Jordan Experts Surveys Report: Judiciary Data (Draft)

This summary is compiled for the exclusive use of authors working on the state of the judiciary in Jordan and ACRLi advisors. The findings reported below are extracted from the survey of expert users (Judges and Lawyers) carried out by Information International for the benefit of ACRli. The survey included a sample of 80 judges and 120 lawyers from Amman (Jordan).

The total population of registered lawyers in Amman is 3245 from which 120 were surveyed. On the other hand, the total population of judges to be surveyed in Amman amounted to 267 judges, 80 of which were sampled for this survey.

The method of sample selection relied on systematic random sampling, based on an exhaustive list of judges and lawyers registered in Amman. Refusal/response rates varied between judges and lawyers. 125 judges were contacted to reach the target of 80 judges, while 250 lawyers were contacted to reach the target of 120 lawyers (low response rate). These response rates may limit the authors' ability to generalise the survey's findings to the entire population. Accessing the full list of judges and lawyers in Jordan was problematic, and was only resolved after direct intervention by ACRLi representatives in Amman (see Information International report for details; Appendix C).

The findings from the survey are presented in two parts. The first part presents an overview of the major findings from the survey, while the second part presents detailed findings from the individual items in the survey. Appendix A presents the detailed findings for each item from the survey and will be referred to during the discussion of the main findings from the survey below.

I. OVERVIEW OF KEY FINDINGS FROM SURVEY

Main Findings: Item Analysis

An important finding is that lawyers and judges have different evaluations of the state of the judiciary in Amman. Overall, lawyers had a significantly higher number of grievances about the state of the judiciary than Judges did. Of the 65 core questions asked, 11 were rated negatively by judges, while 38 items were rated negatively by lawyers (almost 4:1 ratio). Interestingly though, 9 items were sources of common complaint from both judges and lawyers in Amman; these nine items are ranked from highest to lowest complaint in the table below (*Note:* Scores represent the average (mean) for each item on a scale from 1 to 5. Scores below 3 reflect a positive evaluation of the item, while scores above 3 reflect a negative evaluation. The higher the number, the more negative the rating):

1- Judges regularly disclose their assets (Item 34; x = 3.99)
2- Judges are free to join any professional association (item 18, x = 3.87)
3- Judges are free to express their political opinions (item 17, x = 3.79)
4- The judiciary receives funding from sources other than the government allocated budget (i.e. besides bribery money) (item 6; x = 3.67) [caution, missing data]

5- Laws to fight corruption in society are meticulously and rigorously enforced (Item 26; x = 3.51)
6- There is a sufficient number of enforcement personnel (Item 85; x = 3.43)
7- The judiciary has adequate resources at its disposal (Item 7; x = 3.4)
8- Transfers are not used to pressure judges (Item 22; x = 3.25)
9- Courts have an adequate number of staff to assist judges (Item 73; x = 3.25)

Five of the nine items above are within the "independence of the judiciary" (items 6, 7, 17, 18 , & 22), two are within the "integrity" principle (items 26 & 34), and two are within the "efficiency" principle (items 73 & 85). There were no agreed upon complaints within the competence principle (i.e. common to both lawyers and judges).

The two items to which judges responded negatively (but not lawyers) are: a) judges have adequate salaries (item 15), and b) Courts have adequate resources to manage case loads (e.g. staff, IT, etc.) (Item 77).

Lawyers had much higher rates of negative evaluation. Lawyers rated negatively 10 items within "independence" (half of all items), 7 items within "integrity" (half of all items) 15 items within "competence" (about 2/3 of all items), and 6 items within "efficiency" (half of all items). For an exhaustive list of items to which lawyers provided negative feedback, please refer to appendix B.

Main Findings: Dimension Analysis

When items are combined to measure a dimension of a specific principles (e.g. items 1,2,3,4 as measures of "guarantees of judicial independence", a dimension of the general "independence" principle), only one dimension proved to be problematic for judges, while 8 flagged as significant for lawyers.

The most important grievance for judges resided in their "freedom of expression and association" dimension. All other dimensions did not cross the overall midpoint of 3, indicating an overall (general) satisfaction with all other aspects of the judiciary.

On the other hand, lawyers voiced grievances on the following eight dimensions: a) freedom of expression and association, b) security of tenure, c) institutional independence, d) institutional impartiality, e) objective criteria of selection, f) transparent, well-defined and fair disciplinary process, g) reasonable time to receive final and binding judgement, and h) effective enforcement of court judgements. The remaining dimensions did not cross the midpoint threshold. Three of the above dimensions are related to independence (a,b,c), one is related to integrity (d), 2 are related to competence (e,f), and 2 to efficiency (g,h).

Items Rated Most Positively

On the more positive end of the analysis, the five items most favourably evaluated by judges and lawyers are presented below:

Judges ranked items 39, 31, 33, 37 and 35 as the most favourable in the state of the judiciary in Amman; All of these items refer to the integrity principle!

Lawyers ranked items 39, 71, 43, 11, and 74 as the most favourable in the state of the judiciary in Amman. Items are relatively scattered across dimensions, with one item in each of integrity, independence, and competence, and two items within the effectiveness section.

	J	L
39. Litigants can appeal any rulings allowed by the law	X	X
74. Judges can call upon relevant experts		X
43. Candidates to the judiciary know the rules and the qualifications needed		X
71. The courts maintain an up-to-date daily records		X
33. Judges do not look into any case in which they may have interest or relation	X	
35. Judges are generally perceived as having a high degree of personal integrity	X	
31. Court decisions are made in total impartiality	X	
37. Trial procedures are impartial in all situations (equal treatment, non discrimination)	X	
11. Judges do not get pressured with threats of economic sanctions		X

Opinions on Most Needed Reforms in Judiciary

The questionnaire included a series of "reform" questions. Participants were asked to rate the importance of reform in each of the subsections of the state of the judiciary questionnaire.

Judges indicated the following five domains as those that require the highest need for reform (presented from highest to lowest):

1- Reforms are needed to strengthen the qualifications and skills of judges (item 47; competence)
2- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70; competence)
3- Reforms to strengthen the personal independence of judges is necessary (item 16: Independence)
4- Reforms targeting the improvement of the enforcement system are needed (item 87, effectiveness)
5- Institutional reforms are needed to strengthen the independence of the judiciary (item 9: independence)

Two of the five domains highlighted above refer to competence issues. Two other domains relate to independence. Such clustering is highly indicative of the concerns of judges in Amman.

Lawyers indicated the following five domains as those that require the highest need for reform (presented from highest to lowest):

1- Reforms are needed to strengthen the qualifications and skills of judges (item 47; competence)
2- Reforms are needed to improve the judges' selection process (item 55, competence)
3- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70; competence)

4- Reforms are needed to improve the speediness of delivery of judgments (item 83, efficiency)
5- Reforms in the promotion and transfer criteria are needed to improve the competence of the courts (item 61, competence)

Four of the five domains identified by lawyers as those requiring reform relate to competence issues. In other words, lawyers' reform request focus on the competence within the judiciary.

II. DETAILED FINDINGS FROM SURVEY

Independence of Judiciary

Overall, the respondents have positive to mixed opinions on the independence of the judiciary in Jordan. The judiciary's constitutional and personal independence strengthen the overall independence of the judiciary. Respondents cite freedom of expression and association for the judicial officials and the judiciary's institutional independence as concerns.

Judicial Independence

- A majority of respondents agree that the judiciary is afforded independence under the constitution. Sixty-two percent agree that the constitution ensures the selection of judges by the judiciary and 55% believe that the constitution outlines a clear and limited jurisdiction for special courts (55%). Laws regulating the judiciary are viewed as compliant with the constitution (66%) and constitutional guarantees for the independence of the judiciary are perceived as effectively implemented (53%).

Personal Independence

- There is a perception among respondents that judges are not pressured with threats of physical harm (79%), economic sanctions (73%), and sources outside (49%) and inside (44%) the judiciary.
- Sixty-seven percent believe that judges enjoy limited judicial immunity against civil and criminal suits, but a plurality of respondents disagree that judges receive adequate salaries (48%).

Institutional Independence

- The institutional independence of the judiciary raises concern among the respondents. Sixty-two percent believe that the judiciary's budget is influenced by sources outside the judiciary and that this budget does not provide the judiciary with adequate resources as its disposal (46% agree, 31% neutral, 23% disagree). Positively, fifty-five percent of respondents indicate that the judges do control the administration of the judiciary.

Security of Tenure

- While a majority of respondents agree that it is prohibited to remove judges without relevant justification (55%), a plurality disagree that the appointments of judges are made based on objective criteria (44%, 29% agree, 25% neutral). Forty-six percent of respondents agree that threats of transfer are used to pressure judges (46%). There are mixed views on whether judges are reassigned to posts outside the judiciary (38% agree, 36% disagree, 25% neutral),

and whether disciplinary measures against judges are clear and reasonable (40% agree, 26% neutral, 33% disagree).

Freedom of Expression and Association

- The majority of respondents do not think that judges enjoy freedom of expression or association. Seventy-one percent disagree that judges are free to join any professional association while 59% disagree that judges enjoy complete freedom of expression.

Reforms

- Respondents strongly support improving the independence of the judiciary through the implementation of reforms in the personal independence of judges (87%), institutional reforms (84%), reforms of constitutional texts (83%), reforms to increase job security (82%), and reforms to strengthen the freedom of expression and association of judges (78%)

Integrity/Impartiality

The overall impartiality of the court is considered one of the strengths of the judiciary system. Respondents agree that the judiciary possesses institutional, personal and procedural integrity.

Institutional Integrity

- While a plurality of respondents do not agree that the laws to fight corruption in society are rigorously enforced (49%), there is agreement that that the laws to fight corruption within the judiciary are enforced (46%). A majority identify a clear code of ethics that regulates the behavior of judges (58%), with forty-five percent who believe that this code of ethics is clearly enforced.

Personal Integrity

- Despite the 69% of respondents who believe that judges do not regularly disclose their assets, 58% perceive judges to have a high degree of personal integrity.
- Respondents are in agreement that court decisions are completely impartial (58%) and that judges do not look into any case in which they may have interest or relation (69%). Forty-eight percent believe that the principle of equality before the law is strictly enforced.

Procedural Integrity

- Most respondents believe that basic judicial rights for citizens are upheld, including the right to appeal a judicial decision (91%), the right to defense (69%), and the right to have an impartial trial (53%). While a majority agree that judges have easy access to legal information and judgments (61%), respondents remain mixed as to whether citizens also have easy access to legal information (33% agree, 32% disagree, 34% neutral).

Reforms

- Eighty-three percent of respondents cite personal integrity as in need of reform, with 77% indicating that reforms are necessary to increase the institutional integrity and 73% stating that reforms are needed to improve the integrity of trial procedures.

Competence

The opinion of the competence of the judiciary is positive. The results indicate that the strengths of the judiciary system include both a clear and objective disciplinary process and the adequate qualifications of its judicial personnel. Respondents are also confident in the objectivity of the selection, promotion and transfer processes.

Adequate Qualifications

- Candidates to the judiciary are seen as knowledgeable of the rules and qualifications (80%), and of possessing adequate professional training (56%). A plurality of respondents believes that judges have adequate technical skills (45%).
- There are mixed views on whether the qualifications criteria are applied to all candidates (41% agree, 37% disagree, 20% neutral).

Selection Process

- The selection process is believed to be clear and objective (53%), with a plurality who agrees that the criteria for evaluating the qualifications of judges are clear (46%).
- Selection of the candidates is believed by a plurality of respondents to be based upon the results of a competitive public examination (43%), and the moral integrity is an important component of this selection process (50%).
- The selection process may discriminate against women as men are identified as having a greater chance of selection than women (64%), but respondents have mixed views as to whether women have exactly the same chance of being selected as men (39% agree, 36% disagree, 24% neutral).

Promotion and Transfer Process

- According to a majority of respondents, the performance of judges is regularly evaluated (58%). A plurality agrees that promotions are based on clear and objective criteria (41%), with 31% who are neutral and 26% who disagree.
- Unlike in the selection process, a majority of respondents indicate that women have exactly the same chances of promotion as men (59%).
- There are mixed views on the transparency of transfers (33% agree, 32% neutral, 34% disagree) as well as on the use of performance evaluations as the most important factor in promotion (33% agree, 31% neutral, 34% disagree).

Disciplinary Process

- A plurality of respondents perceives the disciplinary committee's decisions to be clear and fair (42%) and having sufficient explanation (48%).
- Forty-one percent agree that court proceedings are regularly inspected.
- A strong majority agree that the disciplinary process is managed by judges (63%), but only a plurality believe that the process is independently managed (44%).

Adequate Judicial Training

- Fifty-three percent of respondents agree that judges have specialized training programs, but remain mixed as to whether or not there are adequate resources for the judicial training programs (37% agree, 32% disagree, 30% neutral).

Reforms

- Ninety-three percent of respondents highlight the need to strengthen the qualifications and skills of judicial officials. Reforms are also needed to enhance the competence of the court by improving judicial training systems (90%), the judges' selection process (89%), the promotion and transfer process (87%), and the disciplinary process (74%).

Efficiency

The efficiency of the judicial system in Jordan causes the most fluctuation in the perceptions of the respondents. While the objective and transparent management of trials is cited as effective, respondents are split on how the timeframe for judgments and the enforcement system affects the efficiency of the judiciary. The clear and transparent judicial procedures bolster the overall efficiency of the system.

Trial Management

- A majority of respondents believe that the process of assigning cases is objective (51%) and that cases are managed in a transparent manner (53%). Forty percent are neutral on whether case assignments are based on the specialization of judges.

Judicial Procedures

- A strong majority think that courts maintain up-to-date records (76%), and that judges are able to call upon relevant experts (65%). There is a mixed sentiment on the issue of processing court documents without delays (40% neutral, 38% agree, 20% disagree).
- A plurality of 40% disagree that court staff have adequate qualifications to assist judges.

Timeframe for Judgments

- Fifty-five percent think that judgments are rendered within a reasonable timeframe.
- There are mixed opinions on whether the delays in case processing are sanctioned (40% agree, 39% disagree, 19% neutral) and whether disciplinary measures are taken against those that delay cases (40% disagree, 37% agree, 21% neutral).

Enforcement System

- Forty-six percent indicate that there are an insufficient number of enforcement personnel.
- The enforcement of judgments generates a 46% neutral response, but 41% who agree.
- Sentiment vacillates between those who agree that there are external pressures that interfere with the efficient enforcement of judicial decisions (35%) and those that disagree (33%).

Reforms

- Eighty-seven percent agree that reforms are needed to improve the speediness of delivery judgments, with 85% saying that reforms targeting the improvement of the enforcement system are also necessary. Additionally, reforms of court procedures and trial management rules are both needed to improve court efficiency (84%).

III. Missing Data Analysis:

An analysis of missing data yielded significant findings that warrant attention. The overall pattern of missing responses did not exceed 2%. This indicates that the questionnaire, on the whole, did not create unexpected complications for participants. However, closer attention to the pattern of missing data points to

1- **item 6** "the judiciary received funding from sources other than the government allocated budget (excluding bribery)" had the highest rate of missing data with 50% of participants reporting their inability to assess this item. Either participants felt the item to be too sensitive or they did not feel confident enough to provide an assessment on that question.
2- **Item 34** "judges regularly disclosed their assets" had the second highest rate of missing data, with 44% of participants reporting their inability to assess the item.
3- four items hovered around the 20% rate of missing data; these are: **Item 64** "Decisions made by the disciplinary committee against judges are provided with sufficient explanation" (21.5%), **item 7** "The judiciary has adequate resources at its disposal" (19.5%), **item 65** "The decisions made by the disciplinary committee against judges are clear and fair" (18%), and **item 66** "Court proceedings are regularly inspected" (18%).

Analysis based on the 6 items highlighted above need to be treated with caution. Results may be biased by a series of factors. Other items with lower values of missing data may be of interest to authors, and are provided in appendix C, p. 9.

IV. LIMITATIONS

It is important to note that the study does not allow sweeping generalisations about the state of the judiciary; the survey used a random sample of judges and lawyers, but the sample size is too small to allow for confident generalisations. Furthermore, difficulties accessing these population (see refusal rates) limit the ability to generalise to the population since those that accepted to participate in this survey and those that refused may have different characteristics and perspectives.