesty Law</b>	<b>Transferred to the concerned authorities to rectify the irregularities</b>	<b>Cases referred to the State Security Court</b>	<b>Cases referred to the Parliament</b>	<b>Total number of cases that handled by the Information and Investigation Department.</b>
2011	79 Cases	267 Cases	17 Cases	7 Cases	3 Cases	714 Cases
2012	73 Cases	132 Cases	11 Cases	-	-	303 Cases
2013	74 Cases	157 Cases	7 Cases	-	-	230 Cases

*Table (9)*

**Figure (10)**



**Figure (10)**

■ Dropped or included in the Amnesty Law    ■ Cases referred to the Public Prosecutor    ■ Transferred to the concerned authorities to rectify the irregularities.

With regard to corruption offences, and shown in the table below the most offences that were dealt with by the Department of Information and Investigation are: abuse of power, waste of public money, misuse of public office, favouritism and nepotism. Table (10) explains the percentages of the most types of cases dealt with by the Department of Information and Investigation in the Commission in the years 2011, 2012, 2013

Interestingly, there is a decrease in the number of cases relating to the misuse of public office and the offence of nepotism, while there is a marked increase in the number of cases relating to the offences of wasted public money and abuse of power.

Charge	2011	2012	2013
Abuse of power	31%	29%	15%
Waste of public money	27%	29%	44%
Misuse of public office	7%	7%	7%
Favouritism	9%	3%	3%
Invest the position	10%	11%	14%

**Table (10)**

**Figure (11)**

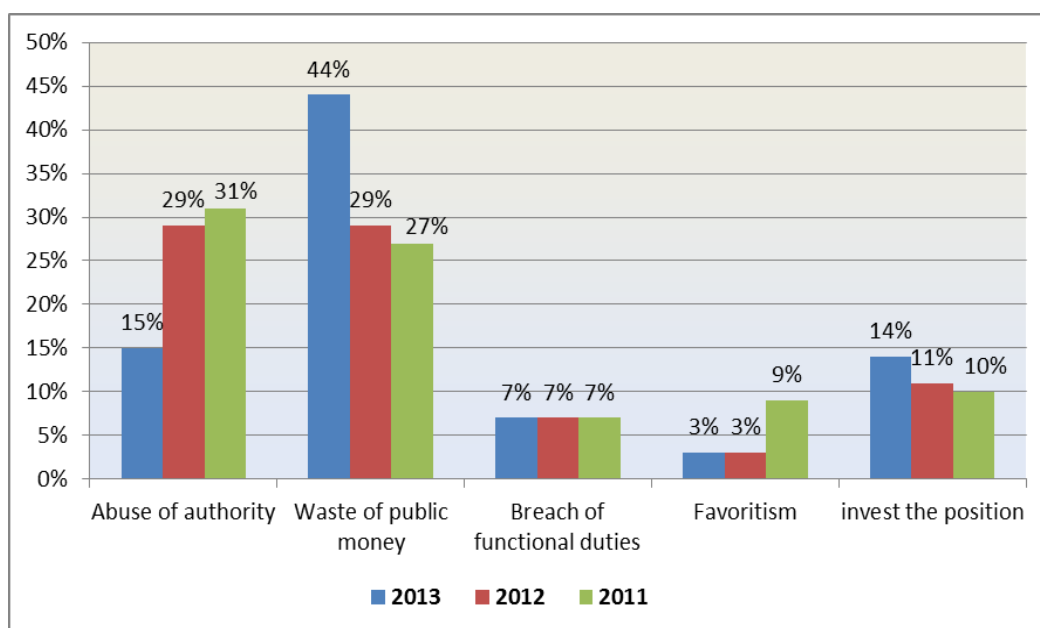


Figure (11) shows the following:

- A reduced number of cases relating to misuse of public office during the three years, from 31% to 15%, a decrease rate of 16% (from year 2011-2013).
- A reduced number of cases relating to the offence of nepotism and favouritism from 9% to 3%, a decrease rate of 6%.(from year 2011-2013).
- An increased number of cases involving the offence of waste of public money from 27% to 44%, an increase rate of 17 %.( from year 2011-2013).
- An increased number of cases involving the offence of abuse of power from 10% to 14%, an increase rate of 4%.(from year 2011-2013).
- A maintenance of the same number of cases dealt with by the Commission and relating to the offence of breach of public office duties at the same level of 7 %.(from year 2011-2013).

The mechanism of the work of the ACC does not exceed the role of the judicial police that refers to the Criminal Procedure Law. The work includes primary investigations, and gathering of information. Later on, the case is referred to the General Prosecutor, who is delegated by the Commission, and he/she decides the following: whether the investigation is enough to build the elements of the crime (case) or expand the investigation, and then whether to refer the case to the judiciary, or to stop the trial. The establishment of an Anti - Corruption Commission is not a coincidence, nor is it due to the policy of the government for

a certain period. As a Commission, it is a strategic (not temporary) objective set by the government. In addition, there are other local and international requirements that played roles in the establishment the ACC in response to the Royal High vision. Also, part of the Kingdom's obligation is to fulfill the requirements of the United Nations Convention against Corruption and to establish a body responsible for fighting and preventing corruption. The JACCL was also required to establish a commission under the Arabic Convention against Corruption.

#### 4.1.2 Audit Bureau

The auditing function started on January 1928, where an audit branch named the "Accounts Review Department" was established, it was charged with reviewing the financial accounts of the Emirate (Jordan). Later, the Department of Audit and Verification of Accounts was established in 1931 when the Law of Audit and Verification of Accounts were passed. The Department was attached to the Prime Ministry.

Later on, the Audit Bureau as a constitutional body was established in 1952, in accordance with the Constitution of Jordan. Article (119) stipulates, "The Bureau Act was set to monitor the State's revenues, expenditures and ways of expenditure"<sup>190</sup>. Five amendments to this Law have been issued over the last fifty years, to keep pace with the political, economic, and social development.

The public audit function in Jordan is much older and has passed through various stages. Its amendments closely corresponded to the progress of the political, economic, and legislative conditions in Jordan.

In the research in this section, we will discuss briefly the terms of reference, types of control exercised by the Bureau and means of exercise and output control of the Audit Bureau which have been set aside for each independent demand.<sup>191</sup>

#### *The terms of reference of the Audit Bureau*

Article (2) of the Audit Bureau Law No. (28) of the year 1952 stipulates that the Audit Bureau take the following tasks: -

---

<sup>190</sup> Jordan Constitution 1952.

<sup>191</sup> Audit Bureau of Jordan, 'General Information' <<http://www.audit-bureau.gov.jo>> accessed 24December 2014.

- To present an annual Auditor's report to the House of Representatives, which includes: any irregularities, deficiencies, or weaknesses in the performance of the audited entities, together with its recommendations for addressing these irregularities. These are presented at the beginning of the ordinary session of the Parliament, and at any time the House of Representatives may require the Audit Bureau to provide it with any audit report.

- To audit the government revenues and expenditures, deposits, advances, loans, settlements, and warehouses accounts.

- To provide advice in the areas of audit and accounting for the entities subject to the audit of the Audit Bureau.

- To audit public money to ensure that spending has been carried out in a sound, legal, and effective manner.

-To ensure compliance of the public entities with the applied environmental legislations.

-To ensure that the administrative decisions and procedures made by the public entities are being made in accordance with the applied legislation<sup>192</sup>.

Accordingly, the Audit Bureau exercises control over the administration's actions and financial decisions and cares about financial responsibility through legal expenses and the allocation of budgets. The administrative control is over performance and efficiency, based on monitoring the efficiency and effectiveness of government expenditure control with the result of protecting the public financial right. The main role of the functions of the Audit Bureau is to investigate independently in order to protect public money. It does not depend only on citizens' complaints.<sup>193</sup>

#### *Types of control exercised by the Audit Bureau*

The control which is used by the Audit Bureau aims in all its forms and stages to ensure the maintenance and safety of public money, to validate the economic resources used and invested in the allocated areas without any waste of public money, to achieve the highest adequate productivity at the lowest possible costs and to maintain the highest quality .

The research identifies the following types of control used by the Audit Bureau:

---

<sup>192</sup> Audit Bureau Law No. (28) of year 1952.

<sup>193</sup> Wikipedia, 'Audit Bureau of Jordan' (2014).

- *Legal Control*

This kind of control is meant to match the different legal rules that govern the form and substance, and to find regulatory legal corroboration in Article 13 of the Audit Bureau Law, which stipulates that the Chief of the Audit Bureau is to perform the checking which makes sure the calculations are carried out for the right assets, and also considers this medium of policies that are aligned to the text of Article 5/3 of the UNCAC. Article 5/3 states that “each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption”.<sup>194</sup>

- *Accounting Control*

This means checking in terms of the collection of revenue details, expenditure accounts and safety restrictions, and ensuring they comply with the rules and accounting frameworks. In short, it means to document control calculations from which it checks the documentary cycle all its own merits. In addition, it adopts this kind of control over the supporting documents and any documents that prove financial transactions.<sup>195</sup>

- *Financial Control*

This type of control is put in place in order to ensure the health and safety of financial transactions in all respects in order to preserve public funds and raise the efficiency of their use and to achieve the highest degree of efficiency and the desired results of public money spending.

- *Technical Control*

The Audit Bureau follows up the progress or delay of work in the development projects. Also, it draws attention to any defect or deviation as the Bureau sees it, and monitors the progress of work in the development projects carried out by these parties. It takes appropriate actions to achieve the goals set for these projects in order to utilize them optimally, as the Audit Bureau performs this type of censorship and decides when the follow-up where (engineering) for some of the projects. It makes a

---

<sup>194</sup> UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

<sup>195</sup> Hamdi Q and Faisal S, ‘ Fighting Corruption under Jordan Anti- Corruption Law No. (62) of the year 2006: a comparative study’ (2008) Journal (2), Issu 35. p. 151.

Statement of the progress of the work or it identifies problems related to its implementation.

*- Administrative Control*

According to Audit Bureau Law, Articles (13,14) the Chief of the Audit Bureau has the power to look at all the reports of the investigation of irregularities affecting financial matters, and to request that he/she be provided with all the information and clarification regarding the government departments which fall under his jurisdiction. Also, he/she has the right to revise all of the appointments in the departments, ministries and government institutions.

**Means of Control Practice**

In practising its control role, the Audit Bureau adopts various means, mainly the following:

*Inquiry:*

According to Article (16) of the Audit Bureau Law: Inquiries are addressed to entities which are subject to the control of the Bureau, about all the irregularities and violations discovered through the inspection and the duties performed by the Bureau. The relevant entity must respond to such inquiry addressed by the Bureau within the scope of its duties within a period of no more than thirty days as from the date of receipt of the inquiry (in the case that its headquarters are located within the Capital), and within a period of no more than sixty days if its headquarters are located outside the Capital.

The legislator mentioned in Article 21 of the Audit Bureau Law that any employee of any Public Administration subject to the Audit Bureau's control, will be held responsible in case of violation of this Law and the regulations issued thereunder, including not responding to the Audit Bureau's inquiries.

*The control report:*

This includes the results of the examination of the transactions of the entity subject to the control. Official letter addresses these results.

*The internal audit memo:*

This memo is used for the purposes of requesting information, files and records, and is used to address any errors and irregularities during the previous and subsequent auditing stages

*Funds and warehouses auditing minutes:*

These minutes reflect the fact that the auditor has audited and prepared an inventory of the contents of the financial funds and warehouses within the date and time specified, and has compared the actual balances with the balances of the accounting records and books.<sup>196</sup>

### **The outputs of the Audit Bureau**

The control outputs of the Audit Bureau are reflected in two types of reports:

Firstly by means of a general report, as Stated in Article 119 of the Constitution and Article 22 of the Audit Bureau Law, which stipulates that the Audit Bureau shall submit a general report to the House of Representatives and the Senate, including its opinions and comments and stating the violations committed in the departments and institutions.

Secondly by means of a special report: The President of the Audit Bureau, at any time, submits to the House of Representatives special reports where he/she focuses his/her attention on matters that he/she considers dangerous and important and that require expedite consideration.<sup>197</sup>

#### **4.1.3 Ombudsman Bureau**

The Ombudsman Bureau Law No. 11 of 2008 was put in place to show the independence of the Law and to determine its authorities, functions, affiliations and powers, as Article 3 stipulates: “A bureau known as the Ombudsman Bureau shall be established in the Kingdom, and shall have a legal personality with financial and administrative autonomy. As such, it may perform all legal acts necessary to achieve its objectives, including acquire movable and immovable property and dispose

---

<sup>196</sup> Ibid.

<sup>197</sup> Audit Bureau of Jordan, 'General Information' <<http://www.audit-bureau.gov.jo>> accessed 24December 2014.



thereof, concluding contracts with third parties and shall have the right to litigate, and may be represented in legal proceedings by the Civil Attorney”. Furthermore, Article 8 of the Law stipulates that “The President shall exercise his/her authorities and duties in full independence and save for the laws, there shall be no authority over him/her and he shall not receive any instructions or orders from any party or authority”.<sup>198</sup>

### **The jurisdiction of the Ombudsman Bureau**

The Ombudsman Bureau carries out a number of duties and authorities that enable it to perform its role of ensuring observance of fairness and legal procedures in the Public Administration to protect the rights of individuals who believe they are victims of unjust actions by the Public Administration. Article 12 of the Ombudsman Bureau Law States the following powers:

First: To investigate complaints regarding any decisions, procedures or actions or omissions thereof of the Public Administration or its employees. No complaint against the Public Administration shall be accepted if it is still possible to challenge it before any administrative or judicial body or if its subject is under review before any judicial body or a judicial ruling was issued pertaining it.

I found limitations to the role of the Ombudsman Bureau when considering the complaints and found that the Bureau was not always granted the authority to inquire and investigate the administrative decisions that may involve acts which lead the administration not to perform the duties entrusted to it.

Furthermore, the researcher concludes that large groups were not included within the jurisdiction of the Bureau, in particular the public joint stock companies and the private sector, which both actively affect the national economy. As well as this, the Ombudsman Bureau Law did not indicate the fate of the complaint considered by the Bureau and any other entity. Also, whether administrative or judicial, the complaint seems to be considered the same, after it is submitted to the Bureau.

Second: Pursuant to complaints submitted regarding Public Administration Procedures, The Ombudsman Bureau issued recommendations to simplify administrative procedures in order to enable citizens to benefit from the services

---

<sup>198</sup> Jordan Ombudsman Law 2008 No .11.

provided by the public administration efficiently and conveniently. This paragraph came in conformity with Article 10/b of the UNCAC, which suggests: “simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision- making authorities;”<sup>199</sup>

### **Means of Control Practice**

The Ombudsman Bureau uses specific methods identified in its legal system to perform the duties entrusted to it and to exercise the authorities granted to it, which are reflected in the type of complaint submitted to the Bureau, because the Bureau has issued special guidelines to submit and consider the complaints that fall within the scope of its work. These guidelines have adopted a special form for complaints, as well as self-initiative investigation so that the role of the Bureau is not limited to acting on complaints submitted to it but may start an investigation based on its self-initiative.

Article 4 of Ombudsman Bureau Regulation No. 1 of 2009 has identified the subject-matter jurisdiction of the Bureau in considering the complaints, and has granted the complainant the right to submit a complaint to the Bureau including the information and data required, if any, to ensure the measure or action complained about falls within one or more of the following cases:

1. Claims of discrimination in the treatment by any public administration, or its staff towards any service recipient or owner of guaranteed rights.
2. Claims of unfairness or arbitrariness or non-equality, which is contrary to the most important principle governing public administrations.
3. Violation of the provisions of the regulations in force, including the Constitution, laws and conventions, in accordance with the requirements of the principle of legality, which means that the administration shall, upon starting its activities, abide by the laws and regulations in force, regardless their form and source.
4. Claims of mismanagement in any of the decisions, procedures or practices, or omission of any administrative action or act or practice required by law or by good

---

<sup>199</sup> UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

governance in accordance with the best standards adopted to protect the guaranteed rights.

5. Claims that the measures complained against are based on illegal regulations and instructions, or adopt unfair procedures and standards against any of the persons or groups.

6. Claims of neglect or default by the public administration or its staff.

7. Claims of breach by the public administration and its failure to provide the services prescribed or performing the duties entrusted to them under the laws and regulations governing its work.

8. Any claim that the executive measures taken or to be taken concerning any of the guaranteed rights are inadequate, ineffective. Unfair, or involve a violation of any of the rights.

The Bureau Guidelines identified that specific information and data shall be included in the complaint, such as the name and address of the complainant, the entity complained against, a description of the measure complained against and its date, in addition to other information Stated in Article 6/e of the Bureau Guidelines No. 1 of 2009. The complainant officially submits his/her complaint which is registered in the complaints record, and the complainant has the right to receive a written notice of the same.

After submitting the complaint in accordance with the Ombudsman Bureau Law and the guidelines issued, the President of the Bureau shall issue his decision to accept or reject the complaint. In case of rejection, the procedures of the Bureau cease and the complainant is notified of the president's decision in accordance with Article 8/d of the Bureau Guidelines No. 1 of 2009. In case of acceptance of the complaint, the President shall proceed to take the necessary measures to solve the complaint.

Article 9 of the guidelines for the submission and consideration of complaints and Article 15/c of the Ombudsman Bureau Law have identified the said procedures, which are that the President shall send a memo including a copy of the complaint to the party complained against. The party complained against shall respond to the President's memo within a period of no more than fifteen days from the date of

receipt of the memo. In certain cases, at the discretion of the President, he/she may extend this period. The President shall have the right to request the supply of authenticated copies of documents, papers, records or information related to the subject matter of the complaint.

If the party complained against fails to send its response to the Bureau within the period set in paragraph (c) of Article 15 of the Ombudsman Bureau Law, or refuses or abstains from supplying any of the documents or information requested by the President, the President might communicate the matter to the Prime Minister in order to take the necessary procedures in this regard.

With regard to the legal provisions regulating the mechanism of submission and acceptance of the complaint before the Bureau, it is noteworthy that there is no sanction that forces the party complained against to cooperate with the Bureau in order to resolve the administrative measure complained against. This issue limits the powers of the Bureau to recommendations that are not binding or enough to stop the administration from performing any of the acts set forth in Article 4 of the Submission and Consideration of Complaints before the Ombudsman Bureau Guidelines No. 1 of 2009.

Furthermore, the outputs control of the Bureau are limited in the annual report, which shall be submitted by the Bureau's President to the Council of Ministers, including the results of previous year's work and the opinion of the concerned authority. Then, the Prime Minister shall provide the Senate and the Chamber of Deputies with a copy of the report, at the beginning of each ordinary session of the National Assembly.<sup>200</sup>

In this chapter, the main oversight bodies in Jordan, which have similar work to the Commission, are given an extended treatment.

The works of oversight bodies in Jordan meet the general framework in auditing, monitoring, improving utilization and management of the public resources of the State. The nature of the work of the Anti- Corruption Commission is to refer the abuses of validity committed by the owner, whether financial or administrative. The act has to be considered as a corruption offence, and has all the elements of a crime,

---

<sup>200</sup> Jordanian Ombudsman Bureau, ' Strategic Plan' [http://pdf.usaid.gov/pdf\\_docs/PA00JDDN.pdf](http://pdf.usaid.gov/pdf_docs/PA00JDDN.pdf) accessed 15 January 2014.

such as the physical and the mental element of the crime (criminal intent). Later on, after completing the gathering of the information and the investigation by the investigators in the Commission, and after gaining the approval of the board members of the Commission, it will be transferred to the Public Prosecutor's delegate in the Commission. Then the Public Prosecutor may refer the complaint to the competent court as a case. The work of the Audit Bureau shall raise the output of his work by submitting a general report on public money to the House of Representatives and the Senate, through observation on government revenues and expenditures and methods of dispensing (according to the text of the Constitution). In addition, the Office of the Ombudsman asks the administration in the government institutions to correct what lies behind mistakes through what is given to him from the excesses which caused the damage.

#### 4.2 The United Nations Conventions Against Corruption

In the fight against corruption, the international community in particular has concluded many bilateral and multilateral agreements in order to avoid the negative effects of corruption on all the economic, political and social levels.

##### **The most important anti – corruption international agreements:**

1. The American Convention against Corruption, which was adopted by the Organization of American States (OAS) in 1996, which is considered the first attempt to establish an anti – corruption system in the context of a binding international agreement.
2. The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was adopted by the Organization for Economic Co-operation and Development (OECD) in 1997.
3. The Criminal Law Convention on Corruption, which was adopted by the European Council in 1999.
4. The African Union Convention on Preventing and Combating Corruption, which was adopted by the Presidents of the African Union countries and governments in 2003.
5. The New York Convention of 2003. The scope of the United Nations 2003 New York Convention covers all actions against corruption, from prevention measures to the investigation and prosecution of corrupt parties and to the freezing, seizing, confiscation and return of the proceeds of offences as well as international co-operation.

6. Then comes the United Nations Convention Against Corruption of 2005

In Resolution 55/61 of 4 December 2000, the General Assembly recognized the need for an effective international legal instrument against corruption. Upon that, an *ad hoc* committee was established for the negotiation of such an instrument in Vienna at the headquarters of the UNODC. The Convention was negotiated during seven sessions held between 21 January 2002 and 1 October 2003. The UN Convention approved it by means of the General Assembly and it was opened for signature in resolution 85/7 of 31 October 2003. Later the instrument entered into force on 14 December 2005. Upon that, a conference of State Parties was established to improve the capacity and cooperation between those State Parties to achieve the objectives set out in the Convention, including the promotion and reviewing of its implementation.<sup>201</sup>

Jordan participated in drafting and negotiating the UN Convention. The government on 9 December 2003 signed it, and it was subsequently ratified on 24 February 2005. Then the Certification Law of the UN agreement no. 28 of the year 2004 was issued. In accordance with this, the Convention became an integral part of the Jordanian National legal system. On another level, Jordan hosted the first UNCAC Conference of State Parties that was held beside the Dead Sea from 10-14 December 2006. As well as this, Jordan participated in the open-ended intergovernmental working groups for review of implantation, asset recovery and technical assistance. The aim of these working groups is to make recommendations to the Conference of the State Parties to perform efficiently its mandates.

UNCAC is the first legally binding international anti-corruption instrument. In its 8 Chapters and 71 Articles, the UNCAC obliges its State Parties to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices.

Chapter I General provisions (Articles 1-4);

Chapter II Preventive measures (Articles 5-14);

Chapter III Criminalization and law enforcement (Articles 15-42);

---

<sup>201</sup> [www.unodc.org](http://www.unodc.org).

Chapter IV International cooperation (Articles 43-50);

Chapter V Asset recovery (Articles 51-59);

Chapter VI Technical assistance and information exchange (Articles 60-62);

Chapter VII Mechanisms for implementation (Articles 63-64); and

Chapter VIII, Final provisions (Articles 65-71).<sup>202</sup>

According to the Convention, States should consider adopting such legislative and other measures as might be necessary to criminalize or regulate the following:

Article (15): Bribery of national Public Officials;

Article (16): Bribery of foreign Public Officials and officials of international organizations;

Article (17): Embezzlement, misappropriation or other diversion of property by a Public Official;

Article (18): Trading in influence;

Article (19): Abuse of functions;

Article (20): Illicit enrichment;

Article (21): Bribery in the private sector;

Article (22): Embezzlement of property in the private sector;

Article (23): Laundering of the proceeds of crimes;

Article (24): Concealment of proceeds of corruption;

Article (25): Obstruction of justice;

Article (26): Liability of legal persons.

---

<sup>202</sup> UNODC, *United Nations Convention against Corruption*, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

The Convention stipulates that each State Party within its domestic legal system should take such measures as may be necessary related to freezing, seizing and the ability to confiscate the proceeds of crime. Measures defined in the UNCAC aim to promote prevention, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and information exchange. As of 1 April 2015, the Convention has been ratified, accepted, approved or acceded to by 175 countries, which therefore became State Parties within the Convention.<sup>203</sup>

### **The characteristics in the UNCAC are:**

#### I Protection of sovereignty

The Convention states clearly in Article (4) that the State Parties carry out their obligations under the Convention; it emphasizes the principles of sovereignty, and that State Parties are not to interfere in the domestic affairs of other States. On the other hand, the Convention expressly provides that when a State needs to refer to a certain affair in another State, it shall do so in cooperation and coordination with the other State. All States implement the Convention on an equal basis and no State shall exercise jurisdiction over the territory of another State.

#### II Respect for the States' law while allowing more flexibility in implementation

The convention also emphasizes the State Parties' obligation to carry out the Convention in accordance with the fundamental principles of their domestic law. At the same time, it leaves freedom of the State Parties to choose the way to include this obligation in their domestic systems.

#### III Respect for other agreements signed by the country.

The UNCAC sometimes gives priority to other agreements signed by the State; while in other Articles priority is given to the UNCAC itself. For example, Article (48) states that "In the absence of such agreements or arrangements between the State Parties concerned, the State Parties may consider this Convention to be the basis for

---

<sup>203</sup> UNODC, 'Signature' <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html> accessed 20 April 2015.



mutual law enforcement and cooperation in respect of the offences covered by this Convention."

#### V Expansion of criminality

The UNCAC expands the number of offences, and criminalizes what is not included in some of national laws. The UNCAC expands the criminalization of corruption in the private sector by legal persons (Article 26) - that is, the liability of legal persons. Such an expansion of the Convention gives more protection to public and private funds and restricts corruption and the corrupt.

#### 4.2.1 Jordanian legal System & International Law:

Jordan is governed by a limited constitutional monarchy. The King retains the power to promulgate and ratify laws, direct the enactment of regulations, ratify treaties and agreements, declare war, conclude peace, dismiss the Prime Minister, appoint Senators, adjourn and suspend the Chamber of Deputies, and is the Commander in Chief of the armed forces<sup>204</sup>.

The King, Prime Minister, and Council of Ministers exercise the executive functions of government; the Senate and Chamber of Deputies are the higher and lower houses of the National Assembly, which exercises the legislative functions; while various Civil, Religious and Special courts exercise the judicial power.

In general, most nations today follow one of two major legal traditions: a civil legal system, or a common law system. The civil legal system tradition developed in continental Europe in the nineteenth and twentieth centuries. The common law tradition emerged in England during the middle Ages and was applied within British colonies.<sup>205</sup> "**Common law** is generally *uncodified*. This means that there is no compre-

---

<sup>204</sup> , 'Constitution of the Hashemite Kingdom of Jordan ' (Law 1952)  
<<http://www.refworld.org/docid/3ae6b53310.html>> accessed 1 Jan.

<sup>205</sup> List of national legal systems <[https://en.wikipedia.org/wiki/List\\_of\\_national\\_legal\\_systems](https://en.wikipedia.org/wiki/List_of_national_legal_systems)> accessed.

hensive compilation of legal rules and statutes. While common law does rely on some scattered statutes, which are legislative decisions, it is largely based on *precedent*, meaning the judicial decisions that have already been made in similar cases. These precedents are maintained over time through the records of the courts as well as historically documented in collections of case law known as yearbooks and reports”<sup>206</sup>

Civil law systems have as the source of law, recognized executive and legislative authorities, which gives effect directly to law through specific legislation, and then these specific laws are followed through the implementation of their provisions.

“*Civil Law*, in contrast, is *codified*. Countries with civil law systems have comprehensive, continuously updated legal codes that specify all matters capable of being brought before a court, the applicable procedure, and the appropriate punishment for each offense. Such codes distinguish between different categories of law: substantive law establishes which acts are subject to criminal or civil prosecution, procedural law establishes how to determine whether a particular action constitutes a criminal act, and penal law establishes the appropriate penalty”<sup>207</sup>

Jordan follows the "civil" system, which is to enact laws and regulations before the courts apply them.

According to the Constitution of Jordan two branches are responsible in developing the legislations and the regulations:

First, the Executive branch, represented by the Government, has the right to suggest legislation to regulate a particular order within specified cases by the Constitution. The Government raises (or modifies) a certain Bill to lay before the National Assembly. The bill is then studied and discussed by both the Upper and Lower Houses of Parliament, and if it is approved by both houses and then finally approved by King, it comes into force thirty days after it is ratified and published in the Official Gazette.

Second, the legislative branch, when the House of Representatives proposes a law or amendment; such proposed legislation passes through several stages and becomes

---

<sup>206</sup> William Blackstone, 'Commentaries on the Laws of England'  
<<https://www.law.berkeley.edu/library/robbins/CommonLawCivilLawTraditions.html>> accessed  
Oxford, 1765-1769.

<sup>207</sup> *ibid.*

effective when approved by King. It also comes into force thirty days after it is ratified and published in the Official Gazette.

After legislation becomes active, the Jordanian courts apply the laws, governing disputes (whether civil or criminal) under the following Divisions: **Regular courts** consider civil and criminal conflicts; **Religious courts** (Muslim and Christian) consider marriage, divorce, and inheritance; **Special courts** consider some specific crimes within special (legislatively determined) jurisdictions.

More details regarding the judicial system in Jordan are discussed in detail in this chapter under the title, (8) Judicial Council.

The signing and ratification of UNAC also was seen as providing a basis for safeguarding whistleblowers.<sup>208</sup> The implementing legislation, which was adopted on June 8, 2004 by the Parliament, was published on 1 August 2004 in its Official Gazette<sup>209</sup>. As stipulated by this particular law, the Convention is regarded as a valid and effective vehicle for its aims and intent. It also stipulated that the Prime Minister and all Ministers shall have a responsibility in the execution of its provisions.

The particular relationship between international treaties and domestic law depends on the legal system in each country. The arguments about this question include the assertion<sup>210</sup> that some States have granted the international treaty legal value higher than, or equal to, ordinary (domestic) legislation.

Treaties and international agreements are organized under the Vienna Convention on the Law of Treaties, adopted by the United Nations Conference on the Law of Treaties, held pursuant to the General Assembly of the United Nations through two resolutions no. 2166 of 1966 and resolution no. 2287 of 1967. This Conference was held in two sessions in Vienna during 1968, 1969.

An important point sometimes discussed in, and particularly related to the international treaties, is the solution in cases of conflict between the provisions of an international convention ratified by a State and its internal law. There is often a potential

---

<sup>208</sup> Blueprintforfreespeech.net, 'Jordan – Whistleblowing Protection, Overview | Blueprint For Free Speech' <<https://blueprintforfreespeech.net/document/jordan-overview>> accessed 23December 2014.

<sup>209</sup> Legislation <<http://www.pm.gov.jo/newspaper>> accessed.

<sup>210</sup> Fisnik Korenica, Dren Doli, 'The Relationship Between International Treaties and Domestic Law: A View from Albanian Constitutional Law and Practice Fisnik Korenica' [n.d.] 24 (Issue 1 Winter) Pace International Law Review <<http://digitalcommons.pace.edu/cgi/viewcontent.cgi?Article=1320&context=pilr>> accessed 24 October 2014.

conflict between the articles of the international agreements and internal legal provisions of the State, which creates confusion for the judiciary, the state institutions and their personnel.

For monistic states, the international agreement should dominate the internal law. The Approach generally is set forth in Article 27 of the Vienna Convention, which expressly states, "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."<sup>211</sup> Among the states that adopt this principle is the USA as article 6 of its Constitution states " This Constitution and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the contrary notwithstanding."<sup>212</sup>

For dualistic states, the internal law should dominate the international agreement, as the legislature should intervene to amend the State internal law to comply with the international agreement. In order for this to happen, the international agreement shall have no impact on the internal law that shall remain applicable even if the state ratified the international agreement. Britain is an example of a dualistic state that adopts this perspective. The implementation of an agreement requires enactment of special legislation to explicitly integrate it with the internal law to be an integral part of the State laws. This trend prejudices the stability of international cooperation, and therefore the states adopting such trend shall avoid this. "International legal obligations are not always enforceable in the national jurisdictions of England"<sup>213</sup>

The Jordanian legislature follows the first principle, mentions international treaties in Article (33) paragraph 2 of the Jordanian Constitution of 1952, but requires the approval of Parliament for the entry into force of the Treaty where it affects the rights of Jordanian public or private persons or organizations. It also requires approval for any new expenditure not included in the budget for the Treasury. In addition, the Jordanian judiciary has taken a clear position in the ranking of the international treaty within the legal system of Jordan. That is that the Court has consistently

---

<sup>211</sup> Treaties (EC) Vienna Convention on the law of treaties (with annex) [1969] Vienna on 23 May 1969.

<sup>212</sup> USA Constitution 1787.

<sup>213</sup> Brahm A. Agrawal , 'International Law and Municipal Law' <http://brahmavtar.com/enforcement-of-international-legal-obligations-in-a-national-jurisdiction.doc>.

distinguished its provisions as the international treaty being above the national law in cases of conflict<sup>214</sup>.

In its turn, the Jordanian judiciary has established a clear statement in regards to the hierarchy of treaties in the Jordanian legal system, as the Court of Cassation has determined in its decisions to cede superiority to a treaty to the domestic law in force in instance of conflict.

However, one should bear in mind the fact that the Jordanian legal system does not consider the principle of judicial precedents, thus the court is not bound by its own previous decisions, which could lead to confusion in the application of a treaty in the case of conflict with national law in force.<sup>215</sup> Meaning that in the case of conflict between an international law treaty and domestic law in force, the judiciary takes effect by implementing the International treaty.

Some provisions of the Jordanian judiciary:

- A decision of the Court of Cassation (936/1993) on 13/11/1993, stipulates that," The International agreements concluded by the state are the highest of all laws in force, and they are applicable even if their provisions contradict the provisions of these laws. Therefore, the failure of the Court of Appeals to apply the Riyadh Arab agreement for judicial cooperation and issuing its decision in accordance with the law of implementation of foreign judgments makes its decision contrary to the law"<sup>216</sup>
- In a decision of the Court of Cassation (3965/2003) on 29/2/2004, it stipulated that," the international treaties are over the domestic law, therefore, no provisions of any domestic law shall apply if it conflicts with these international conventions and treaties, nor they can be applied together as it was embarked on by our judiciary<sup>217</sup>.
- A decision of the Court of Cassation (7309/2003) on 22/4/2004, stipulates that," The international treaties and agreements overtake domestic law and have priority in

---

<sup>214</sup> Jordan Constitution 1952 Jordan Constitution 1952.

<http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan039772~1.pdf> accessed 10 Jan 2015.

<sup>215</sup> Omar S. Al-Okur, Mamdouh H. Al- Edwan and Maysa Baydoun, 'Ranking of International Treaty in National Legislations and the Constitution of Jordan' [2012] Islamic Science University, Al al-bayt University.

<sup>216</sup> The Bar Association of 1996 Vo (1), P (5) 'Court of Cassation (936/1993) ' [1996] 1

<<http://www.jba.org.jo/Library/Magazine.aspx>> accessed 13/11/1993.

<sup>217</sup> The Judicial Council ,Court of Cassation (3965/2003) <<http://www.jc.jo/ejthadat> > 29/2/2004.

application and local law may not be invoked when its provisions oppose the provisions of international conventions.<sup>218</sup>

Case No. 3577/2012 on 7/11/2012 Ministry of Justice v Arab Bank, stipulates that, “The applicable law to a legal document created in an authority outside the Kingdom, and provided as evidence in a juridical lawsuit established in the Kingdom, is the law of foreign judgment and the provisions of the Convention signed between the Kingdom and that State. Pursuant to the provisions of Article 31/1 of Riyadh Arab Agreement for Judicial Cooperation, which States that an implementation of a foreign rule in the Kingdom, does not result in the replacement of the foreign ruling by a ruling issued by the Jordanian courts<sup>219</sup>.”

### **UNCAC Articles**

The Convention uses several methods that address the States ratifying it. These methods, which use particular forms, can be divided into three levels of mandatory effect according to the context of the text, the grammar and the legal interpretation. They are divided as follows:

#### *Forms that mean obligation to be implemented without any delay:*

This refers to obligations that shall be implemented by the State upon ratifying the Convention without any delay. Most of the provisions set forth in the Convention belong to this category. For example:

- Each State Party shall .....
- Each State Party shall ensure .....
- Each State Party shall adopt .....
- Each State Party shall take .....
- Each State Party shall .....

#### *Forms that mean obligation, but in the long run:*

This refers to obligations to be implemented by the State must after ratifying the Convention, but not necessarily to be immediately implemented. In other words, the

---

<sup>218</sup> *ibid.*

<sup>219</sup> Ministry of Justice v Arab Bank Case No. 3577/2012 (Court of Cassation) <<http://www.adaleh.com>> accessed 7/11/2012.

State has more time to implement the obligation, unlike the previous forms, which require obligations to be implemented without any delay. They include:

- Each State Party shall endeavour ....

*Discretionary forms, closer to an obligation to deliberate:*

These forms are contained in the Convention articles that provide State Parties with proposals that would make their anti - corruption policies and concerned authorities, at the domestic or international level, more effective. Not implementing such articles does not constitute a prejudice to the Convention implementation. Such forms include:

- Each State Party shall consider ....
- Measures to achieve these ends may include ....

Chapter Three in UNCAC deals with corruption offences are **mandatory** for states to ratify. In chapter 5 in this thesis, each of these mandatory offences is considered in turn, as is how Jordanian legislation might comply with it.

According to the ratification of this treaty and as part of Jordan's obligation under UNCAC;

The Jordanian legal framework addresses and responds to the anti-corruption initiative. The response rests on these main pillars: the Penal Criminal Law, the Anti-Money Laundering Law, the Anti-Corruption Law, the Right to Access Information Law, the Ombudsman Law, and the Economic Crimes and Financial Disclosure Law<sup>220</sup>.

In addition, Jordan had established a particular institutional framework to deal with and overcome the challenges faced by anti-corruption initiatives<sup>221</sup>. Various specialized agencies with *ad-hoc* mandates include: the Anti-Corruption Commission, the Financial Disclosure Department, the Audit Bureau, the Ombudsman Bureau, the Jordan Securities Commission, the Inspectorates (internal control bodies within each ministry), the Judicial Council, the Ministries of Justice

---

<sup>220</sup> Antonio Argandona, 'The United Nations Convention Against Corruption And Its Impact On International Companies' [2012] SSRN.

<sup>221</sup> UNODC, 'Conference of the States Parties To the United Nations Convention against Corruption' (Implementation Review Group 2012) COSP/IRG/2011/CRP.12 CAC.

and Interior, the Office of the Public Prosecutor and the Ministries of Justice Interior<sup>222</sup>.

The Jordanian Anti-Corruption Commission (JACC) was structured in 2007 after the Anti-Corruption Commission Law was published in 2006. The Jordanian Anti-Corruption Commission is tasked with the coordination and establishment of a comprehensive policy on the prevention and combating of corruption in the public and private sectors. In 2008, the Anti-Corruption Commission had begun to operate within its overall remit. The National Anti-Corruption Strategy of 2008-2012 guided the work of the Anti-Corruption Commission, and later on, the new National Anti-Corruption Strategy of 2013- 2017 was launched, This represents the second phase of the National Strategy for the fight against corruption.

The most recognized tool that is identified by the international community in these regards is the United Nations Convention against Corruption: “Preventing and combating corruption requires a comprehensive and multidisciplinary approach. Based on recognition of this fact, Member States negotiated the United Nations Convention against Corruption (UNCAC), which covers five main areas: **prevention, criminalization and law enforcement measures, international cooperation, asset recovery, and technical assistance and information exchange.**

As the sole, legally binding universal instrument against corruption, the Convention holds great potential as a framework for the prevention of, and fight against corruption. Furthermore, as the backbone for national and international anti-corruption initiatives, it promotes the implementation and application of common **standards** and best-practices”<sup>223</sup>.

The reason behind that is other conventions related to corruption, such as the Inter-American Convention against Corruption, the OECD Anti-Bribery Convention, and the African Union Convention on Preventing and Combating Corruption, are restricted to either certain regions of the world or certain manifestations of corruption.

---

<sup>222</sup> *ibid.*

<sup>223</sup> <https://www.unodc.org/ropan/en/AntiCorruptionARAC/unodc-and-corruption.html>



#### 4.2.2 Gap Analyses and Review Mechanism

Implementation of an international treaty into the domestic law is a complex job; there is a need to ratify a wide range of national laws which serve Anti- Corruption, such as those relating to policies, institutional structure, law enforcement, criminalization, prevention and international cooperation. Also the need to adopt the best international practice in terms of fighting corruption includes those measures in both public and private sectors that ensure that every citizen in a society is under the umbrella of anti- corruption regulation. Besides criminalization and law enforcement, a wide range of laws that concern corruption, such as access to information, conflicts of interest, procurement, freedom of expression and anti-money laundering need implementation.

Some countries have chosen an option of reviewing compliance and preparing gap analyses as they confronted the challenge of bringing domestic legislation in line with the requirements of UNCAC as a first step towards the execution of domestic legislation<sup>224</sup>. Within the framework of the UNCAC review mechanism, a number of methods of monitoring are involved, including expert review, self-assessments, country visits, peer review and the publishing of a report that suggests improvements. In some countries, the review mechanism has been coupled with shadow reports by civil societies. Typically, a compliance review comprises of a systematic assessment of anti-corruption regulations and their institutional functioning, and assessing if there is conformity of the domestic legal framework with the requirements of the Convention. Kenya, Indonesia and Bangladesh, as well as a number of other countries, have conducted such gap analyses<sup>225</sup>.

In Jordan, there is as yet no study published regarding the gap analysis of the national legislation, nor any study to identify the strengths and challenges with the current situation. The first review is through the mechanism adopted by UNODC.

The UNODC adopted a mechanism to review how the State parties implement the UNCAC. This mechanism is adopted in the third conference of the State parties in its

---

<sup>224</sup>[https://www.transparency.org/files/content/corruptionqas/295\\_Assessment\\_methodologies\\_of\\_anti\\_corruption\\_laws.pdf](https://www.transparency.org/files/content/corruptionqas/295_Assessment_methodologies_of_anti_corruption_laws.pdf).

<sup>225</sup> *ibid.*

resolution 3/1, entitled "Review Mechanism"<sup>226</sup>. The Conference recalled Article 63 of the United Nations Convention against Corruption, especially paragraph 7, according to which "the Conference should establish, if it deemed it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention"<sup>227</sup>.

Later on, the fourth conference of the State parties adopted in resolution 4/1 a requirement to substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance<sup>228</sup>.

The goals behind the Review Mechanism were:

- To provide information on the measures taken by State Parties in the implementation of the Convention.
- To promote the purposes of the Convention.
- To help identify needs and technical assistance of the State parties.
- To encourage international cooperation to prevent and combat corruption, including the proceeds of corruption.
- To provide information on aspects of the success of the State Parties in implementing the Convention and the use of them, good practices and challenges faced by it.
- To encourage and facilitate the exchange of information and practices and experiences gained in the implementation of the Convention.

In the first session of the Implementation Review Group, which was held in Vienna from 28/6 to 2/7/2010, a lottery was conducted to determine which State Parties, would be reviewed in each year of the first- cycle of the review, and determine the countries under review.

---

<sup>226</sup>UNODC. 2009, Conference of States Parties to the United Nations Convention against Corruption on its third session, [online] Available at:  
<http://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0988538e.pdf>.

<sup>227</sup>UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at  
<http://www.unodc.org/unodc/en/corruption/index.html>.

<sup>228</sup>United Nations office on Drugs and Crime website [Online] Available at  
<http://www.unodc.org/unodc/en/corruption/index.html>.

Jordan was chosen as a ‘cross-sectional’ in the first round of review. According to the Review Mechanism, each review stage consists of two cycles, each of five years, which deal with the review of the third chapter (criminalization and law enforcement) and fourth chapter (International Cooperation) during the first session, and chapters II (preventive measures) and V (asset recovery) during the second session. Each cycle consists of four rounds, the duration of each round is a full year, during which the review quarter of the State Parties is selected by lot at the beginning of each review cycle.

The review process includes the preparation of a self - assessment report by the State, using the UNODC comprehensive self-assessment checklist<sup>229</sup>. After that, two other State Parties, which are also chosen by lot, analyse this self-assessment report, and then enter a dialogue, directly communicating with the State under review, or use any other means agreed upon, such as through country visits or joint meetings. The Maldives and Nigeria were chosen by lot to review the answers given by Jordan.<sup>230</sup> An executive summary is published on the website of the UNODC with the findings of the review<sup>231</sup>.

Later on, because of the findings in the executive summary of the revision process, an amendment was made to the Anti-Corruption Commission Law No. 62 Year 2006, which was published in the official gazette No. 5151 on 3/4/2012, Law No (10) for the year (2012)<sup>232</sup>.

The Convention recognizes, as one of the most important international instruments that can be built or referred to, the ‘analytical lens’, which is used to identify the foundations and criteria to be adopted by the State Parties. The State Party has to harmonize its national regulations, policies and legislation with the requirements of the Convention and allow for such legislation to be a bulwark in the face of corruption. In addition, the Convention is a tool to identify the duties of the States; they are required to commit to *activating* the procedures for fighting corruption. Improvement of policies and legislation to prevent and combat corruption and

---

<sup>229</sup> UNODC, OMNIBUS Survey Software: Self –Assessment Checklists {Online} Available at <http://www.unodc.org/unodc/en/treaties/CAC/self-assessment.html>.

<sup>230</sup> UNODC, (2012) ‘Executive Summaries Jordan’. [online] Available at :<  
<http://www.unodc.org/unodc/en/treaties/CAC/index>.

<sup>231</sup> *ibid*.

<sup>232</sup> UNODC, (2012) ‘Executive Summaries Jordan’. [online] Available at :<  
<http://www.unodc.org/unodc/en/treaties/CAC/index>.

promotion of integrity, accountability and proper management of public affairs and public property are required, as well as actions to strengthen international cooperation and technical assistance in the field of anti-corruption and prevention, including asset recovery.

The importance of the adoption of this mechanism lies in it being the only tool to encourage State Parties to implement the Convention. It identifies the challenges and the most effective practices and thus determines the technical assistance needed by the State, in order to develop measures that are compatible with the requirements of the Convention, whether those are measures of criminalization and law enforcement, or international cooperation, or the recovery of assets.

Besides the Review Mechanism, as adopted by UNODC, some of the State Parties adopted an evaluation of their own national legislation or institution. Jordan is one State that did this in chapter two of UNCAC which talks about prevention. This gave a comparative analysis to show the compatibility of national institutions with the UNCAC, as well as the effectiveness of institutions, programmes and strategies. It demonstrated its conformity with the requirements of the Convention as theory and practice, and required the State to activate its efforts in the fight against corruption and the promotion of its prevention. Self-evaluation is itself part of the review of the implementation of the United Nations Convention against Corruption; its implementation is based on the self-assessment against the comprehensive reference list; still there is no self-evaluation done regarding national legislation that deals with corruption offences. The contribution of the assessment is as follows:

First: to get ready for the review process for the implementation of the United Nations Convention and to identify any gaps, in order to address potential solutions before entering the international review process.

Second: to help push the national reform programmes and the adoption of new programmes to help boost the reform process and make it more inclusive.

Third: to provide a benchmark for measuring progress in reform efforts in the fight against corruption, and to identify the technical assistance and training needs required.

Fourth: to provide information to policy makers, and contribute to the adoption of a new national strategy to combat corruption, and to align them with international standards.

Fifth: emphasizing that combating corruption is a national responsibility that is participatory and integrative and that it requires the contribution of all parties concerned.

Finally, to promote dialogue and debate between different State institutions, identify the tasks and duties of each, and remove overlaps within their work, thus contributing towards the saving of time and effort and reducing costs.

#### *Best Practices – an example*

According to UNODC, MACC (Malaysia's Anti-Corruption Commission) was recognized as an independent body to tackle corruption. "In May 2013, the Review by UNODC of Malaysia's compliance with the UN Convention Against Corruption (UNCAC) recognized Malaysia's successful efforts to combat corruption, and Malaysia fared well in its first UNCAC review on anti-corruption compliance. In its report, UNCAC commended Malaysia for its 23 successes and best practices in its fight against corruption"<sup>233</sup>

Some of these best practices recorded by MACC were:

To review delayed cases, or any cases that transferred to the Public Prosecutor, that did not result in charges; 14 special courts were established since 2011 for corruption cases which make the work faster; this good practise leads MACC to be a good model in fighting corruption. Fostering inter-agency cooperation in order to tackle corruption, which is effective in the development of anti-money laundering activities - MACC developed best practices in combating money laundering. Also, MACC cooperates widely with international and regional organizations and proactively adopts measure to reduce corruption. It uses joint investigations with other law enforcement agencies, simplifying procedures in evidentiary requirements.<sup>234</sup> These practices include Section 25 of the MACC Act 2009, which establishes a duty to report any bribery or attempt and criminalizes non-compliance; the absence of statute limitations which helps maximize the possibility of prosecutions.<sup>235</sup>

---

<sup>233</sup> MACC Today Together Fight Corruption, 'UNODC Recognition MACC at Par Globally' [2015] 1 <[newsdata2.bernama.com/newsletter/sprm\\_vol1\\_2015/pdf/todayvol12015-ori.pdf](http://newsdata2.bernama.com/newsletter/sprm_vol1_2015/pdf/todayvol12015-ori.pdf)> accessed 2015.

<sup>234</sup> *ibid.*

<sup>235</sup> *ibid.*

#### 4.2.3 Criminal liability for corruption offences in the UNCAC:

All corruption offences under the provisions of the UNCAC have the same general rules regarding criminal liability. However the Convention does not mention that some jobs confer an immunity that may interfere with the criminal liability. More details about this topic will be discussed regarding the liability of legal persons, and the immunity arising through some jobs.

#### 4.2.4 Criminal liability of legal persons:

Adopting criminal liability for legal persons or natural persons is a very important issue in fighting corruption, since the Convention sometimes deals with the private sector or bank institutions or economic companies. Even then, the criminal liability of the legal person does not include penalties involving deprivation of liberty as a sanction; a penalty that can be implemented only for natural persons. Some jurisdictions might permit the detention of the officers of a legal person as a sanction. Other liabilities more commonly included are: confiscation, fines, or suspension of their work. Such liability shall be without prejudice to the criminal liability of the persons who have committed the offences.

Article (26) of the UNCAC includes what are the necessary measures that each State shall adopt to ensure the liability of legal persons:

“1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons be held liable in accordance with this Article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions”.<sup>236</sup>

Criminal, civil or administrative liability of legal persons can be determined without prejudice to the criminal liability of natural persons; the Jordanian Penal Code includes criminal liability for legal entities other than governmental, public and

---

<sup>236</sup> UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

official institutions. Such liability in Jordan is without prejudice to the criminal liability of the natural persons who have committed the offences.

The Jordanian Penal Code includes provisions concerning sanctions for legal entities. They can only be sentenced to fine and confiscation. On the other hand, the Penal Code consists of precautionary measures that are freedom- confining measures, material confiscation, and precautionary bonds, closure of a business place, and dissolution and halting the functions of a legal entity.

According to the Penal Code the court may order obligations based on a criminal liability. They are restitution, reparation through damages, forfeiture and expenses. These obligations can be a sentence for the legal entity.

The Criminal Procedure Code and Civil Law include provisions concerning compensation based on a criminal liability. This type of claim may be processed before a civil or criminal court. A legal entity may be convicted and ordered to pay compensation. According to the Criminal Procedures Law, the court shall apply punishment and civil obligations in the same decision.

In this regard, Jordanian legislation partially fulfils the requirements of the UNCAC concerning the liability of a legal person.

#### 4.2.5 Immunities:

Performing public office duties sometimes requires that immunity from prosecution be applied to certain offices. This does not mean that office holders are not legally liable for their actions; but does mean that special procedures apply to them. The UNCAC, in Article (30) paragraph (2), tries to balance between any immunity and the possibility of effective investigation, prosecution and adjudication of offences established in accordance with the Convention.

The law is the most important tool for the implementation of the Commission's work; it is the base of the Commission's authority, obligations and duties. Internal Jordanian legislation has failed to extend the anti-corruption law to a large segment of Public Officials who have financial and administrative powers, and who are therefore most likely to commit crimes of corruption. Thus the legal text remains only a minor deterrent to these people, leading to obstruction of the Commission in its ability to perform its functions fully as possible. Under other legislation, some of these public

officials can be prosecuted under particular laws pertaining to their offices, such as ministers, members of the armed forces and members of intelligence and public security, civil defence, customs personnel, and the judges.<sup>237</sup> In comparison, if we go back to the International Convention (UNCAC), the term 'Public Official' covers a large segment - either the Public Official is appointed or elected, (whether temporarily appointed or permanently, whether paid or unpaid), and holds a legislative, executive, administrative or judicial office. The Convention clarifies that a 'Public Official' may mean “any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party”. At present the law in Jordan falls short of fully implementing this provision.

#### 4.2.6 Sanctions system in the UNCAC

Here, the sanctions system according to the UNCAC is considered. The reason behind this is that in order to have a comparative analysis between the Convention and the Jordanian legislation regarding corruption offences, sanctions are an important issue.

Firstly consider the general principles of the Jordanian Penal Code regarding corruption offences against the intention contained in UNCAC. UNCAC itself has not developed specific penalties for corruption offences, which is normal for an international treaty. It leaves the penalty of each crime to domestic legislation.

The first paragraph of Article (30) of the Convention provides that:

“Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its Public Officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.”<sup>238</sup>

The sanctions system of the UNCAC has the following principles:

1. That there be variety in the penalties and measures contained in the State Party's penal system:

---

<sup>237</sup> BBC News, (2011) 'Jordan's ex-spy chief jailed for corruption', [online] Available at :<  
<http://www.bbc.co.uk/news/world-middle-east-20286407>> Accessed 11 November 2011.

<sup>238</sup> UNODC, *United Nations Convention against Corruption*, New York, 2004. [Online] Available at  
<http://www.unodc.org/unodc/en/corruption/index.html>.



UNCAC included different penalties such as: financial penalties such as confiscation, as in Article (31) of the UNCAC, compensation for damage, as in Article (35) of the UNCAC, as well as sanctions that are civil actions such as the annulment or rescinding of a contract, the withdrawal of a concession or other similar instruments or remedial actions, as in Article (34). Also another action indicated by UNCAC is stated in Article (30) paragraph 6, 7: that the Public Official be “removed, suspended ... or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence”. This entire penalty does not mean that there are (only) disciplinary penalties against civil servants, a fact that is Stated in Article (30) paragraph 8.

#### 2- Consideration of the crime report:

According to Article (30) paragraph 1: “Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.”<sup>239</sup> Also, paragraph (5) at the same Article mentions that the consideration of the gravity of the offences be borne in mind when considering the eventuality of early release or parole of persons convicted of such offences.

#### 3- Respect the right of defence:

Article (30) paragraph 4 recognizes the right of defence. This means to seek and ensure the rights of the defence, plus the conditions imposed in connection with decisions on release pending trial or appeal or the presence of the defendant at subsequent criminal proceedings. It also recognized the principle of the presumption of innocence when a Public Official is removed, suspended or reassigned.

Article (2) of the UNCAC paragraph (g), describes the term 'confiscation': “Confiscation, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority.”<sup>240</sup> This means expropriation of money which belonged to the offender to the State funds. This money may be part of stolen asset recovery or proceeds of crime, such as counterfeiting currency or dealing in drugs. Confiscation is part of the penalty system in the UNCAC and it is a very important tool in addition to the sanctions of deprivation of liberty; it means taking money or assets from the offender and depriving him/her of the proceeds of his/her crime.

---

<sup>239</sup> *ibid.*

<sup>240</sup> *ibid.*

The other important issue in confiscation is the nature of that which is confiscated. Article (31) paragraph 1 includes the following:

- (a): “Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;
- (b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this convention.”<sup>241</sup> That means everything coming from the crime will be confiscated, including any property derived from or obtained, directly or indirectly, through the commission of an offence, as stated in Article (2) paragraph (e).

There are also ancillary penalties. Article (30) paragraph (7) states that still further penalties will be added (in accordance with any domestic law) to Public Officials if he/she is convicted of corruption offences. Such penalties are either disqualification from holding the position of Public Official, or disqualification from holding office in an enterprise owned in whole or in part by the State. The reason behind the inclusion of ancillary penalties is because of the very negative impact of corruption offences on society, and because Public Officials are supposed to be trustworthy in the handling of public money.

4- There are civil sanctions:

In addition to criminal conviction in corruption cases, the Convention added civil sanctions such as: compensation for damage, described in Article (35) of the UNCAC, and the legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action, as cited in Article (34) of the UNCAC. With regard to these civil sanctions which were stated in Article (34), such as the rescinding of a contract, according to the UNCAC this needs two conditions:

1. Not to touch other rights as stated in Article (31) paragraph (9): “the provisions of this Article shall not be so construed as to prejudice the rights of *bona fide* third parties.” and
2. The consideration of the fundamental principles of the domestic legal system, since the legal system for each State is different.

---

<sup>241</sup> *ibid.*

## **CHAPTER FIVE: Criminalization and Law Enforcement (Chapter III) of the UNCAC Under Jordanian Law.**

### 5.0 INTRODUCTION

The principle of ‘*Nullum crimen, nulla poena sine praevia lege poenali*’ (‘No crime or punishment except in accordance to a provision of law’) was formally introduced by Paul Johann Anselm in the revision of the Bavarian Criminal Code of 1813 commissioned by King Maximilian I. Anselm was knighted for his service to the crown as ‘Ritter von Feuerbach’. It has been thought one of the most important principles in law; see for example, Justice Scalia in *Rogers v. Tennessee*<sup>242</sup>, citing J. Hall, *General Principles of Criminal Law* 59 (2d ed. 1960).

This major principle is echoed in the first paragraph of Article (8) of the Jordan Constitution and its amendments "No person may be detained or imprisoned except in accordance with the provisions of the law."<sup>243</sup>

In addition, this principle features in the Jordanian Penal Code Article (3) “No penalty shall be imposed unless provided for by the law at the time the crime is committed. A crime is considered to be a complete one when all the acts composing it are completed without any regard to the time when the result happens”.<sup>244</sup>

This principle is a guarantee of freedoms and rights of individuals, it separates acts legal and illegal, clearly sets penalties for unlawful acts, and limits the ability of judges to find guilty only those whose acts the law criminalizes and for which it provides punishment. The law constitutes prior notice to individuals not to commit illegal acts.

“Criminal law involves prosecution by the government of a person for an act that has been classified as a crime...In a criminal case, the State, through a prosecutor, initiates the suit. The crime is the act or omissions that comprise the physical elements of a crime as required by statute and this act is in violation of a public law

---

<sup>242</sup> *Rogers v. Tennessee*, 532 U.S. 451 (2001)

<sup>243</sup> Jordan Constitution 1952.

<sup>244</sup> Penal Code 1960 No .16.

forbidding or commanding it. All statutes describing criminal behavior can be broken down into their various elements. Most crimes consist of two elements:

An act, or "*actus reus*"- the physical element, and an intent, or "*mens rea*", the mental element".<sup>245</sup> These two elements are present in Jordanian legislation, and are also evident in the UNCAC.

The Jordanian legislature, in Anti- Corruption Commission Law No (62) of 2006 and its amendments, and particularly in Article (5), specifies corruption offences. However, these corruption offences overlap with the Penal Code, the Economic Crimes Law, the Anti-money Laundering Law, the Illicit Enrichment Law, and the Civil Law. Overall, the Jordanian legislation forms a legal system covering all acts of corruption. These are offences that are consistent with the UN Convention against Corruption.<sup>246</sup>

The Jordanian legislature specifically identifies some acts of corruption within the Economic Crimes Law (although it intersects with crimes considered as corruption in the Anti-Corruption Commission law). This is in order to expand the powers of the Commission in the prosecution of the perpetrators of the acts of corruption. The economic crimes law expanded the concept of public money, and also added a definition of the term "public employee", in order to give more flexibility to the law in the situation of reduction of punishment or reconciliation.

This chapter lays out the corruption offences specified in the JACCL and its amendments. It deals particularly with those in Article (5), Article (16) paragraphs (a, b, c, d, e, f, g, h, i, j) they are:

- a) Offences contrary to public office duties as stipulated in the Penal Code No. (16) of 1960 and any amendments thereof.
- b) Offences contrary to the public trust as stipulated in the Penal Code No. (16) of 1960 and any amendments thereof.

---

<sup>245</sup> [https://www.law.cornell.edu/wex/criminal\\_law](https://www.law.cornell.edu/wex/criminal_law).

<sup>246</sup> Fayad Alqudah, (2011) 'Amendments of Anti- Corruption Law between the Government and Parliament', Ammonnews.net, [online] available at: < <http://www.ammonnews.net/Article.aspx?Articleno=95604>> [Accessed 23 August 2011].

c) Economic crimes as specified under the Economic Crimes Law No. (11) of 1993 and any amendments thereof.

d) Money laundering.<sup>247</sup>

e) Illicit enrichment.<sup>248</sup>

f) Not declaring or not disclosing investments or properties or benefits that may lead to conflict of interest, if laws and regulations require that; of which, personal benefits are those that can be directly or indirectly gained for him/her who has refrained from declaring or disclosing.<sup>249</sup>

g) Any act or refrainment, which may lead to the misappropriation of public funds.

h) The abuse of authority, contrary to the provisions of the law.

i) The acceptance of nepotism and favouritism, which revokes a right, or validates what is void.

j) All actions provided for in international agreements acceded to by the Kingdom, which relate to anti-corruption.

These offences fall into four groups, based on the Jordanian legislations (Penal Code, Economic Crimes Law, Anti- Corruption Commission Law). These 4 groups are:

- 1- Corruption offences contrary to public office (Penal Code), such as the following: bribery, embezzlement, misuse of public office, assaults on freedom, illegal detention, entering residences illegally, abuse of power, and breach of public office duties.
- 2- Corruption offences contrary to public trust (Penal Code), such as the following: counterfeiting of the State's seal, counterfeiting of official marks, counterfeiting of banknotes, counterfeiting of coins, counterfeiting of stamps,

---

<sup>247</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>248</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>249</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

forgery, criminal forgery, issuing false certificates, impersonation, and forging private documents.

- 3- Corruption offences arising from economic crimes (economic crimes law) are as the following: contractors' crimes, harming the State's financial standing, crimes related to systems of irrigation, arson, assaults on public roads, assaults on other means of transportation and industrial works, cheating, theft, deception, breach of trust, deception in the nature of goods, fraud in the transactions, bankruptcy and deception of creditors.
- 4- Corruption offences contrary to the Anti-Corruption Commission Law, as follows: any act or refrainment, which may lead to the infringement of public fund, abuse of authority contrary to the provisions of the law, acceptance of nepotism and favoritism, which infringes a right or validates what is void, money laundering, illicit enrichment, and not declaring or not disclosing investments or properties or benefits that may lead to a conflict of interest (if laws and regulations require that, where personal benefits can be directly or indirectly gained by him/her who refrained from declaring or disclosing).

These four groups provide a structure for the questionnaire later to be addressed to legal experts in this field:

- The first group in the questionnaire describes the nature of these crimes - they all share the feature that employees (public Officials) commit these offences while performing their work. These offences were specified in the Jordanian Penal Code No (16) of 1960 and its amendments. More detail about these offences follows later in this chapter.
- The second group in the questionnaire relates to crimes that are committed by an employee (Public Official) outside his/her work. The crimes are specified in the Penal Code No (16) of 1960 and its amendments. These offences (potentially) have a major impact on society.
- The third group in the questionnaire concerns those crimes that cause harm to the government's financial standing. These offences were detailed in the Economic Crimes Law No. (11) of 1993 and its amendments.

- The last group in the questionnaire relates to those offences which are not specifically included in the Penal Code, but added as a ‘catch-all’ by the legislature in order to ensure full harmony with the United Nations Convention Against Corruption.

To identify the relationship between the UNCAC and the JACCL concerning criminal corruption offences, each offence will first be textually examined under both laws. The second consideration will be by means of a panel of expert opinion. This bi-fold approach aims to capture a broader spectrum of insight than can be generated by doctrinal considerations alone.

#### *Textual Consideration*

The Articles in the Convention contain more than one paragraph and some paragraphs are further divided into sub-paragraphs; each one of them provides a separate obligation on the State. Regarding the State, the law as it stood at a particular moment is considered.

In this study, the end of 2014 is taken as the basis for assessment. This means, the study has considered all applicable legislations and institutional systems related to the corruption in Jordan at the end of 2014, comparing them to the provisions of the UNCAC.

The approach employed in this work is a comparative and analytical one. The study analyses the UNCAC, Article by Article (and even paragraph by paragraph) in Chapter Three III- Criminalization and Law Enforcement (corruption offences), and compares these texts to the relevant texts of the different Jordanian laws concerning the same subject, as addressed by the UNCAC. After an analytical reading of the Convention text and the relevant texts of the Jordanian law, and making a comparison between them, the study then secondly panels expert opinion regarding these offences. This is to determine whether the obligation contained in the Convention text is included in the Jordanian law texts or not, and then determine if it is compliant with the Convention or not.

## 5.1 Criminalization and Law Enforcement – Chapter III of the UNCAC

Understanding the corruption offences in the Jordanian law and determining whether or not they comply with the UNCAC presents a challenge. It requires a detailed review and analysis of the corruption offences both in the UNCAC and in Jordanian law. In the UNCAC, the offences are simply expressed (Articles 15 – 25) and described in the one law (the UNCAC itself); however, the offences in Jordanian law are complex in expression and described in more than one law. Mapping from UNCAC to Jordanian law therefore requires a detailed exposition.

Referring to the provisions of the criminalization of acts that are considered corruption according to the UN Convention Against Corruption, these offences are already in Jordanian legislation, such as in the Penal Code, in the Anti-Corruption Commission law, in the Money Laundering Law, in the Financing of Terrorism Law, in the Civil Law or in others. The Jordanian Legislation covers all those acts that are considered illegal in Jordan, but the UN Convention against Corruption refers to a set of actions considered specifically crimes of corruption under law<sup>250</sup>.

There are areas where Jordanian legislation does not include some of what the UN Convention against Corruption does consider an offence of corruption, such as bribery in the private sector, which omission requires amendments to the Law of the Anti-Corruption Commission.

Chapter III of the UNCAC, under the title Criminalization and Law Enforcement lists in Articles 15- 25 the following crimes:

Bribery of national Public Officials;

Bribery of foreign Public Officials and officials of public international organizations;

Embezzlement, misappropriation or other diversion of property by a Public Official;

Trading in influence;

Abuse of functions;

---

<sup>250</sup>UNODC, Technical guide to the United Nations Convention against Corruption. (2009) UN, New York.



Illicit enrichment;

Bribery in the private sector;

Embezzlement of property in the private sector;

Laundering of proceeds of crime;

Concealment;

Obstruction of justice.

#### 5.1.1 Bribery:

The UNCAC addresses bribery in two forms: bribery in the public sector and the private sector. The offences are detailed in three Articles: (15, 16, and 21). Public sector bribery takes two forms: firstly, the traditional image of bribery when committed by a national officer (Article 15), and secondly, the bribery of a foreign Public Official or employee of a public international organization (Article 16). The Convention also adds another element, which is the inclusion within bribery of not only natural persons, but also all legal persons, as in Article (14).

##### 5.1.1.1 - Bribery of national Public Officials, Article (15) of UNCAC

"Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- a) The promise, offering or giving, to a Public Official, directly or indirectly of an undue advantage, for the official himself or herself or another individual or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
- b) The solicitation or acceptance by a Public Official, directly or indirectly of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties."

Article 15 mentions two forms of bribery: first, the UNCAC criminalizes bribery of a Public Official by directly or indirectly giving an undue advantage to the official, in order that the official acts or refrains from acting in the performance of official

duties. The second form is a mirror image: it criminalizes the behaviour of the official him/herself by seeking or accepting, directly or indirectly, an undue advantage in order to act or refrain from acting in the performance of his/her official duties.

From studying and analysing the text above and comparing it to the Jordanian legislation, it seems it hardly differs from the form of the crime of bribery in Penal Code No. 16 of 1960, provided in Article (15) of the Convention.

The particular element in this crime concerns the Public Official; it means that bribery does not occur if it does not involve a public servant. Article (2) of the Convention, defines a Public Official as:

(a) "Public Official" shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "Public Official" in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, "Public Official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party..."<sup>251</sup>

It appears from the above that the Convention tries as far as possible to expand the concept of 'public servant', in order to encompass (all) possible corruption offences involving Public Officials. Unfortunately the Jordanian legislature fails to extend the domestic law to a large segment of Public Officials who have financial and administrative powers, and who are most likely to commit crimes of corruption. The Jordanian legal text constitutes a narrow platform from which to prosecute these crimes. It leads to obstruction of the Commission to the performance of its functions as fully as possible within Jordan.

---

<sup>251</sup> UNODC, *United Nations Convention against Corruption*, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

Under other legislation, some further officials can be prosecuted under specific laws, such as ministers, members of the armed forces and members of intelligence and public security bodies, civil defence and customs personnel, and judges.

As for the physical element in the bribery crime, according to Article (15) in the Convention, it does not differ from the physical element of the Jordan legislation. Both emphasize that the Public Official requests or accepts an undue advantage, or promises to do or refrain from doing his/her work, for the benefit of him/herself or another entity. In addition, the Jordanian legislation adds other acts that can be performed by the employee such as: misuse of public office, abuse of power, or breach of public office duties. These actions relate to further elements of UNCAC, other than bribery.

As for the mental element of the crime of bribery, like all other corruption offences covered by the Convention, it is intentional: in order to be considered a crime it presupposes the existence of knowledge and intent to commit said crime. In Jordanian law, the Penal Code Articles (63-65) explain what the 'mental element' means:

“Article (63): Intent is the will to commit the crime as defined by law.

Article (64): A crime is considered to be a deliberate one even if the criminal consequence of the act exceeded the intent of the perpetrator, provided that he/she expected such consequence and accepted the risk of its occurrence. It shall be considered a mistake if the act is the result of negligence, or lack of due care or lack of consideration for any laws or regulations.

Article (65):

1-The motive is the reason which makes the perpetrator commit the act, or it is the ultimate result the perpetrator desires to achieve.

2- Motive is not an incriminating element except in instances stipulated by the law.”<sup>252</sup>

This means that the intention or the mental element in the crimes, according to the Penal Code, is the will by a person to commit a crime defined by the law.

---

<sup>252</sup> Penal Code Articles (63- 65).

According to the Jordan legislation Article (15) of the UNCAC and in term with Article (5) part (a), “For the purposes of this Law, the following shall be deemed as corruption:

a) Offences contrary to public office duties as stipulated in the Penal Code No. (16) of 1960 and any amendments thereof.”. In JACC law, and in particular in the Penal Code no. (16) Of 1960 and their amendment, bribery is covered in these Articles:

Article (170):

"Any State official or person seconded to perform a public service, either through election or appointment and any other person assigned to perform an official function such as an arbitrator or an expert, seeks or accepts for himself or on behalf of another a gift, a promise or any other benefit to perform his/her duty shall be punished by imprisonment for no less than two years and a fine equal to the value of the item he/she asked for or accepted"<sup>253</sup>

Article (171):

1-"Any of the persons stipulated in the previous Article who seeks or accepts for himself or for another a gift or a promise or any other benefit in order carry out an act that does not fall within the duties of his/ her office; or to refrain from carrying out an act that falls under the duties of his/her office, shall be punished by temporary imprisonment with hard labour and a fine equal to whatever amount he/she sought or accepted.

2-The attorney who commits the same acts shall be punished with the same penalties."<sup>254</sup>

Article (172):

1-"The person offering the bribe shall be punished by the same penalties stipulated in the previous two Articles.

2-The person who offered the bribe as well as the intermediary shall be exempted from punishment if they informed the related authority of the act or confessed to it before the case is referred to the court."<sup>255</sup>

---

<sup>253</sup> Penal Code 1960 No .16.

<sup>254</sup> *ibid.*

Article (173):

"Whoever offered one of the persons stipulated in Article (170), a gift or other benefit or promised him/her of such things in order to carry out an act that does not fall within the duties of his/her office or in order to refrain from performing an act that does fall within the duties of his/her office, shall be punished - if the offer is not accepted - by imprisonment for no less than three months and a fine from ten to two hundred Dinars (JD10-200)."<sup>256</sup>

### *Findings*

When analysing these Articles (170-173) of the Penal Code, we can see that the Jordanian legislation fulfils the requirement of the UNCAC regarding the promise, or the offering or giving of an undue advantage by a national Public Official. The Penal Code specifies that the person offering the bribe shall be subject to the same penalties as a person accepting them. Also seeking or asking for a bribe is punishable under this Penal Code.

5.1.1.2 - Bribery of foreign Public Officials and officials of public international organizations, Article (16) of the UNCAC.

1. "Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign Public Official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign Public Official or an official of a public international organization, directly or indirectly, of an undue advantage, for the

---

<sup>255</sup> *ibid.*

<sup>256</sup> *ibid.*

official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.” This crime is not different from the bribery in Article (15) except for these two elements: the perpetrator of crime and what will be obtained from the bribery. The perpetrator of this crime is either a foreign Public Official or an international public servant. Article (2) paragraph (b) in the UNCAC defines what a foreign Public Official is, which is “any person holding a legislative, executive, administrative or judicial office of a foreign country, etc. or any person exercising a public function for a foreign country...”<sup>257</sup>

The most recent amendment of JACCL No. (16) of 2014 Article (22) paragraph (b) was then added, specifying that the law relating to public officials “ ....shall [also] apply to foreign Public Officials and officials of public international organizations....”<sup>258</sup> This means that the Jordanian legislature has addressed the matter of foreign Public Officials, but the Article only talks about committing any of the offences cited in Article (5) of the JACC law. It does not delimit other offences that are identified specifically within the more general Jordanian Penal Code. It simply adds the bribery of foreign Public Officials and officials of public international organizations. This means that this Jordanian legislation applies the same prohibition and penalties relating to domestic corruption offences also to foreign Public Officials, without explaining what the elements of this offence are.

Undoubtedly it is very important to add foreign Public Officials and international officials’ accountability to bribery offences, in response to the current complexity of interrelationships and activities between international institutions and States. As for the second element in this crime, what is gained or obtained from bribery is to obtain business or other undue advantage in relation to the conduct of international business.

#### *Findings:*

Jordanian legislation fulfils the requirements of the UNCAC concerning the solicitation or accepting of bribes by foreign Public Officials and officials of international organizations.

---

<sup>257</sup> *ibid.*

<sup>258</sup> JACC law No. (62) of 2006.

### 5.1.1.3 . Bribery in the private sector. Article (21) of the UNCAC

This article provides for this offence when it is committed in the private sector:

"Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting".<sup>259</sup> Unfortunately the Jordanian legislations did not cover this offence in its legislations; which is really very important for the issue of corruption which is widespread in all sectors.

#### *Findings:*

Jordanian legislation does not fulfill the requirements of the UNCAC concerning bribery in the private sector. There is no specific provision in the law relating to corruption in the private sector. However, some other criminal law might be applied to this type of activity under a name other than of bribery.

### 5.1.2 Embezzlement:

Embezzlement is one of the most dangerous and serious corruption offences. That is because of its effects on society, given the negative effects of wasting public funds and government property that is supposed to be for the public. The other important factor is that it is a manifestation of dishonesty by an employee whom you previously trusted to keep the property or the funds properly, according to the terms of his/her job.

---

<sup>259</sup> UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

The United Nations Convention against Corruption addresses embezzlement in two forms. These are embezzlement in the public sector and in the private sector, according to Articles (17, 22).

#### 5.1.2.1 Embezzlement by Public Officials:

Article (17) of the UNCAC states: “each State party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a Public Official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the Public Official by virtue of his or her position.”<sup>260</sup>

From the text above we can notice that those drafting the UNCAC have expanded the scope of embezzlement in the same manner as bribery. In the case of bribery, the drafting expands it to acts committed by any Public Official, whether national or foreign, or international staff at an international institution. Bribery is also separately specified in the private sector (see below). Here, however, in the case of embezzlement, foreign Public Officials and officials of international organizations are not specified.

In Article (17) in the UNCAC, the crime consists of two elements: the physical and mental elements and an assumed condition, which is that a Public Official is involved.

The physical element includes two factors: first is the embezzlement itself, an act that is intentional and involves embezzlement, misappropriation or another diversion, while the second involves any property, public or private funds or securities, or any other valued thing entrusted to a Public Official because of his/her job. The last element is the mental one, which means that the perpetrator is intentionally committing the crime as Stated in Article (17).

#### 5.1.2.2 Embezzlement of property in the private sector:

Article (22) of the UNCAC states: "Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence,

---

<sup>260</sup> *ibid.*



when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity, of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position".<sup>261</sup>

Jordan legislations adopted the embezzlement Articles (17, 22) of the UNCAC into the following Articles of national law:

Article (174) in the Penal Code: 1-"Any Public Official who takes ownership of what he/she is supposed to control or administer or collect or keep of State or private person money and other property, shall be punished by temporary imprisonment with hard labour and a fine equal to the amount he/she embezzled..

2- Whoever embezzles money which belongs to the banks or specialized lending institutions or public shareholding companies and is an employee of one of such institutions shall be punished by the penalty stipulated in the previous paragraph.

3- If the act stipulated in the previous two paragraphs is committed through the forging of cheques or bonds or through inserting incorrect writings into books and registrars or through the falsification or erasing or destroying of accounts or papers or other documents and generally through any deceptive act which aims at preventing the discovery of embezzlement, the perpetrator shall be punished by temporary imprisonment with hard labour for a period no less than five years and a fine equal to what has been embezzled.

4- The perpetrator's partner and the accessory shall be punished by the same penalty."

#### *Findings:*

Jordanian legislation fulfils the requirements of the UNCAC concerning the embezzlement, misappropriation or other diversions of value by a Public Official.

#### 5.1.3 Trading in influence

The legal essence of this act is the act of the Public Official or other person to use his or her real or supposed influence to obtain from the administration or public

---

<sup>261</sup> *ibid.*

authority an undue advantage for him/herself or for another person. Article (18) of the UNCAC states: “Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a Public Official or any other person, directly or indirectly, of an undue advantage in order that the Public Official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(b) The solicitation or acceptance by a Public Official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the Public Official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage”<sup>262</sup>.

The stated elements of this crime are threefold: The assumed element is to be a Public Official, but this Article applies not only to a Public Official but can be applied also to any person abusing his or her real or supposed influence to obtain from the administration or public authority an undue advantage.

As for the physical element of the crime, it contains two elements: Firstly, a request or an acceptance of any undue advantage for him/herself or for another person, (where 'request' means the initiative of the employee or other influential person to accepting undue advantage), secondly, the assumption of a promise previously issued by the beneficiary person, followed by acceptance of the employee to an undue advantage. In this second element, the Article did not identify what 'undue advantage' means, but it is clear that this term includes all in-kind and monetary equivalent amounts and all benefits.

As for the mental element of the crime, this means when it is committed intentionally. Therefore the committing of the crime in error in any way does not apply to the intentional element. The Jordanian legislation did not include this crime as a corruption offence in the JACCL.

---

<sup>262</sup> *ibid.*

There are no special provisions in Jordanian legislation concerning trading in influence. However, some elements of criminalization are defined in Penal Code Articles (170,171,173, 176).

*Findings:*

Jordanian legislation therefore does not fulfill the requirements of the UNCAC concerning trading in influence. However, some other Jordanian criminal law might be applied to this type of activity under a different name, for example the Economic Crimes Act (1993) No. 11 or the Financial Disclosure Act (2006) No.54 .

#### 5.1.4 Abuse of functions

The United Nations Convention against Corruption includes another form of corruption distinct from bribery, embezzlement, and trading in influence. That is the abuse of functions, Article (19) of the UNCAC states:

“Each State party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a Public Official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or another person or entity”.<sup>263</sup>

The legal core of this crime is the increase of the benefits that can be enjoyed, whether the benefit be for him/herself or for others, in violation of the laws.

Article (182) in the Penal Code states:

1-"Any Public Official who uses his/her office powers directly or indirectly in order to obstruct or delay the implementation of the law provisions or the applicable regulations or the collection of fees and taxes provided for in the law or the execution of judicial decisions or any order issued by a competent authority, shall be punished by imprisonment from one month to two years.

2-If the person who used his/her power and authority is not a Public Official; he/she shall be punished by imprisonment from one week to one year."

Article (184) in the Penal Code states:

---

<sup>263</sup> *ibid.*

"Any officer or member of the police, who refrains from responding to a legal request made by the judicial or administrative authority, shall be punished by imprisonment from one week to one year and a fine from five to fifty Dinars (JD5-50) or with both penalties."

*Findings:*

Jordanian legislation fulfils the requirements of the UNCAC concerning the abuse of functions or position of Public Officials.

#### 5.1.5 Illicit enrichment

Article (20) in the UNCAC recognizes this act as a corruption offence:

"Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a Public Official that he or she cannot reasonably explain in relation to his or her lawful income".

Jordanian legislation adds this act to the JACCL as a corruption offence to Article (5) in the last amendment of Anti-corruption Commission Law No. (16) of 2014. The amendment does no more than add the words 'illicit enrichment' to the list of corruption offences, without further specification.

An important issue with this crime is that, when the Convention asks the State Party to criminalize this enrichment, it makes it 'Subject to its [the State Party's] constitution and the fundamental principles of its legal system'. This is not provided for in other crimes under the Convention. This demand in this Article perhaps reflects the seriously negative effect of this type of crime on society.

The Financial Disclosure Law defines Public Officials who are obligated to provide a financial disclosure for themselves, their spouses and minor children. It is regarded as 'illicit enrichment' if there is a sudden increase in property and the Public Official fails to demonstrate a legitimate source of such an increase. The Financial Disclosure Law criminalizes illicit enrichment.

*Findings:*

Jordanian legislation fulfils the requirements of the UNCAC concerning illicit enrichment, through the financial disclosure measure. It does however not provide for independent investigation of the assets owned by any Public Official, i.e. the onus is on self-reporting.

#### 5.1.6 Laundering of proceeds of crime

Laundering of proceeds of crime is a most serious and dangerous crime of corruption. This is because although corruption offences are financial crimes, the predicate offence that gives rise to these financial proceeds may be any type of crime. However, “Some States limit the predicate offences to drug trafficking and a few other crimes. Other States have an exhaustive list of predicate offences set forth in their legislation. Still other States define predicate offences generically as including all crimes, or all serious crimes, or all crimes subject to a defined penalty threshold”<sup>264</sup>.

The monetary proceeds represent a physical benefit. Securing the physical benefit for the offender requires actions using deception to cover up the source of the physical funds derived from committing predicate offences. The goal is to make the funds look like legitimate funds. Secondly, laundering the proceeds of crime is not only a financial crime; it also obstructs justice, because it becomes very difficult to track the money. From this, we can notice the importance of the UNCAC in trying to find solutions to the legal difficulties and problems arising from the phenomenon of the laundering of proceeds of crime. Article (23) of the UNCAC describes the legal form of the crime as ‘laundering the proceeds of crime’, as well as some procedural provisions on jurisdiction. We try to describe them as follows:

I According to Article (23) of the UNCAC, the type of acts described in the laundering of proceeds of crime are: (a) the conversion or transfer of property, knowing that this property is a proceed of crime, in order to conceal or disguise the illicit origin of this property, (b) to conceal or disguise the true nature, source, location, disposition, movement or ownership of, or rights to this property, knowing that this property is a proceed of crime, and (c) the acquisition, possession or use of this property knowing that this property is a proceed of crime.

II The subject of the crime used in a laundering of the proceeds of crime offence are property and proceeds of crime. Article (2) of the UNCAC defines the terminology

---

<sup>264</sup> [https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_3-5.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_3-5.pdf).

used, and in accordance with paragraph (d) of Article (2), 'property' means "assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets", and in paragraph (e) in the same Article, 'proceeds of crime' means "any property derived from or obtained, directly or indirectly, through the commission of an offence". From this terminology and these definitions we find an expanded meaning, which makes it difficult for the offender to escape punishment for this crime.

III The concept of crime, which is the predicate offence, is the receiving of the property. The legal form of the crime of laundering money derived from corruption must be the money derived from the predicate offence in every crime included in Chapter Three under 'Criminalization'.

But the concept of the predicate offence is not necessarily restricted to corruption offences provided for in the Convention, although a minimum is required; but it also expands to any other predicate offences that are contained in the national legislations of the State. This principle is clear and indicated in Article (23) paragraph (2), (a) "each State Party shall seek to apply paragraph 1 of this Article to the widest range of predicate offences".

Regarding the mental element of this crime, is it an intentional crime- default, neglect or any other unintentional error is not subject to this Article, and the sense of this intentional element is that the offender knows that the property is 'proceeds of crime'.

The Jordan legislature added this crime to the JACCL as a corruption offence in the last amendment law of Anti-corruption Commission Law No. (16) of 2014.

Anti-Money Laundering Law No. (46) of 2007 defines money laundering as follows in Article (2): "Every conduct involving acquiring, possessing, disposing of, moving, managing, keeping, exchanging, depositing, investing, manipulating the value or transferring the funds, or any other act, where the purpose of the act is to conceal or disguise the source, true nature, place, movement, disposal means, ownership or related rights, or otherwise preventing from identifying the person who committed the crime that generated the funds, with the knowledge that the funds are the proceeds of any of the crimes stipulated in Article (4) of this law".

Article (4) of Anti- Money Laundering Law states that:

“a- Every Fund that generates from any of the crimes indicated below shall be considered the subject of money laundering:-

1- Any crime punishable pursuant to the provisions of the valid legislation in the Kingdom.

2- Crimes, the proceeds of which are considered, according to the provisions of international agreements ratified by the Kingdom, as a subject of a money laundering crime.

b- The money laundering crime is considered independent from the crime that generated the funds; a conviction in the crime that generated the funds is not a condition to prove its illegitimacy. The definition is fulfilling the requirements laid down in the UN Vienna and Palermo Conventions, and the law includes provisions to criminalize money laundering”.

#### *Findings:*

Jordanian legislation fulfils the requirements of the UNCAC concerning a person’s criminal liability for money laundering if he/she has committed a predicate offence.

#### 5.1.7 Concealment

The legal form of concealment as a crime was very important in the fight against corruption. Perhaps this importance has declined with the criminalization of the laundering of proceeds of crime and the fact that the offences share many common elements.

Where concealment or money laundering occurs, there must have been a predicate crime prior to them. The physical element is largely similar in both cases: it is the possession, acquisition or use of funds or property with the person being aware that they result from previous crime; both crimes must be committed intentionally. However, the specificity of the money laundering offence is the manner and techniques used in hiding the money. Despite this, the criminalization of concealment is necessary, not just after an attack on the property of others, but also as a kind of obstruction of justice. Article (24) of the UNCAC states that “without prejudice to the provisions of Article (23) of this Convention [money laundering], each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the

commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention".

What is different in this crime is that it relates specifically to offences within the UNCAC, not more generally. The crime of concealment is legally independent from the original crime; this means independent (excluding the crime of concealing property) from corruption or subscribing or contributing to corruption itself that allowed the perpetrator to gain the property. This difference leads to Article 24 which stipulates explicitly that the criminalization of concealment does not require participation in the predicate crime of corruption.

The Jordanian Penal Code includes provisions to criminalize only concealment of property that is a result of embezzlement or theft. Therefore, it does not cover all crimes that are deemed corruption crimes.

*Findings:*

Jordanian legislation partially fulfils the requirements of the UNCAC concerning the concealment or continued retention of property that is the result of the offences established in accordance with the UNCAC. The Jordanian legislation lacks reference to bribery of all types, trading in influence, abuse of function, illicit enrichment, and money laundering

#### 5.1.8 Obstruction of justice

Obstruction of justice by influencing witnesses or staff responsible for law enforcement is one of the obstacles to combating corruption. Article (25) the UNCAC criminalizes this offence. In order to have the legal form (the offence of obstruction of justice), Article (25) requires the following elements:

“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of



testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of State Parties to have legislation that protects other categories of Public Official”

I The assumption element is that a threat or intimidation, or a promise of offering or giving of an undue advantage to induce false testimony or interfere in the giving of testimony by a witness or public officer responsible for the application of the law on corruption offences, is provided for in the Convention.

II Physical element: is the use of different means of impact in order to neutralize the witness testifying, procure either perjury, or withhold evidence or conceal evidence relating to one of the corruption offences covered by the Convention.

III The mental element: there should be intent, as Stated in Article 25 of the Convention. This means that the physical element in this crime arises knowingly with the perpetrator, using violence, threats or intimidation, for the purpose of interfering with the testimony of other persons connected with the criminal proceedings, or with the investigation under the Convention.

The last amendment to the JACCL in 2014, in Article (21) paragraph (d) cites that: “Notwithstanding the provisions of any other legislation, anyone who has evidence of corruption and did not report it to Anti-Corruption Commission or the competent authorities, shall be subject to punishment of imprisonment for a period not less than four months or a fine not less than five hundred Dinars and not exceeding five thousand Dinars or by both penalties. The punishment doubles in case of a public servant”.

Also, the Anti-Corruption Commission Law obliges the authorities to protect whistleblowers, witnesses, informants and experts. It includes provisions to criminalize assaults against the above mentioned and their bad treatment, discrimination, prevention from testifying or reporting on corruption. Anti-Corruption Commission Law does not clearly prohibit the offering or giving of an undue advantage for the whistleblowers, witnesses, informants and experts.

*Findings:*

Jordanian legislation fulfils the requirements of the UNCAC concerning the harassment of the whistleblowers, witnesses, informants and experts. The Penal Code includes provisions to criminalize the use of physical force, threats or intimidation in order to interfere with the exercise of official duties by a justice or law enforcement official. Also the JACCL criminalizes not reporting to the Jordanian Anti- Corruption Commission or any other competent authorities any evidence of corruption, and also doubles the punishment if this person does not report such knowledge to a Public Official.

### **Summary**

In the above, the researcher identifies the corruption offences under the UNCAC, and which Articles in the Jordanian legislations are similar to it, in order to do a comparative analysis between the Convention and the national legislation in Jordan. The study discusses these topics under Chapter Three of the UNCAC, which concerns criminal liability of corruption offences, the sanctions system in the UNCAC, and the immunities in the UNCAC. The next chapter moves on to offer consideration of the extent of criminalization of these offences and the enforcement of them under the Jordanian legal system.

## **CHAPTER SIX: Criminalization and Law Enforcement Regarding Corruption under the Jordanian Law.**

### 6.0 Introduction

In the previous chapter, the research analysed the UNCAC Articles, Article by Article (and even paragraph by paragraph), and also looked at criminalization and law enforcement (corruption offences) in Chapter Three. These texts are then compared to the relevant texts of the different Jordanian laws concerning the same subject as addressed by the UNCAC. In this chapter the researcher will identify the corruption offences under the Jordanian law; in particular Article (5) of the JACCL.

### 6.1 Criminalization of offences under Jordanian legislation

The research will identify offences under the Penal Code, offences under the Economic Crimes Law, specific offences under the Anti-corruption Commission Law, and offences specified in international agreements acceded to by Jordan relating to anti-corruption.

These offences are divided into four groups in the structured questionnaire. The groups are: offences contrary to public office, contrary to public trust, contrary to the Economic Crimes Law and finally the Anti-corruption legislation.

#### 6.1.1 Corruption offences contrary to public office that are dealt with in the Jordanian Penal Code:

These offences are: bribery, embezzlement, misuse of public office, assaults on freedom, illegal detention, entering residences illegally, abuse of power, and breach of public office duties. These are described below.

Bribery, which is a corruption offence in the UNCAC, Articles (15, 16, and 21), is incorporated by the JACC legislation. It is covered when the corruption offences are identified in the UNCAC (chapter 5).

Embezzlement is a corruption offence in the UNCAC as covered by Articles (17, 22).

Misuse of public office is covered by the following Articles:

Article (175) of the Penal Code states:

"Whoever is entrusted with selling or buying or administering movable or immovable property for the benefit of the State or a public administration and he/she committed a fraud while performing one of these functions or violated the rules governing such function either to obtain benefits for himself or to benefit or harm one of the parties involved or to harm the administration, shall be punished with temporary imprisonment with hard labour and a fine equals the amount of harm caused"

Article (176) of the Penal Code states:

"The following persons shall be punished by imprisonment from six months to two years and a fine no less than ten Dinars (JD10):

1-Any Public Official who gained a personal benefit from one of the transactions related to the administration he/she is employed by, whether he/she did this directly or through an imposter or through the use of forged documents.

2-All public administration representatives, police officers, and other public police personnel who publicly, or through the use of forged documents or through the use of an impostor, traded in grains or other basic necessity items in the area of their official post, provided that such materials are not the product of their personal properties."

Article (177) of the Penal Code States:

1-"The penalties stipulated in Article (174) shall be reduced by half if the harm caused or the benefit gained by the perpetrator is very minimal or if he/she fully reimbursed the harm before the case is referred to the court.

2- If the payback and reimbursement happened during the trial and before a judgment is issued, even if it is not a final judgment, then the penalty has to be reduced by one fourth.

3-In all the before mentioned crimes stipulated in this chapter if the court took into consideration the discretionary mitigating factors, it has no power to reduce the penalty by more than half."

*Findings:*

The research finds that some of the elements of this offence match those of Article (19) of the UNCAC, which talks about abuse of functions.

Both Laws share the same elements regarding the committing of the crime by a Public Official, and in that the crime is committed intentionally, and there is abuse of function or position to perform or fail to perform.

Misuse of public office in the Jordanian law matches the requirements of Article (19) of the UNCAC. The Jordanian legislature even expanded this offence to cover all public administration representatives, police officers, and other public police personnel. The reason behind this is because the meaning of 'Public Officials' in the Jordanian law does not cover all employees of the Kingdom, since some officials are governed by their own special laws.

Assaults on freedom are covered in the Penal Code by the following Article:

Article (178) in the Penal Code states:

"Any Public Official, who arrests or imprisons a person in circumstances other than those stipulated by law, shall be punished by imprisonment from three months to one year."

This offence is not covered by UNCAC because the Jordan legislature recognizes this crime as a corruption offence under public office duties. That is, when a Public Official commits this crime, some of the elements could be covered in Article (19) of the UNCAC- 'abuse of functions of a Public Official'. The difference between them is that while the UNCAC Article requires that the Public Official commit the crime to obtain an undue advantage for him/herself or for another person, the Jordanian law stipulates that Public Officials can commit the offence without themselves necessarily receiving any advantage.

*Findings:*

Assaults on freedom in the Jordanian law are not covered by the UNCAC.

Illegal detention is covered in the Penal Code by the following Article:

Article (179) in the Penal Code states:

"If the wardens and guards of prisons and rehabilitation institutions and whoever perform their duties from among the Public Officials, accepted a person without a judicial warrant or decision or they kept him/her detained after the expiration of his/her detention term, shall be punished by imprisonment for one month to one year."

This offence is not covered by the UNCAC, whereas the Jordanian legislature recognizes this crime as a corruption offence under public office duties. However, if a Public Official commits this crime, some of the elements could be covered in Article (19) of the UNCAC - abuse of functions by a Public Officials. The difference between them is that the UNCAC Article requires that the Public Officials commit this crime to obtain an undue advantage for him/herself or for another person. The Jordanian law stipulates that the Public Official (the wardens and guards of prisons and rehabilitation institutions and whoever performs their duties from among the Public Officials) does not necessarily receive any advantage for him/herself.

*Findings:*

Illegal detention in the Jordanian law is not covered by the UNCAC.

Entering residences illegally is covered in the Penal Code by the following Article:

Article (181) in the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Any Public Official who enters in his/her capacity as a Public Official the residence of another person or the attachments of such residence in circumstances other than those permitted by the law, shall be punished by imprisonment from three months to three years and a fine from twenty to one hundred Dinars (JD20-100).

2-If his/her act is combined with surveying the place or any other act contrary to law, the penalty shall be not less than six months.

3-If the Public Official committed the previously mentioned act without regard to the procedures imposed by the law; he/she shall be punished by imprisonment from one month to one year and a fine from five to twenty Dinars (JD5-20).

4-Any Public Official who enters in his/her capacity as a Public Official one of the private places such as the place where a person performs his/her commercial

activities in circumstances other than those permitted by the law or without regard to the procedures imposed by the law, shall be punished by imprisonment not to exceed six months and a fine not to exceed fifty Dinars (JD50)."

This offence is not covered by the UNCAC. The Jordanian legislation recognizes this crime as potentially a corruption offence under public office duties. If a Public Official commits this crime, then some of the elements could be covered in Article (19) of the UNCAC- abuse of functions of a Public Official. The difference between them is that in the UNCAC, the Article requires that when the Public Officials commit the crime they do so to obtain an undue advantage for him/herself or for another person. The Jordanian law stipulates that the offence is committed by a Public Official, without necessarily receiving any advantage for him or herself. The legislation also covers the act of the Public Official entering both private houses and commercial premises.

*Findings:*

Entering residences illegally, as in the Jordanian law, is not covered by the UNCAC.

Abuse of power: is covered in the Penal Code by the following Articles:

Article (182) in the Penal Law States:

1-"Any Public Official who uses his/her office powers directly or indirectly in order to obstruct or delay the implementation of the law provisions or the applicable regulations or the collection of fees and taxes provided for in the law or the execution of judicial decisions or any order issued by a competent authority, shall be punished by imprisonment from one month to two years.

2-If the person who used his/her power and authority is not a Public Official; he/she shall be punished by imprisonment from one week to one year."

Article (184) in the Penal Law states:

"Any officer or member of the police, who refrains from responding to a legal request made by the judicial or administrative authority, shall be punished by imprisonment from one week to one year and a fine from five to fifty Dinars (JD5-50) or with both penalties."

This offence is not covered by the UNCAC; the Jordanian legislation however recognizes this crime as a corruption offence under public office duties. Article (19) of the UNCAC does however have some of the elements; it could be covered as an abuse of functions of a Public Official. The difference between them is that in the UNCAC, the Article requires that when a Public Official commits the crime, he/she obtains an undue advantage for him/herself or for another person. In the Jordanian law it is stipulated only that a Public Official directly or indirectly delays the implementation of any laws, or decisions etc., without receiving any advantage for him/herself. From analysing the offence, it seems that the physical element in the crime does not match with the offences described in the UNCAC.

*Findings:*

Abuse of power in the Jordanian law is not covered by the UNCAC.

Breach of public office duties: is covered in the Penal Code by the following Articles:

Article (180) in the Penal Code states:

"The previously mentioned Public Officials, officers and personnel of the police and any other administrative officials who refuse or delay to bring a detainee or a prisoner before the related court or the judge who requests them to do so, shall be punished by imprisonment for a period not to exceed six months or a fine not to exceed fifty Dinars (JD50)."

Article (183) in the Penal Code states:

1-"Any Public Official who, without a lawful reason, is remiss in carrying out the duties of his/her post and executing the orders of his/her superior that are issued per the rules of the law, shall be punished by a fine from ten to fifty Dinars (JD10-50) or by imprisonment from one week to three months.

2-If such negligence caused harm to State's interest; the Public Official shall be punished with imprisonment from one month to one year and shall compensate the value of the harm caused."



This offence is not covered by UNCAC; the Jordanian legislation recognizes this crime as a corruption offence under public office duties. A Public Official commits this crime; some of the elements could be covered in Article (19) of the UNCAC (abuse of functions of a Public Official). The difference between them is that in the UNCAC, the Article requires that when the Public Official commits the crime, he or she obtains an undue advantage for him/herself or for another person. In the Jordanian law it is stipulated only that it is committed by the negligence of a Public Official, without necessarily receiving any advantage for him or herself. Additionally, if the negligence caused harm to the State interest, the punishment will be increased.

*Findings:*

Breach of public office duties in the Jordanian law is not covered by the UNCAC.

6.1.1.1 Legal Aspects (experts' opinion)

The review has considered the first group that includes corruption offences contrary to public office, which are dealt with in the Jordanian Penal Code. These offences are: bribery, embezzlement, misuse of public office, assaults on freedom, illegal detention, entering residences illegally, abuse of power, and breach of public office duties. Also, these offences have been compared with UNCAC Articles. Later, the thesis introduces the opinions of legal experts' regarding these offences, as obtained through the structured interviews.

In the structured interview, the researcher puts the same questions to all respondents and requires them to respond within pre-set response categories. Their response is limited, except where open-ended questions are utilized. Thirty experts were interviewed, and each question in the questionnaire will be analysed in turn. The questionnaire has major questions as the below:

- 1- How did you gain your expertise in this subject?
- 2- In your point view, have Jordanian courts fully implemented the provisions of the UNCAC?
- 3- In your opinion, how closely are the JACCL and the UNCAC aligned?

There are four groups for this question:

- a. Corruption offences contrary to public office (Penal Code).
  - b. Corruption offences contrary to public trust (Penal Code).
  - c. Corruption offences arising from economic crimes (Economic Crimes Law).
  - d. Corruption offences contrary to Anti- Corruption Commission Law.
- 4- What might be done, in terms of law, regulation, policy and process, to further embed the provisions of the UNCAC in Jordan?

More details regarding the structure of the interviews and the coding is introduced earlier in Chapter 4.

The analysis of answers for question number three has been done using the Microsoft Excel programme. Microsoft Excel provides a grid interface to organize nearly any type of information. The power of Excel lies in its flexibility to define the layout and structure of the information to be managed. Basic tasks require no special training, and Excel allows work with text, numbers, and date information in a relatively open and unstructured way. Nearly 30 years after its initial introduction, Excel remains the world's leading spreadsheet software.<sup>265</sup>

Excel is used widely in financially-related activity. Excel is also used widely for common information organization and tracking, such as listing sales leads, project status reports, contact lists, and invoicing. Finally, Excel is a useful tool for scientific and statistical analysis with large data sets. Excel's statistical formulas and graphing can help researchers perform variance analysis, chi-square testing, and chart complex data.<sup>266</sup>

Question 3 concerned how closely the JACCL and the UNCAC are aligned, in specific areas of law and individual offences. "Eight areas of law in the Penal Code were considered: bribery, embezzlement, misuse of public office, assaults on freedom, illegal detention, entering residences illegally, abuse of power, and breach

---

<sup>265</sup> ' A Brief MS Excel Tutorial' Available at: <http://www.opengatesw.net/ms-excel-tutorials/What-is-Excel-Used-For.htm>.

<sup>266</sup> *ibid.*

of public office duties. Within each area the respondents were able to indicate on a five-point Likert-type scale the strength of their agreement with the central idea that Jordanian law and the UNCAC were aligned...Their responses were a score on how closely the two codes were aligned in respect of a specific offence in the Jordanian Penal Code”

Analysis of Question 3(A) in the questionnaire: corruption offences contrary to public office (Penal Code). Below is the table of coding (labels) of these offences and the choices provided in the questionnaire.

**Table (11), coding of the offences in question (3) part (a):**

<b>Label</b>	<b>Value</b>
<b>A</b>	Corruption offences contrary to public office (Penal Code).
<b>A1</b>	Bribery
<b>A2</b>	Embezzlement.
<b>A3</b>	Misuse of public office.
<b>A4</b>	Assaults on freedom.
<b>A5</b>	Illegal detention.
<b>A6</b>	Entering residences illegally
<b>A7</b>	Abuse of power.
<b>A8</b>	Breach of public office duties.
<b>1</b>	Very much.
<b>2</b>	Somewhat.
<b>3</b>	Undecided.
<b>4</b>	Not really.
<b>5</b>	Not at all.
<b>Interviewee ID</b>	From (1-30) the interviewees.

<b>Max</b>	The percentage of every choice from (1-5).
------------	--

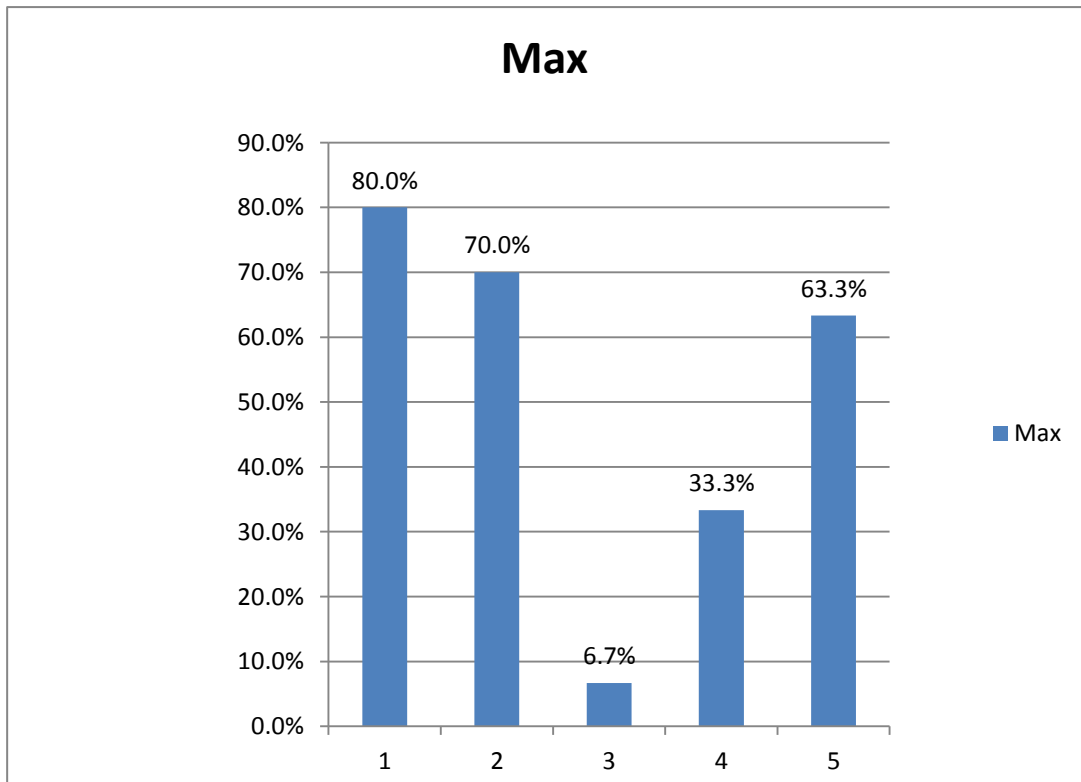
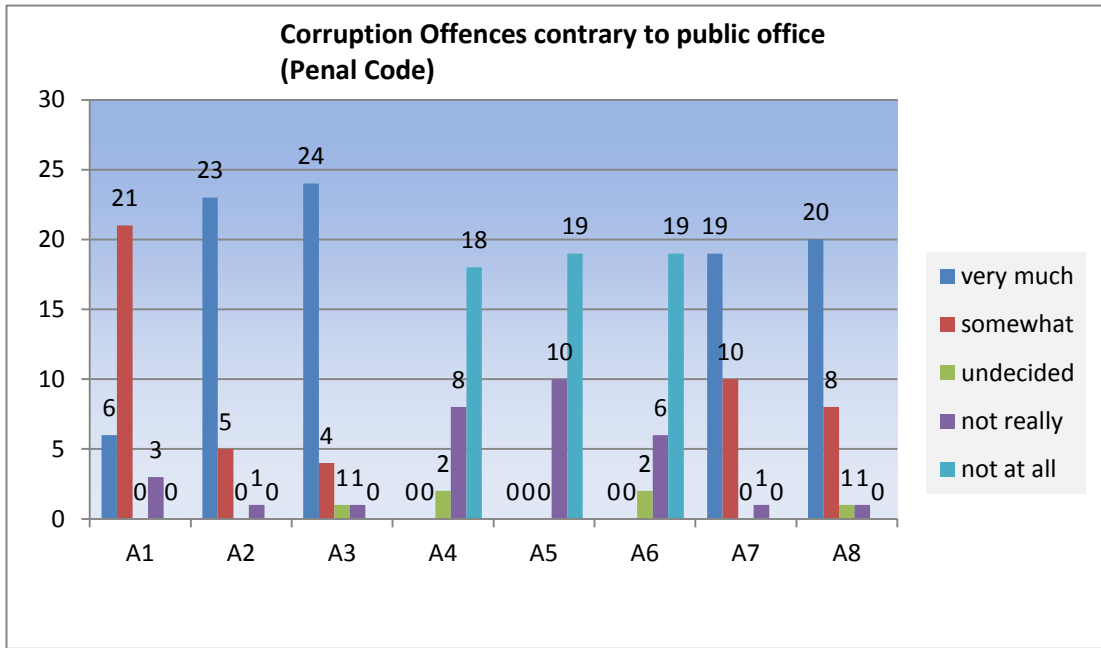
*Table (11)*

**Q3 part (A) Interviewee response in (table (12), chart (1) and chart (2):**

<b>Interviewee ID</b>	<b>A1</b>	<b>A2</b>	<b>A3</b>	<b>A4</b>	<b>A5</b>	<b>A6</b>	<b>A7</b>	<b>A8</b>
1	2	2	1	4	4	4	2	2
2	4	1	1	5	5	5	1	1
3	1	1	1	5	4	5	1	1
4	4	1	1	4	4	5	1	1
5	1	1	1	4	4	5	1	1
6	2	1	1	5	4	5	1	1
7	2	2	2	3	5	4	2	1
8	2	1	1	5	5	5	1	1
9	2	1	1	5	5	5	1	1
10	2	1	1	5	5	5	1	1
11	1	2	1	5	5	5	1	2
12	2	1	1	4	4	3	1	1
13	2	1	1	4	4	3	2	1
14	2	1	1	5	4	5	2	1
15	2	1	1	4	4	4	2	1
16	2	1	1	5	5	5	1	1
17	4	4	2	5	5	5	4	2
18	2	1	2	5	5	4	2	2
19	2	1	1	5	5	4	1	1
20	2	1	3	3	5	5	1	3
21	1	1	1	5	5	5	1	1
22	1	1	1	5	5	5	2	1
23	2	2	2	4	5	4	2	4
24	1	1	1	5	5	5	1	2
25	2	2	1	5	5	5	2	2
26	2	1	1	5	5	5	1	2
27	2	1	4	4	4	5	2	1
28	2	1	1	5	5	5	1	2
29	2	1	1	5	5	5	1	1
30	2	1	1	5	5	5	1	1

*Table (12)*

**Chart (1)**



**Chart (2)**

Reading and analysing the above charts and tables indicates the following:

A1 – Bribery: according to the interviewees, the majority decided on 'somewhat', as the match with the Jordanian Law with the UNCAC. Jordanian legislation is fulfils the requirements of the UNCAC concerning the solicitation or accepting of bribes by the national Public Official, while bribery in the private sector is not covered by the Jordan legislations.

Both the interviewees and the researcher have the same view; all are agreed that bribery committed by national Public Officials and foreign Public Officials in the public sector is covered; while bribery in the private sector is not covered. That is why the result is somewhat the same.

A2- Embezzlement: the majority of the interviewees decided Jordanian law 'very much' matched the UNCAC. Both the interviewees and the researcher agreed that embezzlement in the public and private sector are covered. That is the reason the results are very much alike.

A3- Misuse of public office: according to the interviewees, the majority decided on 'very much, which matched with the UNCAC. Both the interviewees and the researcher have the same view; the name of the offences under the laws differed (the UNCAC name is 'abuse of function', where the JACCL name is 'misuse of public office'), but all agreed that both offences are covered. That is why the result very much matches.

A4- Assaults on freedom: according to the interviewees the majority decided on 'not at all' or 'not really', as the degree of match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations does consider this offence as one of the corruption offences. That is why the result shows 'does not at all match'.

A5- Illegal detention: according to the interviewees the majority decided on 'not at all' or 'not really', which matches with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the

criminalization offences in the UNCAC. However, the Jordanian legislation does consider this offence as one of the corruption offences. That is why the result does not at all match.

A6- Entering residences illegally: according to the interviewees the majority decided on 'not at all' or 'not really', which matches with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations does consider this offence as one of potential corruption offences. That is why the result does not at all match.

A7- Abuse of power: according to the interviewees the majority decided on 'very much' or 'somewhat', which matches with the UNCAC. In this offence the researcher and the interviewees were **not** agreed, since the interviewees considered it as a match with Article (19) of the UNCAC that is an abuse of function, while the researcher finds that this offence is not covered by UNCAC. Again, the Jordanian legislator recognizes this crime as a corruption offence under public office duties, for a Public Official will commit this crime, and some of the elements could be covered in Article (19) of the UNCAC- abuse of functions of a Public Official. The difference between them is that the UNCAC Article required that when the Public Officials commit the crime, they obtain an undue advantage for him/herself or for another person. In contrast, the Jordanian law stipulates that it is only committed by a Public Official directly or indirectly to delay the implementation of any laws, without necessarily receiving any advantage for him/herself. From analysing the offence the researcher determines that the physical element in the criminal offence, does not meet with the offences described in the UNCAC.

A8- Breach of public office duties: according to the interviewees the majority decided on 'very much' or 'somewhat', as the match with the UNCAC. In this offence the researcher and the interviewees were **not** agreed, since the interviewees considered it a match with Article (19) of the UNCAC that is an abuse of function, while the researcher found that this offence is not covered by UNCAC. The Jordanian legislator recognizes this crime as a corruption offence under public office duties, for a Public Official will commit this crime, and some of the elements could be covered in Article (19) of the UNCAC- abuse of functions of a Public Official.

The difference between them is that the UNCAC Article required that when the Public Officials commit the crime, they obtain an undue advantage for him/herself or for another person. In contrast, the Jordanian law stipulated that it is only committed through negligence of a Public Official without receiving any advantage for him/herself; also, that if the negligence caused harm to the State interest, the punishment will be increased.

#### 6.1.2 Corruption offences contrary to public trust (Penal Code) :

Counterfeiting of the State's seal, counterfeiting of official marks, counterfeiting of bank notes, counterfeiting of coins, counterfeiting of stamps, forgery, criminal forgery, issuing false certificates, impersonation, and forging private documents.

The following offences are included in the questionnaire, Q (3) part (B); because of the nature of these crimes, as they are committed by an employee (Public Official) outside his/her work, and there is a detailed section in the Penal Code No (16) of the year 1960 and its amendments that deals with this. The importance of these offences is means that the legislature has put them under the titles of 'contrary to the public trust' , because they have a major impact on society.

Counterfeiting of the State's seal and official marks: is covered in the Penal Code by the following Article:

Article (236) in the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Whoever counterfeits the State's seal or His Majesty the King's seal or signature or knowingly uses such counterfeited seal, he/she shall be punished by no less than seven years of imprisonment.

2-Whoever unlawfully uses the State's seal or counterfeits its Seal or stamp, he/she shall be punished by temporary imprisonment.

This offence is not covered by the UNCAC, whereas the Jordanian legislature recognizes this crime as a corruption offence under public trust duties. The physical element of this crime is committing the crime because of his/her job as a Public Official and the act by the offender of counterfeiting or using the Seal.

*Findings:*



Counterfeiting of the State's seal and official marks is in the Jordanian law but is not covered by the UNCAC.

Counterfeiting of banknotes:

This is covered in the Penal Code by the following Articles:

Article (239) in the Penal Code states:

“The term 'banknote' stated in this section includes:

- 1-Jordanian banknotes issued pursuant to its relevant law
- 2-Financial documents, treasury bonds, debt notes issued by the State and public institutions, whether such instruments were registered for its bearer, or traveler's cheques.
- 3-Any bank policy issued by a bank in the Kingdom or issued by any registered company which deals in money exchange in the Kingdom or in any part of the world.
- 4-Any financial note (regardless of what such paper is called) if it is considered as a legal currency in its country of issuance”.

Article (240) in the Penal Code states: amended in Penal Code No.(27) of 2017

1- "Whoever commits one of the following crimes shall be punished by imprisonment for no less than five years:

a- Whoever counterfeits a banknote in order to commit fraud, or amends such a banknote or trades with a banknote whose appearance clearly shows it is a counterfeited one and he/she knows such a fact.

b- Whoever enters Jordan with a counterfeited or amended currency whose appearance shows that it is counterfeited and he/she is aware of such fact.

2- Whoever possesses a banknote whose appearance shows that it is a counterfeit or is amended while he/she is aware of such fact, he/she shall be punished by imprisonment from six months to three years”.

Article (241) in the Penal Code states: amended in Penal Code No.(27) of 2017

"Whoever imitates or causes to be imitated, any document purporting to be or in any way resembling or so nearly resembling as to be calculated to deceive any banknote or any part thereof, or knowingly trades in such banknote, he/she shall be punished by temporary imprisonment with fine no less than 500 JD and no more than 1000 JD".

Article (242) in the Penal Code states:

"Whoever commits any of the following acts without the authorization of the competent authorities, he/she shall be punished by temporary imprisonment with hard labour of a period not to exceed five years, and whoever:

1-Makes or uses or sells or exposes for sale or knowingly has in his/her custody or possession any paper pretending to resemble and pass as special paper, such as is provided and used for making any banknote;

2-Makes, uses or knowingly has in his/her custody or possession any frame, mould or instrument for making such paper or for producing in or on such paper any words, figures, device or distinction peculiar to and appearing in the substance of such paper, or;

3-By any art or contrivance causes any such words, device or distinction or any words, device or distinction intended to resemble and pass for the same, to appear visibly in substances of any paper;

4-Engraves or in any wise makes upon any plot whatsoever or on any material, any not purporting to be a banknote or part of a banknote or any name, word, number, figure, device, character, or ornament resembling or apparently intended to resemble any signature to a banknote, or;

5-Uses or knowingly has in his custody or possession such plot or other material, instrument or device for the making of printing of banknote".

Article (243) in the Penal Code states:

"Whoever issues or is a party to issuing any banknote without lawful authority, he/she shall be punished by temporary imprisonment with hard labour for a period not to exceed five years".

Article (244) in the Penal Code states:

"The government shall impound without compensation to the holder thereof any banknote which is found to be forged or counterfeited and such banknote shall be confiscated. The confiscated forged banknotes shall be destroyed according to the consent of the Minister of Finance or the Prime Minister, the tools and materials used in making or counterfeiting the paper used shall be dealt with in the same way".

The importance of these crimes is that this crime will affect the financial standards in the country, which eventually will lead to money laundering crimes and concealment.

The difference between the physical element in this crime and the Articles (23, 24) of the UNCAC is that these crimes are only committed if the defendant of these offences is aware of his/her involvement in this act while s/he knows that such property is a proceeds of crime, while for the defendant in the Jordanian law, simply doing the act of counterfeiting of these papers is reason enough.

*Findings:*

Counterfeiting of banknotes as in the Jordanian law is not covered by the UNCAC.

Counterfeiting of coins:

Is covered in the Penal Code by the following Articles:

Article (245) in the Penal Code states:

“The word 'coin' includes coin of any of the kinds and denominations and of any metals or mixed metals lawfully current in the Kingdom or in any other country, where 'metal' includes any mixture or alloy of metals.

'Counterfeit coin' means coin not genuine but resembling or apparently intended to resemble or pass for genuine, and this includes genuine coin which has been prepared or altered so as to resemble or to be apparently intended to resemble or pass for coin of a higher denomination and also genuine coin which has been clipped or filed or the size or weight of which has been otherwise diminished and which has been prepared or altered so as to conceal such clipping or filing or diminution and it includes any such coin whether it is or is not in a fit state... and whether the process of preparation or alteration is or is not complete.

Gilt and silver applied to coin includes producing the appearance of gold or silver respectively by any means whatever."

Article (246) in the Penal Code states:

"Whoever makes or begins to make any counterfeit gold or silver, he/she shall be punished by imprisonment with hard labour for a period not less than five years".

Article (247) in the Penal Code states:

"Whoever commits one of the following acts, he/she shall be punished by imprisonment with hard labour for a period not less than five years [if he/she]:

1-Gilts or silvers any piece of metal of a fit, size or figure to be coined with intent that it shall be coined into counterfeit gold or silver coin, or

2-Makes any piece of metal into a fit, size or figure to facilitate the coining from it of any counterfeit gold or silver coin, with intent that such counterfeit coin shall be made from it, or

3-Knowingly brings into the Kingdom counterfeited gold or silver coins, or

4-Makes or mends any stamp or mould which is adapted to make the resemblance of both or either of the sides of any gold or silver coin or any part of either side thereof, or

5-Makes or mends any tool, instrument or machine which is adapted or intended to be used for making coins or round the edges with marks or figures apparently resembling those on the edges of any gold or silver coin, or

6-Makes or mends any tool, instrument or machine which is adapted for cutting round blanks out of gold or silver or any metal in order to press it."

Article (248) in the Penal Code states:

"1-Whoever deals with any gold or silver coin in such a manner as to diminish its weight with the intent that, when so dealt with, it may pass as gold or silver coin, he/she shall be punished by imprisonment with hard labour for a period not less than five years.

2-Whoever unlawfully has in his/her possession or disposes of any filings or clippings or gold or silver or any gold or silver in bullion dust, solution or any other state, obtained by dealing with gold or silver coin in such a manner as to diminish its weight, knowing the same to have been so obtained, he/she shall be punished by imprisonment for no more than three years."

Article (249) in the Penal Code states:

"Whoever trades in any counterfeit gold or silver coin knowing it to be counterfeit, he/she shall be punished by imprisonment for no more than two years."

Article (250) in the Penal Code states:

"Any person who:

1-trades in any counterfeit gold or silver coin, knowing it to be counterfeit and at the time of such trading has in his/her possession any other counterfeit gold or silver coin, or

2-trades in any counterfeit gold or silver coin knowing it to be counterfeit and within on the same day or on any of the ten days next ensuing, trades any other counterfeit gold or silver coin, knowing it to be counterfeit, or

3-has in his/her possession three or more pieces of counterfeit gold or silver coin, knowing them to be counterfeit, and with intent to trade in any of them.

he/she shall be punished by imprisonment up to three years."

Article (251) in the Penal Code states:

"Whoever commits any of the crimes defined in the last two preceding Articles after having been previously convicted of any of those offences, he/she shall be punished by imprisonment with hard labour for a period not to exceed five years."

Article (252) in the Penal Code states:

"Any person who:

1-makes any counterfeit coin other than gold or silver coin, or

2-without a lawful authority or excuse, knowingly makes or mends any tool or instrument or machine which is adapted and intended for making any counterfeit coin other than gold or silver coin, or

3-buys, sells, receives, or disposes of any counterfeit coin other than gold or silver coin at lower rate of value than it imports or is apparently intended to import or offers to do any such act,

he/she shall be punished by imprisonment with hard labour for no more than seven years."

Article (253) in the Penal Code States:

"Any person who:

1- knowingly utters any counterfeit coin other than gold or silver, or

2-possesses three coins or more of such counterfeit coins for uttering purposes, he/she shall be punished by imprisonment for no more than one year.

Article (254) in the Penal Code states:

"Whoever commits one of the following acts, he/she shall be punished by a fine for no more than twenty five Dinars (JD25) [if he/she]:

1-Received with good intent any counterfeit or forged coin or banknote and knowingly traded in it.

2- Knowingly traded in any cancelled coins or banknotes."

Article (255) in the Penal Code states:

"Whoever refuses to take on its face value any coin or note which is legal to tender in the Kingdom, he/she shall be punished by a fine not to exceed ten Dinars (JD10)."

The importance of these crimes is because this crime will affect the financial standards in the country. The physical element in this crime under Jordanian law is the sole reason that the defendant carries out the act of counterfeiting these coins to use them or trade them.

*Findings:*

Counterfeiting of coins as in the Jordanian law is not covered by the UNCAC.

Counterfeiting of stamps:

Is covered in the Penal Code by the following Articles:

Article (256) in the Penal Code states:

"Whoever commits one of the following acts, he/she shall be punished by temporary imprisonment for no more than ten years [if he/she]:

1-Counterfeits or forges any print or revenue stamps or the State's postal stamps or any other stamps which the State decided upon its use.

2-Knowingly makes or possess a die or tool which can be used in order to produce the print of the stamp."

Article (257) in the Penal Code states:

"Whoever commits one of the following actions, he/she shall be punished by temporary imprisonment for no more than ten years [if he/she]:

1-Makes or mends any die, plate or instrument capable of making an impression resembling that made by any die, plate or instrument used for the purpose of making any stamp, whether impressed or adhesive, in the Kingdom or in any foreign country, or capable of producing any words figures, letters, marks or lines resembling any words, figures, letters, marks or lines used in or on any paper specially provided by the proper authority for any such purpose, or

2-Knowingly has in his/her possession or disposes of any paper or other material which has on it the impression of any such die, plate or instrument or any paper which has on it or in it any such words figures, letters, marks or lines as aforesaid."

Article (258) in the Penal Code states:

"1-Whoever knowingly uses any of the counterfeited or forged stamps, he/she shall be punished by imprisonment for no more than one year or by a fine not to exceed fifty Dinars (JD50) or with both penalties.

2-Whoever knowingly uses a used stamp, he/she shall be punished by imprisonment for no more than one month or by a fine not to exceed twenty Dinars (JD20) or with both penalties."

This crime has importance because these stamps represent what the government uses to stand for its daily work. The physical element in this crime is that the defendant in the Jordanian law commits the act of counterfeiting these stamps just for the reason of using them or trading them.

*Findings:*

Counterfeiting of Stamps as in the Jordanian law is not covered by the UNCAC.

Forgery:

Is covered in the Penal Code by the following Articles:

Article (260) in the Penal Code states:

"Forgery is the intentional alteration of the truth in the facts, which is meant to be proved by a document or certificate, thereby causing physical or mental or social harm."

Article (261) in the Penal Code states:

"Whoever knowingly uses the forged documents, he/she shall be punished with the same penalty as the forger, unless the law provides for a special penalty."

The Jordanian legislator adds another act to be considered as a corruption offence which is a forgery. This crime is also considered to be violating the public trust, since the forgery itself will cause physical or mental or social harm to others.

The physical element in this crime is the defendant in the Jordanian law doing the act of forgery (altering the truth in the facts), and it has to be transferred in a document or certificate and the other element is that the act itself has to harm others in a social, mental or physical way.

*Findings:*

Forgery, as in the Jordanian law, is not covered by the UNCAC.



Criminal forgery:

This is covered in the Penal Code by the following Articles:

Article (262) in the Penal Code states:

1-"Any Public Official who commits physical forgery while executing his/her official duties, whether through the misuse of a signature or stamp or finger print or through him/her signing a forged signature or through making a document or certificate or with what he/she adds or omits in the content of a document or a certificate, such Public Official shall be punished by temporary imprisonment for no less than five years.

2-The penalty shall not be less than seven years if such a forged document is of the type to be used until there is a claim that it is a forged one.

3-The provisions of this Article shall be applicable when wholly or partially destroying the document."

Article (263) in the Penal Code states:

"Whoever commits one of the following acts, he/she shall be punished by the penalties prescribed in the previous Article:

1-A Public Official who drafts a document which lays under his/her power and makes confusion regarding the subject matter or circumstances of such document through the misuse of a signature he/she is entrusted with, or through the recording of the writings or words other than those which were said or drafted by the contracting parties or through proving false facts and record it as true ones or unrecognized facts as recognized ones or through the falsification and alteration of any other fact.

2-A Public Official who is entrusted by law to seize and supervise a registrar and knowingly allows the entry of false substantive data to such registrar."

Article (264) in the Penal Code states:

"Whoever is given the power to certify the originality of a document or signature or stamp, he/she shall be treated as a Public Official for the purposes of applying the previous Articles."

Article (265) In the Penal Code states:

"All persons who commit forgery in relation to official documents through one of the ways mentioned in the previous Article, they shall be punished by temporary imprisonment with hard labour or by detention when the law does not provide otherwise."

The Jordanian legislation adds to the forgery the word 'criminal' because of the penalties according to Article (14) of the Penal Code; forgery alone has a different penalty, less than that for criminal forgery.

The physical element in this crime is that the defendant in the Jordanian law has to be a Public Official and committing the act of forgery (altering the truth in the facts), while executing his/her official duties, and it has to be in all the ways stipulated in the Articles above.

*Findings:*

Criminal forgery as in the Jordanian law is not covered by the UNCAC.

Issuing false certificates:

Is covered in the Penal Code by the following Articles:

Article (266) of the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Any person who, during the execution of a public or medical service or the duties of a public office, issues a false certificate to be submitted to the public authorities or a certificate that might bring him/her an unlawful gain or might harm the interest of a person, he/she shall be punished by imprisonment for one month to one year. The same is applicable to whoever impersonates one of the mentioned individuals or forges or uses such certificate.

2-If the false certificate is meant to be submitted before the judiciary or to justify the exemption of any public service; the imprisonment shall not be less than a year."

Article (267) of the Penal Code states:

"All notification papers drafted by notify and the rest of the State officials in addition to the minutes and reports drafted by the personnel of the judicial police shall be considered as certificates for the purpose of applying the criminal law."

Article (268) of the Penal Code states:

"Whoever committed one of the following acts, he/she shall be punished by imprisonment from one month to three years [if he/she]:

1-Uses a good behaviour certificate which is issued for another person in order to obtain a job.

2-Gives, sells or lends the good behaviour certificate which is issued to him/her to another person in order for the latter to use it to obtain a job."

This crime is also a corruption offence in the Jordanian law because it violates public trust. The elements of this crime are, firstly, that the perpetrator has to be a Public Official, secondly that the act of the issue is of a false certificate, thirdly that this false certificate be submitted to the public authorities or issued to another to gain unlawful interest to him/herself or harm others. Also, in the Articles, the legislature adds specific occupations to be specifically considered in the context of issuing a false document, such as jobs in the medical service. The personnel of the judicial police draft all notification papers, minutes and reports.

*Findings:*

The issuing of false certificates, as in the Jordanian law, is not covered by the UNCAC.

Impersonation:

This is covered in the Penal Code by the following Articles:

Article (269) of the Penal Code states:

"Whoever submitted, before a public authority, a false identity in order to benefit him/herself or another person or in order to harm another person, he/she shall be punished by imprisonment from one month to one year."

Article (270) of the Penal Code states:

"The same penalty shall be applied to anyone who knowingly confirms the false identity of a person before the public authorities."

Confirming a false identity is also considered a corruption offence, because it harms public trust.

The physical elements of this offence are: first, the act itself of submitting a false document, second, its submission to a public authority, third, the intent to gain benefit to him/her or for others, or to harm another person.

*Findings:*

Impersonation as in the Jordanian law is not covered by the UNCAC.

Forging private documents:

This is covered in the Penal Code by the following Articles:

Article (271) of the Penal Code states:

"Whoever forges a private paper or document using the methods mentioned in Articles (262 and 263), he/she shall be punished by imprisonment from one to three years."

Article (272) of the Penal Code states:

"Whoever commits one of the following acts, he/she shall be punished by imprisonment from one to three years a fine not less than fifty Dinars (JD50), [if he/she]:

1-Obliterates, adds to or alters the crossing on a cheque, or

2-Knowingly utters a crossed cheque the crossing of which has been obliterated, added to or altered."

The difference between this offence and criminal forgery is the addition of the element of forgery of *private* documents. This is combined with the other elements, such as the requirement that the defendant in Jordanian law has to be a Public Official and committing the act of forgery (altering the truth in the facts), while executing his/her official duties, and it has to be in the manner stipulated in the Articles above.

*Findings:*

Forging private documents as in the Jordanian law is not covered by the UNCAC.

6. 1.2.1 Legal Aspects (experts' opinion)

The researcher's review of the second group of corruption offences contrary to public trust (Penal Code) considered the following: counterfeiting of the State's seal, official marks, counterfeiting of bank notes, counterfeiting of coins, counterfeiting of stamps, forgery, criminal forgery, issuing false certificates, impersonation, and forging private documents.

These Jordanian offences have been contrasted with UNCAC Articles in a doctrinal fashion. The research now introduces the legal experts' opinion regarding these offences, as revealed by the structured interviews.

An analysis of corruption offences contrary to public trust (Jordanian Penal Code) is provided through question number 3 (b) in the questionnaire:

Table (13), coded the offences in question (3) part (b) as follows:

<b>Label</b>	<b>Value</b>
<b>B</b>	Corruption offences contrary to public trust (Penal Code).
<b>B1</b>	Counterfeiting of the State's seal and official marks
<b>B2</b>	Counterfeiting of banknotes
<b>B3</b>	Counterfeiting of coins
<b>B4</b>	Counterfeiting of stamps
<b>B5</b>	Forgery

<b>B6</b>	Criminal forgery
<b>B7</b>	Issuing false certificates
<b>B8</b>	Impersonation
<b>B9</b>	Forging private documents
<b>1</b>	Very much.
<b>2</b>	Somewhat.
<b>3</b>	Undecided.
<b>4</b>	Not really.
<b>5</b>	Not at all.
<b>Interviewees ID</b>	From (1-30) the interviewees.
<b>Max</b>	The percentage of every choice from (1-5).

*Table (13)*

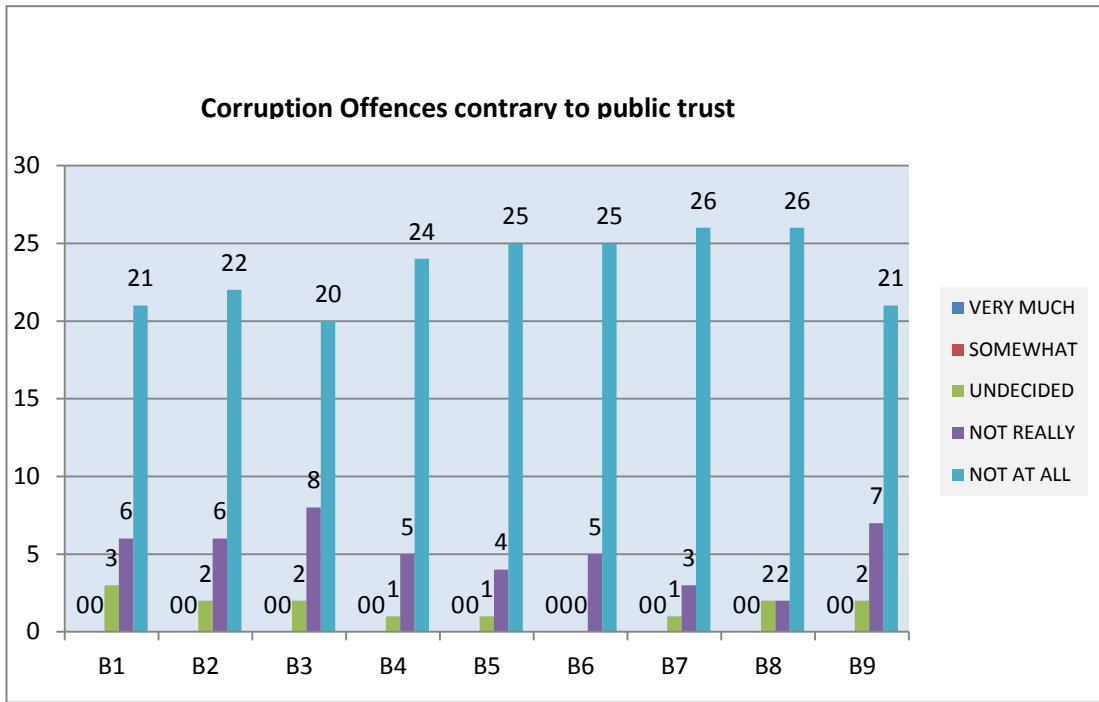
**Q3 part (b) Interviewee response, Table (14), chart (3) and chart (4)**

Table (14) Corruption offences contrary to public trust (Penal Code)

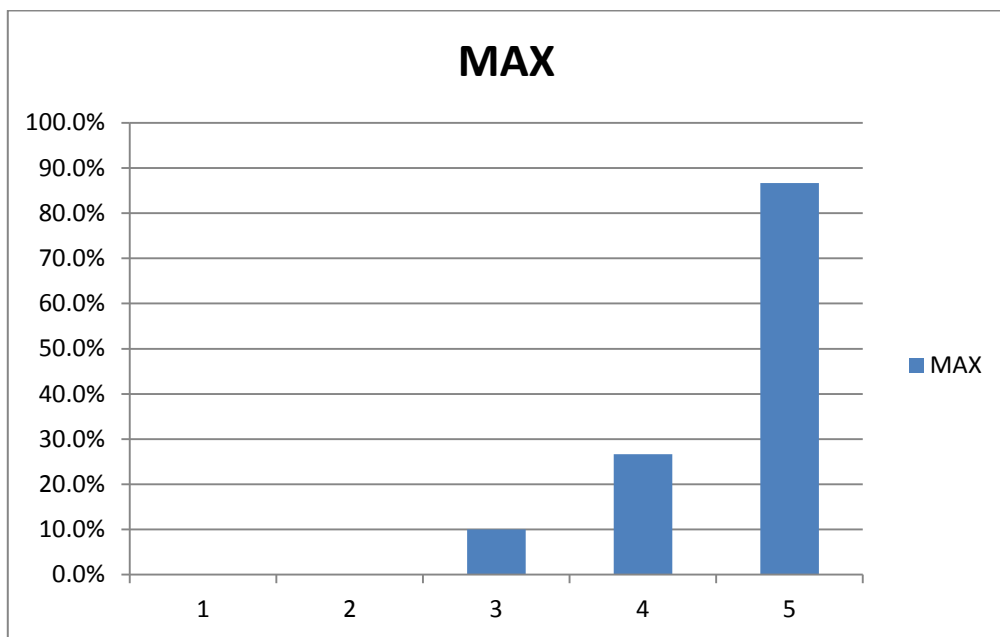
<b>Interviewees' ID</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>B5</b>	<b>B6</b>	<b>B7</b>	<b>B8</b>	<b>B9</b>
1	5	5	5	5	5	5	5	5	5
2	5	5	5	5	5	5	5	5	5
3	5	5	5	5	5	5	5	5	5
4	5	5	5	5	5	5	5	5	5
5	5	4	4	5	5	5	5	5	5
6	3	5	4	5	5	5	4	5	5
7	4	5	4	5	5	5	4	5	5
8	5	5	5	5	5	5	5	5	5

9	5	5	5	5	5	5	5	5	5
10	5	5	5	5	5	5	5	5	4
11	5	5	5	5	5	5	5	5	4
12	5	4	5	4	4	4	5	3	3
13	5	5	5	4	4	4	5	5	5
14	5	4	5	4	4	4	5	5	5
15	5	3	4	4	4	4	4	4	5
16	3	5	5	5	5	5	5	5	4
17	4	5	3	5	5	5	5	5	3
18	5	5	5	5	5	5	5	5	5
19	5	3	3	3	3	5	3	3	5
20	4	4	4	5	5	5	5	4	5
21	5	4	5	5	5	5	5	5	5
22	5	5	4	5	5	5	5	5	5
23	4	5	5	5	5	5	5	5	5
24	5	5	5	5	5	5	5	5	5
25	5	5	5	5	5	5	5	5	5
26	5	5	5	5	5	5	5	5	5
27	4	4	4	5	5	4	5	5	4
28	5	5	5	4	5	5	5	5	4
29	3	5	4	5	5	5	5	5	4
30	4	5	5	5	5	5	5	5	4

*Table (14)*



*Chart (3)*



*Chart (4)*



Reading and analysing the above charts and tables concluded that:

B1- Counterfeiting of the State's seal or official marks: according to the interviewees, the majority decided on 'not at all' or 'not really' with regards to the UNCAC. Both the interviewees and the researcher had the same view; this offence was not included under the criminalization offences in the UNCAC, but the Jordanian legislation considered this offence as a corruption offence. That is why the result is to show a difference in the two codes.

B2- Counterfeiting of bank notes: according to the interviewees, the majority decided in 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result, since this offence was not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. That is why the result is not at all the same.

B3- Counterfeiting of Coins: according to the interviewees the majority decided on 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. Again, the result is 'not at all the same'.

B4- Counterfeiting of stamps: according to the interviewees the majority decided on 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result; since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. The codes differ; the result is therefore 'not at all the same'.

B5- Forgery: according to the interviewees the majority decided 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. That is why the result is not at all the same.

B6- Criminal forgery: according to the interviewees the majority decided on 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. That is why the result is again 'not at all the same'.

B7- Issuing false certificates: according to the interviewees the majority decided on 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. As the codes again differ, the result is once again 'not at all the same'.

B8- Impersonation: according to the interviewees the majority decided on 'not at all' or 'not really' regarding the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislations considered this offence as one of the corruption offences. That is why the result is not at all the same.

B9- Forging private documents: according to the interviewees, the majority decided on 'not at all' or 'not really' regarding its presence in the UNCAC. Both the interviewees and the researcher viewed this in the same way, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislation directly considers this offence as one of the range of corruption offences. That is why the result is 'not at all the same'.

#### 6.1.3 Corruption offences arising from economic crimes (Economic Crimes Law) are:

These crimes in Jordanian Law are :Contractors' crimes, harming the State's financial standing, crimes related to systems of irrigation, arson, assaults on public roads, means of transportation and industrial works, cheating, theft, deception, breach of trust, deception in the nature of goods, fraud in transactions, bankruptcy and deception of creditors.

The third group in the questionnaire, Q (3) part (c), asks about the nature of these crimes that cause harm to the government financial standing. These offences were in detailed in the Economic Crimes Law No. (11) of the year 1993 and its amendments.

Contractors' crimes:

They are covered in the Penal Code and the economic crimes law by the following Articles:

Article (133) of the Penal Code states:

"1- Whoever, at time of war or when the start of such a war is anticipated, did not fulfill all obligations imposed on him/her under a service or a manufacturing contract related to national defence or the national interests of the State or the food supply to civilians, shall be punished with temporary imprisonment and a fine from fifty to a hundred Dinars (JD50-200).

2- If non-execution of the contract is a result of an unintentional mistake, the perpetrator shall be punished by imprisonment in addition to the fine stated above.

3- The penalties stated above shall be reduced by half if the execution is only delayed.

4- The penalties shall also apply to any other person who is the cause behind the non-execution of the contract or the delay in its execution."

Article (134) of the Penal Code states:

"Any fraud committed in relation to the contracts mentioned in the previous Article shall be punished by temporary imprisonment with hard labour and a fine from one hundred to two hundred Dinars (JD100 – 200)."

Article (3) Paragraph b, 1 in the Economic Crimes Law No. (11) of the year 1993 states that:

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money.

B. The offences referred to in the Articles set out below of the Penal Code (if they are related to the public funds) are economic crimes and apply the penalties provided for in this law: 1. contractors' crimes, contrary to the provisions of Articles (133) and (134).

The penalty in the Economic Crimes Law is provided in Articles (133) and (134).

These crimes are offences harming the security of the government, especially the government's financial standing.

The physical elements of this crime are, first, the perpetrator has to be a Public Official, since there are obligations imposed on him/her under a service or a manufacturing contract related to national defence or the national interests of the State or the food supply to civilians. The other element concerns the time of committing the crime; the legislation states that this crime happens in a time of war or when the start of such a war is anticipated.

The mental element (*mens rea*) in this crime is that the legislation mentions that even if the person committed the crime unintentionally, he or she will still be punished.

*Findings:*

Contractors' crimes are included in the Jordanian law but are not covered by the UNCAC.

Harming the State's financial standing:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (152) of the Penal Code states:

"Any person who, through any of the means stated in paragraphs two and three of the Article (73), disseminates false facts or accusations in order to decrease the value of the national currency or to weaken the trust in the strength of the State's currency or its bonds and all the bonds related to public financial trust, shall be punished by imprisonment from six months to three years and a fine not to exceed one hundred Dinars (JD100)."

Article (153) of the Penal Code states:

"Penalties stated in the previous Article shall apply to any person who uses the same methods in order to incite the public to:

- a. Withdraw money deposited in public banks and funds
- b. Sell the State's bonds and any other public bond or to refrain from buying it."

Article (3) Paragraph b, 2 in the Economic Crimes Law No. (11) of the year 1993 states that:

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (B) The offences referred to in the Articles set out below of the Penal Code (if they are related to the public funds) are economic crimes and apply the penalties provided for in this law: 1. crimes' harming the State's financial standing, contrary to the provisions of Articles (152) and (153).

The penalties in the Economic Crimes Law are provided in Articles (152) and (153).

The physical elements of this crime are, first the perpetrator has to be a Public Official, since the obligations imposed on him/her are related to national defence, and second the act of dissemination of false facts or accusations in order to decrease the value of the national currency or to weaken the trust in the strength of the State's currency or its bonds and all the bonds related to public financial trust. The other element of this crime is the ways in which the news is broadcast, as stated in paragraphs two and three of the Article (73) of the Penal Code.

*Findings:*

Harming the State's financial standing is covered in Jordanian law but is not covered by the UNCAC.

Crimes related to system of irrigation:

This is covered in the Penal Code and Economic Crimes Law No. (11) of the year 1993; article (3) Paragraph b, section 3 in the Economic Crimes Law states that:

(However JACCL in article (5) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (B) The offences referred to in the Articles set out below of the Penal Code (if they are related to the public funds) are economic crimes and apply the penalties provided for in this law: 1. **crimes related to systems of irrigation**, contrary to the provisions of Articles (455, 456, 457, 458). The penalty in the Economic Crimes Law is provided in the provisions of Articles (455, 456, 457, 458).

Article (455) of the Penal Code states:

"Any person, who, without permission, commits the following, shall be punished by a penalty of imprisonment for not more than a year and a fine not more than twenty five Dinars (JD25), or one of these two penalties [if he/she]:

- 1- Digs for, or collects, underground water or spring-water, excluding the act of digging non-spring-water wells on private property.
- 2- Digs within a distance less than three meters or the depth of excavations from river banks, water tunnels, irrigation tunnels, vaporizing or draining channels.
- 3- Takes away stones, soil, sand, trees, bushes or herbs from such banks, temporary or permanent water reservoirs, lakes, pools, swamps, or springs.
- 4- Trespasses in any form on spring banks, temporary or permanent water reservoirs, lakes, pools, swamps, springs, borders of irrigation and draining channels.
- 5- Prevents the free flow of public water.
- 6- Commits any permanent or provisional action which influences the quantity and flow of public water."

Article (456) of the Penal Code states: amended in Penal Code No. (27) of 2017

"Whoever, fully or partially, demolishes, vandalizes, or turns over constructions made for use and preservation of public water, or made for protection from water, including dams, bridges, blockades, switching equipment, draining and vaporization channels, buried or surface water tanks; regardless whether he/she is given a water concession, shall be punished by imprisonment for not more than six months and a fine not less than (50) JD not exceed (200) JD.

Article (457) of the Penal Code states:

"Whoever commits one of the following acts, shall be punished by imprisonment of not more than one year and a fine not more than twenty Dinars (JD25):

1- Leaks, pours, or throws to public water, whether under concession or not, materials or liquids dangerous to public health or convenience, or which prevent reasonable use of such water.

2-Throws animal fertilizers or places dirt in lands within the range set by the authority to protect a public-benefit spring.

3- Conducts any action which may pollute a spring or drinking water used by others."

Article (458) of the Penal Code states:

"Whoever intentionally pollutes a river or drinking waters of others shall be punished by a penalty of imprisonment from a year to three years and a fine not more than fifty Dinars (JD50)."

The physical element of this crime is that the act itself in any way harms the system of irrigation. In this crime the legislation does not require the perpetrator to be a Public Official; because the harm could be done by any person who harms the State system regarding irrigation.

*Findings:*

A crime related to systems of irrigation is included in the Jordanian law but is not covered by the UNCAC.

Arson:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (368) of the Penal Code states:

- 1-"Whoever willfully sets fire in buildings or factories or workshops or warehouses or in any inhabited or uninhabited buildings whether located in cities or towns or;
- 2- In any railway wagon or wagons which transport a person or more other than the perpetrator or a wagon which is connected to a train and occupied by a person or more or;
- 3- In sailing ships or ships which are anchored in a seaport, or
- 4- In flying or landing airplanes whether the perpetrator is the owner of such airplanes or not, or
- 5- In inhabited buildings or buildings which are prepared to be inhabited and are located outside inhabited areas, whether such buildings are owned by the perpetrator or not."

Article (369) of the Penal Code states:

"Any person who willfully sets fire on the following shall be punished by temporary imprisonment with hard labour:

- 1- Others' forests or woodland or gardens or crops before they have been harvested, or
- 2- His/her own forests or woodland or gardens or crops and the property of any other person caught fire because of his/her action."

Article (370) of the Penal Code states:

"Whoever willfully sets fire in uninhabited or unused buildings which are located outside inhabited areas or crops or left in its place stacks of hay or stacks of any harvested crops or staked woods whether the perpetrator does not own these



materials, or he/she owns it and the fire extended to the property of others and caused harm."

Article (371) of the Penal Code states:

"Any arson, other than what has been mentioned, which is committed with the intention to cause material harm to others or to unlawfully benefit the perpetrator or any other person; such act shall be punished by imprisonment and fine."

Article (372) of the Penal Code states:

"If the fire resulted in the death of a human being, the perpetrator shall be punished by the death penalty in the instances stipulated in Articles (368 and 369) and by life imprisonment with hard labour in the instances stipulated in Articles (370 and 371)."

Article (373) of the Penal Code states:

"The previous provisions shall be applied with the same conditions on any persons who destroy, even partially, one of the things mentioned in these provisions through the use of an explosive material."

Article (374) of the Penal Code states:

"Whoever causes an item owned by another person to catch fire, due to negligence, lack of due care or lack of regard for laws and regulations, he/she shall be punished by imprisonment up to one year and a fine up to fifty Dinars (JD50)."

Article (375) of the Penal Code states:

1-Whoever removes a fire extinguisher or relocates it or renders it unusable shall be punished by imprisonment from one week to one year or a fine not to exceed fifty Dinars (JD50).

2- The same penalty shall be applicable to any person who is obliged by the law to own a fire extinguisher and did possess one or did not keep it fit for use."

Article (3) Paragraph c, 1 in the Economic Crimes Law No. (11) of the year 1993 states that:

(However JACCL in article (5) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code (if they are related to the public funds) are economic crimes and apply the penalties provided for in this law: 1. **crimes related to arson**, contrary to the provisions of Articles (368-375). The penalty in the Economic Crimes Law is provided in Articles (368-375).

The physical element of this crime is that the act itself in any way harms any government property or private property or even the defendant's own property. In this crime the legislator states that the perpetrator does not need to be a Public Official, because the harm could be done by any person, and because that harm is to the State property or private property. The mental element in this crime which the legislator mentioned is any arson other than what has been mentioned, which is committed with the intention to cause material harm to others or to unlawfully benefit the perpetrator or any other person.

*Findings:*

Arson, included in the Jordanian law, is not covered by the UNCAC.

Assaults on public roads, means of transportation and industrial works:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (376) of the Penal Code states: amended in Penal Code No.(27) of 2017

"Whoever wilfully causes any disruption or harm to a public road or bridge or one of the public facilities, he/she shall be punished by imprisonment up to one year and if his/her act caused danger to traffic safety, he/she shall be punished by imprisonment From 6 months to two years and a fine (50-500) JOD and shall compensate charges."

Article (377) of the Penal Code states: amended in Penal Code No.(27) of 2017

"Whoever breaks down a railway line or the signals or traffic machines of such line or placed any item which would impede its function or used any means to cause

collisions between trains or its derailing, he/she shall be punished by Imprisonment of 15 years."

Article (378) of the Penal Code states:

1-"Whoever destroys or breaks down the signal machines or used faulty signals or any other means in order to sink a ship or to down an airplane, he/she shall be punished by temporary imprisonment with hard labour.

2- If the act results in the actual sinking of the ship or downing of the airplane, the punishment shall be not less than ten years."

Article (379) of the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Whoever willfully disrupts cable or phone lines or radio waves, whether through the destruction of equipment and chords or through any other means, he/she shall be punished by imprisonment From one to three years.

2- If the actions result in any danger to public safety, the offender shall be punished by imprisonment with hard labour not less than five years."

Article (380) of the Penal Code states: amended in Penal Code No.(27) of 2017

"Whoever commits any of the following acts, he/she shall be punished by temporary imprisonment with hard labour not less than five years [if he/she]:

1-Destroys, during sedition or armed disobedience which takes place in the Kingdom, one or more of the phone or cable lines or the broadcasting equipment or renders it in any way unusable or takes control of it either through force or other means, and these actions result in the disruption of communications between the Public Officials or the ordinary persons and breaking down of the radio stations.

2-Through the use of force impedes the repair of phone and cable lines and broadcasting equipment."

Article (381) of the Penal Code states:

"The penalties stated in the previous Articles shall be increased by half if any person is permanently disfigured, and the penalty shall be the death penalty if the action led to the death of a person".

Article (382) of the Penal Code states:

"Whoever negligently causes the sabotage or destruction and all the actions mentioned in the previous Articles, he/she shall be punished by imprisonment for a period not to exceed six months or a fine not to exceed fifty Dinars."

Article (383) of the Penal Code states:

"Any workshop or factory foreman who forgot or neglected the placement of equipment or signals to be used during an emergency, or did not keep such equipment in a usable shape for such purpose, he/she shall be punished by imprisonment for a period not less than three months and not to exceed two years or by a fine not less than one hundred Dinars and not to exceed two hundred Dinars or with both penalties".

Article (384) of the Penal Code states:

"Whoever through lack of due care or negligence or lack of regard to the laws and regulations causes the breakdown of equipment and signals stated in the Article (383) of this law, he/she shall be punished by imprisonment for a period not less than six months and not more than one year and by a fine not less than twenty Dinars and not more than fifty Dinars."

Article (385) of the Penal Code states:

1-"Whoever willfully removes one of these tools or renders it unusable, he/she shall be punished by imprisonment from three months to two years.

2-If the act results in a major accident, the penalty shall be temporary imprisonment with hard labour and it shall be the death penalty if it results in the death of a person."

Article (3) Paragraph c, 1 in the Economic Crimes Law No. (11) of the year 1993 states that:

(However JACCL in article (5) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of

the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code if they are related to the public funds are economic crimes and apply the penalties provided for in this law: 1. crimes related to assaults on public roads, means of transportation and industrial works, contrary to the provisions of Articles (376- 385). The penalty in the Economic Crimes Law is provided in Articles (376- 385).

The physical element of this crime is if the act itself in any way causes harm to a public road or bridge or one of the public facilities such as: a railway line or the signals or traffic machines, the signal machines, cable or phone lines or radio waves. In this crime the legislator states that the perpetrator is not required to be a Public Official, because the harm could be done by any person, and because that harm is to the State property. The mental element of this crime, as the legislator mentioned, is that it is committed with the intention to cause harm to the State property or others.

*Findings:*

Assaults on public roads, means of transportation and industrial works are included in the Jordanian law but are not covered by the UNCAC.

Cheating:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (386) of the Penal Code states:

1-"Whoever committed one of the following acts shall be punished by imprisonment for one month to one year and by a fine from five to fifty Dinars:

- a. Any person who cheats in materials allocated for human or animal consumption or in medicines or drinks or industrial, agricultural, or natural products, which is prepared for sale.
- b. Any person who knowingly exhibits or offers for sale or sells any of the previously mentioned products or materials.

c. Any person who incites in any of the means stated in the Article (80) on the use of the previously mentioned products and materials.

2- In case of repeating the offence the criminal shall be barred from performing the same job he/she uses in order to commit the crime."

Article (387) of the Penal Code states:

"If the cheated or corrupted products or materials cause harm to human or animal health, the penalty shall be from three months to two years in addition to a fine from five to fifty Dinars. The penalty shall be imposed even if the buyer knows of the harmful nature of the products."

Article (388) of the Penal Code states:

"Whoever unlawfully keeps in his/her custody any food or drink product after it becomes harmful to the health or after it becomes unfit for human consumption, he/she shall be punished by a fine not to exceed ten Dinars and by imprisonment for a period not to exceed three months or by both penalties."

Article (3) Paragraph c, 1 in the Economic Crimes Law No. (11) of the year 1993.

(However JACCL in article (5) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code (if they are related to the public funds) are economic crimes and apply the penalties provided for in this law: 1. crimes related to cheating, contrary to the provisions of Articles (386- 388). The penalty in the Economic Crimes Law is provided in Articles (386- 388).

The physical element of this crime is that the act itself means in any way to cheat with regards to food or drugs or any products used for people or animals. In this crime the legislator states that the perpetrator is not required to be a Public Official, because the harm could be done by any person and because the crime harms the life of people or the life of animals. Also the legislator included as 'cheating' the

exhibition or offer for sale or actual selling of any of the previously mentioned products or materials.

*Findings:*

Cheating, as in the Jordanian law, is not covered by the UNCAC.

**Theft:**

Aspects of theft as an offence do feature in other statutory provision more directly related to corruption. For the sake of a full exposition, the range of the legal provision relating to theft in Jordan and its connection (where relevant) to corruption law is given here.

Theft is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (399) of the Penal Code states:

1-"Theft is taking away the moveable property belonging to another without his/her consent.

2-The phrase "taking away property" means eliminating the owner's powers over the property through moving it from its original place; if it is attached to an immovable property it happens through severing it completely and moving it."

Article (400) of the Penal Code states:

"Whoever commits a theft act which includes the following five circumstances shall be punished with life imprisonment with hard labour or by temporary imprisonment for a period not less than fifteen years:

1-If theft is committed during the night

2-If theft is committed by two or more persons

3- If theft is committed in a place of residence or a place set aside for that purpose or part thereof according to the definition of Article (2)

4-If entry is gained by climbing a wall, forcing a door or other such method or by the use of counterfeit key or by impersonating a Public Official or wearing his/her uniform or badges or claiming to have an official order

5-If all the perpetrators or one of them threatens other persons with weapons or uses violence against person in order to facilitate the commission of the felony or secures the escape of the perpetrators or in order to gain control over the stolen property."

Article (401) of the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Whoever commits theft under one of the following circumstances shall be punished by temporary imprisonment with hard labour for not less than five years:

a. If theft is committed by two or more persons

b. If all or one of the perpetrators threatens other persons with weapons or uses violence in order to facilitate the commission of the felony or secures the escape of the perpetrators or in order to gain control over the stolen property. The perpetrator shall be punished by temporary imprisonment for a period not less than ten years if the violence resulted in injuries and bruises.

2-If theft is committed during daylight or by one person, he/she shall be punished by temporary imprisonment with hard labour; if the violence used resulted in injuries and bruises, he/she shall be punished by temporary imprisonment with hard labour for no less than five years; if the circumstances stated in paragraph 1 of this Article were present he/she shall be punished by imprisonment of not less than ten years."

Article (402) of the Penal Code states: amended in Penal Code No.(27) of 2017

"Persons who commit robbery on public roads shall be punished as follows:

1-By temporary imprisonment with hard labour for a period not less than seven years if the robbery offence is committed during daylight by two or more persons and included the use of violence.

2-By temporary imprisonment for no less than ten years, if the robbery offence is committed during the night by two or more persons and with the use of violence or all of the perpetrators or one of them is armed.



3-By life imprisonment with hard labour if the robbery act is carried out in the manner described in paragraph 2 of this Article and the violence resulted in injuries and bruises."

Article (403) of the Penal Code states:

1-If the robbery offence is carried out by the use of violence against persons in order to facilitate the commission of the crime or secure the escape of the perpetrators or to gain control over the stolen property, the perpetrator shall be punished by temporary imprisonment for a period not less than five years.

2-If the robbery offence is committed by one person either during the day or night, the perpetrator shall be punished by temporary imprisonment with hard labour."

Article (404) of the Penal Code states:

"Theft offences committed according to one of the two circumstances shall be punishable by temporary imprisonment with hard labour:

1-If it takes place in closed places (which are preserved by walls, whether such places are inhabited or not, or attached to an inhabited place or not), through digging or climbing such walls or forcing its door or window or by opening it through the use of counterfeit keys or with a special tool, or

2-If it takes place by forcing the doors of locked rooms or safe boxes which are located in an inhabited or uninhabited place or through opening it by the use of a special tool or a counterfeit key even if the perpetrator reached such items without the climbing or digging of a wall or through opening the doors by a special tool or a counterfeit key."

Article (405) of the Penal Code states:

"Whoever commits a theft offence during a time of disobedience or unrest or war or fire or the sinking of a ship or any other catastrophe shall be punished by hard labour."

Article (406) of the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Theft offences which take place under one of the following circumstances shall be punished by imprisonment from one year to three years:

- a. During the night
  - b. and there are two or more perpetrators.
  - c. During the night and there is only one perpetrator and the offence happens in an inhabited place or a place of worship.
2. During daylight and there are two or more perpetrators and the offence happens in an inhabited place or a place of worship.
3. If the perpetrator is openly carrying a weapon or carrying a concealed weapon even if the place where theft is committed is an uninhabited place and did into take place during the night or the perpetrators are more than one person.
- a. If the perpetrator is a servant and steals the property of his/her employer or the property of any person who comes to his/her employer's home or the property of the homeowner who he/she goes to visit with his/her employer.
  - b. If the perpetrator is an employee or a worker or a student in an industry and steals from the home or the store of his/her trainer, teacher or employer.
  - c. If a person repeatedly steals from the place he/she works in.
4. If the perpetrator is the owner of a hotel or a motel or he/she is a coachman a boatman, or a driver of a vehicle or any other person with similar profession and he/she steals all or part of what he/she is entrusted with.

Article (407) of the Penal Code states: amended in Penal Code No.(27) of 2017

1-"Whoever commits a theft offence other than the ones prescribed in this section such as pocket lifting shall be punished by imprisonment from six months to two years.

2-If a car is the subject of a theft offence then the penalty shall not be less than the minimum limit stipulated in paragraph 1 of this Article and it is not permissible to replace this penalty by a fine."

Subsequently, Article (3) Paragraph c, 5 in the Economic Crimes Law No. (11) of the year 1993 states that:

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code if they are related to the public funds are economic crimes and apply the penalties provided for in this law: 5. Crimes related to theft, contrary to the provisions of Articles (399- 407). The penalty in the Economic Crimes Law is as provided in Articles (399- 407) (of the Penal Code)..

The legislation defines theft as taking away the moveable property belonging to another without his/her consent, also as taking away property as removes the property from its owner and moving it from its place.

The legislation adds this offence under the chapter 'crimes against money/ public funds' and considers it as a corruption offence.

The physical elements of this crime are, first the act itself in taking other's moveable property without their consent, also the legislation considered robbery on the public roads as theft. Secondly the other element that is considered to be special element is to move the property. The legislator makes harsher the punishment if it is committed in any of the following circumstances, if the theft: is committed during night, by two or more persons, in a place of residence or a place set aside for that purpose, if entry is gained by climbing a wall, forcing a door, also if it committed by impersonating a Public Official or wearing his/her uniform or badges or claiming to have an official order, or if they used threats to others with weapons or using violence. The mental element is to intend to take other's property.

However, JACCL article (5), which was amended under the name Integrity and Anti-Corruption Law No. (13) of 2016. Article (16) replicated these offences as corruption).

*Findings:*

Theft as in the Jordanian law is not covered by the UNCAC.

Deception:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (417) of the Penal Code states: amended in Penal Code No.(27) of 2017

"Whoever makes another person deliver to him/her any movable or immovable property or any documents which includes an undertaking or a remission from debt and he/she takes control of it through deception:

- a. through the use of deceptive means which makes the victim falsely believe the existence of a false project or instance or to raise the victim's hopes that he/she will gain profits or that he/she will retrieve the amount of money taken from him/her, or the existence of a debt bond,
- b .through the disposition of a moveable or immovable property while knowing that he/she has no capacity to do so, or
- c. through the use of a false name or a wrong capacity,

The perpetrator shall be punished by imprisonment from six months to three years and by a fine from two hundred to 500 hundred Dinars (JD 200-500).

2-The penalty shall be doubled if the crime is committed in one of the two following instances:

A .If the perpetrator is a person who is entitled to issue shares and bonds or any other financial papers related to a company or a project or any industrial or commercial establishment, or

B .If the act is committed based on the promise to secure an employment or work in a public administration.

3-The same penalty shall be applicable on attempts to commit any of the misdemeanours stipulated in this Article."

Article (3) Paragraph c, 5 in the Economic Crimes Law No. (11) of the year 1993 states that:

(However JACCL in article (5) which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (16) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code if they are related to the public funds are economic crimes and apply the penalties provided for in this law: 5. crimes related to deception, contrary to the provisions of Article (417). The penalty in the Economic crimes law is provided in Article (417).

The legislation defines deception as making another person deliver to him/her any movable or immovable property or any documents which includes an undertaking or a remission from debt.

The legislation adds this offence under the chapter 'crimes against money/ public funds' and considers it as a corruption offence.

The physical element of this crime is, the act itself in the use of misleading ways which makes the victim believe the existence of a false project or instance or to raise the victim's hopes that he/she will gain profits or that he/she will retrieve the amount of money taken from him/her, or the existence of a debt bond, or the disposition of a movable or immovable property, the use of a false name or a wrong capacity. The mental element is to intend to take other's property.

#### *Findings:*

Deception as in the Jordanian law is not covered by the UNCAC.

#### Breach of Trust:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (422) of the Penal Code states:

"Whoever receives any property, item or document which includes an undertaking or release of debt, based on a trust and to be used and returned, or to be kept or to perform a certain work – paid or unpaid - and he/she denies receiving such item or replaces or consumes or refuses to hand it over, he/she shall be punished by imprisonment from two months to two years and by a fine from ten to one hundred Dinars (JD10-100)."

Article (3) Paragraph (c), (5) in the Economic Crimes Law, 'crimes related to breach of trust', is included in the provisions of Articles (422).

(However JACCL in article (5) which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (16) replicated these offences as corruption).

The legal form of a breach of trust crime is very important in the fight against corruption, because this offence shares many common elements with the criminalization of embezzlement, whether this is denying receiving an item or replacing or consuming or refusing to hand it over. The physical element is largely similar in both cases: it is the possession, acquisition or use of funds or property of the person. However, the specificity of an embezzlement offence is seen in the ways and techniques used in hiding the money, while the criminalization of a breach of trust regards the breaking of an entrusted act that something is handed to you to keep. Article (22) of the UNCAC says of embezzlement:

"What is diverse in this crime is that even though both the crimes of breach of trust and embezzlement are similar in the scope of criminalization of the possession of other's property that is entrusted to him because of his job, (this is covered in Article (22) of the UNCAC, and Article (422) of the Penal Code and because of that they share many elements), still the embezzlement in the UNCAC is stated in two Articles- one regarding the Public Officials the other in the private sector.

The Penal Code only includes provisions to criminalize breach of trust that is the result of entrusting valuable things to an individual. Therefore, it does not cover all the elements mentioned in Articles (17, 22) of the UNCAC".

*Findings:*

Jordanian legislation adds this crime and considers it as a corruption offence which is *partially* matched with the requirements of the UNCAC concerning embezzlement.

Deception in the nature of goods:

This is covered in the Penal Code by the following Articles:

Article (433) of the Penal Code states:

"Whoever knowingly deceives a contract party, whether with regard to the nature, primary characteristics, composition, quantity of goods, or quantity, category, or source of valuable elements in cases where the identification of the type and source is the main cause of the contract as identified by agreement or customs, shall be punished by imprisonment from a month to a year and a fine from five to fifty Dinars (JD5-50), or by one of these two penalties."

Article (3) Paragraph c, 6 in the Economic Crimes Law No. (11) of the year 1993 states that:

(However JACCL in article (5) which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (16) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code if they are related to the public funds are economic crimes and apply the penalties provided for in this law: 6. crimes related to deception in the nature of goods, contrary to the provisions of Article (433). The penalty of this crime is in the provision of Article (433).

The physical element of this crime is that the act itself in some way seeks to deceive a contract party, with regard to the nature, primary characteristics, composition, quantity of goods, or quantity, category, or a source of valuable elements. In this crime the legislation does not specify a Public Official; because the harm could be

done by any person and because it seeks to harm the nature of goods which will have a bad influence on the society and could harm the financial standing of the government.

*Findings:*

Deception in the nature of goods as in the Jordanian law is not covered by the UNCAC.

Fraud in the transaction:

This is covered in the Penal Code and Economic Crimes Law by the following Articles:

Article (428) of the Penal Code states:

"Whoever uses or possesses in his/her shop, store, vending wagon or other trade locations, any scales, measurements, or other scaling tools, which are different from the scales and measurements assigned by law, or which are not hallmarked, shall be punished by imprisonment of up to a week and a fine of up to fifty Dinars (JD50) or by one of these two penalties."

Article (429) of the Penal Code states:

"Whoever possesses at the aforementioned locations fraudulent or unbalanced scales, measurements, or other scaling tools, shall be punished by imprisonment of not more than a week or a fine up to ten Dinars (JD10)."

Article (430) of the Penal Code states:

"Whoever deceives a contract party with regard to the quantity of deliverables, knowingly using fraudulent or unbalanced scales, measurements, or other scaling tools, shall be punished by imprisonment from three months to two years and a fine from ten to fifty Dinars (JD10-50)."

Article (431) of the Penal Code states:

"Whoever deceives a contract party with regard to the quantity or nature of the deliverables shall be punished by imprisonment from three months to two years and a



fine from ten to fifty Dinars (JD10-50) where the nature of the deliverables is the motivating force behind closed the deal."

Article (432) of the Penal Code states:

"Fraudulent scales, measurements, or other scaling tools, or those which are different from measurements and scales assigned by law, shall be confiscated according to Article (31) of this law."

Then, Article (3) Paragraph c, 6 in Economic Crimes Law No. (11) of the year 1993 states that:

(However JACCL in article (5) which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (16) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code, if they are related to the public funds, are economic crimes and apply the penalties provided for in this law: 6. crimes related to fraud in the transaction, contrary to the provisions of Articles (428-432). The penalty for this crime is in the provision of Articles (428- 432).

The physical element of this crime is the act itself in any way to use or possess at his/her shop scales, measurements, or other scaling tools, which are different from the scales and measurements assigned by law in order to change or cheat the nature of goods. In this crime the legislation does not specify Public Officials, as the harm could be done by any person, and because the harm to the nature of goods has a bad influence on society and could harm the financial standing of the government.

*Findings:*

Fraud in transactions as in the Jordanian law is not covered by the UNCAC.

Bankruptcy and deception of creditors:

This is covered in the Penal and Economic Crimes Law by the following Articles:

Article (438) of the Penal Code states:

1-"Fraudulent bankrupts according to bankruptcy provisions, and those who, according to relevant provisions, appear to be the bankrupt's partners in crime, shall be punished by temporary imprisonment.

2-Any persons considered a delinquent bankrupt shall be punished by imprisonment for not more than two years."

Article (439) of the Penal Code states:

"In addition to collective partners and active partners with dormant partner companies, when a business company is declared bankrupt the following shall be punished according to Article 438 paragraph 1:

a. Activity partners who usually interfered in company business

b .Managers of limited liability and joint stock companies

c. Managers, board members, mandated agents, members of inspection boards, commissioned accountants, company employees, and bond holders where they commit, make easier, or intentionally permit any act of fraudulent bankruptcy, publish false budgets, or distribute fake shares."

Article (440) of the Penal Code states:

"Where a business company is declared bankrupt, company administrators and persons working for the company mentioned above, shall be punished with the penalty of fraudulent bankruptcy for committing any of the crimes mentioned in Article (438) paragraph 2."

Article (441) of the Penal Code states:

"A debtor who performs an act which decreases his/her property in any form, with the intention of exhausting rights of creditors or preventing execution over his/her property; particularly through signature of false bonds, false declaration of existence

or denial of rights, partially or entirely; or through withholding, selling, smuggling, damaging or spoiling some of his/her property; shall be punished by Imprisonment from three months to two years and a fine from fifty Dinars to two hundreds (JD50-200)."

Article (442) of the Penal Code states:

"Where the crime is committed in the name of a company, or for its benefit, the company shall be subject to the precautionary measures. Persons, who hold positions in such a company, who contribute, intentionally make possible, or intentionally facilitate such acts shall be subject to the penalties mentioned in the previous Article."

Article (3) Paragraph c, 6 in the Economic Crimes Law No. (11) of the year 1993 utilizes the Penal Code provisions and states that:

(However JACCL in article (5) which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (16) replicated these offences as corruption).

A. The economic crime includes any offence subject to the provisions of this law or any special act as an economic crime or any crime that harms the economic status of the Kingdom, or public confidence in the national economy or national currency, stocks, bonds or securities traded or if replaced by public money. (c) The offences referred to in the Articles set out below of the Penal Code, if they are related to the public funds, are economic crimes and apply the penalties provided for in this law: 6. crimes related to bankruptcy and deception of creditors, contrary to the provisions of Articles (438- 442). The penalty of this crime is in the provision of Articles (438-442).

The physical element of this crime is the act itself in fraudulent bankrupts, or a debtor who performs an act that decreases his/her property in any form. In this crime the legislature does not need to be a Public Official, because the harm could be done by any person and because it seeks to harm the nature of goods which will have a bad influence on the society and could harm the financial standing of the government.

*Findings:*

Bankruptcy and deception of creditors as in the Jordanian law are not covered by the UNCAC.

6.1.3.1 Legal Aspects (experts' opinion):

Question number 3 (C) in the questionnaire analyses corruption offences arising from economic crimes (Economic Crimes Law).

Table (15) codes the offences in question (3) part (c) as follows: *Table (15)*

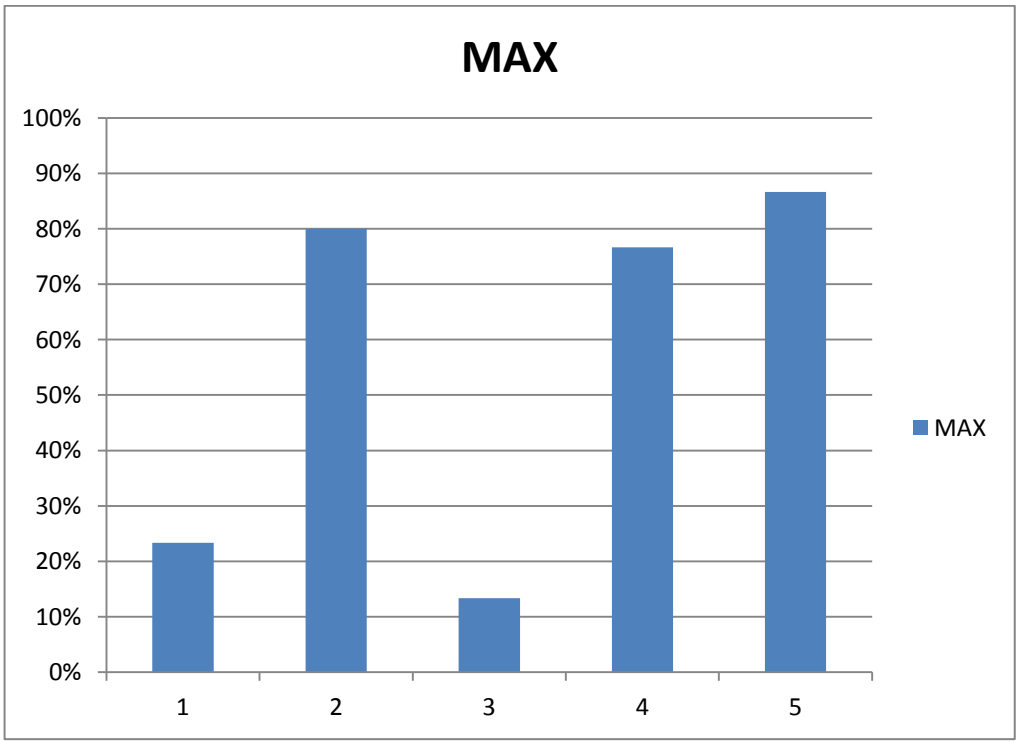
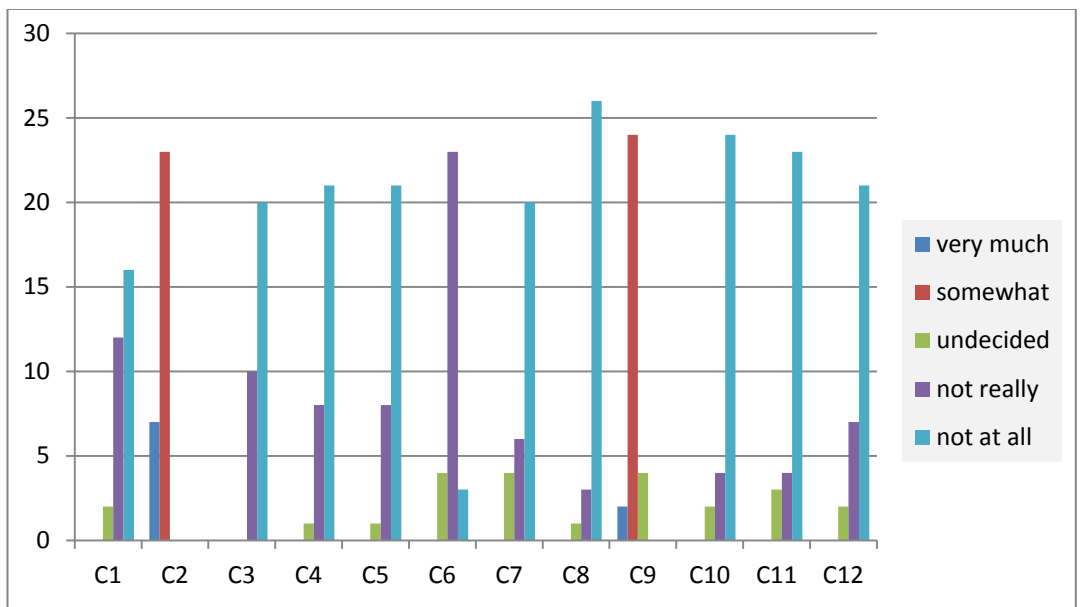
<b>Label</b>	<b>Value</b>
<b>C</b>	Corruption offences arising from economic crimes (Economic Crimes Code).
<b>C1</b>	Contractors' crimes
<b>C2</b>	Harming the State's financial standing
<b>C3</b>	Crimes related to systems of irrigation
<b>C4</b>	Arson
<b>C5</b>	Assaults on public roads, means of transportation and industrial works
<b>C6</b>	Cheating
<b>C7</b>	Theft
<b>C8</b>	Deception
<b>C9</b>	Breach of trust
<b>C10</b>	Deception in the nature of goods
<b>C11</b>	Fraud in the transactions
<b>C12</b>	Bankruptcy and deception of creditors
<b>1</b>	Very much.
<b>2</b>	Somewhat.
<b>3</b>	Undecided.
<b>4</b>	Not really.
<b>5</b>	Not at all.
<b>Interviewees ID</b>	The interviewees, from (1-30)
<b>Max</b>	The percentage of every choice of (1-5).

Below follows Q3 part (c) 'Interviewee Response' in (table (16), chart (5) and chart (6), and table (16) 'Corruption Offences arising from Economic Crimes (Economic Crimes Code). *Table (16)*

interviewees ID	C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	C11	C12
1	5	2	5	5	5	4	4	4	2	5	5	5
2	4	2	5	5	5	4	5	5	1	5	5	5
3	4	2	5	5	5	4	5	5	2	5	5	5
4	4	2	5	5	5	4	5	5	2	5	5	5
5	4	2	5	5	5	4	5	5	2	5	5	5
6	5	2	5	5	5	4	5	5	2	5	5	5
7	5	2	5	5	5	4	5	4	2	4	5	5
8	5	1	5	5	5	4	5	5	2	5	5	5
9	5	1	5	5	5	4	5	5	2	5	5	5
10	5	1	5	5	5	4	5	5	2	5	5	5
11	5	1	5	5	5	3	5	5	3	5	5	5
12	5	2	5	3	4	3	4	5	2	5	5	4
13	5	2	5	5	4	4	4	5	2	5	5	4
14	5	2	5	5	4	4	4	5	2	5	5	4
15	5	2	4	4	4	4	3	3	3	4	4	3
16	4	2	4	4	3	4	3	5	2	5	5	3
17	4	1	4	4	4	4	3	5	2	4	3	5
18	4	1	4	4	4	3	5	5	2	4	3	5
19	4	2	4	5	5	5	5	5	3	3	3	5
20	4	2	4	5	5	5	5	5	2	5	5	5
21	4	2	5	5	5	5	5	5	2	5	5	5
22	4	2	4	4	5	4	3	5	2	5	4	5
23	3	2	4	4	5	4	4	5	2	5	4	5
24	4	2	4	4	5	3	4	4	2	3	4	5
25	5	2	4	5	5	4	5	5	2	5	5	4
26	5	2	5	5	4	4	5	5	3	5	5	4
27	5	1	5	5	4	4	5	5	2	5	5	4
28	5	2	5	5	5	4	5	5	1	5	5	4
29	5	2	5	4	5	4	5	5	2	5	5	5
30	3	2	5	5	5	4	5	5	2	5	5	5

Corruption Offences arising from Economic Crimes (Economic Crimes Law).

**Chart (5)**



**Chart (6)**

Reading and analysing the above charts and tables leads to the conclusion that follow:

C1- Contractors' Crimes: according to the interviewees the majority decided on 'not at all' or 'not really' with regards to whether it matches with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. However, the Jordanian legislation considers this offence as potentially one of the corruption offences. That is why the result is 'not at all the same'.

C2- Harming the State's financial standing: according to the interviewees the majority decided that this 'somewhat' matches or 'very much' matches with the UNCAC. About this offence the researcher and the interviewees were not agreed, since the interviewees consider this offence matches with the UNCAC, while the researcher finds that this offence is not covered by UNCAC. The Jordanian legislator recognizes this crime as a corruption offence under the Economic Crimes Law. The physical elements of this crime are, first the perpetrator has to be a Public Official, since these obligations imposed on him/her are related to national defence, and the second element is the act of dissemination of false facts or accusations in order to decrease the value of the national currency or to weaken the trust in the strength of the State's currency or its bonds and all the bonds related to public financial trust. The other element of this crime is the way in which the news is broadcasted, as is stated in paragraphs two and three of the Article (73) of the Penal Code.

C3- Crimes related to systems of irrigation: according to the interviewees the majority decided these crimes did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence as one of the corruption offences. That is why the result is not at all the same.

C4- Arson: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence as one of the corruption offences. That is why the result is not at all the same.

C5- Assaults on public roads, means of transportation and industrial works: according to the interviewees the majority decided these crimes did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC.

C6- Cheating: according to the interviewees the majority decided this crime did 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence as one of the corruption offences. That is why the result is not at all the same.

C7- Theft: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence as one of the corruption offences. That is why the result is not at all the same.

C8- Deception: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence as one of the corruption offences. That is why the result is not at all the same.

C9- Breach of trust: according to the interviewees the majority decided this crime 'somewhat' matches with the UNCAC. Both the researcher and the interviewees had the same the result. The legal form of a breach of trust crime is very important in the fight against corruption, because this offence corresponds with the criminalization of embezzlement, and in fact the offences share many common elements, whether denying receiving an item or replacing, consuming or refusing to hand it over. The physical element is largely similar in both cases: it is the possession, acquisition or use of funds or property of the person. However, the specificity of an embezzlement offence is the ways and techniques used in hiding the money, where the criminalization of breach of trust means the act of misusing something that is entrusted to you to keep. Article (22) of the UNCAC says of embezzlement that:



"What is diverse in this crime is that even though both the crimes of breach of trust and embezzlement are similar in the scope of criminalization of the possession of other's property that is entrusted to him because of his job, (this is covered in Article (22) of the UNCAC, and Article (422) of the Penal Code and because of that they share many elements), still the embezzlement in the UNCAC is stated in two Articles- one regarding the Public Officials the other in the private sector.

The Penal Code only includes provisions to criminalize breach of trust that is the result of entrusting valuable things to an individual. Therefore, it does not cover all the elements mentioned in Articles (17, 22) of the UNCAC”.

C10- Deception in the nature of goods: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence as one of the corruption offences. That is why the result is not at all the same.

C11- Fraud in the transactions: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considered this offence a corruption offence. That is why the result is not at all the same.

C12- Bankruptcy and deception of creditors: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation however considered this offence a corruption offence. That is why the result is to highlight a difference.

The characterization of some of these criminal offences as ‘corruption’ arise from their inclusion within the specific provisos of the Economic Crimes Law, especially in regard to their possible impact on the state. That is why, in the Jordanian context,

these otherwise straightforward criminal offences are seen as potentially ‘corruption offences’.

6.1.4 Corruption Offences contrary to the Anti- Corruption Commission Law are as the following:

Money laundering, illicit enrichment, non-declaration or non-disclosure of investments or properties or benefits that may lead to a conflict of interest where laws and regulations require it, or where personal benefits can be directly or indirectly gained by him/her who refrained from declaring or disclosing, any act or refrainment, which may lead to the infringement of public fund, abuse of authority contrary to the provisions of the law, and acceptance of nepotism and favoritism, which infringes a right or validates what is void.

These offences are in accordance with Article (5) paragraphs (d, e, f, g, h, i) of JACC law. The last group in the questionnaire included the above offences. These offences are not included in the Penal Code, because since the JACC started working, the law was amended twice. The first amendment was: Amendment Law of the Anti-Corruption Law No. (10) in 2012 that was published in the Official Gazette issue No. 5151, and the second one was: Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278. In order to be harmonized with the United Nations Convention against Corruption, the legislature added these offences as corruption offences. The offences which were added by the last amendments are: money laundering.<sup>267</sup> illicit enrichment.<sup>268</sup>, and not declaring or not disclosing of investments or properties or benefits that may lead to conflict of interest if laws and regulations require that, of which personal benefits can be directly or indirectly gained for him/her who refrained from declaring or disclosing.<sup>269</sup> The reason why these offences were added in the last amendments is the need to criminalize acts of corruption that were not criminal under the criminal legislation in the Kingdom, and the need to adapt national legislation to comply with the United Nations Convention against Corruption, as part of Jordan's obligation to this Convention.

---

<sup>267</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>268</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>269</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

Any act or refrainment, which may lead to the infringement of public funds:

The Jordanian legislation in JACC Law No. (62) of 2006 considered any act or refrainment that may violate the public money as a corruption act. In my opinion I think this Article in JACC Law is legislatively defective, since this law includes in general all the acts or non-acts without specifying which particular acts or offences. Furthermore, as a legal matter, every crime has physical elements and mental elements, which is not made clear in these offences, so the court in any verdict cannot apply this offence to any act, since the Public Prosecutors have to present the dual (physical and mental) elements of any crime. Since this offence is so broad and general, it could include **all** the corruption offences in the UNCAC and, in Jordanian legislation if these offences cause infringement of public funds (which would bring them within the Jordanian Economic Crimes Law).

*Findings:*

Any act or refrainment, which may lead to the infringement of public funds, (since it talks in general and without specifying the elements of this crime), is in general covered by both the United Nations Convention against Corruption and the Jordan Legislation, especially the Penal Code.

Abuse of authority, contrary to the provisions of the law:

The Jordanian legislation added this act as a corruption offence and it complies with Article (19) of the UNCAC: “Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a Public Official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or another person or entity”.<sup>270</sup>

The Article deals in general with any abuse of authority which means the authority granted to Public Officials. The only difference between the two offences is that the UNCAC adds the element 'for the purpose of obtaining an undue advantage for

---

<sup>270</sup>UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

himself or herself or another person or entity', while in the Jordanian law it only states 'if it violates the provisions of the law'.

*Findings:*

Abuse of authority contrary to the provisions of the law matches the requirements in the UNCAC, especially in Article (19).

Acceptance of nepotism and favouritism, which infringes a right or validates what is void:

According to Gutman 'nepotism in employment' may mean favouring relatives or significant others for appointment to positions in preference to those selected on merit.<sup>271</sup>

Nepotism or favouritism is a form of corruption, as drawing on Loewe et al., “ it can be viewed as the use of personal connections to receive preferential treatment; favouritism can be distinguished from other forms of corruption, such as bribery, in usually not involving a direct exchange of material value. In the case of bribery, the parties involved explicitly or implicitly agree to an immediate exchange of goods: a certain amount of money or a gift is given for a specific action or forbearance. In contracts, favouritism creates a more implicit, indirect and unspecified return obligation<sup>272</sup>” Moreover, it does not constitute a problem when only two people are involved and there is no third party affected, such as a Public Official, who privately uses his/her position to distribute the resources of someone else to a friend or to a relative. When a public sector employee favours his/her acquaintances, s/he impinges upon the rights of all other applicants who may have submitted a better offer or are better qualified for a job to be filled.

In Jordan, *Wasta* is used as a way of managing life- a kind of managing of relations between families- as most of Jordanian society is composed of families or tribes. It has a long history, since the elders of the families are traditionally responsible for negotiating or solving problems even if this will harm others' rights.

Favouritism is not always negative- sometimes it is positive when it follows the correct procedures or helps others, through positive discrimination, such as the poor,

---

<sup>260</sup> Gutman, Arthur. "Nepotism and employment law." *Nepotism in organizations* (New York, Routledge, 2012): 11-41.

<sup>272</sup>Markus Loewe et al., 'The impact of favoritism on the business climate in Jordan' ( Bonn: German Development Institute/ Deutsches Institut Fur Entwicklungspolitik/DIE, 2007).

to obtain their rights, since they have fewer opportunities for accessing good services and jobs. Part of Jordanian culture is to seek a social impact that strengthens the relationship between the family members.

According to a survey conducted by Loewe et al, 86% of the business people interviewed stated that *wasta* can be helpful in all kinds of interactions with the bureaucracy, and 56% admitted to using it regularly. 77% of the 180 civil servants covered by his standardized survey indicated that *wasta* plays an important role in the recruitment and promotion of public sector employees. In addition, *wasta* can help in gaining admission to a university, earning good marks at school, obtaining a job, a scholarship or a bank loan, being granted a tax deduction, getting high-quality hospital care, and avoiding fines or penalties.<sup>273</sup>

The other side of favouritism is a form of corruption. That is why the Jordanian legislation recognizes this problem and considers 'acceptance of nepotism and favouritism, which revokes a right or validates what is void' as a corruption offence.

Direct requests for money by State officials are not common. However, requests for gifts, connected to traditional cultural attitudes, are an important part of the game of human interaction in Jordan. As a Japanese investor in Jordan put it: "Everybody is asking for a contribution. We do not give cash, but we arrange for some officials to go to Japan on holiday and we cover all of the costs. Even the highest ranked Jordanian officials ask for such gifts."<sup>274</sup>

Earlier in this research, the researcher identified the greater part of offences that were dealt with the Department of Information and Investigation were: abuse of power, waste of public money, misuse of public office, favouritism and nepotism. The previous table no. (3), page no. (76) explains the percentages of the major types of cases dealt with by the Department of Information and Investigation in the Commission in the years 2011, 2012, 2013. It indicates that at the beginning of the Commission action, *Wasta* is one of the offences that is frequently dealt with; later, the number of cases relating to the offence of nepotism and favouritism decreases from 9% to 3%.

---

<sup>273</sup> *ibid.*

<sup>274</sup> Hussein El Said and Frank McDonald, 'Institutional Reform and Entry Mode by Foreign Firms: The Case of Jordan' (2002) <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.9263&rep=rep1&type=pdf>> IMAD JIIDT Vol. 6, 2002.

Still today, according to the majority of people in Jordan, Wasta is a social phenomenon and a social and cultural legacy, even though it includes some negative social habits, and even though it *values* some varieties of corruption and makes them part of the culture of the community, such as forms of nepotism and favouritism.<sup>275</sup>

The removal of these customs and traditions requires a joint national effort devoted to embodying a culture of rejection of corruption, and negative consideration of all forms of behaviour that disgrace or are to the detriment of the individual and society.

The physical elements of this crime are, first the act itself in the acceptance of nepotism and favouritism, and the other element in this crime is that it infringes a right or validates what is void. This means that 'good' Wasta is not considered as a crime, since no harm is done to others or and since it doesn't validate what is a void.

*Findings:*

Acceptance of nepotism and favouritism which infringes a right or validates what is void in the Jordanian law is not covered by the UNCAC.

Money laundering:

In the last amendment of the Anti-Corruption Law No. (16) of 2014, which was published in the Official Gazette issue No. 5278, this offence is added as part of Jordan's obligation to comply with the UNCAC.

*Findings:*

Jordanian legislation fulfils the requirements of UNCAC concerning a person's criminal liability for money laundering, if he has committed a predicate offence.

More details of this offence were covered earlier in Article (23) of the UNCAC.

Illicit enrichment:

In the last amendment of the Anti-Corruption Law No. (16) of 2014, which was published in the Official Gazette issue No. 5278, this offence is added as part of Jordan's obligation to comply with the UNCAC.

---

<sup>275</sup> Farouq Kilani, 'Towards Transparency in Jordan' [2001] (Jordan Press Foundation) Arab Archives Institution <<http://www.alarcheef.org/about.html>> accessed 15 April 2013.

*Findings:*

Jordanian legislation fulfils the requirements of UNCAC concerning a person's criminal liability for illicit enrichment, if s/he has committed a predicate offence.

More details of this offence were covered earlier in Article (20) of the UNCAC.

Not declaring or not disclosing of investments, properties, or benefits that may lead to a conflict of interest if laws and regulations require that, where personal benefits can be directly or indirectly gained for him/her who refrained from declaring or disclosing.

This offence is added in the last amendment of the Anti-Corruption Law No. (16) of 2014, which was published in the Official Gazette issue No. 5278. The importance of this offence is that the Jordanian legislation did not cover 'conflict of interest', although this act could lead to a corruption act.

The physical elements of this crime are: the act itself which is not declaring or not disclosing, the second element is that these investments or properties or benefits will lead to a conflict of interest, and the last element is that there must be direct or indirect benefits from this act.

Conflict of interest is not one of the offences that were included in the criminalization chapter in the UNCAC, whereas the Jordanian legislations in JACC law considered this act as a corruption offence. However, there do exist some Articles in the UNCAC (but not in the criminalization offences), which require a state to endeavor to establish, where appropriate, the following, as stated in Article (8) paragraph 5: "Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring Public Officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as Public Officials". The difference between the two offences is that the one under the UNCAC does not have to be considered as a crime; it leaves this option to the State if necessary, and it is dealt with in parts of the code of conduct

of the Public Officials, while in JACC law this act legally is a crime if the laws and regulations in the Kingdom required the disclosure of his/her properties.

*Findings:*

Not declaring or not disclosing of investments or properties or benefits, if laws and regulations require, that may lead to a conflict of interest, where personal benefits can be directly or indirectly gained for him/her who refrained from declaring or disclosing, is directly criminal in the Jordanian law but is not covered by the UNCAC.

6.1.4.1 Legal Aspects (experts' opinion):

Here is an analysis of question number 3 (D) in the questionnaire: Are corruption offences contrary to the Anti- Corruption Commission?

Table (17), codes the offences in question (3) part (D) as follows:

**Table (17)**

<b>Label</b>	<b>Value</b>
<b>D</b>	Corruption offences contrary to Anti- Corruption Commission Code.
<b>D1</b>	Any act or refrainment, which may lead to the infringement of public funds.
<b>D2</b>	Abuse of authority contrary to the provisions of the law.
<b>D3</b>	Acceptance of nepotism and favouritism, which infringes a right or validates what is void.
<b>D4</b>	Money laundering.
<b>D5</b>	Illicit enrichment.
<b>D6</b>	Not declaring or not disclosing of investments or properties or benefits that may lead to a conflict of interest if laws and regulations require that, where personal benefits can be directly or indirectly gained for him/her who refrained from declaring or disclosing.
<b>1</b>	Very much.
<b>2</b>	Somewhat.



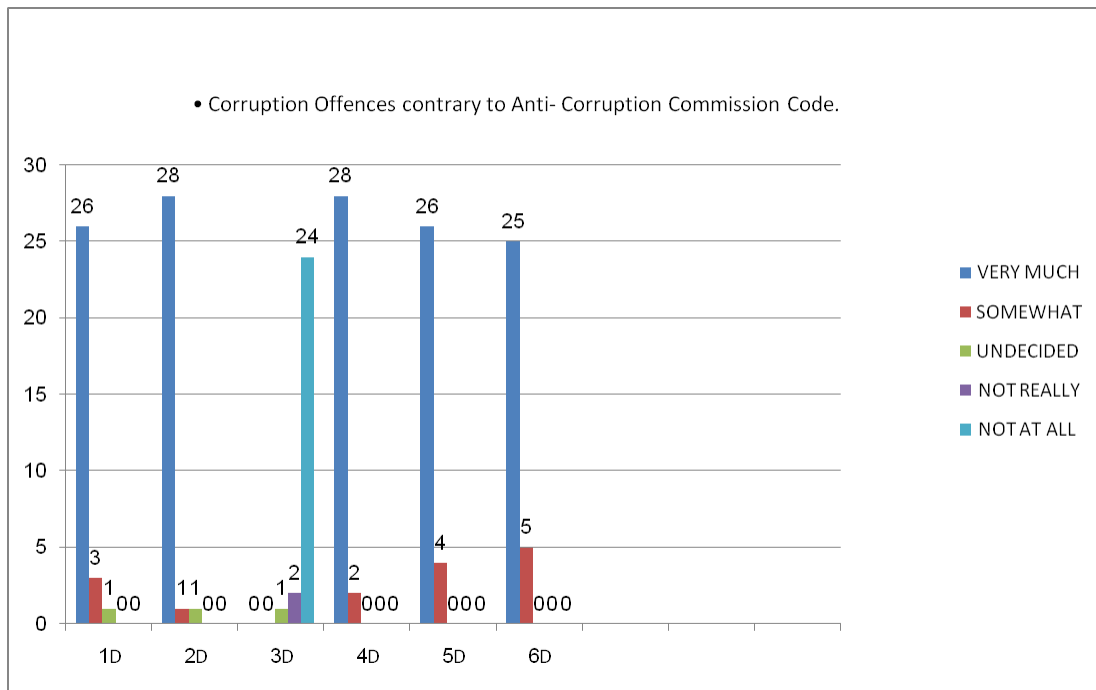
<b>3</b>	Undecided.
<b>4</b>	Not really.
<b>5</b>	Not at all.
<b>Interviewees ID</b>	The interviewees, from (1-30)
<b>Max</b>	The percentage of every choice of (1-5).

Q3 part (D): Interviewee response in (table (18), chart (7) and chart (8)).*Table (18)*

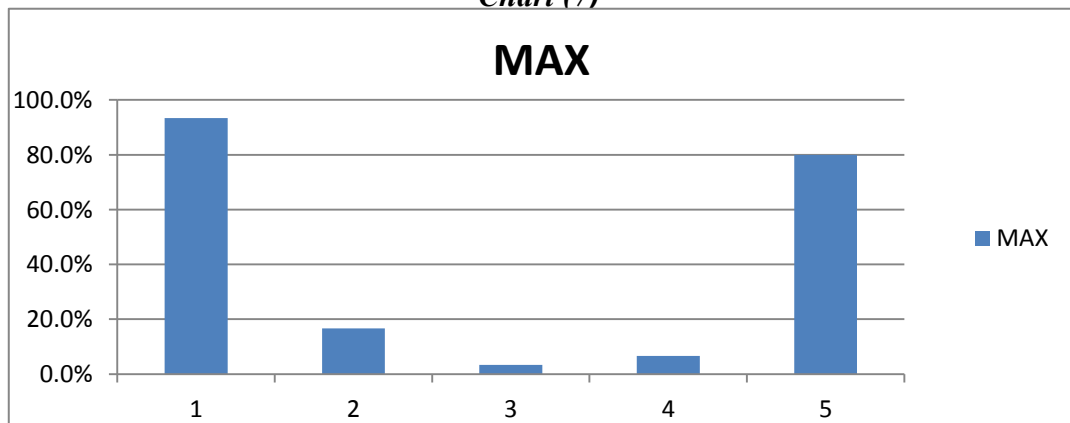
<b>interviewees ID</b>	<b>D1</b>	<b>D2</b>	<b>D3</b>	<b>D4</b>	<b>D5</b>	<b>D6</b>
1	1	1	3	1	2	2
2	1	1	5	1	1	1
3	1	1	5	1	1	1
4	1	1	5	1	1	1
5	1	1	5	1	1	1
6	1	1	5	1	1	1
7	2	1	5	1	1	1
8	1	1	5	1	1	1
9	1	1	5	1	1	1
10	1	1	5	1	1	1
11	1	1	4	1	1	2
12	1	1	5	1	1	1
13	1	1	5	1	2	1
14	1	1	5	1	1	1
15	1	1	5	1	1	1
16	1	1	5	1	1	1
17	1	2	4	1	1	2
18	1	1	5	2	1	2
19	3	1	5	1	1	1
20	2	3	5	1	1	2
21	1	1	5	1	1	1

22	1	1	5	1	1	1
23	2	1	5	2	2	1
24	1	1	5	1	1	1
25	1	1	5	1	1	1
26	1	1	5	1	1	1
27	1	1	5	1	1	1
28	1	1	5	1	2	1
29	1	1	5	1	1	1
30	1	1	5	1	1	1

**Table (18)**



**Chart (7)**



**Chart (8)**

The analysis of the data suggests that:

D1- Any act or refrainment, which may lead to the infringement of public funds: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same view, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considers this offence as one of the corruption offences. That is why the result is to perceive a difference.

D2- Abuse of authority contrary to the provisions of the law: according to the interviewees the majority decided that this crime 'very much' or 'somewhat' matched with the UNCAC. Interviewees and researcher were in agreement, since this offence is included under the criminalization offences in the UNCAC, the Jordanian legislation considers this offence as one of the corruption offences. Abuse of authority is contrary to the provisions of the law, which matches with the requirements in the UNCAC, especially with Article (19). That is why the result is 'very much' or 'somewhat' the same.

D3- Acceptance of nepotism and favouritism, which infringes a right or validates what is void: according to the interviewees the majority decided this crime did 'not at all' or 'not really' match with the UNCAC. Both the interviewees and the researcher had the same view, since this offence is not included under the criminalization offences in the UNCAC. The Jordanian legislation considers this offence as one of the corruption offences. That is why the result is to perceive a difference.

D4- Money laundering: according to the interviewees the majority decided that this crime 'very much' or 'somewhat' matched with the UNCAC. Both the interviewees and the researcher had the same result, since this offence is included under the criminalization offences in the UNCAC under Article (23). The Jordanian legislation also considers this offence as a corruption offences. That is why the result is 'very much' or 'somewhat' the same.

D5- Illicit enrichment: according to the interviewees the majority decided that this crime 'very much' or 'somewhat' matched with the UNCAC under Article (20). Both the interviewees and the researcher had the same result, since this offence is included

under the criminalization offences in the UNCAC under Article (23). The Jordanian legislation as well also considers this offence as corruption offences. That is why the view is that of 'very much' or 'somewhat' the same.

D6- Not declaring or not disclosing of investments or properties or benefits that may lead to a conflict of interest if laws and regulations require that, where personal benefits can be directly or indirectly gained for him/her who refrained from declaring or disclosing: according to the interviewees the majority decided that this crime 'very much' or 'somewhat' matched with the UNCAC. In this offence, the researcher has a **different** view from the interviewees' opinion, since 'conflict of interest' is not one of the offences that are included in the criminalization chapter in the UNCAC. Whereas the Jordanian legislations in JACC law does consider this act a corruption offence. However, there are some Articles in the UNCAC (but not in the criminalization offences), which require State parties to endeavour to establish, where appropriate, the following, as stated in Article (8) paragraph 5: "Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring Public Officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as Public Officials". The difference between the two offences is that the under the UNCAC it does not have (necessarily) to be considered a crime; it leaves this option to the State if necessary, and it is dealt with in parts of the code of conduct of the Public Officials, while in JACC law this act legally is a crime if the laws and regulations in the Kingdom required the disclosure of a Public Official's properties.

#### Reversing the Perspective

In the above, the researcher identifies corruption offences under the Jordanian legislation and which Articles in the UNCAC are congruent to it. In order to round out a comparative analysis between the Convention and the national legislation in Jordan, the study will now discuss key broad topics as under the national law (having already discussed them in the previous chapter under chapter three of the UNCAC). These key topics are: criminal liability of corruption offences, immunities, the sanctions system, and lawsuits for public rights and statutes of limitations.

## 6.2 Criminal liability for corruption offences under Jordanian legislation.

Under the Penal Code all the corruption offences have provisions stating the criminal liability of the people who committed the crimes. Also under Article (22), paragraph A, B in JACC law “a) Without prejudice to any aggravated penalty stipulated in any other legislation, any person who commits any of the acts and conducts stipulated in Article 5 of this law or positively responds to such acts and conducts shall be subject to the punishment of imprisonment for a period not less than four months or a fine not less than five hundred Dinars and not exceeding five thousand Dinars or by both penalties. In the event of repetition, then half of the penalty shall be added.

b) Taking into consideration the international agreements in force in the Kingdom, the provisions of paragraph (a) of this Article shall apply to foreign Public Officials and officials of Public International Organizations, with the obligation to return the proceeds of corruption offences.<sup>276</sup>

### 6.2.1 Criminal liability of legal persons:

Adopting criminal liability for both legal persons or natural persons is a very important issue in fighting corruption, since the Jordanian national law deals sometimes only with natural persons and not legal ones. Although the criminal liability of the legal persons does not include penalties involving deprivation of liberty such as sanctions (which can be implemented to natural persons), other liabilities are included such as: confiscation, fines, and suspension of their work. Such liability shall be without prejudice to the criminal liability of the persons who have committed the offences. The Penal Code included the criminal liability of a legal entity in Articles (36- 39).

Article (36) states:

Any union, company, association, and all corporate entities, except for public administration entities, may be suspended if any of its directors, board members, representatives or employees committed under its name an intentional misdemeanour or felony punishable by imprisonment of at least two years.

Article (37) states:

---

<sup>276</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (10) of 2012 that was published in the Official Gazette issue No. 5151.

Entities mentioned in the previous Article may be dissolved:

- a. If they did not abide by their legal Articles of incorporation.
- b. If their incorporation objectives are contrary to applicable laws or the pursuit of such illegal objectives.
- c. If they were in violation of the legal provisions which provide the basis for dissolution.
- d. If suspended according to a final judgment issued before less than five years.

Article (38) states:

1. Even if the name of the entity is changed and the board of directors members replaced, the legal entity shall be suspended for a minimum period of one month and a maximum of two years. Such suspension shall halt all the functions of the legal entity and prevent the transfer of the entity's quarters and title provided that the rights of others acting in good faith are protected.
2. The dissolution requires the liquidation of the legal entity's assets and all directors, board members and liable persons the right to establish or manage similar entities.

Article (39) states:

Violation of each of the previous provisions is punishable by one to six months imprisonment and a fine ranging between five and one hundred Jordanian Dinars (JD5-100).

The Penal Code includes provisions concerning sanctions for legal entities. They can only be sentenced to fines and confiscation. On the other hand, the Penal Code consists of precautionary measures which are freedom- confining measures, material confiscation, precautionary bonds, closure of a business place, and dissolution and halting the functions of a legal entity.

According to the Penal Code the court may order obligations based on a criminal liability. They are restitution, reparation of damages, forfeiture and expenses. These obligations can be sentenced for the legal entity.

Criminal Procedure Code and Civil Law include provisions concerning compensation based on a criminal liability. This type of claim may be processed before civil or criminal court. A legal entity may be convicted to compensation.

According to the Criminal Procedures Law the court shall instruct punishment and civil obligations in the same decision.

### 6.2.2 Immunities:

Jordanian legislation has failed to extend the law to a large segment of the Public Officials who have financial and administrative powers, and are most likely to commit crimes of corruption. Thus the legal text to prosecute these people remains only a minor deterrent, which leads to obstruction of the Commission to perform its functions fully as possible. Under other legislation, some of these officials can be prosecuted under particular laws, such as ministers, members of the armed forces and members of the intelligence and public security, civil defence and customs personnel, and the judges which apply specifically to them.<sup>277</sup> In comparison, if we go back to the international convention (UNCAC), the term 'Public Official' covers a large segment - either the Public Official is appointed or elected, temporarily appointed or permanently, whether paid or unpaid, holding a legislative, executive, administrative or judicial office. The Convention clarified that a 'Public Official' may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party. The scope of thinking underlying the Convention seems much broader than that which underpins Jordanian perspectives.

### 6.2.3 Sanctions system :

The Penal Code, chapter one, talks about the penalties which are:

#### **(1) Felonies penalties in general terms**

Criminal penalties are listed in the following Articles:

Article (14)

- 1- Death penalty
- 2- Life imprisonment with hard labour
- 3- Life detention
- 4- Temporary imprisonment with hard labour
- 5- Temporary detention

---

<sup>277</sup> BBC , ' Jordan's Ex-Spy Chief Jailed for Corruption' (2012) <<http://www.bbc.com/news/world-middle-east-20286407>> accessed 11 November 2012.

## Article (15)

Penalties for misdemeanours:

1. Imprisonment
2. Fine
3. Bail bond

## Article (16)

Exasperating Penalties

1. Exasperating imprisonment
2. Fine

In comparison, JACC law, Article (22) states that: which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (23)

- a) “Without prejudice to any aggravated penalty stipulated in any other legislation, any person who commits any of the acts and conducts stipulated in Article 5 of this law or positively responds to such acts and conducts shall be subject to the punishment of imprisonment for a period not less than four months or a fine not less than five hundred Dinars and not exceeding five thousand Dinars or by both penalties. In the event of repetition, then half of the penalty shall be added.
- b)
  - 1-Each contract or agreement or privilege or concession obtained as a result of corruption offences shall be subject to annulation or rescindment by the competent court.
  - 2- Each concession obtained as a result of corruption, shall be Ineffective decision by the competent court and the competent authorities shall nullify the law granting such concession according to the procedures stipulated in the constitution.
  - 3- The Commission during the course of the investigation may request, as an expedited measure, the competent court to suspend any contract or agreement or privilege or concession where it deems it apparent from the face value of



the evidence that it is obtained as a result of an act of corruption, until the issuance of a decision in the case.<sup>278</sup>

#### 6.2.4 Lawsuit for public right and statute of limitations:

Article (28) of JACC law states that: **which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (29)**

- a. “Notwithstanding the provisions of any other legislation, the issuance of a court order to drop the lawsuit for public right or cessation of prosecution or amnesty due to punitive exemptions or lack of responsibility does not preclude the litigation to recover the proceeds of corruption.
- b. The public right to litigate and punishments related to corruption are excluded from the statute of limitations; Furthermore, the recovery of proceeds of corruption is excluded from the statute of limitations”.

For the purpose of this research it is important to identify the limitations of the right of public prosecution or in moving the public right are as follows:

1- Article (6) of the JACC law states: **which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (16) c** “The special provisions provided for in the relevant legislations shall apply in the event that the defendant in a corruption case is one of the persons that the Constitution or the relevant legislations dictate special forms or procedures for investigating or for judicial prosecution”.

This text creates a restriction on the work of the Anti-Corruption Commission, especially judicial prosecution. That is if one of the defendants in the investigation of corruption cases is one of the persons who require, in the Constitution or in the law, permission from the concerned authorities to move the complaint. Although the General Prosecutor has the jurisdiction in moving the public right, still the same law in special conditions restricts him/her from the prosecution. Article (2) paragraph 1 in the Criminal Procedures Law stated: “the public prosecution shall have the

---

<sup>278</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (10) of 2012 that was published in the Official Gazette issue No. 5151.

competence to commence the public right claim. The public right claim may not be commenced by any other party except in the cases set out in the Law”<sup>279</sup>.

Except in cases set out in the law, this right is excluded in different immunities such as:

A- Parliamentary immunity: according to Article 86 of the Jordanian Constitution: “No member of the Senate and the House of Representatives shall be detained or tried during the currency of the sitting of the Parliament unless the House to which he belongs issues a decision by the absolute majority that there is sufficient reason for his detention or trial or unless he is arrested *flagrant delicto*. In the event of his arrest in this manner, the House should be notified immediately.”<sup>280</sup>

B- Judicial immunity: Article (29/1) Article (28 a/1) amended law No.29 of 2014 of the Judiciary Independence Law. In cases, which are not *flagrante delicto*, the judge may be arrested and detained only after obtaining permission from the Judiciary Council.<sup>281</sup> Also Article (10) of the Judicial Inspection Law states that a complaint against a judge may be presented to the President or the Minister who may refer them to the Director, and further that any complaint against the judge cannot be considered unless the applicant's name and a signature are included in the complaint.

C- Immunity of ministers: Articles (55- 57) of the Constitution, as amendments to the Official Gazette no. 5117 of 1/10/2011 states the conditions of prosecuting the ministers thusly:

Article (55):

“Ministers shall be tried for crimes attributed to them resulting from the performance of their functions before the competent civil courts in the capital, in accordance with the provisions of the law”; before this amendment, the ministers were tried before the High Council.

Article (56):

“The House of Representatives shall have the right to refer the Ministers to the Attorney General along with a statement of the justifying reasons. The decision of referral shall not be issued except by the majority of the members of whom the House of Representatives is composed”; before this amendment, ministers could be referred by a two-thirds majority vote of the members.

Article (57):

“The minister who shall be accused by the Attorney General upon the issuance of the decision of referral by the House of Representatives shall be suspended from the

---

<sup>279</sup> Criminal Procedure Law 1961 No .9.

<sup>280</sup> Jordan Constitution 1952.

<sup>281</sup> Judiciary Independence Law 2001 No. 15 amended JIL 2014 No 29.

office; his resignation shall not prevent the institution of proceedings against him nor the constitution of his trial”.

2- Article (61) of the economic crimes law states that the Prime Minister may assign any of the offences envisaged in this law to the State Security Court under powers established under the provisions of the law of State Security Court, while the original jurisdiction to consider economic crimes is the Court of First Instance and that economic crime is one of the acts of corruption set out in Article (5) of JACC law.

3- Article (3/11) of the State Security Court law stated that the jurisdiction of the Court to look at any other crime related to economic security is decided by the Prime Minister. This text takes away the jurisdiction of the Commission and the Prosecutor assigned to investigate corruption offences contained in the law of the JACC.

The reasons why the research mentioned these limitations is the fact that corruption affects all Public Officials, so it is important to amend these laws to include **all** the people who commit crimes of corruption, and not have anyone exempt from prosecution. Any legal restrictions on prosecution not only hamper the JACC in the practice of its work, but also restrict the Commission's power even to reach those who have practiced corruption.

D- Immunity of members of the armed forces: This refers to the legislation for members of the armed forces and sets down the basis that must be followed in the event that any of the armed forces' employees commit crimes, to the scope of application of military law and its subordinate groups, as follows:

1- General intelligence: This is organized by Articles (6-7) of the General Intelligence Law No. 24 of 1964 as follows: Article (6) is applicable to all the staff and members of Article (7) (a) in the case that staff and members of the intelligence services committed a crime within the jurisdiction of the State Security Court in accordance with the provisions of law No. 17 of 1959 and its amendments, he/she will be tried in front of the Military Council of the General Intelligence Department which is granted the same powers granted to the State Security Court.

2- Army forces: Articles (3, 8, 9) of the Military Penal Code No. (58) 2006, and the law on the Military Courts and formation of the Military Courts No. (23) 2006 are as follows: these laws will be applied on the army forces only and its courts and jurisdictions.

3- Public security officers: in case they committed a crime the provisions law of the public security law No. (38) 1965 will apply to them.

4- Civil defence members: in case they committed a crime the provisions law of the civil defense law no. (18) 1999 will apply to them.

These limitations create problems for the work of the JACC, since it restricts the number of people to whom the JACC's work applies, as these particular people, according to Jordanian legislation require special procedures in the case of investigation or prosecution.

#### Rounding Out the View

This chapter ends with an analysis of cases and an introduction of the legal system in Jordan and, in order to complete the comparative perspective.

### 6.3 Cross case analysis (case review):

The basic research approach investigates the relationship between the JACC and the UNCAC regarding corruption offences. To go further, the study will tackle the local courts' position towards the implementation of the UNCAC. As I explained previously in Chapter Four (Methodology), this is in order to follow the analysis the corruption offences contained in both laws with a perspective on how (and if) Jordanian courts implement the provisions of the UNCAC in their verdicts. This involves three essential steps:

Critical analysis, interviews, and cross case analysis.

The researcher believes that it is important to explain briefly about the legal system in Jordan, as it has some local peculiarities.

The Jordanian legal system is mixed between Civil Law and Islamic legal law concerning issues such as personal status and inheritance. The beginning of the Judiciary in Jordan is in the twentieth century under the Ottoman rule, some of whose laws remained in Jordan after their rule ended. Also, Jordan experienced a British mandate after the collapse of the Ottoman Empire. Since full independence in 1947, Jordanian legal and judicial structure has developed.

Jordan's constitution guarantees the independence of the judicial branch, clearly stating that judges are "subject to no authority but that of the law."<sup>282</sup>

The court system is divided into the following types of courts:

---

<sup>282</sup> Jordan constitution 1952.

- Regular Courts, which are arranged in a four-tier hierarchy;
  - Religious Courts; and
  - Special Courts.

The regular courts deal with civil and criminal matters in accordance with the law, and they include the following courts: the Magistrate Courts, Courts of First Instance, Courts of Appeal, High Administrative Courts, and Courts of Cassation. These courts have jurisdiction over all persons in the Kingdom and regarding all matters, in addition to cases brought against the government.

The religious courts include *Shari'a* (Islamic law), which deals exclusively with things regarding personal law such as marriage, divorce, inheritance and child custody.

Special courts are specialized courts, such as: highest criminal courts, State security courts, juvenile courts, customs courts, and taxation appeal courts. Until today there is no special court that is specialized to deal with corruption cases.

The head of the Public Prosecution Office has the right to exercise administrative supervision over all the Attorney Generals in their performance of duties, including the general prosecutors in the Commission. This is expressed in Criminal Procedures Law in Article (11): “Repealed pursuant to Article 38 of Law No. 11 of 2010

1. The undertakings of public prosecution shall be undertaken by judges who exercise the authorities given to them by law. These judges shall be associated according to the hierarchy of authority and shall administratively report to the Minister of Justice.

2. In carrying out their procedures and written requests, the public prosecution officers shall comply with the written orders issued to them by their supervisors, or by the Minister of Justice.<sup>283</sup>”

The Ministry of Justice supervises in an administrative manner only; hence there is no intervention in the prosecution function. With regards particularly to the issue of corruption, the Public Prosecutor sends prosecutors to the JACC; this according to a

---

<sup>283</sup>Criminal Procedure Law 1961 No .9.

request from the Commission and according to Article (14) of JACC law. Both judges and prosecutors are governed by a specific code of conduct. In terms of the conditions of service, judges and prosecutors are the same<sup>284</sup>.

The Public Prosecutors view the case referred to him/her by members of the judicial police, regarding the collected evidence and testimonies and written evidence, and weigh up the evidence and introduce all the evidence, or a part thereof, or evidence not introduced, as an expansion of the investigation and then decide to make prosecution of the suspect and refer the case to the competent court, or they decide to stop the trial.

Below are examples of cases handled by the JACC:

Case (1):

Case No. (1027/2010) The State Security Court v Shahin. Qudah. Rifai and Rwashdeh

The Jordan Petroleum Refinery Company (JPRC) expansion project case:

The General Prosecutor judge Hassan Abdallat led an investigation into the suspicion of corruption in the petroleum refinery. The decision is the assignment of Judge Abdallat to investigate the case as a seconded prosecutor to the Jordan Anti-Corruption Commission in addition to his job. Mr. Abdallat summoned the board members at the petroleum refinery company to investigate the activities of said petroleum refinery in relation to its strategic partner, after listening to their testimony. The prosecutor determined that the investigations revolve around two issues: one relating to the actions that contributed to the conclusion of the Council of Ministers in the previous government that granted privileges, and whether the settlement should be accompanied by a determined sum of money charged by the Treasury for these privileges. The second concerns the limited time period (identified as two months) as a final period to obtain offers from companies along with only one bid. The four defendants included the former chairman of the JPRC, the former finance minister Adel Qudah, the former JPRC director general Ahmad Rifai, the Prime

---

<sup>284</sup> Acauthorities.org, 'Anti-Corruption Commission | Anti-Corruption Authorities (Acas) Portal' <<http://www.acauthorities.org/country/jo>> accessed 23 December 2014.

Minister, the economic adviser Mohammad Raishdeh, and businessman Khaled Shahin, who is a bidder. Two former executives at JPRC, a government official and a leading businessman, were ordered to be detained at the Jweidah prison by the Anti-Corruption Commission's prosecutor general, Hassan Abdallat, on allegations of bribery and exploitation of public office according to Articles (175, 192) of the Penal Code. Reports say that JD12 million was involved in the case as bribes. On Tuesday, July 06, 2010, the State Security Court (SSC) sentenced three former officials and a businessman to three years in prison after convicting them of bribery in connection with the Jordan Petroleum Refinery Company (JPRC) expansion project. The court **acquitted** the four defendants on charges of abuse of public office. Qudah, Rifai and Rwashdeh were originally charged with bribery and exploitation of public office, while Shahin was charged with three counts of bribery and three counts of conspiracy to commit acts of exploitation of public office. The four defendants were arrested on March 3 and went on trial on April 5, after their assets were frozen. On April 25, they were released on a JD150, 000 bails each.<sup>285</sup>

Case (2):

Case No. (151/2012) High Criminal Court v Al- Dahabi

The Ex- Director of the General Intelligence Department case:

The reform process of the Jordanian government to fight corruption was encouraged especially after the major case of ex-chief of Jordan's intelligence services (*mukhabarat*) Muhammad al-Dahabi. He was accused of money-laundering and embezzling public funds. Mr Al-Dahabi, ran the General Intelligence Department from 2005 to 2008. Dahabi was arrested in February, when inspectors from the Central Bank of Jordan suspected transactions worth millions of dollars had gone through his bank account. The General Prosecutor required that one of the seconded prosecutors at the JACC prosecute the case.

Jordan's former intelligence chief was sentenced to 13 years in prison for corruption. The court in Amman also fined him nearly \$30m (£19m). The court also ordered him

---

<sup>285</sup> Rana Hussein, 'Jordanian Court Convicts Four in JPRC Bribery Case' (2010) <<http://www.downstreamtoday.com/news/Article.aspx?a id=23296>> accessed 7 July 2010.

to return the \$34m (£21m) he allegedly laundered and embezzled during his time in office.

Jordan's leaders have come under pressure in recent months from street protesters demanding that corruption be tackled the lengthy sentence for such a high-profile figure is meant to show Jordanians that the authorities are serious about tackling the issue, as well as the \$30m. fine. Dahabi, the brother of former Prime Minister Nader al-Dahabi, had denied the charges and claimed he was being turned into a scapegoat.<sup>286</sup>

Case (3):

Case No. (113/2010) High Criminal Court v Al- Masaadeh

The JACC investigated suspicion of corruption in one of the Municipalities in Jordan. The defendants in this case were the Mayor, and one of the drivers in this office. Through investigations and gathering evidence and listening to several witnesses from the investigators in the Commission, and after approval that this is a case of corruption and therefore comes under the Jurisdiction of the JACC, the board members transferred the case to the seconded General Prosecutor in the Commission. The prosecutor determined that the investigations revolve around two issues: one relating to the actions that led to the decision of the Mayor during his duties of giving orders to the drivers removing the trash without taking approval from the Ministry of Municipality, and at the same time without charging the people regarding the provision of these services. The second concerns the drivers themselves, who were asking money for services for themselves, which lead to several complaints from the people in this town. The Mayor and the drivers were ordered to be detained in prison by the Anti-Corruption Commission's prosecutor, on allegations of misdemeanour of misuse of public office and misdemeanour of breach of public office according to Articles (176/1, 183/2) of the Penal Code, and Articles (5/A, C, 22) of the JACCL, and Articles (2, 3,4) of the Economic Crimes Law.<sup>287</sup>

---

<sup>286</sup> -BBC News, (2011) 'Jordan's ex-spy chief jailed for corruption', [online] Available at :<  
<http://www.bbc.co.uk/news/world-middle-east-20286407>> Accessed 11 November 2011.

<sup>287</sup>Economic Crimes Law 1993 No .11.



This case was received as a complaint to the Commission in 2010, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2012<sup>288</sup>.

The court **acquitted** the defendants on charges of misuse of public office and breach of public office. Unfortunately, according to Article (130/a) of the Criminal Procedures Law, the court ordered the dropping the case because it was included in the Amnesty law in 2012, but the drivers were still charged with misuse of public office.<sup>289</sup>

Case (4):

Case No. (221/2011) High Criminal Court v Al- Jaradat

The General Prosecutor ordered that one of the seconded prosecutors at the JACC investigate suspicion of corruption by the one of the employees at a private company. The defendant in this case was a representative of a private company of publishers.. The case was that the employee pretended that he was the one responsible to sell one of the books. At the same time the Ministry of Culture filed a complaint against him. Through investigations and gathering evidence and listening to several witnesses from the investigators in the Commission, and after approval that this is a case of corruption under the Jurisdiction of JACC, the board members transferred the case to the seconded General Prosecutor in the Commission. The prosecutor determined that the investigations revolve around one issue, relating to the actions that led to the decision of the employee to pretend that he was this person. The General Prosecutor transferred the case on allegations of impersonation according to an Article (269) of the Penal Code: “Whoever submitted, before a public authority, a false identity in order to benefit him/herself or another person or in order to harm another person, he/she shall be punished by imprisonment for one month to one year”.<sup>290</sup>

This case was received as a complaint to the commission in 2011, and then transferred by the General Prosecutor to the court in the same year, while the final

---

<sup>288</sup> JACC ‘Annual Reports’ Available at:

<http://www.jacc.gov.jo/enus/knowledgebase/reportsandstatistics/reports/annualreports.aspx>.

<sup>289</sup> Jordan Anti- Corruption Commission, 2011. Annual report 2010- 2011. [online]

Available at: <http://www.jacc.gov.go /annual2011>.

<sup>290</sup> Penal Code 1960 No .16.

verdict was reached on 2012. The court **acquitted** the defendant on charges of impersonation. The final verdict was that he was sentenced to prison for one month, and, because he confessed during the investigation, which made it easier for the court, and according to the Article (100) of the Penal Code, the sentence was reduced to one week plus the fines. This is according to Article (100): which states if the court applied mitigating factors for the benefit of a person who committed a misdemeanour, then the court has the power to reduce the sentence at least to its minimum limit stated in the Articles (21,22).<sup>291</sup>

Case (5):

Case No. (302/2009) High Criminal Court v Al- Shroug

The General Prosecutor asked that one of the seconded prosecutors at the JACC investigate suspicion of corruption in the one of the ministries in Jordan. The defendant in this case was the accountant in this ministry. Through investigations and gathering evidence and listening to several witnesses from the investigators in the Commission, and after approval that this is a case of corruption under the Jurisdiction of JACC, the board members transferred the case to the seconded General Prosecutor in the Commission. The prosecutor determined that the investigations revolve around the accountant whose duties, amongst others, were receiving private cheques from any projects sponsored by the ministry. Even though these cheques were issued in his name, he was supposed to preserve and not expend them, until all the conditions that are required in this project are completed. Unfortunately, this accountant opposed the instructions and the procedures, and used these cheques to his benefit, even though the project was not finished and they had not completed all the procedures. The accountant kept the money for himself for several years, although according to the Jordanian legislation he is not allowed to keep more than 200 JD. Keeping so much money harms the State finances. The General Prosecutor referred this case to the court on allegations of 'any act or refrainment, which may lead to the infringement of public funds' according to Articles (5/g) of the JACCL, and Article (22) of the JACCL.

---

<sup>291</sup> *ibid.*

This case was received as a complaint by the Commission in 2009, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2011.

The court **acquitted** the defendants on charges of breach of public office duties according to Article (183/2) of the Penal Code, and with indication to Articles (2, 3, and 4) of the Economic Crimes Law, and Article (5) of the JACCL. The defendant was sentenced to prison for one month and ordered to pay fines for his negligence.

292

Case (6):

Case No. (17916/2008) High Criminal Court v Al- Momani & Al- Fakhori

The General Prosecutor determined that one of the seconded prosecutors at the JACC should investigate suspicion of corruption in the one of the pharmacies in Jordan. The defendant in this case was the doctor in one of the public hospitals. Through investigation, gathering evidence and listening to several witnesses by the investigators in the Commission, after approval it was decided that this was a case of corruption under the Jurisdiction of JACC, so the board members transferred the case to the General Prosecutor in the Commission. The prosecutor determined that the investigations revolve around the doctor, as one of the doctors in the public hospital, selling medicines that are not for sale (samples), and also switching between the medicines in the hospital and the pharmacy. This case was transferred to the Commission through inspectors who work for the Jordan Food and Drug Administration. The General Prosecutor referred this case to the court on allegations of 'selling medicines by a person not qualified to do so', as in Articles (93/b) of the Medicine and Pharmacy Law, and Article (5) of the JACCL.

This case was received as a complaint by the Commission in 2008, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2009.

---

<sup>292</sup>JACC 'Annual Reports' Available at:  
<http://www.jacc.gov.jo/enus/knowledgebase/reportsandstatistics/reports/annualreports.aspx>.

The court **acquitted** the defendant on charges of 'selling medicines by a person not qualified to do so', as in Articles (93/b) of the Medicine and Pharmacy Law, and Article (5) of the JACCL. The defendant was sentenced to pay fines 1000 JD for his negligence.<sup>293</sup>

Case (7):

Case No. (1585/2008) High Criminal Court v Al- Khawalda

The General Prosecutor judged that one of the seconded prosecutors at the JACC should investigate suspicion of corruption in the one of the stock companies in Jordan. The defendant in this case was one of the employees in this company. Through investigations and evidence gathering, and listening to several witnesses by the investigators from the Commission, and after approval that this is a case of corruption under the Jurisdiction of JACC, the board members transferred the case to the seconded General Prosecutor in the Commission. The prosecutor found that the investigations revolve around deception; the employee was taking money from people on a monthly basis and was tricking them they were going to receive profits. The General Prosecutor referred this case to the court on allegations of deception, as in Articles (417) of the Penal Code, and Article (5) of the JACCL.

This case was received as a complaint by the Commission in 2008, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2009.

The court **acquitted** the defendants on charges of deception as in Articles (417) of the Penal Code, and Article (5) of the JACCL. The defendant was sentenced to prison for three months and ordered to pay fines of 100 JD for his actions.<sup>294</sup>

Case (8):

Case No. (32/2008) High Criminal Court v Al- Hawatmeh

The General Prosecutor ordered that one of the seconded prosecutors at the JACC investigate suspicion of corruption in the one of the ministries in Jordan. The

---

<sup>293</sup> *ibid.*

<sup>294</sup> *ibid.*

defendant in this case was the accountant in this ministry. Through investigations and gathering evidence and listening to several witnesses from the investigators in the Commission, and after approval that this is a case of corruption under the Jurisdiction of JACC, the board members transferred the case to the seconded General Prosecutor in the Commission. The prosecutor determined that the investigations revolve around embezzlement: the employee was taking orders for diesel for this ministry, but the ministry still had shortages in supplies for diesel. This case arose through agreements between a few employees in the ministry and one of the employees in the gas station. Later, they intended to sell the diesel to other places. The General Prosecutor referred this case to the court on allegations of embezzlement, as in Articles (174/3) of the Penal Code, Article (80/2) Penal Code, and Article (5) of the JACCL.

This case was received as a complaint by the Commission in 2008, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2012.

The court **acquitted** the defendants on charges of embezzlement as in Articles (174/1) of the Penal Code, and Article (5) of the JACCL. The other defendants were charged with interfering with this crime according to Articles (80/2), (174/3) of the Penal Code. The main defendant was sentenced to prison for five years and ordered to pay the exact amount that was embezzled, while the other defendants who were partners in the crime were sentenced to three years in prison and ordered to pay a fine of the exact amount of the money embezzled.<sup>295</sup>

Case (9):

Case No. (122/2010) High Criminal Court v Al- Soud

The General Prosecutor required one of the seconded prosecutors at the JACC to investigate suspicion of corruption in one of the banks in Jordan. The defendant in this case was one citizen. After investigations and evidence gathering from several witnesses by the investigators in the Commission,, it turns out that this case was not within the jurisdiction of the JACC. The board members transferred the case to the

---

<sup>295</sup> *ibid.*

seconded General Prosecutor in the Commission. The prosecutor found that the investigation revolved around forgery, as the citizen was offering cheques to others from American banks; and was paid the amount of these cheques by the others.

This case was received as a complaint by the Commission in 2010, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2011.

The General Prosecutor referred this case to the appropriate court's prosecutor to follow up this case. This case did not fall under the jurisdiction of the JACC, since the case did not concern the infringement of public funds, but private money. The defendant was sentenced to prison for one year and ordered to pay 100 JD as fines for forgery of private papers according to Articles (261, 271) of the Penal Code.<sup>296</sup>

Case (10):

Case No. (5572/ 2008/) High Criminal Court v Al- Lawzi

The General Prosecutor judged there was a need that one of the seconded prosecutors at the JACC investigate suspicion of corruption in the one of the municipalities in Jordan. The defendant in this case was one of the employees of this municipality. After following the required procedures, and after approval that this is a case of corruption under the Jurisdiction of the JACC, the board members transferred the case to the seconded General Prosecutor in the Commission. The prosecutor found that the investigations concern 'misuse of public office' - the employees in this municipality were taking orders under threat from this employee (since he was their boss), to give him money or phone cards, or else he would deduct from their salaries. The General Prosecutor referred this case to the court on allegations of misuse of public office as in Articles (176) of the Penal Code, and Articles (2, 3, and 4) of the Economic Crimes Law. The court **acquitted** the defendants on charges of misuse of public office as in Articles (176) of the Penal Code, and Article (2, 3, and 4) of the Economic Crimes Law. The main defendant was sentenced to prison for one year and half.<sup>297</sup>

---

<sup>296</sup> *ibid.*

<sup>297</sup> *ibid.*

This case was received as a complaint by the Commission in 2008, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2008.

Case (11):

Case No. (119/2010) High Criminal Court v Al- Masaaed

The JACC was called upon to investigate suspicion of corruption in the one of the municipalities in Jordan. The suspect in this case was the Mayor in this municipality. The case was transferred to the seconded General Prosecutor in the Commission following the usual type of investigation. The prosecutor determined that the investigations concerned bribery; the employee (Mayor) in this municipality was asking one of the company's owners to give him 8000 JD in order to give this owner a privilege in putting his hand to own the rest of his company.

The owner of this company came to the Commission and filed a complaint against this Mayor, saying that that he had asked him for a bribe. Following an investigation and after preparation made by the investigators in the Commission (and after seeking permission from the general prosecutor), a meeting was arranged between the Mayor and the president of the company and the defendant was caught with evidence and photos of him taking the money from the owner. After that he was arrested and the case was transferred to the General Prosecutor in the Commission, and after finishing the investigation, he was transferred to the court. The General Prosecutor referred this case to the court on allegations of bribery as in Articles (170) of the Penal Code, and Article (5/a) of the JACC law.

The court **acquitted** the defendants on charges of bribery as in Articles (170) of the Penal Code, and Article (5/a) of the JACC law. The main defendant was sentenced to prison for two years.<sup>298</sup>

This case was received as a complaint by the Commission in 2010, and then transferred by the General Prosecutor to the court in the same year, while the final verdict was reached in 2012.

---

<sup>298</sup> *ibid.*

Before reviewing the above cases, it is helpful in understanding these cases, to have a brief explanation of how the mechanism of cases works in the JACC, as the following.

- The first step is to register the complaint by the investigator in the complaint section. This is carried out in different ways: either information is given by a person who has no personal interest, so there is no need to declare their name in the investigation, or a complaint is submitted to the JACC by a person who has an interest in pursuing the matter. A person who complains usually appears as a complainant or as a witness. As well as this, the JACC has power to examine the work of institutions subject to its jurisdiction without any complaint or earlier information. This may lead to the discovery of corrupt practices.

- The director of the Information and Investigation Department assigns the cases to the investigators; each one of them receives monthly two or three cases maximum.

- After the investigator has read the case and presented his legal opinion, he later transfers the case to the head of division. Both of them decide together what are the procedures that they should follow in this case, including investigation, gathering evidence, hearing witnesses and everything they need in order to complete the file case. According to Article (7) paragraph a), **which was amended under the name Integrity and Anti- Corruption Law No. (13) of 2016. Article (4) i:** “The Commission shall, in pursuit of its objectives, undertake the following tasks and authorities:

a) Investigate financial and administrative corruption, uncover violations and breaches, gather evidence and information, initiate investigation and proceed with the necessary administrative and legal procedures.”<sup>299</sup>

And Article (16), **which was amended under the name Integrity and Anti-Corruption Law No. (13) of 2016. Article (19):** “The Chairman and Members shall have the capacity of the judicial police, for the purpose of carrying out their duties,

---

<sup>299</sup> Anti- Corruption Commission Law 2006 No. 62 Article (7/a).



and the Board shall determine the Commission's employees who shall enjoy such capacity".<sup>300</sup>

According to the JACCL, all the employees in the Information and Investigation Department have the capacity of the judicial police.

Examination of a complaint is then carried out by the information section in the JACC, in order to decide whether the substance of the complaints constitutes a crime according to JACC Law. Thus the JACC has jurisdiction as a matter of form.

- When the case is completed by the investigations department, it is then presented to the board members, who have the following tasks and authorities: to take necessary decisions in relation to corruption cases, including their referral to the competent authority.<sup>301</sup>

The following situations inform a decision:

- 1- Refusal because it did not constitute a crime, or because there is no jurisdiction.
- 2- Return of the complaint to the Information and Investigation Department for further information and investigation.
- 3- Referral to other concerned bodies to correct the situation.
- 4- Referral to the Public Prosecutor in the JACC.

The seconded Public Prosecutors in the JACC have the following tasks and authorities to take the necessary decisions related to corruption cases, as the following:

- 1- Referral of the case to another General Prosecutor who is not under the jurisdiction of JACC.
- 2- Prevention trial.
- 3- Preservation of papers.

---

<sup>300</sup> Anti- Corruption Commission Law 2006 No. 62 Article (16).

<sup>301</sup> Anti- Corruption Commission Law 2006 No. 62 Article (11/7).

4- Referral and transferal of the case to the court in cases of misdemeanour through decision or charge with the case in felony cases.

In relation to the cases presented above, it seems that the following can be said:

- Some of the cases take too long to reach the final verdict. This is because the Criminal Procedures Law grants that the defendants may take all the necessary actions and ways to appeal against the court decisions by themselves, which takes a long time (it can take two years or even three years in some cases to reach the final verdict). People lost faith in the Commission because of the long procedures, even though this is not the Commission's fault. However, those who judge the work of the Commission are not cognizant that the judicial procedures are independent and have no control from the JACC.

- The last Amnesty law was in 2011: this law allows amnesty in some of the corruption cases if they are committed before this law was issued, and also in its lesser corruption cases such as breach of public office duties and abuse of power. However, the major corruption cases such as bribery, embezzlement and misuse of public office are not included in the amnesty law.

As I explained earlier, the amnesty law does not preclude litigation to recover the proceeds of corruption.<sup>302</sup> The legislature, concerning the amended law of the JACCL no. (10) of 2012, recognized this as a problem regarding the lawsuit and statute of limitations. That is why it added Article (28) of the JACC law which states that:

- “Notwithstanding the provisions of any other legislation, the issuance of a court order to drop the lawsuit for public right or cessation of prosecution or amnesty due to punitive exemptions or lack of responsibility, does not preclude the litigation to recover the proceeds of corruption.
- The public right to litigate and the punishments related to corruption are excluded from the statute of limitations, and furthermore, the recovery of the proceeds of corruption is excluded from the statute of limitations”.

---

<sup>302</sup> Anti- Corruption Commission Law 2006 No. 62 Article (28/a).

The researcher finds this law is not equitable with regard to corruption cases, since as every corruption, case takes time and effort by the employees of the Commission to build, and after the JACC reaches its final position, according to this amnesty law these cases are dropped.

Article (5) paragraph i) deems the act of acceptance of nepotism and favoritism, which revokes a right or validates what is void, as a corruption case. However, the investigators in the Information and Investigation Department vary this action in a number complaints, even when this type of act is referred to them by General Prosecutors in the JACC investigators acting as judicial police adjust nepotism or favouritism to something else.

The reasons behind this are:

Nepotism or favouritism could be adjusted to different corruption offences that *are* included in the Penal Code. This will make it easy for the judges to define the acts since they have all the elements of crime. Favouritism in Article (5) in the JACCL is included in general and without specifying the elements of this crime.

The researcher finds this variation by the investigators weakens the corruption offences in the JACCL, since some acts are not often shaped in the court.

The researcher finds that the majority of the cases of the Commission are in the public sector, and the most abuse done is by Public Officials who work in institutions dealing with the services of the public such as health, education and municipalities.

## CHAPTER SEVEN: CONCLUSION

### 7.0 Introduction

This chapter draws together the objectives and the results in this research, which were influenced by the opinions of those thirty experts whose work is very closely related to the Commission. Their judgment assisted in identifying the major components of this research, and of shaping its trajectory.

Corruption is a problem that affects us in many ways. Corruption is no longer confined to a particular country or particular sector; it affects the whole globe. As development has become a target of perhaps all countries of the world (just as developing is a natural process in life), in the meantime, corruption is blocking such development, resulting in the recognition that the fight against corruption is a priority for the development process.

Huntington (1968, p. 386) states the contrary bluntly: "In terms of economic growth, the only thing worse than a society with a rigid, over-centralized, dishonest bureaucracy is one with a rigid, over-centralized, honest bureaucracy."<sup>303</sup> Huntington was perhaps being ironic, certainly using hyperbole, but his suggestion that corruption might in some way 'grease the wheels' of economic development is not widely supported today.

Mauro argues that, as with a tax on investment income, corruption lowers the private marginal product of capital, thus lowering the investment rate and therefore it slows down economic development<sup>304</sup>

The extent of corruption is a problem itself. Anyone who knows about the work on corruption cases understands that dealing with these cases is usually surrounded by secrecy, and therefore it is impossible to accurately measure the extent of corruption, especially in the cases that are directly related to corruption. Thus, the control of corruption is not only passing laws or urging people to be honest; there are many factors that could play a beneficial function in reducing corruption in any country.

---

<sup>303</sup>Huntington Samuel P, 1968, *Political Order in Changing Societies*. New Haven: Yale U. Press.

<sup>304</sup> Paolo Mauro, 1995, "Corruption and Growth," *Quarterly Journal of Economics*, 110:681-712.

Jordan, as any other country, faces corruption problems and its negative effects. Being a Jordanian citizen myself, and with my job at the JACC (since its formation in 2008), corruption cases involve me deeply. My experience has enabled me to perceive what I believe are gaps in the Jordanian legislation. These gaps may affect the impression people have of Jordan, and may be particularly significant for international donors. That is why in this research, I identified the gaps between the two laws (UNCAC and Jordanian anti-corruption legislation); the gaps indicate the lacunae in Jordanian legislation, since some acts identified in UNCAC are not criminalized under the Jordanian laws.

The most widely used instrument to measure corruption internationally is the Corruption Perception Index (CPI) of Transparency International (TI). Its use details the factors that heighten the problems of corruption in Jordan.

The Corruption Perceptions Index (the CPI) assesses and ranks countries according to the degree of *perception* of corruption among officials and politicians in the State. It is a composite index, based on corruption-related data gathered through specialized surveys conducted by various institutions, independently of each other.<sup>305</sup>

The following quotation from the CPI explains its workings:

“First launched in 1995, the Corruption Perceptions Index has been widely credited with putting the issue of corruption on the international policy agenda. What does a number mean for you? Each year we score countries on how corrupt their public sectors are considered to be. Our Corruption Perceptions Index sends a potent message and governments have been pressured to strike notice and act. Behind these numbers is the daily reality for people living in these countries. The index cannot capture the individual frustration of this reality; merely it does get the informed opinion of analysts, business people and experts in countries around the globe.”<sup>306</sup>

The index includes statistics from 17 sources taken from 13 independent institutions; for each place there must be at least 3 reliable sources for information about corruption of the particular State or territory for it to be included in the indicator.”<sup>307</sup>

---

<sup>305</sup> TI, CPI Available at: <http://www.transparency.org/whatwedo?gclid=CPKl-ZnUysUCFabHtAod7yIAGg>.

<sup>306</sup> <http://www.transparency.org/research/cpi/overview>.

<sup>307</sup> *ibid.*

Transparency International (TI) is an international NGO combating corruption, focused on its indicator of corruption, particularly in the public sector. TI identifies corruption as the abuse of entrusted power for private gain. Corruption, TI claims, hurts everyone who depends on the integrity of people in a position of dominance.<sup>308</sup>

The form of corruption in the abuse of public office for private interests may be the acceptance of bribes by Government officials during procurement, or embezzling public funds, for example.

In this research, I introduce the (TI) view regarding Jordan. Jordan first appeared in the CPI in 1996. In 1997, Jordan was excluded from the CPI because of a shortage of necessary surveys to complete the assessment process for the evaluation. Table No. (2) Shows Jordan's rank in the CPI for the years 1996-2014, along with the number of States subject to classification.

Table (19) Jordan Perception Index (1996- 2014)

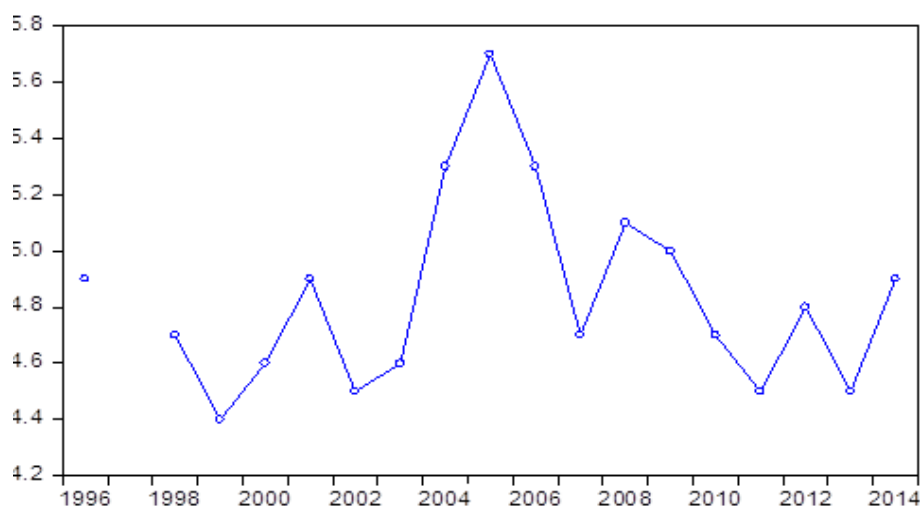
Year	Score	Rank	The number of countries
1996	4.89	30	54
1997	-	-	-
1998	4.7	38	85
1999	4.4	41	99
2000	4.6	39	90
2001	4.9	37	91
2002	4.5	40	102
2003	4.6	43	133
2004	5.3	37	146
2005	5.7	37	159
2006	5.3	40	163
2007	4.7	53	180
2008	5.1	47	180
2009	5.0	49	180
2010	4.7	50	178
2011	4.5	56	183
2012	4.8	58	176
2013	4.5	66	177
2014	4.9	55	175

Table (19)

<sup>308</sup> TI, CPI Available at: <http://www.transparency.org/whatwedo?gclid=CPKI-ZnUysUCFabHtAod7yIAGg>.

The CPI ranking for Jordan during (1996-2014) is relatively stable. The Corruption Perceptions Index takes values up to 10 points until 2012, after which the greatest value of the indicator is 100 points.

With the introduction of this classification, in 1996 Jordan ranked 30 out of 54. In 1997 Jordan was excluded because of a lack of surveys required to complete the evaluation process, to be followed by the year 1998, which continued reducing until 2001, when Jordan began the first steps to establish a higher Committee for combating corruption. Jordanian efforts intensified in an effort to control the phenomenon of corruption in 2000, these efforts culminated in the signing of the International Convention against Corruption in 2004, which is reflected later in the classification of Jordan on the index. Jordan was brought up to 5.7 of 10 in that year, and it reached in 2005 the highest value achieved by this classification, with the establishment of the Anti-Corruption Commission as an independent body to implement the Royal letter addressed by King Abdullah II Bin Al-Hussein. This shows the Government now believes in the importance of creating an independent commission for combating corruption, strengthening the prevention of corruption and heightening the awareness of risk of corruption, in conformity with the requirements of the United Nations Convention against Corruption.<sup>309</sup>



*Chart (9)*

<sup>309</sup>Raad Al- Tell, 'Impact of Corruption on Economic Growth and Capital Formation 1998-2014: an Empirical Investigation for the Cases of Jordan, Egypt, and Morocco' ( MSC Economics' thesis, University of Jordan 2015).

Chart 9 shows the percentages of the corruption index of Jordan (1996-2014), source- Transparency International.

Reading the above chart shows, during the period (2006-2010), Jordan shows clear movement between positive and negative, bringing, in 2011- through the period of Arabic Spring - the lowest value of the indicator (4.7) in the last 10 years. This negative result, plus the effects of the Arabic Spring, led Jordan to conduct a series of corrective steps, such as constitutional amendments and the establishment of the Independent Electoral Commission. This led first to the formation of the Royal Commission to enhance integrity and then to the adoption of the Charter of National Integrity, and the operational plan for the strengthening of the national integrity system. These major steps caused Jordan in the last rankings to jump in 2014 to 55 out of the 175 countries included in the index, with 49 points compared with 45 points earned in the year 2013.<sup>310</sup>

The research finds that there is a relation between the CPI and the improvement of fighting corruption in Jordan. In view of this conclusion, there are five recommendations suggested in order to improve the ranking of Jordan on the CPI:

- 1- In order to bear more serious results, Jordan has to be more candid with the media regarding corruption cases that involved high-ranking Public officials.
- 2- To improve the work of the Jordanian State in the risk assessment issued by the Economist Intelligence Unit. Improving on this assessment could be achieved by focusing on: clear procedures, strict accountability, control of the allocation and use of public funds, the taking of action to prevent ministers or officials from embezzling public funds (both for private purposes or for the purposes of political parties), the elimination as much as possible of special funds which are not subject to accountability, the taking of necessary measures to ensure that there be no abuse of public resources, and the activation of the role of the independent judiciary in the prosecution of ministers/Public Officials for offences committed by them.
- 3- The assessment could be further improved by the implication of business environment procedures to eradicate or dilute the probabilities of paying of bribes.

---

<sup>310</sup> *ibid.*



4- The assessment could be improved by fostering open channels of communication between the JACC and businessmen (in particular multinational companies), by means of including seminars, workshops and awareness-raising and educational aims basically to update them on Jordan's achievements in combating corruption and the actions taken in this context.

5- The assessment could also be improved by announcing to the public yearly the results from law enforcement in corruption cases, as people are concerned to know if their money will be recovered or not. In the annual report of the year 2013, published by the Anti-Corruption Commission, it is stated how many assets were recovered from the corruption cases in 2013, where the estimated recoveries was nearly 18 million Jordanian Dinars.<sup>311</sup>

As explained at the beginning of this research, no research has been undertaken in Jordan to address the impact or the effectiveness of the national legislation in fighting and reducing corruption in Jordan. This is what this research proposed to address. The intention was to identify the strengths and challenges with the current statutes. The research also aimed to analyse the effectiveness and the capability of Jordanian legislation in comparison with the United Nations Convention against Corruption (UNCAC). The research suggested a recommendation that, before any amendments are made with revision of such legislation, the current situation requires examination; in order to understand what effective practices may serve to reduce corruption in Jordan.

The research also supplied the reader with a clear discernment of the work of the regulatory bodies in Jordan, within our parliamentary procedures, to distinguish the nature of their work and any deviation between these regulatory bodies and the work of JACC.

In order to answer the research questions, the thesis identifies several factors introduced early in literature review's chapter. Several factors have an influence on corruption and its control. The literature concerning these factors, such as the scholar's opinion on the definition of corruption will lead to question number one

---

<sup>311</sup> Jordan Anti- Corruption Commission, 2015. Annual reports 2008- 2013. [online] Available at: <http://www.jacc.gov.go>.

and two regarding the list of corruption offences in the Jordanian law; since there is no definition to corruption in the law. Talking about the legal system in Jordan; will enlighten the reader with relationship between the national law and the international law regarding if the Jordanian courts implement the provisions of the UNCAC.

Also the history of legislation concerning corruption in Jordan; will lead to harmonize the relationship between JACCL and the UNCAC.

Finally, the effects of corruption in Jordan, and the importance of fighting corruption will help to determine if the Jordanian legislations might provide guideline to best practices between the Arabic countries.

Previously, the research examined the questions in the structured interview. This chapter will present an analysis of the two last questions from the structured interviews, and also answer the research questions as far as become possible.

First: do Jordanian courts fully implement the provisions of the UNCAC. (Structured interview question) Second: What might be done, in terms of *law, regulation, policy & process*, to further embed the provisions of the UNCAC in Jordan? (Structured interview question).

### 7.1 Evaluation of the question of whether the Jordanian courts fully implement the provisions of the UNCAC.

In an attempt to answer the research questions, the experts were asked whether the Jordanian courts fully implement the provisions of the UNCAC.

The following tables and charts are in question two in the structured interview that concerns whether Jordanian courts are fully implementing the provisions of the UNCAC or not.

<b>Answers</b>	<b>Frequency</b>	<b>Percent</b>
Yes	15	50.0
No	13	43.3
Don't Know	2	6.7
Total	30	100.0

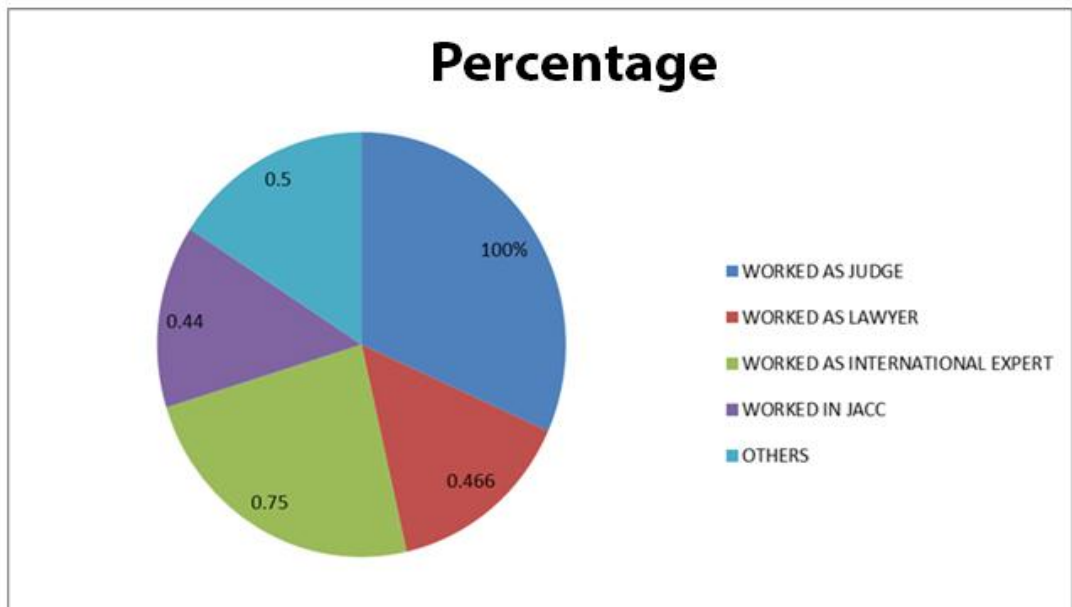
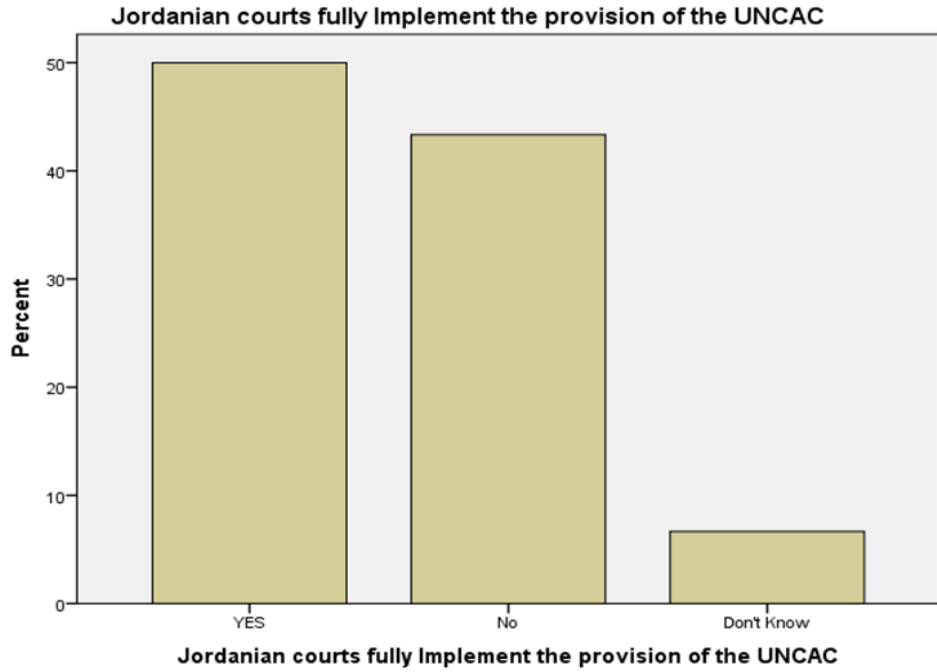
***Table (20)***

In Table 20, the precise statements to which the experts were responding were as follows

Label	Value
yes	Jordanian courts are fully implementing the provisions of the UNCAC
no	Jordanian courts are not fully implementing the provisions of the UNCAC.
Don't know	Don't know whether Jordanian courts are fully implementing the provisions of the UNCAC.

***Table (21)***

*Chart (10)*



*Chart (11)*

There is a relationship between the experts' work and their responses to the questions (See Appendix 3 for a breakdown). I shall now categorize the professional work of the interviewees and the reasons behind their responses as the following:

- The majority of the experts, who said yes, that the court does implement the provisions of the UNCAC, are Judges. The reason behind this - even though there are no cases in the Jordanian courts ruled according to the provision of the UNCAC - is that Judges in their opinion feel there is no reason to prohibit them from using the provisions of the UNCAC; from a legal point of view, they have the power to use the provisions of the UNCAC. However, according to them, Jordanian courts do not directly or invoke or implement the provisions of the UNCAC, since the Jordanian legislation covers everything.<sup>312</sup>

- The next group that said yes is the international experts. The reasons behind this seems to be that, from their perspective as international experts, and as part of a Jordanian obligation to the Convention after signing and ratifying it, there is no reason for Jordanian courts (and judges) *not* to implement the provisions of the UNCAC.

- The smallest group, that said no, is people who work at the JACC. As a researcher, and as one of the employees at the JACC, I believe this group does match the reality of what is happening daily with corruption cases; as employees we are facing troubles because some acts, which under the provisions of the UNCAC are called corruption offences, under the Jordanian law they are not, or they are implemented under a different title.

The UNCAC does not offer specific penalties for corruption offences, which is normal in an international treaty. The UNCAC leaves the penalty for each crime up to domestic legislation; the first paragraph of Article (30) of the Convention provides that “Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence”.<sup>313</sup> Also in the same Article, the

---

<sup>312</sup> Interview (3), Dec 20 2014.

<sup>313</sup> UNODC, *United Nations Convention against Corruption*, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

UNCAC requires the State Party to take measures regarding different issues in the criminal procedures, such as immunities, the rights of the defence, parole, and the gravity of the offence. There is a general principle under the Jordanian criminal law that states that no penalty shall be imposed unless (specifically) provided for by the law at the time the crime is committed. This leads to a problem for judges in their verdicts, since the acts under the UNCAC *are* criminalized as corruption, but *no specific* punishments are detailed.

One of the interviewees identified the reasons why the Jordanian courts do not implement the provisions of the UNCAC: "... Courts don't fully implement UNCAC provisions and this might be [because of] the following reasons:

First: Universal Jurisdiction is meant to guarantee the prosecution and punishment of the corruption offences by national legislation.

Second: the Convention itself has indicated that State Parties (... shall consider adopting...[it]"), either subject to domestic constitutional or other fundamental requirements or ("... subject to its constitution and the fundamental principles of its legal system...") so all requirements whether obligatory or optional must be adopted into national legislation.

Third: corruption offences themselves must be criminalized and punished according to the legislation; if the UNCAC has criminalized the offence but did not specify the punishment for it, then the legislation still does not meet legitimacy requirements. So how could the courts convict and decide on a non-existent punishment? This would be a clear breach of legitimacy."<sup>314</sup>

The research included this question in the structured interview, as it reflects one of the research objectives, and the result (based on evidence from the case review) was that the local courts in Jordan do not fully implement the United Nations Convention against Corruption in terms of criminal corruption offences. This result is despite the fact that half of the interviewees said yes, because, as I explained above, the reasons behind that are that it is only a matter of the legal jurisdiction right of the judges.

---

<sup>314</sup> Interview (6), Jan 4 2015.

7.2 Evaluation question number 4: What might be done, in terms of law, regulation, policy and process, to further embed the provisions of the UNCAC in Jordan?

Question number four is open; interviewees write their own opinion regarding what might be done in terms of law, regulation, policy, and process to further embed the provisions of the UNCAC in Jordan.

The following ideas were retrieved:

1- A corruption offence has to be in both public and private sectors, especially in cases of bribery and embezzlement. All public employee offences have to be applied also to private sector employees.<sup>315</sup>

2- Amending anti-corruption laws to include all segments of society will make them more proficient.<sup>316</sup>

3- Amending the Penal Code.<sup>317</sup>

4- Revising most of the legislation that deals with corruption because it is old.<sup>318</sup>

5- Implementing the provisions of UNCAC and updating Jordanian laws and regulations in line with global trends.

6- Amending JACCL to comply with the UNCAC.<sup>319</sup>

7- Enhancing the prevention efforts of the work of the JACC (and extending witness protection programmes to include the employees of the JACC).<sup>320</sup>

8- Fighting corruption by law and legislation only is not enough; for better performance of the Commission there needs to be cooperation and coordination with other agencies; communication between law enforcement institutions needs to be enhanced.<sup>321</sup>

---

<sup>315</sup> Interview (1), Dec 17 2014.

<sup>316</sup> Interview (11), Jan 15 2015.

<sup>317</sup> Interview (7), Jan 6 2015.

<sup>318</sup> Interview (21), Feb 10 2015.

<sup>319</sup> Interview (4), Dec 21 2014.

<sup>320</sup> Interview (15), Jan 29 2015.

<sup>321</sup> Interview (3), Dec 20 2014.

9- Activating further the application of the International Convention.<sup>322</sup>

10- Putting in place training and exchange visits between countries in order to find a qualified person to enforce the international regulations.<sup>323</sup>

11- Trading in influence and bribery in the private sector needs to be criminalized and punished in the national criminal legislation.<sup>324</sup>

12- Issuing new legislation to cover things such as: asset management, freezing, holding and confiscation.<sup>325</sup>

13- Adopting a mutual legal assistance law.<sup>326</sup>

14-Asset recovery policies and legislation to specify all national requirements.<sup>327</sup>

15- Amending extradition laws to be in line with international standards.<sup>328</sup>

16- Reviewing bilateral and regional criminal cooperation agreements.<sup>329</sup>

17- Enhancing informal exchange of information.<sup>330</sup>

18- Mitigating bank secrecy.<sup>331</sup>

### 7.3 The reasons behind the amendments of Jordanian legislations/ JACC law.

The Jordanian government has a strong political will to fight corruption and improve the business climate, through different steps:

- The establishment of the JACC.

- Improving and amending the national legislation in order to comply with the international standards.

---

<sup>322</sup> Interview (2), Dec 18 2014.

<sup>323</sup> Interview (5), Dec 22 2014.

<sup>324</sup> Interview (6), Jan 4 2015.

<sup>325</sup> *ibid.*

<sup>326</sup> Interview (13), Jan 28 2015.

<sup>327</sup> Interview (6), Jan 4 2015.

<sup>328</sup> Interview (9), Jan 15 2015.

<sup>329</sup> Interview (6), Jan 4 2015.

<sup>330</sup> *ibid.*

<sup>331</sup> *ibid.*



- In December 2012, King Abdullah II established the Jordanian Royal Committee for enhancing the national integrity system.

However, even with all the steps above, the risk of corruption persists, according to this report by the Business Anti-Corruption Portal GAN: “Corruption is an obstacle for businesses in Jordan. A system of *wasta* (middlemen) is common throughout the country and is considered part of doing business, thus making transactions opaque and hindering competitiveness. Other obstacles to business include high levels of bureaucracy, red tape, vague regulations and conflicting jurisdictions. Jordan's Penal Code criminalizes corruption, including abuse of office, bribery, money laundering and extortion, but the government does not implement the law effectively. Corrupt Public Officials are not systematically punished, and high-ranking civil servants are rarely prosecuted. The demands of facilitation payments and bribery may be encountered but are less frequent than in other Middle Eastern countries, and gifts are criminalized under Jordanian law.”<sup>332</sup>

Government accountability is still very weak, because for the abuse of office and corruption, the punishment of high-ranking civil servants remains rare, because of bureaucracy. Companies in Jordan report hidden costs.

Another study shows that corruption still exists in Jordan- a survey completed around the world (Where Bribery Works), revealed on October 24, 2014 “When it comes to trading money for influence, China tops the list. People in the world’s biggest economy give bribery an average rating of 5.5 on the scale. China is followed by Jordanians (5.0) and Russians (4.5).”<sup>333</sup>

This reality forms a series of incidents wherein legislation concerned with corruption are decided upon, in the absence of a parliament; this happens due to the distortions hampering the course of parliamentary sessions, or as a result of its frequent dissolution that has made the government’s power absolute in practice. Correspondingly, in supervising the activities of ministers, parliament's prestige has been damaged before the executive authority as well as the public. This consequently

---

<sup>332</sup>GAN. Global Anti-Corruption Portal< [http:// www.anti-corruption.org](http://www.anti-corruption.org)> accessed 15 May 2014.

<sup>333</sup> Brian Browdie, 'Where Bribery' [2014] <<http://qz.com/286323/where-bribery-works-charted/>> accessed 24 October 2014.

has led the government to instigate threats to anyone who tries to counter its power or demand oversight. This then consequently leads to limitations on freedom of expression. As a result of this, there is a disruption in the administration of the press to act as a 'fourth estate' for the purpose of analysing or diagnosing the government, which helps to stop the media from applying a spotlight on the practice of corruption by government and its officials.

The law of the State Security Court authorizes the Prime Minister to form a special court, commonly with a military judge acting as head and with a military trial process and/or prosecution. The law related to crimes of economy permits the Prime Minister to refer any offences to this court that relate to economic security. The Court of State Security has the authority to conduct secret prosecutions if, according to them, it is necessary in the interest of the public. The independence of judges as well as officers of public prosecution is questionable, as they are military personnel.

Furthermore, the Prime Minister is permitted by the Economic Crimes Legislation through a reference to “economic security crimes” to remit such crimes to the Court of State Security, in a manner that reduces the power of regular civil courts; the right of individuals to personal freedom provided under the constitution is also violated in this process. The Court of State Security removes some constitutional rights of the individual (i) in that it undermines the ‘regular’ courts’ authority and that (ii) it offers scope for corruption because of the power it grants prosecutors. The most unsafe provision of the “economic security crimes” law is the authority it permits to the office of the prosecutor to reach a resolution with the guilty party, if the perpetrator returns the funds misappropriated because of the crime. This is in spite of the circumstance that such a problem should not be settled and that it contradicts the chief purpose of punishment, which acts as a deterrent for the purpose of protecting society from crime.

In order to understand why the Jordanian legislation needs amendment, especially the JACCL, this research identified some obstacles that face the JACC in its work, and traced these obstacles that arise from the JACCL itself, and the way in which other legislation may relate to the JACCL.

The legislation is the most important instrument for the implementation of the Commission's work; it is the basis of the Commission's authority, responsibilities and

duties. During the implementation of JACC law, it has become apparent that several legislative obstacles are present, notably the failure to extend the law to a large section of Public Officials who exercise financial and administrative responsibilities and are more likely to have opportunity to perpetrate crimes of subversion. Thus, the legal text remains only a minor deterrent to these people, leading to obstruction of the Commission in the performance of its functions as fully as possible. Under other legislation, some of these officials can be prosecuted under specific laws relating only to them as classes of officials. This is true for ministers, members of the armed forces and members of intelligence and public security services, civil defence and customs personnel, and judges.<sup>334</sup> If we go back to the international convention (UNCAC), the term 'Public Official' there covers a large segment; it is a very broad definition - "the Public Official may be appointed or elected, temporarily appointed or permanently, paid or unpaid, or holding a legislative, executive, administrative or judicial office." The Convention clarifies that: "a 'Public Official' may mean *any* person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party" (United Nations Convention against Corruption, Art. (2) Paragraph (a)).

Also, obtaining documents from government institutions is limited; documents are considered confidential under other laws relating to banks, income tax, customs, and any other documents deemed confidential through protection under specific laws.

For example, an analysis of the Jordan Central Bank Law, No. (23) of 1971 is given below. In the Articles referred to below, all documents relating to individuals' (customers') deposits with banks are considered confidential:

As provided by Article (19) paragraph (a) it is required that "The Governor, the Deputy Governor or any other member may not disclose to any unauthorized person any confidential information which he has acquired in the course of his service with the Central Bank, unless this is done in the performance of his official duties or unless he is required to do so in court in accordance with the Law." (Jordan Central Bank Law No. (23) Of 1971)<sup>335</sup>

---

<sup>334</sup> BBC , ' Jordan's Ex-Spy Chief Jailed for Corruption' (2012) <<http://www.bbc.com/news/world-middle-east-20286407>> accessed 11 November 2012.

<sup>335</sup> 'Central Bank of Jordan Law 1971 No. 23', Amman: /online] <available at: <http://www.cbj.gov.jo/pages.php>>.

According to Article (45) paragraph (c), "All disaggregate data and statements presented to the Central Bank are considered confidential and may not be revealed to any individual or institution except in the form of aggregate statistical statements that the Central Bank publishes from time to time". (Jordan Central Bank Law No. (23) of 1971)<sup>336</sup>

It can be seen that there is a lack of an integrated legal system. Some mechanisms to investigate and collect private information, procedures for wiretapping and electronic surveillance, special investigative techniques and the means to investigate with the use of communications technology and other sophisticated methods may be prevented by laws other than the JACCL.

Also, at the beginning of 2012, the Commission became no longer independent, because it was placed under the umbrella of Civil Service Regulation No. (30) of 2007. Consequently the system applicable to the Commission is the same system that applies in all governmental institutions and ministries of State. This means that the Commission cannot appoint any new employee itself; a new employee can only be appointed through the Civil Service Bureau, which requires long-winded procedures and approvals and routines.<sup>337</sup> Also, the salaries of the employees at the Commission are subject to the same system that applies to all State employees, which makes it difficult to provide financial incentives and rewards for the employees of the Commission.

To sum up, it can be said that the lack of a coordination mechanism between the various regulatory institutions such as the House of Parliament, the Audit Bureau, the Ombudsman Bureau, the Central Bank of Jordan, the Securities Commission and the JACC has been prevalent in the system, so fueling corruption.<sup>338</sup> There has been weakness on the part of others to obtain the necessary information in providing information to the JACC concerning any corruption case: "The Commission had been weak in providing information at its disposal concerning potential corruption to various other authorities, making it impossible for any 'Board of Commission' to

---

<sup>336</sup> *ibid.*

<sup>337</sup> 'Civil service regulations 2007 No. 30', Amman: [online] <Available at :<  
<http://www.lob.gov.jo/ui/laws/index.jsp>>.

<sup>338</sup> 'Central Bank of Jordan Law 1971 No. 23', Amman: /online] <available at:  
<http://www.cbj.gov.jo/pages.php>>.

deal with them on discovery”<sup>339</sup>. Also, it has not been possible to explore the cases by various authorities, nor to pass information to the 'Board of the Commission' immediately to deal with them when they are discovered.

Another complication is the presence of a social and cultural legacy that includes some negative social habits that actually positively value some varieties of corruption. In valuing a culture of community, traits such as nepotism and favouritism<sup>340</sup> may seem a social norm. The removal of these customs and traditions needs a joint national effort devoted to the rejection of corruption, considering all forms of behaviour that operate to the detriment of the individuals and society.

The networks of laws that have been in place in Jordan have acted to entrench corruption. “Influence peddling and a lack of transparency have been alleged in government procurement and dispute settlement. The use of family, business, and other personal connections to advance personal business interests was widespread.”<sup>341</sup>

The oversight of the acts of corruption and the tools related to it remain in the hands of the executive authorities. It is at their wish as to when to mobilize them, against whom and under what conditions or cases. This system has been the result of the constitutional amendments that have taken place over the years. For this reason, the various attempts to monitor corruption by way of investigation, use of statistics, comparative analysis between country practices and laws, and examination of its manifestation, have failed to address the main issue: this is that corruption is an integral part of the State regime, through complex legislation, restriction of the role of the JACC and the exploitation of this situation by the government.

Corruption, in this research, relates to the performance of the (overall) political regime in Jordan and the dysfunctional relations that have existed between the various State organs and its authorities, and not to the individual human activities of citizens. It must be recognized that the integrity of one ruler alone cannot root out corruption, even more so in the absence of democratic practices in a society adhering

---

<sup>339</sup> Towards Transparency in Jordan, Arab Archives Institute Jordan Press Foundation, January 2001. Also see Independence of the Judiciary, Kilani, Farouq, p 79.

<sup>340</sup> *ibid*

<sup>341</sup> U.S. Department of State, ‘Bureau of Democracy, Human Rights, and Labor’ (2007) Available at :<<http://www.State.gov/j/drl/rls/hrrpt/2007/100598.htm>> accessed 11 March 2008.

to its own tools and practices. This situation provides a fertile ground for the corrupt practices of individuals and thereby creates a corrupt political system and regime. It also must be noted here that, in any case where there is corruption, there are always corrupt people behind it.<sup>342</sup>

As well all the above, certain reasons should be mentioned regarding amendments to the JACCL, such as:

A- The nature of the tasks and duties entrusted to the Anti-Corruption Commission requires that all means and legal methods to enable it to prevent and combat corruption are available. This requires getting to the Commission the data, information and documents needed from all parties as soon as possible. The JACCL needs to make effective provision for this.

B- The emergence of the need to criminalize certain acts and behaviours that were not criminalized under existing penal laws, such as bribery in the private sector, is required. This action is 'corruption' under to Article (21) of the UNCAC. Bribery of foreign Public Officials and officials of public international organizations [Article (16) of the UNCAC] is now included in the JACCL in its most recent amendments. Trading in influence, covered in Article (18) of the UNCAC, and Concealment, as in Article (24) of the UNCAC.

C. Those guilty of corruption crimes often possess the ability to conceal the commission of the crime. This makes such crimes difficult to detect using the routine 'method of inquiry' as used in the detection and investigation of other crimes. This has necessitated the amendment of the JACCL to open the way for the Commission to conduct a preliminary investigation with perpetrators of acts of corruption, regardless of what been used in a regular crime.

D. The result of acts of corruption is usually confined to obtaining material benefits, whether in the form of cash or possessions or real estate. This means that the Commission needs a central fund for the conservation and management of funds and benefits collected from acts of corruption that have been recovered or seized and until they are returned to their legitimate owners. As well as that, the JACCL should

---

<sup>342</sup> Daniel Kaufman, (2005) *Myths and Realities of Governance and Corruption* (World Bank Governance Program, Washington DC).

give the Commission the power to conduct reconciliations and stop prosecutions, in the event of a refund and other benefits associated with corruption, being entirely recovered from acts of corruption. This would lead, perhaps, to the perpetrators of corruption being encouraged to return funds and thus mitigate the damage to the State treasury as a result of the commission of acts of corruption. It also encourages the partners of the perpetrators and instigators of acts of corruption to provide information or evidence that leads to the recovery of funds by exempting them from punishment, or even stop the prosecution in the event of submission of such information prior to the discovery of corruption. This, it is thought, would also contribute to the restoration and recovery of funds derived from acts of corruption.

E. The nature of the Anti-Corruption Commission's work requires the absolute confidentiality of documents, and this requires more severe penalties for the staff of the Commission in the event of revealing this information, because its disclosure will reflect negatively on the confidence of citizens, whether they are complainants or whistleblowers.

F. Providing protection for whistleblowers, witnesses and experts and their relatives in corruption cases is a prerequisite stipulated in international conventions and agreements. This is reinforced by the practical need to strengthen the work of the Commission in detecting acts of corruption, and to encourage reporting. The Jordanian legislation previously *offered* legal provisions to ensure the protection of whistleblowers, witnesses and informants, and provide material assistance to them in corruption cases within the legal procedures. Such mechanisms encourage the reporting of acts of corruption and provision of evidence. But as yet, the mechanism of *how the protection will be provided* is not yet determined; regular procedures and internal obligations are required in order for the offered protection to succeed.

G. Much legislation is old and needs to be amended: an example would be the Penal Law of 1960, which is unable to reflect fully contemporary circumstance, for example in relation to information technology and the Internet. The following laws also need to be amended: extradition requests and mutual legal assistance. This legislation is old and no longer appropriate for current daily life and intergovernmental collaboration.

The research on the nature of the work of the Commission, based on a comparison with the provisions of UNCAC, shows that all the clauses above (A-G) are essential for the work of the Commission. All of these above concerns are already addressed in the international treaty; there are the major amendments that were made to JACC law twice, once in 2012, and the other in 2014. Even with all these amendments, major policy changes are required in order to help the people believe that the government is really willing to fight corruption. Even though some legislation is old and needs still to be amended, there remains the problem of how willing the government is to implement the law

Also, as part of Jordan's obligation to fulfill the international treaty (UNCAC) in preventing and fighting corruption, current Jordanian commitment to the UNCAC can be seen in the amendments to the following Articles of Jordanian law. After each amendment (as enacted), comments are provided on where the law still needs to be further enhanced.

- Article (4) (b) JACC law (b) amended Article (4) (i) "To detect all forms of corruption, including financial and administrative corruption, in addition to nepotism and favouritism, if they constitute infringement of the rights of others and of public funds". This was to give the Commission more power and jurisdiction to fight all forms of corruption, including financial and administrative, plus the acts of nepotism or favouritism.

- But still, as explained earlier in this research, some acts (offences) under the JACC law were not applied practically in the Jordanian courts, such as the act of nepotism, because the adoption of this act by judges is not clear, since this crime is not included by the Penal Code. So usually the acts of favouritism or nepotism will be replaced by the act of 'abuse of power' or 'misuse of public office'. This was confirmed during the interview with one of the prosecutors in the Commission.<sup>343</sup>

- Article (4), (e) JACC law amended Article (4) (h): "to cooperate in providing and requesting International Legal Assistance through the official channels, if the

---

<sup>343</sup> Interview (5), Dec 22 2014.



applicable conditions of such assistance are fulfilled".<sup>344</sup> This Article is amended in order to become parallel with Article (46) of the UNCAC- 'mutual legal assistance'.

When analysing this Article, it talks only about the application of mutual legal assistance (MLA) in general. Still, the same procedures are followed through official channels, and (as the researcher explained in the thesis), at the beginning of the work of the JACC, the Commission sent a letter to the secretary of the UNODC indicating that the Ministry of Justice in Jordan is responsible for applying the MLA (mutual legal assistance). The research finds that, since the Commission is responsible for all corruption offences, it would be more relevant to give this jurisdiction in corruption cases in particular to the Commission (rather than the Ministry). The UNCAC Article (46) talks about all aspects regarding MLA, such as investigation, prosecutions and judicial proceedings in relation to corruption offences; this includes all aspects for which the Commission is responsible.

According to the UNCAC, Jordan notified the Secretary-General in March 2011 that the central authority designated to receive requests for mutual legal assistance (MLA) regarding corruption is the Ministry Of Justice. This is for the purpose of fully implementing paragraph 13 of Article 46. Further details of how to request MLA are available through diplomatic channels.

However, the research finds that more detail needs to be added in the amended Article, in order to fully recognize the requirements of the UNCAC Article mentioned above.

Article (5) paragraphs (d, e, f) amended Article (16):

a) Money Laundering.<sup>345</sup>

b) Illicit Enrichment.<sup>346</sup>

c) Not declaring or not disclosing of investments or properties or benefits that may lead to conflict of interest if laws and regulations require that, of which personal ben-

---

<sup>344</sup> 'Anti- Corruption Commission Law 2006, No (62) Amman and its amendment No (10) of 2012' online Available at :< <http://www.lob.gov.jo/ui/laws/index.jsp>> accessed 23 June 2014.

<sup>345</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>346</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

efits can be directly or indirectly gained for him who refrained from declaring or disclosing.<sup>347</sup>

This Article was amended in order to be compliant with chapter (3) of the UNCAC regarding the corruption offences; the above-mentioned three additional offences were added under the JACC law and considered as corruption offences. More detail regarding the three offences is in detailed in chapter (5).

Article (11) (b) of JACC law says, amended Article (8) (b): "...the board may contribute in restoring proceeds of corruption activities whether those proceeds were inside or outside the Kingdom and delivering them to their legitimate beneficiaries".<sup>348</sup> This was amended to comply with Chapter (5) of the UNCAC (asset recovery).

The amendment needs more enhancements to clarify the procedures which are to be the mechanism for restoring the proceeds of corrupt activity. It also need to make clear which authority is responsible for opening an account to deal with such proceeds of corruption. Now, the Commission in Jordan is trying to create an internal unit to deal with the proceeds of corruption activities; however one Article alone cannot cover an entire chapter of the UNCAC.

"Notwithstanding the provisions of any other legislation, anyone who has evidence of corruption and did not report it to the Anti-Corruption Commission or the competent authorities, shall be subject to punishment of imprisonment for a period not less than four months or a fine not less than five hundred Dinars and not exceeding five thousand Dinars or by both penalties. The punishment doubles in case of a public servant".<sup>349</sup>

Article (22) (b) of JACC law says: "Taking into consideration the international agreements in force in the Kingdom, the provisions of paragraph (a) of this Article shall apply to foreign Public Officials and Officials of any Public International Organization, with the obligation to return the proceeds of corruption offences".<sup>350</sup>

---

<sup>347</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>348</sup> Ibid.

<sup>349</sup> This paragraph was added by virtue of the Amendment Law of the Anti-Corruption Law No. (16) of 2014 that was published in the Official Gazette issue No. 5278.

<sup>350</sup> Ibid.

This Article is to cover all offences committed by foreign Public Officials and officials of public international organizations.

According to this Article, the amended JACC law was wider than that specified in the UNCAC, since it applies to *all* criminal offences mentioned in Article (5) of JACC law. This Article needs to be clarified in order to explain what the offences are.

Article (22) (c/2) of JACC law says, amended Article (23) (b),(1): "Each contract or agreement or privilege or concession obtained as a result of corruption offences shall be subject to annulation or rescindment by the competent court".<sup>351</sup> Is amended in order to be compliant with Article (34) of the UNCAC (consequences of acts of corruption).

This Article remains to be decided by the competent court, which means by the judge's opinion. This is perhaps what the Article (34) of the UNCAC meant.

Articles 23-26 talk about witness protection. Article (23) (a) of JACC law says, amended Article (24) (a,b,c): "The Commission shall provide sufficient protection for informants and witnesses and whistleblowers and experts in corruption cases, and for their relatives and other persons close to them, from any assault or potential retaliation or intimidation through:

1. Providing them with protection at their place of residence.
2. Non-disclosure of information related to the identity and whereabouts of such individuals.
3. Making statements and testimonies through the utilization of modern communications technology to guarantee their safety.
4. Protecting them in their workplaces and immunizing them from any discrimination or ill-treatment.
5. Providing them with accommodation when necessary
6. Taking any action or performing any conduct necessary to ensure their safety."<sup>352</sup>

---

<sup>351</sup> *ibid.*

<sup>352</sup> *ibid.*

These Articles were added in the last amendment in order to comply with Article (32) of the UNCAC, 'protection of witnesses, experts and victims'. However, these Articles still needed internal regulation to endorse the protection under the jurisdiction of the JACC.

The Commission still has to provide internal regulations on how to deal with providing protection for informants, witnesses, whistleblowers and experts in corruption cases.

Article (27) (a) of JACC law says:

" Any principal or accomplice or accessory or instigator in corruption crimes shall be exempt from two-thirds of the sentence should he provide the Commission or the competent authorities with any information or proof or evidence that leads to the recovery of proceeds from such corruption crimes."<sup>353</sup> This is amended to comply with Article (37) of the UNCAC, 'cooperation with law enforcement authorities'.

The research finds that this Article does not have a clear point of authority which is responsible for reducing the sentences; in Jordan this is usually the court. How this will link to the Commission's work is not clear, since not all corruption offences in the Kingdom go through the Commission.

Article (28) (b) of JACC law says, amended Article (29):

"Public right to litigate and punishments related to corruption are excluded from the statute of limitations; furthermore, the recovery of proceeds of corruption is excluded from the statute of limitations".<sup>354</sup>

This was amended to comply with Article (37) of the UNCAC, 'cooperation with law enforcement authorities'. The Article does not have a clear point of authority that is responsible for reducing the sentences; in Jordan this is usually the court. How this will link to the Commission's work is not clear, since not all corruption offences in the Kingdom go through the Commission.

Article (29) of JACC law says, amended Article (30): "The Commission may establish a trust account at the Central Bank named a 'Conciliation and Settlement

---

<sup>353</sup> *ibid.*

<sup>354</sup> *ibid.*

Trust Account' designated for preserving proceeds and benefits of corruption crimes restored or seized until its delivery to its lawful beneficiaries”.

#### **7.4 Contribution of this study to knowledge.**

One of the questions that this research seeks to answer is: What might be done, in terms of law, regulation, policy and process, to further embed the provisions of the UNCAC in Jordan?

The findings of this research reveal that the government has yet to carry out the entirety of the task that the law requires of them; this includes the government’s obligation to implement the provisions of the UNCAC. Improving public trust is very important, and this can be increased through government activities and policies. The evidence shows that the government’s efforts are still at an early stage in reducing the amount of corruption in Jordan. The evidence from elsewhere<sup>355</sup> and the literature suggests very clearly that the regulatory bodies should be independent in carrying out their tasks. In Jordan, this means that all bodies, including the Anti-Corruption Commission, should suffer no influence or interference from the government. The government should and must have the strong will to fight corruption honestly and to fulfill its obligation to the international treaty: “No amount of laws, bureaux, commissions or draconian punishment will.... Make any impact on let alone deal with corruption”<sup>356</sup>. The findings of this research reveal that corruption cases have increased in Jordan, with some very high-profile corruption - see case number (2) - involving the top ranks of government officials. So, for the Commission to seek approbation from, and to be a model for, the international community and from the neighbours at a regional level, it must be adequate in its work, achieving the highest standards and practices. This requires a constitutional review that will guarantee the independence of the JACC.

In addition to the government's will to fight corruption, the public officials should understand that their work in the public institutions is not a privilege, they should not receive bribes for their work and duty, nor should the people pay bribes in order to

---

<sup>355</sup> Ahmed Badran, *Steering the Regulatory State: The Rationale behind the Creation and Diffusion of Independent Regulatory Agencies in Liberalized Utility Sectors in the Developing Countries: Thoughts and Reflections on the Egyptian Case* (nd) Accessed 20/07/17 [www.aston.ac.uk/EasySiteWeb/GatewayLink.aspx?allId=99763](http://www.aston.ac.uk/EasySiteWeb/GatewayLink.aspx?allId=99763)

<sup>356</sup> Robin Theobald, *Corruption, Development and Underdevelopment* (Palgrave Macmillan 1989) P.143.

have access to public services. This has to stop otherwise it will challenge the government's efforts in fighting corruption.<sup>357</sup>.

The government keeps *saying* it has a strong will to fight corruption; this can be noticed in every speech of His Majesty King Abdullah II, and of the Prime Minister. All the planning and strategies that the government keeps *talking* about for the fighting of corruption also emphasize this. Much remains to be done, however. As lessons learned from this research demonstrate, the performance of the Commission must be carefully reviewed and analysed. There is also a need to fill the gaps and avoid the obstacles that face the Commission in its duties and tasks.

Summarizing, we may say these lessons are:

1- All the public institutions must be managed properly, using the public funds and resources wisely and according to the best financial regulations, in order to gain public trust; this step will reduce the volume of complaints that are received by the Commission regarding misuse of public funds.

2- The principles of good governance should apply in the work of all these institutions and in any public office. The principles of transparency, integrity, and accountability serve to raise the value of morality – the higher this is, the fewer the corrupt officials.

3- The effects of corruption reach everyone in society. Even the corrupted people suffer, since the wasting of government resources through theft and embezzlement prevents the society from using these resources in public services such as health, education and welfare.

4- If the regulatory bodies in Jordan were to do their jobs properly from the beginning, this would enable early detection and prevent corruption. His Majesty King Abdullah II Bin Al Hussein highlighted the role of the oversight bodies: “Work is underway to strengthen our Judiciary and enhance the national system for integrity, transparency and accountability, building on the work of the Royal Committee for Strengthening the National Integrity System, the Privatization Review Committee, a

---

<sup>357</sup> Azubuike Amaraegbu, Declan (2008) Anti-corruption in Africa: the cases of Nigeria and Ghana, Durham theses, Durham University. Available at Durham E-Theses Online: <http://etheses.dur.ac.uk/2517>.

strong independent Judiciary and a number of key oversight institutions, such as the Anti-Corruption Commission, Audit Bureau, Ombudsman as well as other oversight systems across government, private and civil society sectors”.<sup>358</sup>

5- Punishments for Public Officials who commit corruption offences are not severe enough; stolen money continues to be transferred out of the country, which makes it harder to trace the money.

“Public Officials that take bribes are not systematically punished and successful prosecution of corruption cases is difficult to achieve. Prosecution of high-ranking civil servants remains rare”<sup>359</sup>

6. This thesis has focused on how regulations help in reducing corruption in Jordan, as well as analysing the effectiveness of both JACCL and the UNCAC, after comparing them to identify the gaps in the Jordanian legislation. Since the so-called ‘Arab Spring’ the topic of corruption featured in almost every (political) speech. Many scholars have sought to add knowledge to this subject and hopefully this research will add some further insight.

7. In the Arabic region, Jordan is considered to be a pioneer in establishing a commission that fights corruption; Jordan is also one of the earliest regional countries to sign the Convention. Internationally, Jordan preserves a high reputation in respecting its commitments to fight corruption. Jordan participated in drafting & negotiating the UN Convention. The Convention itself was signed by the Jordanian government on the 9th of December 2003, and subsequently ratified on the 24th of February 2005. The certification law no. 28 of the year 2004 regarding the UN agreement was issued, and according to that law, the Convention became part of the Jordanian national legal system.

Regionally, Jordan hosted the first UNCAC conference of State Parties that was held by the Dead Sea in December 2006. In cooperation with other Arab countries, and in coordination with the League of Arab States, which is a cornerstone of joint Arab

---

<sup>358</sup> Abdullah II Ibn Al Hussein, ‘Fifth Discussion Paper "Goals, Achievements and Conventions: Pillars for Deepening our Democratic Transition’ (2014) <<http://kingabdullah.jo/>> accessed 13 September 2014.

<sup>359</sup> GAN Integrity Solutions, 'Business Corruption in Jordan' (2014) <<http://www.business-anti-corruption.com/country-profiles/middle-east-northafrica/jordan/snapshot.aspx>> accessed 21 December 2014.

cooperation, and in order to support Arab and international conventions related to combating corruption, particularly the United Nations Convention against Corruption, a specialized Arabic network to promote integrity and combat corruption was launched on in July 2008. It aims to promote the achievement of effective and continuous exchange of knowledge and experience. The network selected the Hashemite Kingdom of Jordan represented by the head of the JACC as a president. The network consists of experts representing the official bodies concerned with the promotion of integrity and combating of corruption in the Arab countries.<sup>360</sup>

This research will add further knowledge concerning Arab countries and, if possible, serve as guidelines for the implementation of the UNCAC in jurisdictions sharing Arab Islamic or post- colonial aspects of the Jordanian situation.

The thesis depends on analysing laws, first through expository doctrinal comparison, then case studies, to interviews and questionnaires. So part of the strength of this research is the quality of the respondents: selected experts have been interviewed in order to add knowledge to this research - experts who are involved on a daily basis with corruption cases, and in drafting laws. This has contributed to theory- building and practical understanding of Jordanian legislation that concerns corruption. In moving between these methods, this research project has moved from exposition to a contextually rooted study designed to inform choice in legislative development in Jordan.

The main role of JACC is to improve and tighten the provisions of the current and future legislations by bridging the existing gaps that might lead to corruption. To make sure that these legislations are aligned with integrity and Anti- corruption, in addition to making sure that such legislations comply with the international conventions and agreements and its provisions. Since a concrete legislation is the most important instrument for the implementation of the Commission's work; and is considered the basis of the Commission's authority, responsibilities and duties; it is preferable that all the proper and legal framework of enhancing the legislations concerns corruption must be done by JACC.

---

<sup>360</sup> Anti-Corruption and Integrity Network (ACINET) Available at: <http://www.arabacinet.org/index.php/en>.



Part of the contribution to this research is theory building, and this was done of understanding of how the legislations may be used to combat corruption.

Jordan has in place most of the necessary legal instruments and institutions to prevent and fight corruption. However, the results they deliver are not satisfactory. Anti-corruption rules are not always vigorously enforced, systemic problems are not tackled effectively enough, and the relevant institutions do not always have sufficient capacity to enforce the rules.

Declared intentions are still too distant from concrete results, and genuine political will to eradicate corruption often appears to be missing.

The first key variable that might explain a failure to reduce corruption through the establishment of an anti-corruption commission is the absence of laws necessary for its success. Without the legal tools to go after venal officials, a commission cannot succeed.

This will result in either failure to enforce existing laws or the commissions have no mandate to enforce laws. Therefore, a commission must be independent from interference by the political leadership. When the commission is linked to the Parliament and other legislative authorities, competitive relationship may evolve among parliamentarians and decision makers. The Anti-corruption commission thereby loses credibility as nothing more than a tool of the parliament and other legislative authorities.

Finally, the main contribution made by this research is a particular form of gap analysis. Others have suggested this as a benefit: “Alternatives or additions to the official checklist exercise could also be considered. Teams of Public Officials, together with national and international experts, could use a gap analysis approach to compare existing policies with UNCAC requirements in order to inform or refine country-led efforts and strategies to address corruption. These analyses have been used by countries to embark on a more inclusive process to identify reform needs.”<sup>361</sup> The work here has the potential to contribute to this wider goal.

---

<sup>361</sup>U4 Anti-Corruption Resource Centre, ‘UNCAC in a Nutshell: a Quick Guide to the United Nations Convention against Corruption for Embassy and Donor Agency Staff’ (2010) < <http://www.u4.no/themes/uncac/main.cfm>.September 2010:6 > accessed April 2013.

### 7.5 Future research:

1- The study relied on analysis of the corruption offences under two laws; future research in Jordan could investigate necessary practical procedures, especially after the revision of JACCL, and what further amendments need to be done to this law.

2- Future research could be to compare the Jordanian situation with other developing countries in the Middle East. This will enhance the further study and will validate this research by discovering the similarities and the differences between various Arab countries.

3- Future research could involve the courts in Jordan and the judicial system regarding one of the research questions: Do Jordanian courts fully implement the provisions of the UNCAC in particular (or any other international treaty)? This further study will involve collecting case data, to identify any reasons for not implementing international treaties in general.

4- Further research regarding people's opinion of the level of corruption cases since the establishment of the Commission, and their view as to whether the regulations, policy, and processes which are undertaken by the government are enough to reduce corruption in Jordan; this is also one of the research questions.

5- The study relied on one perspective on the level at which the Jordanian legislation (JACCL) and the UNCAC match each other. Future research might be extended to investigate the tasks and responsibility of the JACC: Are they enough to fight corruption, and do they reach the international standards regarding a body that is responsible for preventing corruption, for law enforcement, and for international cooperation?

6. There is merit in considering, given the particularities of this setting, ways in which the UNCAC itself might be strengthened; for example in dealing with the social context of societies where *wasta* or *guanxi* are present, or by providing a basis for stipulating penalties, where such stipulation is required by national law for effective enforcement.

### 7.6 Evaluation:

---

Jordanian policies, laws and institutions are heavily influenced by the political circumstances in the region. Jordan was in direct contact with events related to the neighbours such as Iraq, Syria and Palestine. This, and the issues raised by the many refugee people from these countries sheltering in Jordan, profoundly affects economic issues in the country<sup>362</sup>; at the same time the influx serves to raise the potential level of corruption. Such complexities are naturally reflected in the political and economic system. They were also the – reason- behind the regime’s favouritism to certain- groups- over others, which in turn had its implications for economic performance and State integrity. It is of significance here that the public sector in Jordan is the largest employer. Around two-thirds of the State budget are allocated to public-sector salaries.<sup>363</sup>

While in this research an attempt is made to assess the degree of corruption in Jordan, and the reasons for it, but it was found difficult to determine, we may conclude that fighting corruption and reducing its spread is possible in a country with a clear political will. Through regular co-operation and co-ordination between the public and private sectors and the civil society, they may together form a forceful system, supported by the integrity of the judiciary of the country. There has to be an involvement of government and non-government institutions and the government needs the will to root out the problem.<sup>364</sup>

The country of Jordan is passing through a period of market recession. It started its process of economic reforms in 1989 with the help of the World Bank. After, it was hit by a severe economic crisis that resulted in the currency of Jordan losing its value by 60 percent. This crisis resulted in political turmoil in the country and the parliament was only restored in the same year (1989), which began the era of economic and political reform in the country.

The economic crisis was the result of deep-rooted corruption in Jordan. There was a prevailing lack of transparency in the use of public funds and the trend to bring in large-scale projects for the purpose of securing retrocessions, kickbacks and

---

<sup>362</sup> Iffat Idris, *Economic Situation in Jordan* (2016)

[https://assets.publishing.service.gov.uk/media/5b97f50ae5274a1391b13967/K4D\\_HDR\\_Economic\\_Situation\\_in\\_Jordan.pdf](https://assets.publishing.service.gov.uk/media/5b97f50ae5274a1391b13967/K4D_HDR_Economic_Situation_in_Jordan.pdf)

<sup>363</sup> Basem Sakijha, *Report on Corruption in Jordan* (2001).

<sup>364</sup> James Wilson, (1989) *Corruption: The shame of the States*, in *Political corruption. A handbook* (Heidenheimer et al., eds , Transaction Publishers, New Brunswick/London).

commissions, followed by disordered employment, based on connections in the administrative and political system. There was also a lack of accountability for such acts.

I, in the end, conclude that there might be a need to give more powers to the JACC and to amend the JACC laws so as to give it more authority in the investigation of corruption charges against government officials. There also is a strong indication of the need to secure co-operation between the law enforcement agencies. As there are activities involving acts of crime that take place across borders, the laws also need to be developed in co-operation with other countries in the form of joint legal assistance.

I have felt that there is this absence of a clear strategy by the government to fight corruption and this has remained a fundamental stumbling block to the actions of the government towards the nation's development. The Anti- Corruption Commission clearly has a will to fight against corruption. It has established a wide range of relevant legal instruments. To strengthen this, the Anti-Corruption Commission Law was amended in 2012, and again in 2014. Therefore, the national legislation contains for the most part all the elements required by the international standards, but still some offences under international law are not covered in the national law.

The OECD identifies and establishes the best international standards for the specialized commission in preventing and fighting corruption. It obligates these commissions to attain international standards for their effective operation.<sup>365</sup>

Deterrence is a single, but important, element of anti-corruption strategies.<sup>366</sup> Corruption offences need not only be prosecuted and punished, but deterrence also requires administrative, regulatory, financial and economic measures to be taken.<sup>367</sup> Because deterrence and financial losses will eventually reduce corruption, this can be achieved through an implementation of effective regulations that fit the international standards.

---

<sup>365</sup> OECD, *Specialised Anti-Corruption Institutions: Review of Models* (2<sup>nd</sup> Edn, OECD Publishing).

<sup>366</sup> UNODC (2004) *The Global Programme against Corruption: UN Anti- Corruption Toolkit*: 3rd Vienna.

<sup>367</sup> *ibid.*

According to the UNCAC, all State Parties should consider adopting such legislation that is believed necessary to criminalize the following offences: <sup>368</sup> bribery of national Public Officials, bribery of foreign Public Officials and officials of international organizations, bribery in the private sector; embezzlement, misappropriation or other diversion of property by a Public Official, embezzlement of property in the private sector, trading in influence, abuse of functions, illicit enrichment, laundering of the proceeds of crimes, concealment of proceeds of corruption, obstruction of justice and the criminal liability of legal persons. The research has shown that not all of these offences are included in JACC law. Including them in the national law will serve to reinforce deterrence and align Jordan with international standards.

Though Jordan ratified the UN Convention Against Corruption under law No (28) of 2004, some of the major points are still not covered in JACC law, such as the granting to the Commission appropriate independence to be able to do their job effectively without any influence or interference from any party whatsoever. Such independence is not included in the amended law that grants the Commission administrative and financial independence, as it connects the Commission to the Prime Minister.

It would be preferable (and more in keeping with the spirit of the UNCAC) if the appointment of the Chair and the Board Members of the Commission was undertaken by a Royal Commission through a committee comprising the Prime Minister, the heads of the Senate and House of Representatives and the President of the Judicial Council. The Board Members should then be enabled to prepare a budget for the Commission.

One other amendment is needed, which is to grant the Commission the necessary powers in order to do its job effectively. Giving the Commission the right to conduct preliminary investigation with all persons suspected of acts of corruption, regardless of their jobs, and enabling it to collect evidence and investigate such persons could achieve this. Even though Jordan has special courts to deal with such persons, the right to conduct the preliminary investigation could still be granted to the

---

<sup>368</sup>UNODC, United Nations Convention against Corruption, New York, 2004. [Online] Available at <http://www.unodc.org/unodc/en/corruption/index.html>.

Commission. The Jordanian law already grants the Commission the power to access the bank accounts of the perpetrators of corruption offences.

In order to reduce further the economic burden on the country of the corruption offences, other amendments to the law for the purpose of freeing the Commission to take all necessary steps have been taken. The Commission need not use standard methods to collect evidence and investigate those persons who often have the ability to hide their crimes.

The researcher in the end concludes that there might be the need to amend further the JACC laws, so as to give the Commission more power in fighting corruption. Fighting corruption needs international cooperation between countries in order to eliminate it, as the corruption offences are usually cross-national crimes.

As an employee of the Commission concerned with combating corruption in Jordan it made me look closely at the obstacles faced by the Commission in fighting this phenomenon. By virtue of my position I was able to see what countries that followed the best practices to combat corruption had achieved. The International Convention against Corruption can be considered the ‘best practice’ for combating corruption, because what has been reached in this agreement arises from the experience of the world nations from their experiments in fighting this phenomenon.

Therefore, we need to give the Commission the necessary independence so that its decisions are not subject to any influence from any party whatsoever. We need to expand the concept of the crime of corruption (since corruption crimes can become very complicated), as well as to expand the authority of the Commission to include the prosecution of all persons who work in the public sector, whether in the executive, legislative or judicial branches, in addition to the private sector.

## **7.7 Research Questions:**

### Research question number 1

To what extent does the Jordanian Anti-Corruption Law (JACL) provide a basis for operationalizing the United Nations Convention against Corruption (UNCAC) in courts in Jordan?

I tried to answer this question through analysing the corruption offences under the UNCAC, which are: bribery in the public and private sectors, the embezzlement of public funds and in the private sector, trading in influence, abuse of functions, illicit enrichment, laundering of proceeds of crime, concealment and obstruction of justice; and also by seeing if the Jordanian legislation covered these offences. The findings were:

Jordanian anti-corruption legislation is **mainly** in compliance with the international standards, but it is still not fully functional, especially with regards to the Financial Disclosure Law. Also, the overlapping mandates between many authorities that have a duty to investigate corruption means unnecessary delays in investigations, prosecutions and court proceedings for corruption and other financial crimes; and there are no true mechanisms in Jordan regarding asset recovery, such as the UNCAC requires.

Most of the offences in the UNCAC are incorporated under the Jordanian laws, in particular the Penal Law No. (16) of the year 1960. However, the following offences are not covered and the JACCL still needs to be amended in order to comply fully with the UNCAC:

- Bribery in the private sector according to Article (21) of the UNCAC,
- Bribery of foreign Public Officials and officials of public international organizations as in Article (16) of the UNCAC. The JACCL did include this offence in its last amendments, Article (22) paragraph b, regarding penalties, but without explaining what the elements of this offence are,
- Trading in influence, Article (18) of the UNCAC, and
- Concealment, Article (24) of the UNCAC.

Research question number 2 in the Structured Interview:

From your point of view, do Jordanian courts fully implement the provisions of the UNCAC?

The research involved structured interviews with 30 experts. The finding for this question is that, even though half of the interview said ‘yes’ it is fully implemented,

still I find that courts do not fully implement UNCAC provisions. (The reason behind that was discussed earlier in this chapter under the evaluation 7.2.).

In practice, and for the Ministry of Justice in Jordan regarding any case implementing the provisions of the UNCAC, implementation remains stalled because of reason discussed earlier.

During the interviews with the four public prosecutors at the JACC, who are seconded from the Judicial Council/ Ministry of Justice to work on corruption cases, all four of them stated no cases had reached a final verdict which depended on the provisions of the UNCAC; all insisted it is easy to adopt, for the any of these crimes, prosecution stances based on Jordanian legislation. This secondment of prosecutors has been so since the establishment of the JACC in 2008; according to Article (14) of the JACC “The Judicial Council shall, at the request of the Chairman, delegate a number of public prosecutors to the Commission to perform their tasks and authorities in accordance with the applicable legislations”<sup>369</sup>.

It seems unlikely that seconded prosecutors from existing State bodies will apply the provisions derived from the UNCAC directly. All so far have shown a marked preference for using purely national legislation. This stance is likely to weaken both the application and perception of the UNCAC in Jordan, and militate against its effective deployment.

Research question number 4 in the Structured Interview: What might be done, in terms of law, regulation, policy and process, to further embed the provisions of the UNCAC in Jordan?

The research examined this question through what the experts discussed in terms of laws, regulations and policy. Supported by conclusions drawn after conducting the study, early in this chapter, the researcher retrieved the following suggestions:

A corruption offence should be in both public and private sectors, especially in cases of bribery and embezzlement- it must be applied to all public employee offences, as well as to private sector employers.

---

<sup>369</sup>Anti- Corruption Commission Law 2006 No. 62 Article (14).



Anti-corruption laws should be amended to include all segments of society in order to be more proficient.

The Penal Code should be amended.

Most of the legislation that deals with corruption should be revised, because they are old.

The provisions should be implemented, and laws updated and regulated in line with global trend.

JACCL should be amended to comply with UNCAC.

Prevention of corruption should be enhanced in the work of the JACC, and witness protection programmes should also include an employee of the JACC.

Fighting corruption by laws and legislations only is not enough; for better performance, the commissions need cooperation and coordination with other agencies and the communication between law enforcement institutions need to be enhanced.

The application of the international Convention needs to be activated further.

Training and exchange visits between countries need to be set up in order to find a qualified person to enforce the international regulations.

Trade in influence and bribery in the private sector needs to be criminalized and punished in the national criminal legislation.

There is a need to issue a new legislation such as: asset management, freezing, holding and confiscation.

Mutual legal assistance law should be adopted.

Asset recovery policies and legislation need to specify all national requirements.

Extradition laws need to be amended to be in line with international standards.

Bilateral and regional criminal cooperation agreements need to be reviewed.

Informal exchange of information should be fostered.

Bank secrecy must be mitigated.

Finally the last research question, number 4

To panel expert opinion, in Jordan & elsewhere in order to provide, if possible, guidelines for the implementation of the UNCAC in jurisdictions sharing Arab Islamic or post- colonial aspects of the Jordanian situation?

This query was answered in the detail earlier in this chapter under the title: 'contribution to knowledge', especially at the regional level (Arabic countries). Legislation, and especially the JACC law was presented and discussed at every meeting held with Arabic delegations. This research set out to add further knowledge concerning Arab countries and, if possible, to serve as guidelines for the implementation of the UNCAC in jurisdictions sharing Arab Islamic or post- colonial aspects of the Jordanian situation.

Criminal law, especially corruption offences, is the main elements in this research. National legislation has to meet the best international standards. Jordan has to introduce reform relating to criminal offences and to criminal procedures. These reforms have to be efficient and include the following: the definition of corruption offences, stiffer sanctions, and fast procedures, especially in court proceedings.

Also, in order to have an effective Anti-Corruption Commission in Jordan that combines prevention and law enforcement, besides legal and constitutional reform, some further guarantees are necessary, such as the independence of the Commission, and the removal of political interference. Other desiderata include:

- independent selection of high-quality employees,
- cooperation between agencies (especially the oversight bodies),
- coordination between law enforcement agencies,
- fast access to information,
- provision of an (excellent) intelligence unit within the Commission, and
- regional and international cooperation regarding the corruption offences, and in particular asset recovery.

- whistle-blowing mechanisms that allow the Public Officials to report an illegal act to help prevent and reduce corruption in public institutions; this also will lead to an increase of trust that people have in public institutions.

The research finds these guarantees and developments are necessary for the Commission to carry out its duties, and to exercise jurisdiction to the highest of international standards.

A final report prepared by the European Union regarding corruption says it “rests on the assumption that there is no ‘one-size-fits all’ solution to the issue of corruption. It does not propose standardised solutions for all Member States: for example, what (legislative or other) solutions are needed to address the challenge related to conflicts of interests depends on a variety of factors, including the degree to which conflicts of interests are already perceived as an issue in a country, what cultural norms are in place, and the degree to which recognised societal norms need to be reflected in legislation. The report aims to present recommendations which fit the context of each Member State”.<sup>370</sup>

In Jordan, it is also the case that a ‘one-size-fits-all’ solution cannot be applied. Circumstances decide cases; Jordan needs to find ways within its systems, to implement best practice, just as other State parties do. Wherever the fight against corruption takes place, it is important to ensure that the challenge of fighting corruption is a joint effort from everyone: the government, the people and the international community. However the problem is hard to capture and terminate, since committing any criminal act is in the nature of human beings.

---

<sup>370</sup> European Commission, 'Report from the Commission to the Council and the European Parliament EU Anti-Corruption Report' [2014] (COM(2014) 38 final) <[http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr\\_2014\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf)> accessed 3 February 2014.

## **Appendices**

### Appendix 1: The Interviews (English)

Questionnaire about Jordanian Anti- Corruption Law & the UN Convention Against Corruption

Your help is sought for a research project about Jordanian Anti- Corruption Law & the UN Convention Against Corruption. The research outcomes will be submitted by me to the University of Gloucestershire, United Kingdom in accordance with the necessities of the degree of Doctor of Philosophy in the Faculty of Business, Education and Professional Studies.

Your input would be valuable, given your experience as one of the leading experts in the field. This request for research support is addressed to individuals who have contributed to this field in a number of ways. Your expertise may come from your work with the Jordan Anti- Corruption Commission, from your work as a Lawyer or Judge in relation to particular to corruption offences - criminal law, or as one of the experts who drafted and suggested amendments to Jordanian Anti- Corruption Law to make it comply with the United Nations Convention Against Corruption (UNCAC), or as someone who has experience and expertise in the implementation and- review of the UNCAC more widely.

To advance the research, you are asked to complete the following questionnaire. The questionnaire should take about 15 minutes to complete.

Questionnaires are completely anonymous and the information collected will be used solely for the purposes of this research.

A major aim of this study is to identify further areas for development in Jordanian Anti- Corruption Law and procedure, in order to work towards the elimination all types of corruption.

Kholood Sami Aloran

Jordan Anti- Corruption Commission

**1. How did you gain your expertise in this subject? Please select the suitable/s.**

---

- Judge.
- Lawyer
- International Expert.
- Worked in JACC.
- Other Organization

If none of the above please write your experience source

**2. In your point view, do Jordanian courts fully implement the provisions of the UNCAC? Please select your choice.**

---

- Yes.
- No
- Don't know

**If "No", please explain the principal reasons why they do not**

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

The following section concerns specific areas of law and individual offences, in each case you are asked to what extent you believe the JACCL and the UNCAC are aligned or in accord, i.e. the offences in both codes are identical. Please write (X) under the choice you think more appropriate.

**3. In your opinion, how closely are JACCL and UNCAC aligned?**

- **Corruption Offences contrary to public office (Penal Code).**

Type	Very much	Somewhat	Undecided	Not really	Not at all
Bribery					
Embezzlement					
Misuse of public office					
Assaults on freedom					
Illegal detention					
Entering residences illegally					
Abuse of power					
Breach of public office duties					

- **Corruption Offences contrary to public trust (Penal Code)**

Type	Very much	Somewhat	Undecided	Not really	Not at all
Counterfeiting of State's seal, official marks					
Counterfeiting of banknotes					
Counterfeiting of Coins					

Counterfeiting of stamps					
Forgery					
Criminal forgery					
Issuing false certificates					
Impersonation					
Forging private documents					

- **Corruption Offences arising from economic crimes (Economic Crimes Code).**

Type	Very much	Somewhat	Undecided	Not really	Not at all
Contractors' crimes					
Harming the State's financial standing					
Crimes related to systems of irrigation					
Arson					
Assaults on public roads, means of transportation and industrial					

works					
Cheating					
Theft					
Deception					
Breach of trust					
Deception in the nature of goods					
Fraud in the transactions					
Bankruptcy and deception of creditors					

- **Corruption Offences contrary to Anti- Corruption Commission Code.**

Type	Very much	Somewhat	Undecided	Not really	Not at all
Any act or refrainment, which may lead to the infringement of public funds.					
Abuse of authority contrary to the provisions of the law.					
Acceptance of nepotism and favoritism, which infringes a right or					



validates what is void					
Money laundering					
Illicit enrichment					
Not declaring or not disclosing of investments or properties or benefits that may lead to a conflict of interest if laws and regulations require that, where personal benefits can be directly or indirectly gained for him/her who refrained from declaring or disclosing					

**4. What might be done, in terms of law, regulation, policy & process, to further embed the provisions of the UNCAC in Jordan?**

.....  
.....  
.....  
.....  
.....  
.....

Thank you very much for completing this questionnaire. Please remember that your answer will be treated in complete confidence.

## Appendix 2: Respondents' names and jobs

No.	Name	Lawyer	Judge	University Professor	International Expert	Investigator At JACC	Investigator at other oversight bodies
1	Mohammad Subhi Sawallha	*				*	
2	Eman Mustafa Al-Rousan		*				
3	Asem. A. Tarawneh		*				
4	Moayad Mohammad Dardoor		*				
5	Dr.Abdullallah Alassaf		*		*		
6	Ramzi Nuzha		*		*	*	
7	Salah Ma'aita	*					
8	Dr.Abed Ali Shakhanbh	*		*	*	*	
9	Dr. Mohamad Zaki Khassawneh	*				*	
10	Ali. M. Al Dmour	*	*		*	*	
11	Wael Elqawaqzeh	*					

12	Jehad Aljazy					*	
13	Abdelaziz Alarwani		*			*	Custom Dept.
14	Dr. Abed Kharabsheh			*	*	*	Audit Bureau
15	Mohannad Abu-Morad	*				*	
16	Dr. Shawqi Abo Quta			*		*	
17	Dr. Emad Al Sharman	*					
18	Dr. Nisreen Mahasneh			*			
19	Mohammad Abd Bentareef					*	
20	Sura Khasawneh	*				*	
21	Mohammed M. Okour		*			*	
22	Asem Ali Jadou	*				*	Ombudsman Bureau
23	Majdi Ahmad Al-Kalila	*					Ombudsman Bureau
24	Yahya Bani Taha						Ombudsman Bureau
25	Ahmad Ta'ahi	*					Ombudsman Bureau
26	Raid Abu-Rubeiha	*				*	Bureau of Legislation
27	Dr. Talal Taleb Alsharafat	*		*		*	

28	Saber Raishdeh	*	*		*	*	Company controller Dept.
29	<b>Burhan Akroush</b>				*	*	Company controller Dept.
30	<b>Dr. Fayrouz Sami Amr</b>			*		*	
	Total	15	9	6	7	19	9

**Table (22)**

### **Appendix 3: Evaluation of the question of whether the Jordanian courts fully implement the provisions of the UNCAC**

Twenty-three interviewees were not judges; eight of them said yes and thirteen said no and two said they don't know. Seven of the interviewees were judges and they all said yes. Out of the fifteen of the interviewees who said yes, seven of them were judges.

Fifteen of the interviewees were not lawyers; eight of them said yes and five said no and two of them said don't know. Fifteen of the interviewees were lawyers; seven of them said yes and eight of them said no. Out of the fifteen of them who said yes, seven of them were lawyers.

Twenty-six of the interviewees were not international experts, twelve of them said yes, thirteen said no and two said don't know. Four of the interviewees were international experts; three of them said yes and one said don't know. Out of the fifteen interviewees who said yes, three of them were international experts.

Twelve of the interviewees were not working in the JACC, seven of them said yes, four said no and one said don't know. Eighteen of the interviewees were working in the JACC; eight of them said yes, nine of them said no and one said don't know. Out of the fifteen interviewees who said yes, eight of them were working in the JACC.

Sixteen of the interviewees were not working in other organizations, eight of them said yes and eight said no. Fourteen of the interviewees worked in another organization; seven of them said yes, five said no and two said don't know. Out of the Fifteen interviewees who said yes, seven of them worked in another organization.

## **List of Figures:**

FIGURE 1 .....	39
FIGURE 2 .....	53
FIGURE 3 .....	58
FIGURE 4 .....	64
FIGURE 5 .....	65
FIGURE 6 .....	66
FIGURE 7 .....	67
FIGURE 8 .....	68
FIGURE 9 .....	68
FIGURE 10 .....	90
FIGURE 11.....	91

## **List of tables:**

TABLE 1 .....	57
TABLE 2 .....	63
TABLE 3 .....	64
TABLE 4 .....	65
TABLE 5 .....	66
TABLE 6 .....	67
TABLE 7 .....	69
TABLE 8 .....	87, 88
TABLE 9 .....	89
TABLE 10 .....	90
TABLE 11 .....	156, 155
TABLE 12 .....	156
TABLE 13 .....	173, 174
TABLE 14 .....	174, 175



TABLE 15.....	204
TABLE 16.....	205
TABLE 17.....	216,217
TABLE 18.....	217,218
TABLE 19.....	246
TABLE 20.....	251
TABLE 21.....	251

## **List of charts:**

CHART 1 .....	157
CHART 2 .....	157
CHART 3 .....	176
CHART 4 .....	176
CHART 5 .....	206
CHART 6 .....	206
CHART 7 .....	218
CHART 8 .....	218
CHART 9 .....	247

CHART 10..... 252

CHART 11..... 252

## **Bibliography**

### **BOOKS**

#### **A**

Abjorensen N, Combating corruption, implications of the G20 Action Plan for the Asia-Pacific Region (Konrad Adenauer Stiftung, 2014)

Abu- Karaki M, Faqir R and Marashdah M, 'Democracy & Judicial Controlling In Jordan: A Constitutional Study' (2011) 4 JPL

Abu Zeina F, Scientific Research Methodologies: Qualitative Research Methods. Amman: Al- Masseur for Publishing & Distribution, 2011

Akçay S, 'Corruption And Human Development' [2006] Cato J., 26, p.29

Al-Dabbas D, 'Right To Access To Information In The Hashemite Kingdom Of Jordan' (The National Center for Human Rights 2008)

Alissa S, Rethinking Economic Reform in Jordan (Carnegie Endowment for International Peace 2007)

#### **B**

Babu R, 'The United Nations Convention against Corruption: A critical overview' (2006). Asian African Legal Consultative Organization, New Delhi

Brannen J. (1992) *Mixing Methods: Qualitative and Quantitative Research Theory and Practice*. Avebury

Brunetti A, Kisunko G, and Weder B, 'Credibility of Rules and Economic Growth: Evidence from a Worldwide Survey of the Private Sector'. (1998) *The World Bank Economic Review*, 12(3), pp.385-384

## **E**

Elizabeth A. Martin (2003). *Oxford Dictionary of Law* (7th ed.). Oxford: Oxford University Press. ISBN 0198607563

## **G**

Gray C, Hellman J, Ryterman R and Anderson J. (2004). *Anticorruption in transition*. 1st ed. Washington, D.C: World Bank

## **H**

Herbert R, Irene R, (1995) *Qualitative Interviewing: The Art of Hearing Data* (3edn, Sage Publications, Inc. Thousand Oaks, California)

Huntington Samuel P, 1968, *Political Order in Changing Societies*. New Haven: Yale U. Press

## **J**

Johnson R B and Onwuegbuzie A J 'Mixed Methods Research: A Research Paradigm Whose Time Has Come' (2004) 33/7 *Educational Researcher*  
Stable URL: <http://www.jstor.org/stable/3700093>

## **K**

Kaufman D, (2005) *Myths and Realities of Governance and Corruption* (World Bank Governance Program, Washington DC)

King N. & Horrocks C. (2010) *Interviews in qualitative research*, London: Sage, Chapter 2: Philosophical assumptions. Pp.6-24

Klitgaard R. *Controlling corruption*. (1st ed. Berkeley, Calif.: University of California Press 1988)

Klitgaard R. *Strategies against corruption*. Presentation At Agencia Española De Cooperación Internacional Foro Iberoamericano Sobre El Combate A La Corrupción, Santa Cruz De La Sierra,( 1998) Jun, 15—16

## **L**

Lopes C and Theisoht T. *Ownership, Leadership, And Transformation* (Earthscan Publications 2003)

Lor P. *International and Comparative Librarianship*, Chapter 4

## **M**

Mark Saunders, Philip Lewis and Adrian Thornhill, *Research methods for business students* (5th edn, Pearson Education Limited, Harlow)

Muddather Abu- Karaki, Raed S. A faqir and Majed Ahmad K. Marashdah, *Democracy & Judicial Controlling In Jordan: A Constitutional Study'* (4JPLedn)

## N

Norman Abjorensen, Combating corruption, implications of the G20 Action Plan for the Asia-Pacific Region (Konrad Adenauer Stiftung, 2014 )

## P

Palys, T. (2008). Purposive sampling. In L. M. Given (Ed.) The Sage Encyclopedia of Qualitative Research Methods. (Vol.2). Sage: Los Angeles, pp. 697-8

Pradhan S, Anticorruption In Transition (World Bank 2000)

## R

Richards L, Morse J, Read me First for User's Guide to Qualitative Methods (2<sup>nd</sup> edn, Thousand Oak Sage Publications Inc, CA)

Richter J, Fenner G, Guidance Note: UNCAC Self- Assessments, Going Beyond the Minimum,(Keen Media,2012)

Rose- Ackerman S , The Political Economy of Corruption. ( Corruption and the Global Economy,31 1997)

Rose-Ackerman S, Corruption And Government (Cambridge University Press 1999)

Rose- Ackerman S 'Corruption and the Global Corporation: Ethical Obligations and Workable Strategies' in Michael L. Kosky and Joseph Perkovich, eds., The Globalisation Challenge to Transnational Law? London UK: Butterworths, 2002, pp. 148-171

## S

Saldona J, *The Coding Manual for Qualitative Researchers* (2<sup>nd</sup> edn, Saga, London)

Saunders M, Lewis P and Thornhill A. *Research methods for business students*. Financial Times/ Prentice Hall, 4<sup>th</sup> edn, (2006)

Saunders M, Lewis P and Thornhill A. *Research methods for business students*. Harlow: Pearson Education Limited, 5th ed. (2009)

Shleifer, A. 'Government in transition' (2014) 41 *European Economic Review*, 41(3), pp.385—410

Strauss A, *Qualitative Analysis for Social Scientists* (1<sup>st</sup>, Cambridge University Press 1987)

## T

Tawfiq Hasan Faraj, *Introduction to the Legal Sciences: "Summary of the Theory of Law and Right"*, Alexandria-Egypt, Institution of AL-Thaqafah Al-Jameyeh Pg. (39-45)

Terrill W& Cordesman A. (2010). *Global security watch*. Santa Barbara, Calif.: Praeger

Theobald R, *Corruption, Development and Underdevelopment* (Palgrave Macmillan 1989) P.143



## **W**

Wei S & Wu Y. 'Negative alchemy? Corruption, composition of capital flows, and currency crises'.(2002) University Of Chicago Press, 461—506

William N, Your Research Project (2edn, Saga, London) 85

Williams R, Doig A, Controlling Corruption: The Politics of Corruption (Vols. 1-4) (Chatham, Edward Elgar Publishing Ltd., 2000)

Wilson J, (1989) Corruption: The shame of the States”, in Political corruption. A handbook (Heidenheimer et al., eds , Transaction Publishers, New Brunswick/London)

## **Y**

Yin K. R. (2003) Case Study Research Design and Methods, London: Saga, Third Edition

## **CONTRIBUTIONS TO EDITED BOOKS**

### **C**

'Corruption and the Global Corporation: Ethical Obligations and Workable Strategies,' in Michael L. Kosky and Joseph Perkovich, eds., The Globalisation Challenge to Transnational Law?, Butterworths UK, 2002, pp. 148-171

### **H**

Harvard University, Research Methods [online] Available at: <http://lisesites.harvard.edu>

[https://www.law.cornell.edu/wex/criminal\\_law](https://www.law.cornell.edu/wex/criminal_law)

[http://www.sourcewatch.org/index.php/Arab\\_Spring](http://www.sourcewatch.org/index.php/Arab_Spring)

## **I**

IMF, 'Corruption, Public Finances and the Unofficial Economy' (1998)

## **T**

The Carter Center, Implementation assessment Tool,

<https://www.cartercenter.org/resources/pdfs/peace/americas/iat/iat-methodology-manual.pdf>.

## **W**

Westerman P, 'Open or Autonomous? The Debate on Legal Methodology as a Reflection of the Debate on Law' in in Mark Van Hoecke (ed) Methodologies of Legal Research Which Kind of Method for What Kind of Discipline? (Hart Publishing, 2011)

## **JOURNAL ARTICLES**

### **A**

Antonio Argandona, 'The United Nations Convention Against Corruption And Its Impact On International Companies' [2012] SSRN

### **B**

Botero, Juan Carlos and Ponce, Alejandro, Measuring the Rule of Law (November 30, 2011). Available at SSRN: <https://ssrn.com/abstract=1966257> or <http://dx.doi.org/10.2139/ssrn.1966257>

Bohara A, Mitchell N, and Mittendorff C, 'Compound Democracy and the Control of Corruption: A Cross-Country Investigation'.(2004) Policy Studies Journal, 32(4), pp.481—499

## C

Christopher McCrudden, 'Legal Research and the Social Sciences ' [ October 2006] Law Quarterly Review 688

## G

Gutman, Arthur. "Nepotism and employment law." Nepotism in organizations (New York, Routledge, 2012): 11-41.

## H

Hutchcroft P. 'The Politics of Privilege: Assessing the Impact of Rents, Corruption, and Clientelism on Third World Development'. (1997) Political Studies, 45(3)

## M

Malkawi B and Haloush H, 'Reflections On The Securities Law Of Jordan' (2008) Am. U. Int'l L. Rev 763, 23 Volume

Maria M. ' The "effectiveness test" as a tool for law reform' IALS Student Law Review | Volume 2, issue 1, Autumn 2014 Special Issue, pp. 4-8|

Mauro P, 'Corruption and Growth' (1995) 110 the Quarterly Journal of Economics. Hanouz, pp.681--712

McGregor, S. L., & Murnane, J. A, ' Paradigm, methodology and method: Intellectual integrity in consumer scholarship' [2010] International Journal of Consumer Studies 419-427., 43(3)

Michael C. Jensen and William H. Meckling, 'Theory Of The Firm: Managerial Behavior, Agency Costs And Ownership Structure' (1976) SSRN Journal

Munguin P. 'The Quest for Good Governance: Learning From Virtuous Circles' (2016) *Journal of Democracy*, Volume 27(1)

## O

OECD, *Specialised Anti-Corruption Institutions: Review of Models* (2nd, OECD Publishing)

Oliver Wendell Holmes Jr, , 'The Path of the Law' [(1897)] *HarvL Rev* 457, 465-6., 10:8

## P

Palmer V, *From Lerotholi To Lando: Some Examples Of Comparative Law Methods* ( *Global Jurist Frontiers*,V4,Issu2, 2004

Pippidi M, 'The Quest for Good Governance: Learning from Virtuous Circles' [2016] *Journal of Democracy*, 96,V 27,November 1

Pope J, 'The Impact Of Corruption On Human Rights: What Can The Profession Do?' (1997) 23 *Commonwealth Law Bulletin*

## Q

Qbilat H and Shatanawi F, 'Fighting Corruption under Jordan Anti- Corruption Law No. (62) of the year 2006: a comparative study' (2008) *Journal* (2), Issue 35

## S

Stenbacka C, (2001) *Qualitative research requires quality concepts of its own*, *Management Decision*, Vol. 39 Iss

## **T**

Terry Hutchinson & Nigel Duncan, 'Defining and describing what we do: doctrinal legal research ' [n.d.] DEAKIN LAW REVIEW 116, V 17:1

Treisman D, 'The Causes of Corruption: A Cross- National Study' (2000) 76 Journal of Public Economics

## **CONFERENCE PAPERS**

### **H**

Hilmer K Johannsen L 'Corruption: Commonality, Causes and Consequences Comparing 15 ex-Communist Countries'. (13<sup>th</sup>. NISP Acee Conference, Moscow, Russia, 2014)

### **M**

Markus Loewe et al., 'The impact of favoritism on the business climate in Jordan' (Bonn: German Development Institute/ Deutsches Institut Fur Entwicklungspolitik/DIE, 2007)

Mashal A, 'Corruption And Resource Allocation Distortion For ESCEWA Countries' (2004) 1 International Journal of Economics and Management Sciences

### **T**

Tanzi V and Davoodi H, 'Corruption, Public Investment, And Growth' (1997) 97 IMF Working Papers

Tanzi V, 'Corruption Around The World: Causes, Consequences, Scope, And Cures' (1998) 45 Staff Papers - International Monetary Fund

## U

UNODC, 'Conference of the States Parties To the United Nations Convention Against Corruption' (Implementation Review Group 2011)COSP/IRG/2011/CRP.12 CAC

UNODC, 'Conference of the State Parties To the United Nations Convention against Corruption' (Implementation Review Group 2012) COSP/IRG/2011/CRP.12 CAC

## W

Wei S. 'Corruption in Economic Development: Beneficial Grease, Minor Annoyance, or Major Obstacle'. (1999) World Bank Working Paper. [online] Available at: <http://www.nber.org/~wei>

## REPORTS

### A

Al-Tell R, 'Impact of Corruption on Economic Growth and Capital Formation 1998-2014: an Epirical Investigation for the Cases of Jordan, Egypt, and Morocco' ( MSC Economics thesis, University of Jordan 2015)

Azubuike Amaraegbu, Declan, (2008) 'Anti-corruption in Africa: the cases of Nigeria and Ghana, Durham theses, Durham University'. Available at Durham E-Theses Online: <http://etheses.dur.ac.uk/2517/>

### B

Badran A Steering the Regulatory State: The Rationale behind the Creation and Diffusion of Independent Regulatory Agencies in Liberalized Utility Sectors in the Developing Countries: Thoughts and Reflections on the Egyptian Case (nd) Available at [www.aston.ac.uk/EasySiteWeb/GatewayLink.aspx?allId=99763](http://www.aston.ac.uk/EasySiteWeb/GatewayLink.aspx?allId=99763)

## C

Constantine P, Howard W, Omar A, (2008) Short-term technical assistance for the Anti- Corruption Commission for the Hashemite Kingdom of Jordan, Berenschot: E.U

## D

Dr. Ayad Haroon Mohammed, “Effectiveness of the Arabic Criminal Laws in Combating Corruption” Jordan University, Sciences of Share’a and Law Magazine , Issue 43(4) 2016 Pg. (1739-1750)

## H

Hanouz M, El Diwany S & Yousef T. (2007) The Arab World Competitiveness Report 2007. Doha: World Economic Forum

Historical paper done by the Intelligence department in Jordan

## I

Idris, I. Economic Situation in Jordan (2016)

[https://assets.publishing.service.gov.uk/media/5b97f50ae5274a1391b13967/K4D\\_HDR\\_Economic\\_Situation\\_in\\_Jordan.pdf](https://assets.publishing.service.gov.uk/media/5b97f50ae5274a1391b13967/K4D_HDR_Economic_Situation_in_Jordan.pdf)

Interview Abu-Morad, Jan 29 2015

Interview Alarwani, Jan 28 2015

Interview Alassaf, Dec 22 2014

Interview Alrousan, Dec 18 2014

Interview Dardoor, Dec 21 2014

Interview Elqawaqzeh, Jan 15 2015

Interview Khassawneh, Jan 15 2015

Interview Ma'aitah, Jan 6 2015

Interview Nuzha, Jan 4 2015

Interview Okour, Feb 10 2015

Interview Sawallha, Dec 17 2014

Interview Tarawneh, Dec 20 2014

## **J**

JACC 'Annual Reports', available at:

<http://www.jacc.gov.jo/enus/knowledgebase/reportsandstatistics/reports/annualreports.aspx>

Jordan Anti- Corruption Commission, 2010. Annual report 2009-2010. [online]

Available at: <http://www.jacc.gov.go/annual2010/>



Jordan Anti- Corruption Commission, 2011. Annual report 2010- 2011. [online]  
Available at: <http://www.jacc.gov.go /annual2011/>

Jordan Anti- Corruption Commission, 2015. Annual reports 2008- 2013. [online]  
Available at: <http://www.jacc.gov.go>

## **K**

Kaplan R, 'World Development Report 1997: The State In A Changing World'  
[1997] Foreign Policy

## **O**

Omar S. Al-Okur, Mamdouh H. Al- Edwan and Maysa Baydoun, 'Ranking of International Treaty in National Legislations and the Constitution of Jordan' [2012]  
Islamic Science University, Al al-bayt University

## **R**

Ramzi Bin AL-Sedeeq, “The Role of Criminal Protection to the Integrity of the Public Office in Accordance with the Prevention and Anti-Corruption Law”  
(Master Degree- University of Warqalah, 2012/2013)

## **S**

Sakijha B, Report on Corruption in Jordan ( 2001)

## **T**

Thaipradita S, 'The Ethics of the Police In Investigation Of Criminal Case: The Case Study Of Che Rry- Ann Dancan!' (Masters, Political Science, Ramkamhang University, Bangkok 2004)

## WEBSITES

### A

‘A Brief MS Excel Tutorial’ Available at: <http://www.opengatesw.net/ms-excel-tutorials/What-is-Excel-Used-For.htm>

Abjorenson N Combating Corruption – Implications of the G20 Action Plan for the Asia-Pacific Region (Konrad Adenauer Stiftung, 2014) [http://www.kas.de/wf/doc/kas\\_40089-544-1-30.pdf?150107025755](http://www.kas.de/wf/doc/kas_40089-544-1-30.pdf?150107025755). Accessed 20 July 2015

Aauthorities.org, 'Anti-Corruption Commission | Anti-Corruption Authorities (Acas) Portal' (2014) <<http://www.aauthorities.org/country/jo> > accessed 23 December 2014

ACINET, ‘Monitoring and Evaluating the National Anti - Corruption Strategy’. Amman: Arab Anti-Corruption and Integrity Network (ACINET). [http://www.undp-aciac.org/publications/Final\\_Prog\\_Jordan\\_Training\\_NACS\\_11062014\\_EN.pdf](http://www.undp-aciac.org/publications/Final_Prog_Jordan_Training_NACS_11062014_EN.pdf) <accessed 9 December 2014

Al Hussein A, ‘Fifth Discussion Paper "Goals, Achievements and Conventions: Pillars for Deepening our Democratic Transition” ’ (2014) <<http://kingabdullah.jo/>> accessed 13 September 2014

Al-Khalidi S, 'Jordan sentences ex-spy chief to 13 years jail over graft' [2011] <<http://www.reuters.com/Article/2012/11/11/us-jordan-corruption-prison-idUSBRE8AA03520121111> > accessed 15 January 2013

Alqudah F, (2011) 'Amendments of Anti- Corruption Law between the Government and Parliament', Ammonnews.net, [online] available at: < <http://www.ammonnews.net/Article.aspx?Articleno=95604> > accessed 23 August 2011

Al Sharif O, 'Is Jordan's 'Arab Spring' over? - Al-Monitor: The Pulse of the Middle East' (2013)<<http://www.almonitor.com/pulse/originals/2013/09/jordan-arab-springover.html> > accessed 23 December 2014

Anti-Corruption and Integrity Network (ACINET) Available at: <http://www.arabacinet.org/index.php/en/>

Anti- Corruption Commission Law 2006, No (62) 'Amman and its amendment No (10) of 2012' online Available at:< <http://www.lob.gov.jo/ui/laws/index.jsp>> accessed 23 June 2014

Anti- Corruption Commission website < [www.jacc.gov.jo](http://www.jacc.gov.jo)> accessed 20 Jan 201

ArabStates.undp.org, 'Jordan Launches the National Anti-Corruption Strategy 2013-2017 United Nations Development Programme In The Arab States'(2013) <<http://www.arabStates.undp.org/content/rbas/en/home/presscenter/Articles/2013/06/30/jordan-launches-the-national-anti-corruption-strategy-2013-2017/> > accessed 23 December 2014

Audit Bureau of Jordan, 'General Information' <<http://www.audit-bureau.gov.jo> > accessed 24 December 2014

## **B**

Bankersacademy.com, 'Anti Money Laundering (AML) In Jordan - Banker's Academy' (2014) <<http://www.bankersacademy.com/resources/free-tutorials/323-aml-jordan>> accessed 23 December 2014

BBC, 'Jordan's Ex-Spy Chief Jailed for Corruption' (2012) <<http://www.bbc.com/news/world-middle-east-20286407>> accessed 11 November 2012

BBC News, (2011) 'Jordan's ex-spy chief jailed for corruption', [online] Available at: <<http://www.bbc.co.uk/news/world-middle-east-20286407> > accessed 11 November 2011

Blueprintforfreespeech.net, 'Jordan – Whistleblowing Protection, Overview  
Blueprint For Free Speech'  
(2014) <<https://blueprintforfreespeech.net/document/jordan-overview> > accessed 23 December 2014

Brahm A. Agrawal , 'International Law and Municipal Law'  
<<http://brahmavtar.com/enforcement-of-international-legal-obligations-in-a-national-jurisdiction.doc>

Browdie B, 'Where Bribery' [2014] <<http://qz.com/286323/where-bribery-works-charted/>> accessed 24 October 2014

Buckner E, 'Arab Universities Must Admit the Cost of Corruption' <<http://www.al-fanarmedia.org/2013/10/arab-universities-must-acknowledge-the-cost-of-corruption-2/> > accessed 9 October 2013

## C

'Central Bank of Jordan Law 1971, No. 23', Amman: [online] <available at: <http://www.cbj.gov.jo/pages.php>>

'Constitution of the Hashemite Kingdom of Jordan ' (Law 1952) <<http://www.refworld.org/docid/3ae6b53310.html>.> accessed 1 Jan

Cuvillier E, Almaroof S, 'A Jordan Ombudsman Bureau with enhanced capacity' (2015, World Bank)

<http://documents.worldbank.org/curated/en/2015/01/23803783/jordan-ombudsman-bureau-enhanced-capacity>> accessed 15 January 2011

## D

Dumludag D, 'How Does Corruption Affect Foreign Direct Investment In Developing Economies?' Talkin' Business Online Magazine' (2012)<<http://www.talkinbusiness.net/2012/09/how-does-corruption-affect-foreign-directinvestment-in-developing-economies/> > accessed 21 December 2014

## E

EGMONT, 'Membership' available at:

<http://www.egmontgroup.org/membership/list-of-members>

El Said H and McDonald F, 'Institutional Reform and Entry Mode by Foreign Firms: The Case of Jordan' (2002) <

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.9263&rep=rep1&type=pdf>> IMAD JIIDT Vol. 6, 2002

European Commission, 'Report from the Commission to the Council and the European Parliament EU Anti-Corruption Report' [2014] (COM, 2014, 38 final)<[http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr\\_2014\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf) > accessed 3 February 2014

## F

Fisnik Korenica, Dren Doli, 'The Relationship Between International Treaties and Domestic Law: A View from Albanian Constitutional Law and Practice Fisnik Korenica' [n.d.] 24 (Issue 1 Winter) Pace International Law Review <<http://digitalcommons.pace.edu/cgi/viewcontent.cgi?Article=1320&context=pilr>> accessed 24 October 2014

## G

GAN. Global Anti-Corruption Portal< [http:// www.anti-corruption.org](http://www.anti-corruption.org)> accessed 15 May 2014

GAN Integrity Solutions, 'Business Corruption in Jordan' (2014) <<http://www.business-anticorruption.com/country-profiles/middle-east-northafrica/jordan/snapshot.aspx>> accessed 21 December 2014

Governance Assessment Portal: Corruption assessments. [online] available at: <http://gaportal.org/areas-of-governance/corruption> <<http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/contribution.pdf>> accessed 5 April 2015

## H

Heritage.org, 'Jordan Economy: Population, GDP, Inflation, Business, Trade, FDI, Corruption' (2014) <<http://www.heritage.org/index/country/jordan>> accessed 21 December 2014

Husseini R, 'Jordanian Court Convicts Four in JPRC Bribery Case' (2010) <<http://www.downstreamtoday.com/news/Article.aspx?aid=23296>> accessed 7 July 2010

## I

International Chamber of Commerce, Transparency International, UN Global Compact, World Economic Forum, 'Clean Business is Good Business' (2009) <http://www.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>> accessed 15 October 2014

'International Law and Municipal Law ' ( Encyclopedia Britannica n.d.) < <https://www.britannica.com/topic/international-law/International-law-and-municipal-law>Intosaiitaudit.org, 'Mandates of the Supreme Audit Institution' (2014) <<http://intosaiitaudit.org/mandates/mandates/Mandates/Jordan.html> > accessed 23 December 2014

## J

Jacc.gov.jo, 'Anti-Corruption Commission Law' (2014) <<http://www.jacc.gov.jo/enus/knowledgebase/anticorruptioncommissionlaw.aspx> > accessed 21 December 2014

'Jordan legislations' available at:  
<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwejor.htm>

Jordan Ministry of Justice, 'Financial Disclosure Department' (2014) < <http://www.moj.gov.jo/Pages/viewpage.aspx?pageID=144>> accessed 15 February 2014

Jordanian Ombudsman Bureau, 'Strategic Plan' (2014) <[http://pdf.usaid.gov/pdf\\_docs/PA00JDDN.pdf](http://pdf.usaid.gov/pdf_docs/PA00JDDN.pdf)> accessed 23 December 2014

Jordanian Ombudsman Bureau, 'Strategic Plan'  
[http://pdf.usaid.gov/pdf\\_docs/PA00JDDN.pdf](http://pdf.usaid.gov/pdf_docs/PA00JDDN.pdf) accessed 15 January 2014

'Jordan' (Wikipedia, 2015) <<https://en.wikipedia.org/wiki/Jordan>> accessed December 21

## K

Kilani F, 'Towards Transparency in Jordan' [2001] (Jordan Press Foundation) Arab Archives Institution <<http://www.alarcheef.org/about.html> > accessed 15 April 2013

King Abdullah Official Website < <http://www.kingabdullah.Jo> > accessed 25 June 2013

Korenica F, Doli D, 'The Relationship Between International Treaties and Domestic Law: A View from Albanian Constitutional Law and Practice Fisnik Korenica' [n.d.] 24 (Issue 1 Winter 2012) Pace International Law Review <<http://digitalcommons.pace.edu/cgi/viewcontent.cgi?Article=1320&context=pilr> > accessed 24 October 2014

'Kuala Lumpur Statement on Anti-Corruption Strategies' (2013) <[http://www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala\\_Lumpur\\_Statement\\_on\\_Anti-Corruption\\_Strategies\\_Final\\_21-22\\_October\\_2013.pdf](http://www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala_Lumpur_Statement_on_Anti-Corruption_Strategies_Final_21-22_October_2013.pdf) > accessed 21 October 2013

## L

Landman, Todd 'Corruption and Human Rights: Empirical Relationships and Policy Advice'

((2007)[https://www.researchgate.net/publication/238790101\\_CORRUPTION\\_AND\\_HUMAN\\_RIGHTS\\_EMPIRICAL\\_RELATIONSHIPS\\_AND\\_POLICY\\_ADVICE](https://www.researchgate.net/publication/238790101_CORRUPTION_AND_HUMAN_RIGHTS_EMPIRICAL_RELATIONSHIPS_AND_POLICY_ADVICE) accessed Sep 14, 2017

Legislation <<http://www.pm.gov.jo/newspaper>> accessed

List of national legal systems <[https://en.wikipedia.org/wiki/List\\_of\\_national\\_legal\\_systems](https://en.wikipedia.org/wiki/List_of_national_legal_systems).> accessed



Lijphart A, 'Comparative Politics and the Comparative Method' [2011] Vol. 65 (No. 3 (Sep., 1971),) The American Political Science Review <<http://dcpis.upf.edu/~raimundo-viejo/docencia/girona/Lijhardt.pdf> > accessed 10 March 2011

## M

MACC Today Together Fight Corruption, 'UNODC Recognition MACC at Par Globally' [2015] 1 <[newsdata2.bernama.com/newsletter/sprm\\_vol1\\_2015/pdf/todayvol12015-ori.pdf](http://newsdata2.bernama.com/newsletter/sprm_vol1_2015/pdf/todayvol12015-ori.pdf)> accessed 2015

Mahafzah A, 'Al Jazeera Center For Studies - Reports - Jordan: The Difficult Path Towards Reform' (Studies.aljazeera.net, 2012) <<http://studies.aljazeera.net/en/reports/2012/12/2012121995612798705.htm> > accessed 23 December 2014

Moseley N, 'Corruption: A Debilitating Effect' <[https://web.stanford.edu/class/e297c/trade\\_environment/wheeling/hcorrup.html](https://web.stanford.edu/class/e297c/trade_environment/wheeling/hcorrup.html) > accessed 21 December 2014

Mungiu-Pippidi, 'The Quest for Good Governance: Learning from Virtuous Circles' [2016] 27 (v) Journal of Democracy 96 <<http://www.journalofdemocracy.org/sites/default/files/Mungiu-pippidi-27-1.pdf>> accessed 27 November

## O

Obaidat S, 'Corruption In Jordan: It is The Mechanisms, Not Manifestations, That Matter' <<http://www.arab-reform.net/corruption-jordan-it%E2%80%99smechanisms-not-manifestations-matter> > accessed 21 December 2014

## S

Shukkeir Y, 'Jordan | Giswatch' (Giswatch.org, 2012)

<<http://www.giswatch.org/en/countryreport/internet-and-corruption/jordan> > accessed 23 December 2014

SPSS Software 'Predictive analytics software and solutions' Available at: <http://www-01.ibm.com/software/analytics/spss/>

SPSS (Statistical Package for the Social Sciences) Available at: [http://www.datastep.com/SPSSTutorial\\_1.pdf](http://www.datastep.com/SPSSTutorial_1.pdf)

## T

The Bar Association of 1996 Vo (1), P (5) 'Court of Cassation (936/1993) ' [1996] 1 <<http://www.jba.org.jo/Library/Magazine.aspx>> accessed 13/11/1993

The Jordanian Ombudsman Bureau, 'General Information'

<[http://www.oicoa.org/downloads/profiles/Jordanian\\_Ombudsman\\_profile.pdf](http://www.oicoa.org/downloads/profiles/Jordanian_Ombudsman_profile.pdf) > accessed 24 December 2014

The Judicial Council, Court of Cassation (3965/2003) <<http://www.jc.jo/ejthadat> > accessed 29/2/2004

TI, CPI Available at: <http://www.transparency.org/whatwedo?gclid=CPKl-ZnUysUCFabHtAod7yIAGg>

TI, CPI Available at: <http://www.transparency.org/research/cpi/overview>

TI, 'Transparency International - News Feature - Jordan, South Africa and Tunisia Join the Movement'(2013)

<[http://www.transparency.org/news/feature/jordan\\_south\\_africa\\_and\\_tunisia\\_join\\_the\\_movement](http://www.transparency.org/news/feature/jordan_south_africa_and_tunisia_join_the_movement) > accessed 21 December 2014

TI. '2006 Corruption Perceptions Index reinforces link between poverty and corruption. Transparency.org. (2014)

<[http://www.transparency.org/news/pressrelease/20061105\\_2006\\_corruption\\_perceptions\\_index\\_reinforces\\_link\\_between\\_poverty](http://www.transparency.org/news/pressrelease/20061105_2006_corruption_perceptions_index_reinforces_link_between_poverty)> accessed 18 October 2014

## U

U4 Anti-Corruption Resource Centre, 'UNCAC in a Nutshell: a Quick Guide to the United Nations Convention against Corruption for Embassy and Donor Agency Staff' (2010) <http://www.u4.no/themes/uncac/main.cfm> September 2010:6 > accessed April 2013

U4 Anti- Corruption Resource Centre, 'The Basics of Anti-Corruption'(2014) <<http://www.u4.no/Articles/thebasics-of-anti-corruption/> >accessed 21 December 2014

United Nations Development Program, 'Fighting Corruption To Improve Governance In FYR Macedonia UNDP'(2014) <[http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects\\_and\\_initiatives/Fighting-corruption-improve-governance-FYROM/](http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/projects_and_initiatives/Fighting-corruption-improve-governance-FYROM/) > accessed 21 December 2014

UNDP. United Nations Development Programme < <http://www.undp.org> > accessed 20 April 2015

University of Utah Website [Online] Available at: <http://www.ipia.utah.edu>

UNODC. 2009, Conference of States Parties to the United Nations Convention against Corruption on its third session, [online] Available at: <http://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0988538e.pdf>

UNODC, (2012) 'Executive Summaries Jordan'. [online] Available at :< <http://www.unodc.org/unodc/en/treaties/CAC/index.html>>

UNODC, 'Jordan Experts' Available at:  
[https://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/Jordan\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/Jordan_E.pdf)

UNODC, Legislative guide for the implementation of the United Nations Convention against Corruption.(2006) UN, New York

UNODC, OMNIBUS Survey Software: Self –Assessment Checklists {Online}  
Available at <http://www.unodc.org/unodc/en/treaties/CAC/self-assessment.html>

UNODC, 'Signature'  
<http://www.unodc.org/unodc/en/treaties/CAC/signatories.html> accessed 20 April 2015

United Nations office on Drugs and Crime website [Online] Available at  
<http://www.unodc.org/unodc/en/corruption/index.html>

USAID. 'Anticorruption Strategy US AID'. (2005)  
<[http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/publications/pdfs/ac\\_strategy\\_final.pdf](http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/ac_strategy_final.pdf)> accessed 15 October 2014

U.S. Department of State, 'Bureau of Democracy, Human Rights, and Labor' (2007) Available at :< <http://www.State.gov/j/drl/rls/hrrpt/2007/100598.htm>> accessed 11 March 2008

U.S. Department of State, 'Jordan 2013 Investment Climate Statement - Jordan' (2013)<<http://www.State.gov/e/eb/rls/othr/ics/2013/204667.htm> > accessed 21 December 2014

U.S. Department of State, '2011 Investment Climate Statement- Jordan'  
<<http://www.State.gov/e/eb/rls/othr/ics/2011/157301.htm> > accessed March 2011

## W

WB. (1997)' Helping Countries Combat Corruption: The Role of the WorldBank' <<http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corruptn.pdf>>accessed 5 January 2014

Wex Legal Dictionary, (2015) <[https://www.law.cornell.edu/wex/criminal\\_law](https://www.law.cornell.edu/wex/criminal_law)> accessed 25 May 2015

Wikipedia, 'Audit Bureau of Jordan' (2014)  
<[http://en.wikipedia.org/wiki/Audit\\_Bureau\\_of\\_Jordan](http://en.wikipedia.org/wiki/Audit_Bureau_of_Jordan) >accessed 24 December 2014

Wikipedia, 'Egmont Group' (2014)<  
[https://en.wikipedia.org/wiki/Egmont\\_Group\\_of\\_Financial\\_Intelligence\\_Units](https://en.wikipedia.org/wiki/Egmont_Group_of_Financial_Intelligence_Units) >  
accessed 26 December 2014

Wikipedia, 'Jordan' (2015) < <https://en.wikipedia.org/wiki/Jordan> > accessed December 21

Wikipedia, Nepotism: <https://en.wikipedia.org/wiki/Nepotism>

World Economic Forum, 'The Arab World Competitiveness Report 2013'  
<[http://www3.weforum.org/docs/WEF\\_AWCR\\_Report\\_2013.pdf](http://www3.weforum.org/docs/WEF_AWCR_Report_2013.pdf)> accessed 5 January 2014

William Blackstone, 'Commentaries on the Laws of England'  
<<https://www.law.berkeley.edu/library/robbins/CommonLawCivilLawTraditions.html>> accessed Oxford, 1765-1769

## **UN DOCUMENTS**

### **A**

Argandoña A, 'The United Nations Convention against Corruption And Its Impact On International Companies.' [2012] SSRN Journal

### **H**

[https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_3-5.pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_3-5.pdf)

### **M**

Meagher P, 'Evaluation of UNDP Support to the Jordan Anti- Corruption Commission: Final Report (2012)

### **N**

UNDP (2010) Guidance Note, UNCAC Self- Assessments: Going beyond the Minimum. Keen Media

### **U**

UNODC, Technical guide to the United Nations Convention against Corruption. (2009) UN, New York

UNODC (2004) The Global Programme against Corruption: UN Anti- Corruption Toolkit: 3rd Vienna

UNODC, 'Working Group' Available at:  
<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/Implementati onReviewGroup/18-22June2012/V1187236a.pdf>