

Administrative Detention under the Crime Prevention Law

A Study on a Social Right in Conflict with
the Jordanian Constitution

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EXECUTIVE SUMMARY

In This study aims to examine the most significant shortcomings of the Crime Prevention Law, particularly the issue of **administrative detention**, through which public rights and freedoms are infringed. The research reached the following conclusions:

1. Detention may not be imposed unless expressly authorized by law, and the power to order detention under the Crime Prevention Law is limited exclusively to district administrators (mutasarrifin) and the Governor of the Capital. No other governor possesses such authority, pursuant to the explicit wording of Article (2) of the Crime Prevention Law.

2. Any administrative decision ordering detention must be issued in accordance with legally prescribed procedures, including full guarantees of a fair trial. This requires the presence of the accused, conducting an investigation, confronting and questioning the individual, and allowing them to present evidence. The administrative decision must be based on lawful and sound evidence.

3. One of the most prominent flaws of this law lies in the year of its enactment—1954. This, in itself, constitutes a fundamental deficiency, as the law has become incapable of keeping pace with the profound developments that have transformed all aspects of life.

4. The Crime Prevention Law exceeds the permissible limits of regulation concerning public rights and freedoms by granting broad discretionary powers to the district administrator to issue summonses merely on the basis of personal belief or suspicion. This has led—and continues to lead—to arbitrary conduct by administrative authorities. The law further restricts the constitutional right to freedom of residence and violates the constitutional inviolability of homes by permitting police or gendarmerie to enter a person's residence at any time, which constitutes a clear infringement of privacy and personal liberty.

5. The law creates a duality of jurisdiction regarding precautionary measures, as both the Crime Prevention Law and the Penal Code regulate such measures. This allows the administrative governor to pursue an individual for an act for which they have already been prosecuted and punished by the competent judiciary, constituting a direct violation of the fundamental principle prohibiting double jeopardy.

Based on these findings, the researcher concludes the following:

1. The Crime Prevention Law should include a provision allowing accountability of administrative governors who misuse their powers arbitrarily or act on personal whims. Such accountability should include the possibility of civil liability and compensation for affected individuals.

2. It is essential to ensure that no person is prosecuted twice for the same act before the administrative governor once a judgment has been issued by the competent judiciary regarding the same charge or responsibility. This can only be achieved by granting judicial decisions binding authority over administrative governors.

INTRODUCTION

This study examines the Crime Prevention Law No. 7 of 1954, focusing on its legal implications and the sociolegal transformations that have occurred since its enactment. It highlights the historical circumstances that once rendered the law effective during the British Mandate period, while emphasizing the need to reassess it in light of contemporary developments and constitutional reforms.

The research also sheds light on the notable increase in the number of individuals subjected to administrative detention, underscoring the potential impact of the law's rigidity on individual freedoms. It further analyzes the substantive provisions of the law, drawing attention to the presence of vague and discretionary terminology that allows broad interpretive latitude and exposes individuals to accountability based solely on the administrative governor's subjective assessment.

Additionally, the study explores the correlation between the rise in administrative detentions and the growing number of inmates in correction and rehabilitation centers, raising questions about the effectiveness of the law and the necessity of updating it to reflect modern social and political realities.

Several constitutional and legal reservations are addressed regarding the Crime Prevention Law No. 7 of 1954. The analysis identifies conflicts between the law and constitutional guarantees—such as the right to liberty and the right to a fair trial—as well as fundamental legal principles, including the presumption of innocence and the requirement that legal decisions be based on certainty rather than suspicion.

The recommendations emphasize the need to ensure respect for judicial decisions and strengthen the rights of detainees. They also call for precise and clear redrafting of the law's provisions, including defining the specific circumstances under which detention may be permitted and establishing detention periods based on reasoned and justified decisions.

Overall, the analysis underscores the importance of undertaking legislative amendments to ensure the law's compatibility with the Constitution and international treaties, and to safeguard individual rights and foundational legal principles. The study presents a set of proposed legal reforms to amend the Crime Prevention Law No. 7 of 1954.

BACKGROUND

The Crime Prevention Law No. 7 of 1954 was enacted on the remnants of the Crime Prevention Law of 1927, which had been introduced under the British Mandate. Despite its historical origins, the law remains in force to this day.

Although the law once played a positive role in maintaining public order and social stability—particularly at a time when crimes of murder, honorrelated violence, and tribal confrontations were prevalent, and when Arab nationalists were mobilizing against British colonial forces—the natural progression of societal and political development necessitates a comprehensive reassessment of this legislation. This is especially true in light of royal directives, constitutional amendments, and ongoing efforts to modernize the political and administrative system.

The law is built upon **ambiguous and discretionary terminology** that enables the administrative governor to detain individuals, place them under house arrest, or relocate them from one town to another based on broad and elastic expressions. These provisions effectively grant the administrative governor unchecked authority. According to official data from the relevant authorities, the number of individuals detained administratively was recorded as follows:

- **2019:** 37,853 detainees
- **2020:** 21,322 detainees
- **2021:** 22,258 detainees
- **2022:** 23,374 detainees
- **2023:** 22,103 detainees
- **2024:** 21,214 detainees
- **2025:** 22,674 detainees

A significant portion of these individuals were detained **after completing the judicially imposed sentence or after a court decision ordering their release**. Generally, the increase in the number of inmates in correction and rehabilitation centers can be attributed—among other factors—to the rise in administrative detentions, despite public statements and directives issued by the Minister of Interior prohibiting the administrative detention of individuals with pending cases before the courts.

PROBLEM STATEMENT

In examining the Crime Prevention Law, this study adopts a **descriptive analytical methodology** to analyze the provisions of the law and clarify the articles that grant broad discretionary powers to the administrative governor. This section is divided into two parts:

Part I: Provisions of the Crime Prevention Law that Permit Administrative Detention

1. Article 9

Article 9 provides that:

If the district administrator is convinced that a person imprisoned for failing to provide the required bond under this law may be released without exposing the public or any individual to danger, he shall immediately submit a report to the Minister of Interior, who may order the person's release.

This provision grants the administrative authority significant discretion in determining whether a detainee poses a danger, without requiring objective criteria.

2. Article 7

Article 7 states:

The district administrator may refuse to accept any surety whose guarantee he does not approve, provided that he records the reasons for refusal in the official report.

This article allows the administrator to reject a surety based on subjective considerations, even when the surety meets legal requirements.

3. Article 3

Article 3 authorizes the district administrator to issue a summons if he receives information or has reason to believe that a person within his jurisdiction belongs to any of the categories listed below, and if he considers that sufficient grounds exist to take action. The administrator may require the person to appear before him to determine whether a bond should be imposed, with or without sureties, for a period not exceeding one year.

The categories include:

- 1. Anyone found in a public or private place under circumstances that convince the administrator that the person was about to commit a crime or assist in committing one.**
- 2. Anyone habitually engaged in theft, larceny, possession of stolen property, or in harboring thieves, assisting them, or concealing or disposing of stolen property.**
- 3. Anyone whose condition renders their release without a bond dangerous to the public.**

These provisions rely heavily on **presumptions, suspicion, and subjective assessment**, rather than concrete evidence.

4. Article 12

Article 12 provides:

If a person appears or is brought before the district administrator under Article 4, and the administrator deems it necessary to require a bond for good conduct, he may order that the person be placed under police or gendarmerie supervision for a period not exceeding one year, either instead of or in addition to requiring a bond.

This article effectively authorizes police surveillance as a substitute for judicially supervised measures, without procedural safeguards.

Part II: Conflicts Between the Crime Prevention Law and the Constitution, International Treaties, and Jordanian Legislation

1. Constitutional Conflicts

The Crime Prevention Law conflicts with several constitutional provisions guaranteeing:

- **Personal liberty,**
- **The right to a fair trial,**
- **Judicial oversight,** and
- **The principle of separation of powers.**

Administrative detention under this law bypasses judicial authority and undermines constitutional guarantees.

2. Violations of Fundamental Legal Principles

The law disregards several essential legal and constitutional principles, including:

1. **The presumption of innocence**—the accused is innocent until proven guilty.
2. **Decisions must be based on certainty, not suspicion or conjecture.**
3. **Article 58 of the Jordanian Penal Code**, which prohibits prosecuting a criminal act more than once.
4. **The right to defense**, including the right of the accused to be represented by counsel, with proceedings rendered void if this right is denied.

3. Conflicts with International Treaties

The Crime Prevention Law contradicts several international human rights instruments ratified by the Hashemite Kingdom of Jordan, which—according to Constitutional Court Decision No. 1 of 2020—take precedence over domestic legislation. Key provisions include:

1. **The Universal Declaration of Human Rights**, Articles 3 and 9, which affirm the right to liberty and prohibit arbitrary detention.
2. **The International Covenant on Civil and Political Rights**, Articles 9 and 14, which guarantee the right to liberty, the right to be informed of the reasons for arrest, and the right to a fair hearing before an independent and impartial tribunal.

RECOMMENDATIONS

1. **Ensure respect for judicial rulings and release orders**, recognizing them as authoritative determinations of truth binding upon all parties. This should be guaranteed through an explicit statutory provision prohibiting the administrative detention of any person who has been released by a judicial decision.
2. **Redraft the aforementioned provisions of the Crime Prevention Law with clarity and precision**, avoiding vague or elastic terminology. The law should specify, exhaustively and without ambiguity, the cases in which administrative detention may be imposed, leaving no room for discretionary interpretation or reliance on suspicion absent evidence.
3. **Provide that decisions of administrative detention issued by the administrative governor be subject to automatic appeal**, either before the Administrative Court or before a specialized public prosecutor appointed in each governorate to review such appeals.
4. **Define the duration and conditions of administrative detention**, subjecting it to the principles of reasoned decisionmaking and legal justification.

5. Require that individuals detained administratively be referred to the competent public prosecutor within a legally specified period following their detention, so that their legal status may be determined.

6. Establish an upper limit for bail amounts, and prohibit leaving the determination of bail value or approval of the surety to the unrestricted discretion of the administrative governor.

7. Provide that appeals before the Administrative Court against decisions issued by the administrative governor be free of charge, ensuring accessibility and safeguarding the right to challenge administrative detention.

8. Establish administrative courts in the northern and southern regions to ensure prompt adjudication of appeals related to administrative detention decisions issued by administrative governors.

9. Abolish the Crime Prevention Law, given its violation of the principle of separation of powers and its encroachment upon the jurisdiction of the judiciary, which holds exclusive and legitimate authority to adjudicate disputes.

REFERENCES

1. The Jordanian Constitution
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6. International Covenant on Civil and Political Rights
7. Jordanian Code of Criminal Procedure No. 9 of 1961
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