
| RESEARCH ARTICLE

The Role of Judicial Oversight of Political Parties in Jordan in Light of the 2022 Constitutional Amendments

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| ABSTRACT

The aim of the study is to clarify the role of the judiciary in monitoring political parties in Jordan, in accordance with the Constitution of Jordan of 1952 and its amendments, and the Political Parties Act No. 7 of 2022. The problem of the study is the adequacy of judicial oversight of political parties in the Hashemite Kingdom of Jordan. The study adopted the analytical, investigative and descriptive curriculum and found insufficient judicial oversight of Jordan's political parties. It is recommended that all appeals relating to political parties be examined in administrative jurisdiction.

| KEYWORDS

Judicial oversight, political parties, constitutional amendments.

| ARTICLE INFORMATION

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1. Introduction

Undoubtedly, political parties have a pivotal role in parliamentary within democratic regimes, driving the implementation of their agendas by influencing the legislative and oversight functions of parliament. The political parties have been established in Jordan since its independence, and even today. The political parties in Jordan are an integral part of the political regime, and in accordance with Article (16) of the Jordanian constitution of 1952 and the amendments thereto, Jordanians are entitled to establish political parties provided that the objects of such parties are lawful, their methods peaceful, and their by-laws not inconsistent with the provisions of this Constitution. The 2022 constitutional amendments, as specified in Article (67/B), were introduced to ensure the impartial exercise of the right to form political parties and to prevent any undue influence from the executive authority. As a result, the amendments entrusted the Independent Election Commission with the responsibility of reviewing applications for party formation and overseeing their activities in accordance with legal provisions to ensure transparency and integrity in decision-making, replacing the previous system where these functions were managed by the Political Party Affairs Committee within the Ministry of Political and Parliamentary Affairs.

According to these constitutional provisions, Political Parties Law No. (7) of 2022 was enacted to regulate the process of political party formation and to oversee their activities under the jurisdiction of the Independent Election Commission. Consequently, this study intends to investigate the judicial surveillance's role in monitoring the political parties in light of the 2022 Constitutional Amendments.

1.1 Research Significance:

The significance of this research lies in ensuring the freedom of political parties' formation, a fundamental pillar of the democratic regime, while simultaneously ensuring judicial surveillance, as mandated by the Constitution through legislative and constitutional oversight to steer the country towards a more democratic future within the framework of multiparty, in light of the 2022 Jordanian constitutional amendments and the enactment of Political Parties Law No. (7) of 2022.

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1.2 Research Problem:

The research problem lies in examining the extent of the judiciary's role in monitoring political parties in Jordan, ensuring the necessary judicial surveillance to support democracy and the freedom of political parties' formation. Given that the actions of the Independent Election Commission, both during the party formation process and subsequent stages, are subject to the rule of law and judicial surveillance, the central research question is: How effective is judicial surveillance of political parties?

2. Research Methodology:

The research adopted an analytical-descriptive approach, emphasizing the foundational principles in the Jordanian Constitution, the Constitutional Judiciary, specific provisions related to political parties, and Political Parties Law No. (7) of 2022 concerning the freedom of its formation and activities.

2.1 Research Structure:

This research will be divided into two sections to achieve the desired outcomes:

2.1.1 First- The Phases of Political Party Formation in Jordan:

The formation of political parties has progressed through several phases, culminating in their current role as representatives of public opinion and the will of the people. The formation of political parties in Jordan is closely linked to political development, with parties playing a crucial role in promoting citizen participation in political activities. The significance of political parties is rooted in the functions they perform.

Jordan has experienced various phases in terms of the role played by political parties and the conditions governing their formation. The country has witnessed a multitude of legislative enactments regulating party activities. Since the 1950s, Jordan has witnessed the emergence of several political parties, reflecting a commitment to political pluralism⁽¹⁾. Accordingly, laws such as Law No. (3) of 1954 and Political Parties Law No. (15) of 1955 were enacted to regulate the formation of political parties.

Political parties were dissolved in Jordan on April 25, 1957, in accordance with Article (125) of the Jordanian Constitution. Subsequently, Political Parties Law No. (32) of 1992 was enacted, pursuant to Article (16) of the Jordanian Constitution⁽²⁾.

Legislative efforts to regulate political parties in Jordan have been ongoing, a number of laws were subsequently enacted, including Political Parties Law No. (19) of 2007, Political Parties Law No. (16) of 2012, Political Parties Law No. (39) of 2015, and ultimately, Political Parties Law No. (7) of 2022. The enactment of these laws was intended to regulate the practice of political activity in Jordan.

It is incontrovertible that the Jordanian constitutional legislator has embraced this principle since 1952, as specified in Article (16/2) of the Jordanian Constitution, which states: "2- Jordanians shall have the right to establish societies, and political parties, provided that their purposes are lawful, their means are peaceful, and their by-laws not inconsistent with the provisions of the Constitution." Such provision can be concluded that the Jordanian citizen derives the right to form a political party directly from the Constitution, provided the three conditions stated in the provision are met: the party's purposes must be lawful, its means peaceful, and its by-laws must not violate the provisions of the Constitution. These conditions are clearly stated to protect the constitutional order and the political system of the state.

An analysis of Article (16/3) of the Jordanian Constitution, which states, "3- The law shall regulate the establishment of societies and political parties, as well as the oversight of their resources," underscores that the law's role in governing political parties is strictly limited to procedural and regulatory dimensions, and it does not empower any authority to leverage this constitutional provision to introduce additional conditions beyond the three abovementioned stated. Consequently, any attempt to include such conditions in the law, where their absence could lead to the nullification or dissolution of a political party, as stated by Article (128/1) of the Constitution, which affirms that, "Laws issued under this Constitution to regulate rights and freedoms shall not compromise their essence or undermine their core principles." Therefore, invoking procedural or regulatory requirements from the Political Parties Law as a basis to dissolve a party or invalidate its formation would undoubtedly conflict with the constitutional framework.

Under Article (3) of the new Political Parties Law No. (7) of 2022, a political party is defined as: "A national political organization consisting of Jordanians who share the values of citizenship, common goals, programs, visions, and ideas, and whose purpose is to engage in political life and public affairs through peaceful and democratic means, pursuing legitimate objectives such as

¹ Al-Abadi, Ahmed Ali Owaidi (2023), Royal Vision in Political Parties

² published in the Jordanian newspaper Al-Ra'i, available at <https://nabd.com/s/109007137>

contesting elections of all kinds, including parliamentary elections, and forming or participating in governments, as stipulated in Article (35) of the Constitution.” This definition not only underscores the crucial role of political parties in facilitating political participation but also outlines the minimum formation pillars of any political party, including its formal organization and its composition of citizens who share common political principles, seeking to achieve their purposes through legitimate and peaceful means.

While it is challenging to provide an exhaustive definition of a political party because political parties are formed to pursue enduring purposes that require sustained effort, it is clear that the recognition of a political party presupposes the existence of certain fundamental pillars, including a shared ideological foundation among its members and a degree of relative permanence. Moreover, political parties are typically national in scope, encompassing a diverse group of citizens who share common principles and ideologies, seeking to achieve political power through democratic means in order to implement their party's program, which addresses social, cultural, and economic aspects.

The Jordanian Legislative Authority has defined the scope of the right to form political parties in the Political Parties Law of 2022, under Article 5, which stipulates that a political party shall be formed on the principles of citizenship, equality among Jordanians, commitment to democracy, and respect for political pluralism, and shall not be based on religious, sectarian, ethnic, or factional grounds, nor on discrimination based on gender or origin to prevent the exploitation of such factors to foster division and discrimination within society. Consequently, the legislative authority shall ensure that political parties are fundamentally national in nature, representing all citizens rather than specific regions, groups, or sects ⁽³⁾.

Pursuant to the Political Parties Law No. (7) of 2022, which stipulates that any entity intending to form a political party shall notify the relevant authorities in advance. The formation application shall comply with the required legal formalities, including the condition that the number of founding members shall be no fewer than three hundred. Such application shall be submitted in writing to the registrar, signed and authenticated by the founding members, including their personal information, as well as the party's proposed draft, in accordance with the requirements specified in Political Parties Law No. (6-9) of 2022. The complete application file shall then be submitted to the Registrar at the Independent Election Commission, who, upon receiving the application and attached documents, shall issue an acknowledgment signed by the representative of the founding members, specifying the date of receipt. Furthermore, the Registrar shall verify the names of the founding members to ensure compliance with the legal requirements set forth in the law and may request any additional documentation necessary to finalize the formation process, as stipulated in Article (10) of the 2022 Political Parties Law.

Based on the foregoing, it can be concluded that the Jordanian Legislative Authority has established a pre-notification procedure to regulate the formation of political parties and with presence of legal safeguards, However, this approach could restrict and narrow this freedom, making the formation of political parties more complex in reality. The Legislative was supposed to simplify the conditions, not complicate them. concurrently, we can justify the Legislative's position by pointing out that the formation of political parties is not a common occurrence in the Jordanian society. So, this matter requires surveillance and regulation by the Legislative, leading to the imposition of various conditions on party formation, such as the requirement for a diverse and structured party.

2.1.2 Second- the judicial surveillance's role in monitoring political parties:

The system of judicial Surveillance varies from one country to another depending on the system adopted by the legislator. Some countries adopt the unified judicial system, which assigns surveillance to the ordinary courts that judge all disputes, whether they arise between individuals or between individuals and the state. Others adopt the dual judicial system, which assigns surveillance to specialized courts to judge disputes that arise between individuals and the state ⁽⁴⁾.

While the law provides for various forms of surveillance—political, administrative, and parliamentary—judicial surveillance stands paramount, as it represents the highest authority. The judiciary has a major role in enforcing the principle of the rule of law ⁽¹⁾.

The judiciary is the best authority to entrust with this responsibility due to its neutrality, independence, and integrity, in addition to its knowledge of the principle of legality, ensuring that it remains safeguarded from annulment by judicial authorities ⁽⁵⁾.

⁽¹⁾ El-Zoubi, Hadel M. (2024). The Role of Administrative Judiciary in Jordan in Protecting the Freedom to Form Political Parties. *Jordanian Journal of Law and Political Science*, Mutah University, Karak, Jordan, 96(2).

⁽¹⁾ Shatnawi, Ali Khattar (2011), *Administrative judiciary encyclopedia*, Part 1, Edition 1, Dar Al-Tharqafa for Publishing and Distribution, Amman, Jordan, P.158.

⁽¹⁾ Ghanem, Hani Abdel Rahman (2014), *Administrative Judiciary*, Part 1, Edition 1, no publishing house, p. 291.

The significance of judicial surveillance is heightened by the fact that it is independent of the judicial authorities, with its neutrality and impartiality. Therefore, it is not obligated to resolve the grievances and complaints submitted to it, unless there is a legal provision requiring it in this regard ⁽⁶⁾.

Accordingly, judicial Surveillance is the pivotal point in the proper judicial process, so it shall be subject in all its phases to the law, and the judge shall ensure due respect for the law by applying its provisions, as judicial surveillance is one of the strongest guarantees to protect the principle of legality compared to political surveillance and administrative surveillance.

Political parties and freedoms have a strong relationship according to most national constitutions, whereby the judiciary intervenes to protect these parties and freedoms in several ways, including ensuring free competition between parties, and this was a consequence of the intervention of the constitutional judiciary based on the right of citizens to belong to political parties and choose their representatives from parties. Although democracy is entitled to protect itself, but in case the parties violate the law and do not adhere to the provisions of the constitution, the judiciary shall dissolve those parties because they threaten the political system. ⁽⁷⁾

In Jordan, political parties regarding their formation and practice of their activities enjoyed a great concern by the political system. Whoever reads the provisions of the Jordanian Constitution finds that the provisions contained in Article (16) of the Constitution are the same contents and provisions contained in other constitutions. Thus, in 1954, the Jordanian judiciary had an implicit and indirect interpretation of the three provisions regarding the protection of the constitutional order in the Kingdom and its security, as well as the freedom of forming and operating parties. Accordingly, when the state wanted to expand the interpretation of its authority over the freedom of parties in their formation and activity, the Supreme Court of Justice judgment No. (45/1954) stated that: The Political Parties Law does not stipulate that the system of government stated in the Jordanian Constitution shall be designated in the party's statute..." ⁽⁸⁾. Therefore, the state shall not issue any law stipulating other provisions added to the provisions related to the right of freedom to form a party or not, and thus the legal provisions added shall be unconstitutional.

Moreover, the new Jordanian Political Parties Law of 2022 includes a set of provisions enhancing the authority of the law and providing protection and independence for political parties. In accordance with Article 22 of the Political Parties Law: "considering appeals relevant to the formation of the party and the final decisions of the party to settle violations and disputes between its members and its executive leadership as a matter of urgency". Therefore, we believe that the dissolution of a political party in Jordan for any violation shall be in accordance with the provisions of its statute or by a final judicial judgment, since it does not belong to the three reasons mentioned in Article (16) of the constitution, which constitutes a violation of the Jordanian constitution.

The legislative has not imposed judicial surveillance on party elections under the Political Parties Law, otherwise the parliamentary elections. Instead, it was imposed on the preparatory stages of party elections, including the preparation of voter lists, objections to these lists, and verifying the validity of candidacies and party memberships.

Similar to parliamentary elections, Article (4/c) of the Jordanian Elections Law stated that the mechanism for preparing, organizing, and reviewing voter lists. This process referred to as administrative stage is implemented by the Civil Status and Passports Department. These preliminary lists include the names of individuals eligible to vote, ensuring that the names of deceased persons are removed based on official records. The Jordanian legislator requires all courts to provide the Civil Status Department with a list of all peremptory judgments issued by it, related to interdiction and bankruptcy, including full names and national numbers.

Accordingly, It is evident that the judiciary role at this stage is not supervisory but rather focused on enforcing the legislation governing the electoral process, which specifies the categories of citizens eligible to engage in political activities. Electoral lists are considered highly significant, as they not only serve as a clear and reliable record for verifying voter eligibility but also facilitate the process of identifying and counting the number of eligible voters. These lists provide a crucial reference for obtaining essential information during the electoral process. Moreover, they play a key role in determining the number of votes obtained by each winning candidate. Without registration in the electoral lists, no individual shall participate in the elections.

⁽⁶⁾ Abu Al-Atham, Fahd Abdul Karim (2011), Administrative Judiciary between Theory and Practice, Dar Al-Tharqafa for Publishing and Distribution, Amman, P. 148-149.

⁽⁷⁾ Hussein, M. T. (2018). The Political Role of Constitutional Judiciary: A Comparative Study, Dar Kotb w Drasat Arabia, Alexandria, P. 106.

⁽⁸⁾ Al-Abdullah, S. H. (2023). The Role of Constitutional Judiciary in Overseeing Political Parties: A Comparative Study. Al-Zaytoonah University Journal of Legal Studies, 4(Special Issue), Amman, Jordan, P. 93.

Any person whose name is included in the voter lists issued by the Civil Status Department shall have the right to lodge a personal object against these lists. Additionally, any individual may lodge an object to the inclusion of other voters who are ineligible to vote, or to the omission of their own names from these lists and this is known as a third-party objection. The objection shall be made in writing and submitted, without stamps, to the Independent Election Commission for reconsideration within seven days from the date on which the voter lists are finalized, the Commission shall issue its decisions on the submitted objections within fourteen days from the date of submission. The objectors shall be notified within three days at the same locations where the voter lists were published, and this notification shall also be posted on the Commission's website. If the objector is not satisfied with the decision of the Independent Election Commission, the decision may be appealed, without any fees, to the Court of First Instance in the electoral district within seven days from the date of the expiration of the notification period, and the court shall adjudicate on the appeals filed before it within seven days, and the decision shall be communicated to the Independent Election Commission for reconsideration within three days of its issuance. Such decision shall be final and non-appealable before any other authority, as per the provisions of Article 4 of the Jordanian Election Law.

With regard to the surveillance of the membership validity, the judge plays a crucial role at this stage, acting as a reviewer and evaluator of any neglect made by the judge responsible for surveillance the preparatory work. This ultimately ensures that the electoral body's expression of its will is genuine, indicating a true and authentic representation of the House of Representatives. The scope of the judicial authority tasked with surveillance the legality of the voting process and the announcement of its results is thus expanded. However, the ultimate goal is to embody what is known as the surveillance of the validity of the election of members of parliament, or rather, the surveillance of the validity of membership. Therefore, this authority does not necessarily require the annulment of membership, as the latter is a matter that comes after the establishment of membership as determined by the final results of the electoral process and verified by the competent judiciary. The Jordanian Constitution has entrusted this task to the judiciary, represented by the Court of Cassation, after it had been entrusted to the House of Representatives, as stipulated in Article 71 of the Constitution, which states. The Court of Cassation has the authority to adjudicate on the validity of the membership of the House of Representatives members in accordance with the provisions of the law, provided that an appeal is filed within fifteen days from the date of publication of the election results in the Official Gazette, and the court shall issue its ruling on the appeal within a period not exceeding thirty days from the date of its registration. ⁽⁹⁾ Therefore, upon the Independent Election Commission's announcement of the counting results and the determination of the winning candidates, the Constitution designates the Court of Cassation to adjudicate on the validity of parliamentary membership, instead of the House of Representatives. Any voter may challenge the validity of any member's election in their constituency, specifying the grounds for the challenge within fifteen days from the date of the election results announcement. The court has the authority to accept or reject the appeal. ⁽¹⁰⁾.

The researcher concludes that the existence of political parties aims to rectify the shortcomings of the party scene, enhance party effectiveness in parliamentary elections, and improve parliamentary representation. Given the significance of these objectives, the formation of political parties and the selection of candidates for parliamentary elections must be subject to judicial oversight, particularly regarding the validity of membership. To minimize the possibility that the candidate's party may have committed any violations, falsifications, or fraud during the electoral process, including the preparation of voter lists, which could affect the candidate's victory and subsequently serve the party's interests. Jordan's legislative measures regarding judicial oversight of political parties are insufficient when compared to those governing parliamentary elections.

3. Conclusion

Based on the foregoing analysis, we have arrived at the following findings and recommendations:

3.1 The Findings:

1. Political parties are essential pillars in constructing democratic states. Without a sound legal framework for formation and operation of political parties, it is challenging to foster a comprehensive environment where citizens can fully enjoy their public freedoms and rights.
2. The Jordanian Legislative Authority has instituted a pre-notification procedure to regulate the formation of political parties, which imposes conditions on founding members and requires subsequent licensing for official recognition and public announcement. Upon official registration with the Independent Election Commission, a party shall be deemed to have been legally formed, and such an approach could limit this freedom and make it more difficult to form new political parties.
3. Political parties have a vital role in educating the public and acting as a bridge between citizens and the government, Recognizing the need for impartial oversight of all elections, including party internal contests, the constitution established

⁽⁹⁾Refer to the Jordanian Constitution of 1952, as amended in 2022.

⁽¹⁰⁾Refer the Electoral Law for the House of Representatives No. (4) for the year 2022, published in the Official Gazette No. (2568), as amended by Law No. (2) for the year 2024, published in the Official Gazette No. (5961) on 24/3/2024.

an independent election commission is entitled to surveillance and supervision of all types of elections to ensure fairness and integrity, including the formation of political parties.

4. Jordanian Legislative Authority measures regarding judicial surveillance of political parties are insufficient when compared to those governing parliamentary elections.
5. Jordanian Legislative Authority considers that the surveillance political parties concern with political party elections, particularly as it relates to the election of parliamentary members, and the authority to oversight these elections is granted to the Independent Election Commission, which is tasked with supervising all electoral activities for all bodies, unions, associations, political parties, and others.

3.2 The Recommendations:

- 1- Streamlining the process of forming political parties, and the freedom of forming political parties shall be under the prior notification.
- 2- The study recommends entrusting the administrative judiciary with the adjudication of all appeals related to political parties, as such appeals are of an administrative nature and do not belong in regular courts.
- 3- Administrative Judiciary shall be the only authority responsible for surveillance political parties to prevent violations of the constitution and the law.
- 4- Political pluralism plays a significant role in Jordan's democratic political life, as pluralism is a key factor in the stability of democratic states.

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