

JORDAN'S LEGAL & JUDICIAL SYSTEM

The following is a basic outline of Jordan's legal and judiciary system but should not, by any means, be regarded as a complete or authoritative explanation. The Embassy strongly recommends that persons with legal questions or difficulties consult a Jordanian attorney. (The Embassy has compiled a list of some attorneys in Jordan whom you may wish to contact).

Introduction

The Jordanian constitution establishes the judiciary as one of three separate and independent branches of government. Jordan's present legal system is based on the Constitution, the Court Establishment Law of 1951, a civil and criminal code plus Islamic and ecclesiastical laws in certain cases. Its legal system has been influenced by many sources. The system developed from codes of law instituted by the Ottoman Empire (based on French law). These were supplemented by British laws during the mandate period. Islamic law has also been influential, modifying in many ways the European models.

Two points need to be kept in mind by American citizens. First, the American and Jordanian legal systems, while similar in some respects, are not identical. This is not to suggest the system here is unjust, but rather that the two systems are based on differing societies and traditions. Second, American laws and judicial orders have no legal basis in Jordan (though a Jordanian court might decide to consider them). The same holds true with regard to the effect of Jordanian laws and decisions in the United States.

The Court System

Jordan has three main types of courts: Civil courts, military courts and religious courts.

Civil Court System

Civil courts adjudicate all civil and criminal cases which are not specifically reserved for other courts. Four levels of courts make up the civil court system:

1. Magistrate's Courts have jurisdiction in criminal matters for misdemeanors and minor crimes where the sentence is two years or less. They also hear civil actions where the amount involved does not exceed JD 750. Finally, they hear all eviction cases and lawsuits charging trespass on land. There are 14 magistrates in Amman. Most Jordanian cities have two or three magistrates. Both civil and criminal cases before the Magistrate's Court are heard by a single judge.

2. Courts of First Instance have jurisdiction in criminal matters which fall outside the jurisdiction of the Magistrate's Court, and which are not specifically covered by other special courts. They also hear all civil cases not heard in the magistrate's courts, including all matters where alleged damages exceed JD 750. The Courts of First Instance also hear appeals for all criminal cases where a sentence of one week or less (or a fine not exceeding JD 10) is assessed. Two judges hear criminal matters, one judge adjudicates civil matters. Branches are located in Amman and several other major cities.

3. Major Felonies Court has first instance jurisdiction over a specific set of serious criminal offenses (defined as crimes with a possible sentence greater than three years) which are not heard in the military court/state security court (see below). Crimes tried in this court include manslaughter/murder cases and rape and other sexual offenses. There is only one major felonies court in Jordan, located in Amman. Three judges hear each case. Appeals from a major felonies court judgment are made directly to the Court of Cassation.

4. Courts of Appeal hear all cases of appeal from judgments of the Courts of First Instance and all cases of appeal from the magistrate's court, which are not heard by courts of First Instance. The court of appeals may reconsider determinations of facts as well as law; they may therefore decide to rehear a case decided below. A three judge panel considers all matters raised in the Courts of Appeal.

5. Courts of Cassation (or Supreme Court) considers appeals of felonies in criminal cases and all judgments exceeding JD 500 in civil cases. Other cases may be accepted for appeal by a special leave granted by the President of the Court. The Court also considers habeas corpus petitions (seeking the release of a detainee based on unlawful imprisonment) in its role as a "High Court of Justice". Furthermore, in another role as a "Private Tribunal", it determines which court has jurisdiction over a case where there is a jurisdictional dispute. The Court of Cassation is made up of a maximum of 15 judges. Five judges generally hear each case.

Military Court System

Although martial law was lifted in 1991, certain crimes considered to touch on national security are still tried in State Security courts administered by the Jordanian military. These crimes include espionage, bribery of public officials, trafficking in narcotics or weapons, black marketing, and "security offenses". Military judges generally adjudicate cases. Defendants may be represented by a lawyer and are accorded other protections such as the right to cross-examine witnesses. The decision of a military court cannot be appealed but must be ratified by the Prime Minister in his capacity as martial law governor. He may increase, reduce, or annul the sentence.

The military court also prosecutes military personnel for all categories of offenses. In these cases, the Commander-in-Chief of the armed forces must approve the sentence.

Religious Court System

Religious courts have jurisdiction over all matters of "personal status". This includes most family law matters such as marriage, divorce, child custody, and adoption or guardianship. Consequently, there is no civil marriage or divorce in Jordan.

Shari'a (Muslim religious law) applies to Muslims in these areas and a Shari'a court system exists to adjudicate disputes. Various Christian religious "Councils" within the main Christian Sects (including Greek Orthodox, Roman Catholic, and Armenian Catholic) handle similar cases involving members of their church communities. The civil courts administer cases of other religious groups, including Protestants, usually applying the religious law of the closest religious community.

Religious courts also handle all inheritance matters. Under Jordanian law, however, Shari'a law must be applied by all the courts with regard to inheritance. Thus, if the deceased is Greek Orthodox, the Greek Orthodox court will administer the inheritance but will apply Shari'a law which requires, among other things, the distribution of twice as many shares of property to each son as compared to each daughter.

Other Courts

Magistrates also operate juvenile courts which hear offenses by persons under 18. The child's parent must also be present. A child may be sent to reform school if found responsible for wrongdoing. Frequently, however, a child is released to the custody of his parent on a bond of good behavior. If the child commits another offense, the parent is fined.

The Police court handles crimes committed by police officers. Land Settlement Courts handle disputes over ownership of unregistered land. An Income Tax Court hears disputes by persons questioning the determination of an assessor who values their property for tax purposes. A Customs Court (comprising two customs officers and one civil court judge) considers disputes involving customs assessments. A court of appeals for customs has also been established. (Appeals from this court of appeals go to the Court of Cassation). Tribal Courts were abolished in 1976 but still operate unofficially in some cases involving members of a tribe or tribal disputes.

Criminal Law Procedure

Generally, persons arrested by the police are brought before a magistrate and charged with a crime within 48 hours after the arrest. However, public prosecutors may order suspects kept in custody indefinitely in connection with a pending investigation. Such detentions may be challenged by the defense, in which case some showing of cause for continuing confinement must be shown by the prosecutor.

Persons charged with a crime are not compelled to say anything to the authorities. They are usually warned before testimony is taken that what they say may be used against them and that they have the right to see a lawyer. Defendants may have a lawyer represent them (although this is rare in the Magistrate's court). The court will appoint a lawyer for defendants charged with a potential sentence of death or life imprisonment if they cannot afford one.

Defendants have the right to cross-examine witnesses and to present their own witnesses. All cases are heard by judges as there is no jury trial in Jordan. Cases may be appealed by either the defendant or the prosecution.

A defendant's charges of mistreatment are considered by the court in adjudicating a case or determining a sentence. Confessions have at times been disregarded when a court determined it may have been given under duress. When mistreatment is alleged, a prisoner is examined by a doctor and his report is considered by the court.

The case against a person is always presented by one of the public prosecutors, except at the magistrate's court where a police officer generally presents the evidence against the accused. The Attorney General, who supervises all public prosecutors, handles the government's case at the Court of Appeals. The Chief Attorney General who is the government's top legal advocate, represents the government in the Court of Cassation.

Civil Law Procedure.

A person who wishes to file a lawsuit against someone must go to the appropriate court registry and submit a writ of summons together with a fee of 3% of the sued amount. (If the plaintiff wins his case, the defendant must pay this fee. The Court may also charge attorneys fees to the loser).

The Court will send the summons to the defendant by means of process servers employed by the Court. If the defendant is not found, the summons may at times be left with relatives or at the defendant's usual place of abode.

Embassy Involvement.

While we at the Consulate are always happy to discuss your problems with you, we are often severely limited in what we can do for you. We cannot interfere in the judicial process of Jordan and are unable to get involved at all in most civil disputes. We also cannot give legal advice or provide you with either funds or a lawyer. We do have a list of attorneys which we can give you. We can also help you contact friends or family if you are unable to do so.

In criminal cases, Consular officers have the right to visit you in jail and will do our best to carry out your requests. We cannot however get you out of jail, get your charges dropped, get your sentence reduced, or serve as a guarantor for you. Although we are not permitted to give legal advice, we can pass inquiries to government officials regarding questions or problems you may have. We will also try to attend court hearings if you would like us to do so. Our major concern is that you are not mistreated or that you are not treated differently from other persons here because you are an American. Persons who are dual nationals (i.e., who have Jordanian and American nationality at the same time) should expect to be treated as a Jordanian and not as a foreigner.

Within the limitations of the law we will do our best to assist you. Please do not hesitate to contact us if you have any questions. Our telephone number is 590-6950. Our office hours are 12:30-3:30, Sunday through Thursday, except holidays.