

OBJECTIVES

The objectives of this report are to-

1. Conduct self-assessment to understand the reality with the purpose of improvement. This assessment will be conducted in light of legal and economic developments at the regional and international levels and of the impact of these developments on Jordan.
2. Stimulate thoughts in the judicial and public prosecution institutions about the state of affairs of the public prosecution (or *niaba*); an issue which hardly was addressed in a manner commensurate with the importance of its role in protecting the community from crime and spreading security and stability.
3. The report calls on the decision-makers in the legislative and executive authorities to understand the state of affairs of the *niaba* apparatus and, thus, open a window for change and improvement.
4. Provide clear and well-organized facts not to articulate points of agreement and disagreement but, rather, to improve understanding of the prevailing problems. This will pave the way to develop solutions for these problems and provide an opportunity to benefit from the international experience in this field. The acquired experience will help both in the organization and computerization of the *niaba*'s activity.
5. Provide a clear image of the state of affairs of *niaba* and express the serious political will to improve this institution in accordance with the international state-of-the-art techniques. This objective has already been placed on the scale of priorities of His Majesty, the King, the government, and the Judicial Council. The project will be submitted to the donors and supporting institutions for adoption and funding.

1. CONSTITUTIONAL AND LEGAL STRUCTURE

- Jordan is a constitutional kingdom called “the Hashemite Kingdom of Jordan” with its capital in Amman. In 1921, the Emirate of Eastern Jordan was established and on 25 May 1946 was declared independent from Britain. In January 1952, the country’s first Constitution was adopted and on 14 December 1955, Jordan joined the United Nations Organization.
- The Kingdom of Jordan consists of 12 governorates (or provinces); Amman, Erbed, Zarqa’, Balqa’, Alkark, Agloun, Al-Aqaba, Almafraq, Altufaila, Garsh, Ma’an, and Madaba.
- The King is the head of the State. He is accountable to no one. He approves and promulgates the laws and commands the armed services. His Majesty, King Abdulla, junior, Bin Alhussein became king on 7 February 1999. The system of government in Jordan is parliamentary with a hereditary monarchy. The people are the source of powers.
- The legislative power is vested in the National Assembly (the parliament) and the King. The National Assembly consists of the Senate and the Chamber of Deputies. The Senate consists of 40 Senators appointed by the king for a term of 4 years. The Chamber of Deputies consists of 104 representatives elected by the people for a term of 4 years. Quotas are allocated to religious and ethnic minorities: Christians, *Circassian* (of Turkish origin), Bedouins, *Chechnians* and women. General elections were conducted in June 2003 and municipal elections were held in July 2003.
- The executive power is vested in the King. The King exercises the executive authority with the aid of a council of ministers in accordance with the Constitution. King Abdulla appointed a new prime minister and a new cabinet in October 2003. In a precedent, the first of its type in Jordan’s history, three female ministers were appointed in the cabinet. The cabinet declared that they placed among their priorities the judicial improvement and accelerated economic and political reforms. The Prime Minister and the Council of Ministers assume responsibility for managing all the country’s internal and external affairs and are accountable to the Chamber of Deputies.
- The government and non-government organizations in Jordan have developed several successful initiatives to promote the woman’s role in the community. The United Nations Organization recognized two initiatives; the Jordanian Women Association and the Family Protection Project.
- The judicial power is exercised by the courts of different kinds and classes. There are 3 kinds of courts: religious, civil (or *nizameya*) and special. The religious courts are divided into Shari’a courts for Muslims and ecclesiastical courts for the other communities. The civil (or *nizameya*) courts have 3 levels. At the apex of the judicial system stands the Court of Cassation. In the middles stand the Courts of Appeal. At the bottom stand the *primary* courts (the Courts of First Instance and the Magistrates Courts).
- Women participate in the judicial system and in the parliament. There are many prestigious women lawyers who voluntarily defend the women’s interests. A royal committee, formed to improve the judicial institutions in 2001 -2003, recommended that the number of judges should be doubled; the salaries be increased; the judiciary-related legislation be amended; and new courts be established. As a result, the number of female judges increased to 19 women judges.
- The National Charter, formulated in 1989 by a committee which represented the civil society associations in Jordan, provides for the establishment of non-government organizations and draws up guidelines for the activities of the political parties. The Charter stresses the State’s commitment to the rule of law and political pluralism.

- The Constitutions system in the Kingdom adopts the principle of separation of the three powers. The Judicial is one of these powers. Judges are independent, and in the exercise of their judicial functions, they are governed only by the authority of law. The judicial power is governed by articles 21 and 97 to 110 of the Jordanian Constitution of 1952. The creation of the courts (with their kinds, classes, sections, responsibilities, and way of management) is regulated by a special Act (Art. 100).
- There are 2 kinds of criminal courts; ordinary (or *nizameya*) courts and special courts. The *nizameya* courts have jurisdiction to hear felonies, misdemeanors, and infractions at three levels. At the first level stand the Magistrate Courts, the Courts of First Instance, and the criminal courts. At the second level stand the Appellate Courts of First Instance and the Courts of Appeal. At the apex stands the Court of Cassation. Special criminal courts consist of the following:
 - Grand Criminal Court.
 - Police Court.
 - Juvenile Court.
 - Martial courts.
 - The High Council for Trial of Ministers
 - State's Security Court.
 - Customs courts.
 - State's Property Maintenance Court.

The Special Courts have jurisdiction at one level with the exception of the customs courts which have 2 levels of litigation.

- The Political Parties Act 1992 regulates the framework within which the political parties compete. The Associations and Social Organizations Act 1996 prohibits employing associations for the benefit of any partisan organization.
- About 13 trade unions play an active role in the Jordanian policy. The chairpersons of these trade unions exercise significant political lobbies in the country.
- Criminal judgments are challenged in various ways:
 - a. Ordinary way of challenge of judgments:
 1. *Opposition*. Judgments delivered on misdemeanors and infractions are challenged by way of opposition.
 2. *Appeal*. All judgments of the courts of first degree are challenged by way of appeal. These courts are the Magistrates Courts, the primary courts (courts of first instance and criminal courts) and Customs Courts of First Instance.
 3. *Cassation*. Judgments delivered on criminal cases and decisions preventing trials issued by the Public Prosecutor on criminal cases are challenged by way of cassation.
 - b. Special ways of challenge:
 1. Cassation for the interest of law.
 2. Retrial order.
- According to the Judiciary Independence Act 2001, the Judicial Council consists of the President of the Court of Cassation (Chairman), the Chief Judge of High Court of Justice (Deputy Chairman), and the following members: Chief Prosecutor at the Court of Cassation, the most senior two judges in the Court of Cassation, the chiefs of the courts

of cassation, the most senior inspector of the *nizameya* courts, the General Secretary of the Ministry of Justice, and the chief judge of Amman Court of First Instance.

- The Ministry of Justice consists of:
 - Inspection Department.
 - Department for planning, studies, and development.
 - Financial Affairs Department.
 - Administrative Affairs Department.
 - Technical Office Department.
 - Judicial Institute Department.
- According to Art. 274 of Criminal Procedure Code, judgments may be challenged for the following reasons:
 1. Violation of the procedures required by the law, otherwise judgments will be invalid.
 2. Violation of the other procedures if a litigant requests compliance with them and the court fails to do so or the violation is not corrected in the trial before a higher court.
 3. Violation of the law or errors in its application or interpretation.
 4. Violation of the rules of jurisdiction or in case of *ultra vires* (an act performed without any authority).
 5. Omission to decide a demand or go beyond a litigant's requested demands.
 6. The delivery of two conflicting judgments on one fact.
 7. Absence of binding or insufficient reasons in the judgment or vagueness of these reasons.
- In crimes punishable by death, life hard labor, or life detention, the chief judge of the criminal court must bring the defendant and ask him whether he has appointed a lawyer to defend his case. If the defendant did not appoint a lawyer and his financial position does not permit him to do so, the chief judge or the deputy chief judge appoints a lawyer for the defendant (Art. 208, Criminal Procedure Code).
- A court action is referred to the Criminal Court by the following ways:
 - Indictment issued from the Public Prosecutor or acting public prosecutor.
 - Appointing competent authority.
 - Transfer of action.
- There are 2 kinds of criminal trials:
 - Trial in presence of defendant, which is very common.
 - Trial in absence of defendant, which is an exception.
- A court action is referred to the court of first instance in primary misdemeanors by the following ways:
 - Indictment by the public prosecution.
 - Appointing competent authority.
 - Transfer of action.

Trials are held in presence of defendant, in absence of defendant, or in semi-presence of defendant.

- A court action is referred to Magistrates Court by the following ways:
 - Direct action: from the public prosecution or the injured person.
 - A complaint by the claimant (Art. 37, Magistrate Court Act).
 - Indictment by the public prosecution.
 - Appointing a reference.

- Transfer of action.

Trials are held in presence of defendant, in absentia, or semi-presence of defendant.

2. THE STATE OF AFFAIRS OF *NIABA* (PUBLIC PROSECUTION) IN JORDAN:

2-1 Functions and responsibilities

- The *niaba* members are governed by the hierarchical principle of authority. In their activities and demands, they must comply with the written orders issued to them from their superiors or the Minister of Justice (Art. 1, Criminal Procedure Code “CPC”). All *niaba* members at the first instance and appeal courts are subordinated to the Public Prosecutor. They have to implement his orders and the orders of the Minister of Justice in respect of their administrative affairs and in initiating and following-up the case. At all their levels, they are subordinated to the Chief Prosecutor and are linked to Minister of Justice within the context of the hierarchy of their levels (Art. 17, *Nizameya* (civil) Courts Formation Act).
- According to the hierarchy of the *niaba* system, at the top of the system stands the Chief Prosecutor at the Court of Cassation and his assistants. At the lower level stand general attorneys and assistant general attorneys in Amman, Erbed, and Ma’an and in Grand Criminal Courts. At the first echelon stand the prosecutors.
- A prosecutor, voluntarily or upon an order from the Minister of Justice or his seniors, prosecutes crimes which come to his knowledge (Act 23, CPC). The case files are assigned to prosecutors through a register called “Basic (*Al-Asas*) Register” according the date when the case is received. Assistant Public Prosecutor or Chief Prosecutor distributes the case after it is registered in the Basic Register.
- The Chief Prosecutor at the Court of Cassation pleads the criminal case brought before that court. He monitors the progress of work on the criminal cases handled by the General Prosecutors at the courts of appeal and their assistants and the prosecutors. The Chief Prosecutor may notify by letters or general circulations those about his remarks which he concludes from the above-said cases. They are also subordinated to him in all the other judicial activities.
- The Public Prosecutor heads and supervises the activities of the *niaba* members; i.e. his assistants and the prosecutors. The *niaba* members comply with the written orders of their superiors in all their activities and written demands. But once the court action is initiated, this compliance ceases in their verbal pleadings, demands, and submissions, which they make while they prosecute the case before the courts. At this phase, they may act against the orders of their superiors. This means that the *niaba* member prosecutes the case in accordance with his own conscience and honor. He is considered a public just and honest opponent who is mainly interested in protecting the innocent as much as he is interested in the protection of the public interest and caring for the State’s interest by punishing the perpetrator of the crime. Thus, the Public Prosecutor seeks the truth whether in favor of the victim or the defendant.
- The Chief Prosecutor and the Public Prosecutor issue, within the limits of their mandate, written instructions concerning the application of the laws and the regulations. They also give verbal instructions in their meetings with the prosecutors.
- The specialized Public Prosecution institutions consist of:
 - 1- The Grand Criminal Court Public Prosecution. It is subordinate to the Chief of Public Prosecution.

- 2- Police Court Prosecution. Prosecutors are appointed by the Public Security director or his deputy.
 - 3- Military Public Prosecution. Prosecutors are appointed by the Armed Forces Joint Chief of Staff.
 - 4- Customs Public Prosecution. Prosecutors are appointed by the Minister of Finance.
 - 5- State Security Prosecution. Prosecutors are appointed by the Joint Chief of Staff.
- The role of the Public Prosecutor starts prior to the phase of the court hearing. His functions include finding out evidence, initiate action, investigation and indictment. The Public Prosecution (Niaba) is a component of the judiciary. It acts on behalf of and represents the community, so it is solely responsible of initiating criminal action either by itself, by deputizing judicial police or by summoning the defendant before the assigned court. In criminal cases the Public Prosecution initiates criminal action and monitors its progress before courts till an absolute judgment is passed. With regard to civil cases the civil public attorney handles them.
 - The prosecutor acts as judicial police in prosecuting crime according to legal controls, principles and rules governing the prosecution process . If the prosecutor finds out that the complaint submitted to him by the victim is groundless prima facie, he may suspend it provided not to take up any judicial investigation procedure. If he takes up this procedure, court action will be considered initiated according to the law. The Prosecutor must take the decision to complete the investigation. The Public Prosecution is obliged to initiate action in two cases:
 - 1- If the claimant, on his own, files a claim before the court according to the conditions of Art. 2/2, CPC.
 - 2- If the prosecutor receives a written order from his seniors or the Minister of Justice (Art. 26, CPC).
 - The Public Prosecution decisions are subject to ways of challenge before courts in the following cases:
 - The prosecutor's decision to resolve a request for release in Misdemeanors. It is subject to challenge by the Public Prosecutor before the primary court (court of first instance) in its appellate capacity within 3 days of the date of his receiving the document for review. With regard to the defendant the challenge must be presented at the date of notification (Art. 124 , CPC).
 - The decision relative to rebuttal for incompetence, rejection of proceeding in the case, or the deed is not punishable that which is presented by the defendant during investigation. The prosecutor, after hearing from the claimant must decide upon the rebuttal within one week of the date of submission. The Prosecutor's decision in this regard is subject to appeal to the Public Prosecutor within two days of the date of the defendant's report. This request does not suspend investigation (Art.67 , CPC).
 - The decision to suspend trial in criminal cases is subject to challenge by cassation.
 - Prosecutors initiate court action before courts. They assume the role of the claimant, submit to the court prosecution evidence, requests and pleadings. The prosecutor presents any requests he deemed necessary to the court in behalf of the law. The court must enter his requests in the trial's proceedings and take action on them(Art. 205 , CPC). During the hearing the prosecutor must abide by the court action as included in the indictment statement. He must not claim deeds on the defendants not included in the text of the indictment. He shall not include persons not listed in the indictment statement (Art. 202 , CPC). Hence the prosecutor is mainly concerned with reaching the truth whether it is in favor or against the defendant.

- The prosecutor or his deputy executes the criminal judgment of imprisonment at the court that delivered the verdict (Art.353/1 , CPC). When a judgment is passed leveling a fine on the convict, the prosecutor obliges him to pay it in the government's treasury. If the convict fails to pay the fine he shall be imprisoned one day in return of each two Dinars or their fractions of the fine provided that the term of imprisonment in this case shall not exceed one year.
- Primary investigation on crimes is compulsory. The prosecutor in his capacity as investigator handles the court action in the following ways:
 - Voluntarily: Since he combines the two functions of the prosecution, the prosecutor must conduct primary investigation on crimes that either come to his knowledge, by the victim's complaint or action by the judicial police on order of one of their seniors or the Minister of Justice.
 - Personal claim filed by the injured provided that the claim is having formal and objective conditions. It obliges the Prosecutor to handle the case for public right and private right.
 - Referring the case to him by way of appointing a reference according to Art. 322 and the following article , CPC. Referring the case to him by way of transfer of action according to Art. 328 and the following article of the same code.
- After the prosecutor completes investigation in the crimes he takes one of the following decisions:
 - Withhold trial: When the prosecutor investigating the case finds out that the action does not constitute a crime or that there is no evidence that the defendant is the one who has committed the crime. He must send the case's file to the Public Prosecutor immediately.
 - Drop the court action: If the prosecutor investigating the case finds that the crime has been dropped on account of one of the dropping reasons. He must send the case's file to the Public Prosecutor immediately.
 - A trial must take place for crime: If the prosecutor investigating the case finds out that the action constitutes a crime and that the evidence are sufficient to refer the defendant to the court. He must then send the case's file to the Public Prosecutor.
- When the Public Prosecutor reviews the above three decisions he enforces the following procedures:
 - If he finds out that the decision is apropos he approves it and the decision becomes final. An indictment for crime is then issued when the Public Prosecutor finds out that the prosecutor's decision to refer the case to the court for crime is appropriate.
 - If the Public Prosecutor finds out that the prosecutor's decision is inappropriate, he decides to repeal it and issues another decision himself.
 - If the Public Prosecutor finds out that there must be additional investigation in the case, he orders the return of the action file to the prosecutor to correct the deficiencies.
 - Issue a decision referring the case to the court for misdemeanor or infraction; and refer the case's file directly to the assigned court for trial of the defendant.
 - Decision on incompetence.
 - Decision not to initiate action in case of permanent or temporary restriction.

- Decision to hold the documents: If the Public Prosecutor finds out that the accident has occurred by force majeure or the one who committed the crime is anonymous.
- Conduct investigation on misdemeanors referred to the primary court in its capacity as a court of first instance formed from an individual judge. The prosecutor handles the case in the same ways referred to in criminal cases.

2-2 Criteria for appointment, promotion, transfer and privileges

- 2-2-1 Members of the *niaba* are considered judges. The Judiciary Independence Code covers their affairs with regard to their appointment, duties, promotion, transfer, detailing, resignation, procedures of trial and discipline.
- 2-2-2 *niaba* judges are selected by recommendation of the Minister of Justice and a decision from the Judicial Council. Judicial formations are issued by a royal decree. Appointments are initiated by written and oral examinations or by a decision of the Judicial Council to appoint experienced attorneys after passing written and oral examinations or interviews.
- 2-2-3 *niaba* new members are appointed by recommendations of the Minister of Justice and a decision of the Judicial Council. Judicial formations are issued by a royal decree. The law allows the possibility of transferring a Chief Prosecutor from one court to another court.
- 2-2-4 Transfers of the *niaba* judges take place whenever necessary by a decision from the Judicial Council- the competent authority of the judicial formations. It also decides on their promotions and retirement of the chief prosecutors. The Ministry of Justice is the competent authority for administrative affairs and budget administration of the *niaba*.
- 2-2-5 Promotion of Public Prosecution members from a level to a higher level is executed in accordance with the evaluations of the Judicial Council and according to the inspectors' reports on them and their work, taking consideration of the punitive measures they may have received. Promotion decision must be accompanied by a royal decree.
- 2-2-6 Those empowered to implement discipline and punitive measures against prosecutors
- 2-2-7 The Chief of the Judicial Council on his own or according to notification from the responsible chief judge.
 - The right to send a written notice to the judge:
 - The Disciplinary Council.
 - The Judicial Council.
 - Decisions issued by the Disciplinary Council are subject to challenge at the Supreme Court of Justice.
 - Disciplinary punishments that can be imposed on the Public Prosecutor:
 - a- Notice.
 - b- Reprimand.
 - c- Deduction from the salary.
 - d- Demotion.
 - e- Removal from office.
 - f- Dismissal.

- 2-2-8 *niaba* members are required to attend primary training at courts during their study at the Judicial Institute, then they will be scaled up in service. They also receive on-job- training.
- 2-2-9 *niaba* members enjoy judicial immunity. The Judiciary Independence Code regulates cases of disciplinary measures for them. They may not be dismissed, displaced or demoted unless by a decision from the Judicial Council and a royal decree. They are not subject to any legitimate or illegitimate orders from the general authority (the government).
- 2-2-10 The Public Prosecutor should enjoy the following characteristics: neutrality, caution, secrecy, integrity, straightforwardness, impartiality, obedience, not to have more than one job and to declare his wealth. However there is no inspection on his income.
- 2-3 Relationship of the Public Prosecution with local and international administrations.
- 2-3-1 All members of the *niaba* enjoy complete independence from parliament. Parliament may not issue instructions to them. Neither the Public Prosecution is accountable to the house of representative. Political responsibility before parliament goes solely to the Minister of Justice. There are no means and methods of parliamentary checks on the work of the Public Prosecution. There is no need either to obligate the public Prosecutor to report his work to parliament regularly. The Public Prosecutor does not participate in drafting laws. However, he it is possible that he participates in preparing and proposing some draft laws that have relation to his work. Neither he is consulted when drafting the legal text. He is not summoned to parliament to give his opinion and his comments on laws relative to regulating the work of the Public Prosecution. However, there is nothing to prevent taking his advice and opinion.
- 2-3-2 There is a separation between the job of prosecution and primary Investigation from the one hand and judicial judgment from the other.
- 2-3-3 The *niaba* member undertakes the role of the claimant in the court action. He also undertakes the procedures of initiating court action before courts. He submits to the court in the name of the law whatever requests he deemed necessary. The court must enter his requests in the court's minutes and decide upon them. The court may take the advice of the *niaba* in many cases but it is not binding.
- 2-3-4 The Public Prosecutor has no particular system as he belongs to the judiciary body and there is no differentiations between the court judges system and the Public Prosecutor's system with regard to rights, terms of appointment and promotion. The Public Prosecutor can be a judge and vice versa.
- 2-3-5 There is not any hierarchal relation between the Public Prosecutor and the officials in the state, the central Administration, officials in the local government or any other authority other than the Minister of Justice alone.
- 2-3-6 Members of the Judicial police are accountable to their seniors from administrative aspect. However the Public Prosecutor is the chief of the judicial police in his area of domain. They are subject to his supervision with regard to their duties relative to the judicial police function. (Art.15 , CPC.)

- 2-3-7 If members of the judicial police fail to perform their duties properly, the Public prosecutor draws their attention to it. He may propose to the competent authority whatever discipline arrangements against them he deems necessary. (Art 22 of the Criminal Procedures Code)
- 2-3-8 The Public Prosecutor can have the assistance of experts and specialists whether they are registered at the Ministry of Justice or forensic doctors.
- 2-3-9 The Public Prosecutor has no role with regard to relations with the departments empowered to follow up some cases (for example: Intellectual Property Registration Bureau). He has no coordinating role in the protection against crime or fighting certain types of crimes.
- 2-3-10 *niaba* members supervise prisons and custody buildings. They inspect them to ensure that there is no one imprisoned or put into custody illegally. They have the right to check the registers of the correction centers, custody and imprisonment orders and make contact with any one in prison and hear his complaint (Art.16/1, 106, 107 and 108 , CPC). Once the *niaba* member knows that there is someone who is in custody or in prison illegally or in a place not assigned for custody he must move immediately to the place where that person is detained, conduct an investigation and order the release of that person. He must then file a report on the case. If he neglects the above he would be considered a partner in detaining that person and would be prosecuted for it.
- 2-3-11 The Public Prosecution institutions may communicate with each other and between them and the police stations through the normal means of communication such as letters via the post, faxes and the telephone. There is no centralization of information.
- 2-3-12 There are no responsibilities for the Public Prosecutor with regard to institutions taking care of child, family, juvenile. Under age and disqualified persons protection. These institutions are affiliated to the Ministry of Social Development. The Juvenile Court judge visits these institutions at least every 3 months.
- 2-3-13 Psycho-therapy institutions are affiliated to the Ministry of Health. The Public Prosecution has a role in them during investigation. When it believes that the defendant suffers from a psychological illness or a mental handicap it orders him to be put under the necessary medical supervision in order to ensure his psychological and mental safety (Art. 233 , CPC). The Public Prosecution supervises the implementation of judgments or decisions issued by courts or *niaba* for custody in these institutions.
- 2-3-14 There is no specialized Public Prosecutor at commercial courts,.
- 2-3-15 There are no role and functions for the Public Prosecutor in civil commercial disputes.. i.e. illegal contracts or competition, unless the deed constitutes a crime. Then the Public Prosecution intervenes by initiating a court action.
- 2-3-16 The Public Prosecution may initiate a court action for public right in fraudulent bankruptcy.
- 2-3-17 There is no role for the Public Prosecutor in supervising economic activities or business of nationals and/or foreigners.
- 2-3-18 There is no role for the Prosecutor with regard to administering and supervision of trade registration.

- 2-3-19 There is no role for the Public Prosecution in the work of administrative courts. Art. 5 of the Supreme Court of Justice provides the establishment at that court of a presidency for the administrative public prosecution. It is formed of a chief public prosecutor at the rank of a judge at the court of cassation, an assistant or more. The chief of the Administrative Public Prosecution or any of his delegated assistants may authorize by written warrant persons from the general department at the Supreme Court of Justice to represent him in court action whether they are plaintiffs or defendants in all its procedures till the final phase.
- 2-3-20 The Public Prosecutor has no authority for initiating court action or representing the state in administrative cases and he has no power too in supervising the work of the government departments.
- 2-3-21 There is no role for the Public Prosecution with regard to watching over foreigners, making arrangements for expatriation. He has no role either in running and watching over illegal foreigners(have no residence permits) custody centers or transit centers.
- 2-3-22 There is no role for the Public Prosecutor in implementing requests for exchange and cooperation issued from external authorities.
- 2-3-23
- 2-3-24 The Public Prosecutor has the powers to request the implementation of decisions on extradition of criminals.
- 2-3-25 The Public Prosecution has no power to transfer judicial proceedings abroad.
- 2-3-26 There are no specialized Public Prosecutors in the area of international cooperation.
- 2-3-27 The Public Prosecutor does not participate in courts' administration.
- 2-3-28 There is no authority for the Public Prosecutor regarding running and supervising the work of: judicial assistants, the notary public, lawyers, sworn-in translators.
- 2-3-29 There is no power for the Public prosecutor with regard to supervising educational institutes, night clubs, casinos and theatres.
- 2-3-30 There is no role for the Public Prosecutor with regard to victims.
- 2-3-31 There are no data banks on crimes and criminals.
- 2-3-32 There are no agencies which conduct statistics on crimes, criminals, and prisoners.
- 2-3-33 Jordan is a party to several Arab and international judicial agreements. These include:
1. Agreement for legal and judicial cooperation between Jordan and Algeria, 2001.
 2. Agreement for judicial cooperation between Jordan and Yemen, 2001.
 3. Agreement for cooperation on justice administration between

Jordan and Tunisia, 2001.

4. Agreement for judicial cooperation between Jordan and United Arab Emirates, 1999.
5. Agreement on extradition of prisoners between Jordan and Cyprus, 1998.
6. Agreement for legal and judicial cooperation between Jordan and Qatar, 1997.
7. Agreement for judicial cooperation between Jordan and the Gulf Cooperation Council countries, 1989.
8. Agreement for judicial cooperation between Jordan and Egypt, 1987.
9. Arab Riyad Agreement for judicial cooperation, 1983.
10. Agreement for judicial relationships between Turkey and Jordan, 1972.
11. Agreement for judicial cooperation between Jordan and Tunisia, 1965.
12. Agreement for judicial cooperation between Jordan and Lebanon, 1954.
13. Agreement for judicial cooperation between Jordan and Syria, 1953.
14. Agreement for service of notice and judicial delegations, 1952.
15. Geneva Convention for the Protection of War Victims.
16. The Universal Declaration of Human Rights.
17. Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment.
18. Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity.
19. Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes against Humanity.

2-4 Regulation and methods of administrative work

- 2-4-1 A prosecutor has the right to issue summons for coming, bringing, arrest, and release in case of misdemeanors. After taking all the necessary investigative action to reach the truth, the prosecutor instructs action on investigation as above said.
- 2-4-2 The police and law enforcement officers may not arrest a suspect but may issue a warrant of arrest of a person against whom a complaint is filed and restrict his freedom for a maximum of 24 hours.
- 2-4-3 A prosecutor in the misdemeanors punishable by no more than 2 years in jail

and in felonies punishable by a temporary criminal penalty (temporary hard labor or temporary detention) may issue a warrant of arrest for no more than 15 days. This period may be renewed, where the investigation interest so requires, but renewal period must not exceed six months in case of felonies and two months in case of misdemeanors after which the complained person is released. If the investigation interest requires that the complained person remain arrested after the end of the periods mentioned above, the prosecutor shall refer the case file to competent court to hear the case.

- 2-4-4 The court, after listening to the prosecutor's pleading and the statement of complained person or his attorney and reviewing the investigation papers, decide to extend the arrest period for no more than one month each time. But, the total of extended periods in no event should exceed two months, in case of misdemeanors, otherwise the court shall order the release of the arrested person with or without bail.
- 2-4-4 In case of felonies punishable in law by capital punishment or life hard labor or life imprisonment, a prosecutor - after questioning the complained person and gathering the substantiating evidence - issues a warrant of arrest for 15 days for similar periods to complete the investigation. The complained person may not be released while investigation is underway but the court may do so after the case is referred to it.
- 2-4-5 The arrested person must be notified in writing by the reasons of arrest (Art. 100 of Criminal Procedure Code). Where the complained person is arrested, the law enforcement officer shall make out a special report signed by him and report it to the complained person or his attorney, if any, otherwise the arrest is deemed invalid. The report must indicate the officer who issued and enforced the warrant of arrest; the name of the complained person; the date, place, and reasons of arrest.
- 2-4-6 A reprimand order must be grounded, as a prosecutor's warrant of arrest must be preceded by an interrogation of the complained person, the presence of substantiating evidence, and the reasons for such warrant. All these details must be mentioned in the investigation report.
- 2-4-7 An accused or suspect may be questioned only in the presence of his lawyer. By way of exception, such questioning may be conducted if the complained person refuses to appoint as his attorney at law a lawyer or the lawyer does not appear within 24 hours (Art. 63, CPC).
- 2-4-8 In no event the appointment of a lawyer of the complained person is mandatory at the phase of investigation.
- 2-4-9 A law enforcement officer may not interrogate a suspect but may only question him and listen to his statements in the absence of a lawyer.
- 2-4-10 In case of urgency, a prosecutor may for fear of loss of evidence by grounded decision question the complained person about the charge filed against him before his lawyer is notified to attend but the lawyer after that must be given access to his client's statements (Art. 63, CPC).
- 2-4-11 Where a complained person appoints a lawyer, the complained person may not be interrogated in the absence of his lawyer.
- 2-4-12 Where a complained person makes a statement, the secretary must record his statement and reads it out to him. The complained person must sign his written statement or affix his hand onto it. The secretary must establish that in the report and indicate reasons for failure by the complained person to sign

his statement. Both the prosecutor and the secretary must sign on the statement. Failure by the prosecutor to comply with the provisions of paragraphs 1, 2, and 3 of Art. 63 of the CPC gives rise to the invalidity of the statement made by the complained person.

2-4-13 Interrogation is a procedure of initial investigation conducted only by the prosecutor. It may not be taken by law enforcement officers or even by the trial courts. Questioning and hearing statements, however, may be conducted at any phase. Interrogation steps are as follows:

1. A charge is filed against the complained person.
2. The complained person is asked to give an answer to the charge.
3. The complained person's answer is discussed in detail.
4. He is then confronted by the evidence against him and is questioned in detail about such evidence.
5. He is brought face to face with the other complained persons.

2-4-14 There are no provisions which determine the procedures for interrogation. Questions are addressed directly. Misleading and influencing methods are not permitted. Failure to comply with the procedures for interrogation and investigation render the interrogation and the statement given by the complained person invalid. If the prosecutor commits a behavioral mistake, he is accountable and may be subject to an administrative punishment. There is deemed a mistake giving rise to accountability punishable by administrative punishment a breach of the job's duties and every act against honor, dignity, morality, or delay in deciding cases.

A court action for invalidity may not be filed independently. An exception of invalidity of procedures may be raised before the investigator, the trial court, and the court of Cassation (Art. 274, CPC). Where the case is related to the public policy, such exception may be raised at any phase of the case. The court may give a ruling to this effect even without being so requested. Invalidity no longer exists if the person in whose favor invalidity is decided waives expressly or implicitly that right except where invalidity is related to the public policy (Art. 7, CPC).

2-4-15 Failure to respect the defendant's guarantees invalidates the case procedures and effects (Art. 63, CPC).

2-4-16 Appearance of the lawyer before the court during the interrogation of witnesses by the prosecutor is not mandatory (Art. 64, CPC). However, all opponents and their attorneys are entitled to attend all the investigation procedures except when witnesses give their testimonies.

2-4-17 The right of a defendant/arrested is subject to a prior approval at times appointed by the prison's management. The prisoner is met among a group. The prison's management may permit a meeting with the prisoner individually. A lawyer may meet the arrested defendant freely without surveillance (Art. 66, CPC).

2-4-18 During investigation, an arrested person's wrist must not be shackled. The correspondence of the remanded persons are monitored. The remanded persons' conversations must not be eavesdropped.

2-4-19 Investigating misdemeanors and infractions lying within the jurisdiction of the Magistrates Court are not mandatory. A prosecutor has the choice to conduct investigation or refer the file to the Magistrates Court without conducting the investigation.

- 2-4-20 A complained person, a person in charge of property, and the personal claimant and their attorneys are entitled to attend all investigation procedures except hearing the witnesses.
- 2-4-21 When a complained person appears before the prosecutor, the prosecutor shall verify his identity, reads out to him the charge filed against him, and asks him to answer. The prosecutor shall indicate that the complained person is entitled not to speak except in the presence of a lawyer. This procedure must be entered into the investigation report. If the complained person refuses to appoint an attorney or his attorney failed to appear within 24 hours, investigation is conducted without the attorney. In case of urgency, a prosecutor may for fear of loss of evidence by grounded decision question the complained person about the charge filed against him before his lawyer is notified to attend but the lawyer after that must be given access to his client's statements.
- 2-4-22 The prosecutor shall gather evidence; move to, inspect, and examine the crime scene; conduct seizures; listen to the statements of witnesses; consult experts; examine written and circumstantial evidence or any other methods of proof.

3. CHALLENGES AND OBJECTIVES

3-1 Weaknesses

- 3-1-1 Lack of understanding of the *niaba's* role in the community.
- 3-1-2 Lack of unanimous agreement on *niaba's* affiliation, responsibilities, and structure; and the fact that there is no one authority governing the *niaba* institutions in Jordan.
- 3-1-3 Poor computer infrastructure
- 3-1-4 Absence of a judicial register
- 3-1-5 Lack of reality-based information that would help assess the present state of affairs.
- 3-1-6 Absence of a data bank for statistics on crimes, criminals, and arrested persons.
- 3-1-7 Ineffective *niaba* apparatus
- 3-1-8 Excessive delay of ruling on cases
- 3-1-9 Poor sustainable professional training, particularly, in new crimes, organized crime, and trans-national crimes which threaten economic and political development.
- 3-1-10 Leverage is exercised on the *niaba* members
- 3-1-11 Lack of appropriate investigation workplaces and facilities, particularly, video-based investigation with the juveniles and victims who need help.
- 3-1-12 Absence of the *niaba's* role in respect of helping crime victims, power abuse, and the protection of juveniles and vulnerable persons.
- 3-1-13 Insufficient staff members and administrative assistants.
- 3-1-14 Poor relationship with the police, lawyers, prisons, forensic doctors, and experts, besides, lack of affiliation with them.
- 3-1-15 Poor planning and policy formulation
- 3-1-16 Lack of experience of prosecutors

- 3-1-17 Insufficient capital resources
- 3-1-18 Lack of experienced general prosecutors
- 3-1-19 Need to improve *niaba*-related legislation
- 3-1-20 There is no role for the general prosecutors in coordination of protection against crime.
- 3-1-21 There are no specialized prosecution institutions with one jurisdiction.
- 3-1-22 There are no provisions on the procedures of questioning and investigation.
- 3-1-23 There is no role for *niaba* at the level of non-dispute judicial procedures.
- 3-1-24 Complains about insufficient salaries and privileges suitable with the workload and social restrictions on the *niaba*'s members.
- 3-1-25 Insufficient physical protection and health and social security for the *niaba*'s members and their families.
- 3-1-26 There is a need to improve the criminal legislation so that it can meet the international criteria for human rights.
- 3-1-27 Lack of legislation and legal and judicial jurisprudence.

3-2 Strengths of *niaba* system

- 3-2-1 The presence of sufficient constitutional guarantees.
- 3-2-2 There is a high-level political will for improvement.
- 3-2-3 Development of the *niaba* and judicial systems are placed on the scale of national priorities.
- 3-2-4 The Judicial and Executive agree on the need for improvement.
- 3-2-5 There is a good legislative framework but some provisions need to be reviewed.
- 3-2-6 The *niaba*'s members are able to handle heavy workload and to work for long periods.
- 3-2-7 The *niaba* system has organizational structures.
- 3-2-8 Hardly are there reports on financial corruption.
- 3-2-9 It is easy to train newly-appointed prosecutors.
- 3-2-10 Modern technology can be absorbed.
- 3-2-11 Training plans can be developed after the real needs are examined.
- 3-2-12 Self-funding can be developed.

3-3 Objectives

- 3-3-1 Enhance the *niaba*'s efficiency based on the rule of law, ethics of justice, and human rights.
- 3-3-2 Improve and develop the general performance of the *niaba*'s apparatus according to the latest technological and administrative techniques.
- 3-3-3 Improve and develop the institutional capacities and linking them to the main partners.
- 3-3-4 Develop systems, criteria, and measurements based on the best international applications.
- 3-3-5 Improve and enhance legislation related to the *niaba*'s institutions and

adapt it to the international criteria for human rights.

3-3-6 Improve the infrastructure of investigation workplaces and equip them with the modern technological facilities.

3-3-7 Enhance the independence and impartiality of the *niaba*.

4. DEVELOPMENT THEMES

4-1 Increasing *niaba*'s efficacy

4-1-1 Amend the penal legislation to increase the efficiency of *niaba*'s institutions in respect of *niaba*'s structure, authority, and responsibilities.

4-1-2 Improve the performance of *niaba* and the criminal courts in general.

4-1-3 Enhance the *niaba*'s role in boosting and respecting human rights.

4-1-4 Enhance the *niaba*'s role in the independence of the judiciary and provide more financial and material support.

4-1-5 Promote the people's trust in the judiciary, in general, and in the public prosecution institutions, in particular.

4-1-6 Identify the required human resources and improve the job status of the *niaba*'s members and administrative staff.

4-1-7 Identify the general concept of efficacy and develop time guidelines for handling the cases by the public prosecution institutions.

4-1-8 Activate the specifications and measurements; identify the tools for monitoring and assessment; develop a system for the criteria and measurements; and define efficacy and efficiency.

4-1-9 Study the factors that influence inefficacy and identify the involved problems and propose the suitable solutions.

4-1-10 Develop a plan for the computerization of the *niaba*'s activities and linking the *niaba* institutions with the concerned authorities.

4-1-11 Provide the necessary infrastructure, facilities, and equipment.

4-1-12 Solve the problems of congested court actions with the police, lawyers, witnesses, and experts.

4-1-13 Develop the reporting system and make it correspond with the time guidelines.

4-1-14 Develop the judicial execution procedures and the related time guidelines.

4-2 Improve the special capabilities of the members of the *niaba* and the supporting agencies

4-2-1 Identify the types and subjects of training, particularly, for the new types of crimes and for regional and international cooperation.

4-2-2 Develop an executive policy for appointment, promotion, and work progress.

4-2-3 Develop standards for performance measurement.

4-2-4 Develop a comprehensive training plan for the *niaba*'s members and administrative staff.

4-2-5 Focus on specialized training and organized and international crimes.

4-2-6 Strengthen the general skills and administrative training.

- 4-2-7 Develop a training plan in the technological and technical methods.
- 4-2-8 Develop a training plan for the agencies supporting the *niaba's* members.
- 4-2-9 Increase the number of the *niaba's* members and the supporting services after examining its needs.
- 4-2-10 Develop a comprehensive set of measurements and standards for procedures, progress of court action, human resources, financial resources, facilities, and infrastructures.
- 4-2-11 Develop a system for reliable information and statistics.
- 4-2-12 Develop a system for problem identification and problem solving.
- 4-2-13 Build a system for judicial register.
- 4-2-14 Develop a system for feedback and effect measurement.

4-3 Improve work tools

- 4-3-1 Improve work tools at the level of administrative organization.
- 4-3-2 Computerize the procedures and clerks' offices; link public prosecution institutions together and with the courts and other collaborating agencies at the local, Arabic, and international levels.
- 4-3-3 Provide comprehensive libraries and legal information banks that would help in decision-taking.
- 4-3-4 Document and archive the present system.
- 4-3-5 Conduct analytical study of the problems and suggest appropriate solutions.
- 4-3-6 Develop special public prosecution programs.
- 4-3-7 Enter the necessary information to the system.
- 4-3-8 Conduct training in how to computer operation, data entry, information retrieval, and maintenance.
- 4-3-9 Establish a system for information management to help in planning, analysis, and monitoring.
- 4-3-10 Create an integrated judicial register in accordance with the state-of-the-art systems.
- 4-3-11 Provide workplaces equipped with facilities, such as video circuit, for investigation with the victims.

4-4 Enhance the independence and integration of the niaba with the judiciary and the supporting agencies

- 4-4-1 Secure the necessary systems that would provide regular information about the independence and integration of the *niaba* with the judiciary and compare these systems to the international standards.
- 4-4-2 Increase public awareness about the role of *niaba* in preserving independence and integrity.
- 4-4-3 Develop specific programs for codes of ethics.
- 4-4-4 Develop continued effective training programs before appointment and on-job training.
- 4-4-5 Obtain further information through electronic methods.

- 4-4-6 Develop specific standards for appointment and increasing transparency in this field.
- 4-4-7 Create a system for control and inspection by adopting accredited standards and relying on feedback.
- 4-4-8 Pinpoint areas of congestion of cases, files, and staff members and develop the appropriate solutions.
- 4-4-9 Increase the human resources and supporting services.
- 4-4-10 Develop the systems and standards.

4-5 Improve the necessary infrastructures

- 4-5-1 Improve the workplaces and facilities in accordance with the international standards.
- 4-5-2 Define the required infrastructure for the coming years.
- 4-5-3 Redesign and update the existing facilities so that they can correspond to the international standards and model designs that will be approved.
- 4-5-4 Appoint an efficient engineering office to develop a model design for the *niaba's* workplaces in accordance with special specifications and adopt this model in the new places.
- 4-5-5 Appoint an efficient engineering office to define the needs for the coming years.
- 4-5-6 Provide the workplaces with infrastructures based on state-of-the-art technology and methods of communication for the coming years.
- 4-5-7 Define the other infrastructure needs for the coming 20 years.
- 4-5-8 Provide the investigation places with video circuits and the necessary technological facilities.

5. EXPECTED RESULTS AND DEVELOPMENT METHODS

5-1 Expected results

- 5-1-1 Stress independence and integrity
 - Improve the capabilities and efficacy of the *niaba's* apparatus.
 - Improve the capability for planning and continuous development.
 - Support the ethics of the civil society and national competitiveness.
 - Support the ethics of human rights, justice, equality, and elimination of corruption and administrative congestion.

5-2 Methods of development

- 5-2-1 Personal assessment and gathering of pilot information:
 - Gathering of basic information.
 - Develop a plan for the present activities.
 - Develop databases.
- 5-2-2 Analyze problems and lay down objectives:
 - Lay down specifications and measurements.
 - Lay down a performance assessment system in accordance with the

international principles and standards.

5-2-3

Develop a strategic plan:

- Develop a plan for infrastructure development
- Develop systems, measurements, and specifications for the *niaba's* members.
- Supplement the necessary legislative and regulatory requirements for development.

ANNEX PRISONS

- Prisons have wards for prisoner groups and rooms for solitary confinement in special cases.
- Remanded persons for investigation or pending trial are placed in a special prison called “Center for Correction and Rehabilitation” in Guida, Oman.
- There is no special prison for mentally-disordered or physically-disabled persons. A person suffering from a psychic disease or mental disorder is placed by order of the prosecutor under the necessary medical control as provided in Article 233 , CPC.
- There is a system for prison protection. Prisoners are not engaged in any activity during the period of their detention.
- A prisoner is entitled to the gains from his work.
- Prisons contain libraries, workshops, clinics, playgrounds, and methods of entertainment.
- A correctional system is applied for prisoners; they are educated trades such as ironsmith, carpentry, and computer skills and literacy classes.
- The Prisoners Care Association takes care for the prisoners, their relatives and sons. There is also a system for social welfare, which takes care for the prisoner in accordance with the Centers for Correction and Rehabilitation. Psychiatric counsel is also offered to the prisoners; in every prison there is a psychiatric clinic.

Number of prisons, penal, or reform institutions for adults:

<u>Year</u>	<u>No. of Institutions</u>	<u>No. of beds</u>
• 2000	10	5845
• 2001	10	6733
• 2002	10	6720

Number of prisons, penal, or reform institutions for juveniles:

<u>Year</u>	<u>No. of Institutions</u>	<u>No. of beds</u>
2000	3	available
2001	3	available
2002	3	available

Number of remanded prisoners pending trial:

<u>Year</u>	<u>Prisoners (Males)</u>	<u>No. of prisoners (Females)</u>
2000	49033	22804
2001	41465	19390
2002	41603	

Number of arrested women:

<u>Year</u>	<u>Female prisoners</u>
2000	309
2001	199

2002 188

Number of arrested men:

<u>Year</u>	<u>Female prisoners</u>
2000	13700
2001	10872
2002	9636

Total Number of convicted adults (males/Females):

<u>Year</u>	<u>Prisoners</u>
2000	13928
2001	11022
2002	9801

Number of convicted adults (females):

<u>Year</u>	<u>Female prisoners</u>
2000	299
2001	197
2002	187

Number of convicted adults (males):

<u>Year</u>	<u>Male prisoners</u>
2000	13630
2001	10825
2002	9614

Number of convicted juveniles (males):

<u>Year</u>	<u>Male prisoners</u>
2000	70
2001	47
2002	22

Number of convicted nationals in prison:

<u>Year</u>	<u>Prisoners</u>
2000	13269
2001	10615
2002	9725

Number of convicted foreigners in prison:

<u>Year</u>	<u>Prisoners</u>
2000	740
2001	456
2002	99

Number of convicts on charge of pre-meditated murder:

<u>Year</u>	<u>Committed murder (No. of prisoners)</u>	<u>Attempted murder (No. of prisoners)</u>
2000	16	42
2001	4	43

Number of convicts on charge of manslaughter:

<u>Year</u>	<u>(No. of prisoners)</u>
2000	18
2001	18
2002	18

Number of convicts on charge of looting and spoil:

<u>Year</u>	<u>Prisoners</u>
2000	11
2001	3
2002	8

Number of convicts on charge of theft:

<u>Year</u>	<u>Prisoners</u>
2000	1543
2001	1602
2002	1419

Number of convicts on charge of burglary:

<u>Year</u>	<u>Prisoners (conspiracy)</u>
2000	4
2001	3
2002	1

Number of convicts on charge of fraud:

<u>Year</u>	<u>Prisoners</u>
2000	65
2001	42
2002	44

Number of persons sentenced to death:

<u>Year</u>	<u>Prisoners</u>
2000	9
2001	10
2002	5

Number of persons sentenced to life prison:

<u>Year</u>	<u>Prisoners</u>
2000	19
2001	16
2002	38

Number of persons convicted of rape:

<u>Year</u>	<u>Prisoners</u>
2000	19
2001	11
2002	21

Number of persons convicted of embezzlement:

<u>Year</u>	<u>Prisoners</u>
2000	65
2001	8
2002	4

Number of persons convicted of drug abuse:

<u>Year</u>	<u>Prisoners</u>
2000	526
2001	354
2002	450

Number of persons convicted of bribery:

<u>Year</u>	<u>Prisoners</u>
2000	14
2001	6
2002	5