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The Jordanian National Charter of 1991 – a Specific Constitutional Experiment

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Słowa kluczowe: Jordania, parlament, Jordańska Karta Narodowa, konstytucja

Abstract

After thirty years of authoritarian leadership of king Hussein I in the Hashemite Kingdom of Jordan in 1989 the first general election since 1967 was held. In 1991 in Amman the Jordanian National Charter was legislated. This document was a declaration of civil rights and the rules governing the society. Thanks to the Charter the multiparty system was restored. It needs to be stated, however, that the legislation of this act indicated legal nihilism of Jordanian society. The card apparently met the postulates of most ideological groups. Simultaneously, it did not replace the constitution in force and its statements were mutually contradictory. An attempt was made to combine European ideas of democracy and freedom with the rules of Islam. What is even more important is that the relationship between the king and social representatives was not specified. Eventually, the Charter facilitated the King's political game.

Streszczenie

Jordańska Karta Narodowa z 1991 r. – swoisty eksperyment konstytucyjny

W Haszymidzkim Królestwie Jordanii po trzydziestu latach autorytarnych rządów króla Husajna I przeprowadzono w 1989 r. pierwsze od 1967 r. wybory powszechne. W 1991 r.

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uchwalono w Ammanie Jordańską Kartę Narodową. Ten dokument był deklaracją praw społeczeństwa i zasad kierujących państwem. Dzięki Karcie przywrócono system wielopartyjny. Trzeba jednak stwierdzić, że uchwalenie tego dokumentu wykazało nihilizm prawny społeczeństwa jordańskiego. Karta z pozoru zaspokajała postulaty większości grup ideowych. Jednocześnie nie zastępowała ona dotychczasowej konstytucji, a jej przepisy były wewnętrznie sprzeczne. Starano się w niej łączyć europejskie idee demokracji i wolności z zasadami prawa islamu. Co ważniejsze nie precyzowano relacji króla i przedstawicielstwa społecznego. Ostatecznie Karta ułatwiła grę polityczną króla.

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I. Introduction

The Hashemite Kingdom of Jordan remained political stability despite unrests in the Middle East. The main factor of authority in this country is the monarchy, and in particular the ruling house of Hashemite. This monarchy bases its stability on the pre-modern religious ideology that the King of Jordan is a descendant of the prophet Muhamad. In the traditional Muslim doctrine such descent provided the right to exercise power. Obviously, a Hashemite leader had to make himself an attempt to gain material means that would enable him to reign. At the same time Jordan has, considering the region, a long tradition of competitive elections and a functional parliament. It has existed continuously since 1989 and in comparison to many countries one must concede that Jordan exhibits a freedom of political activity, freedom of speech and freedom of association. This specific situation has been shaped for decades and its comprehension requires getting familiar with the political evolution of this state.

According to the Western pattern the basis of the parliamentary system are constitutional norms. In Jordan the situation apparently seems to be the same. The Kingdom has a constitution and since the 1950s it has been a constitution of quite liberal character. The political reality of Jordan, however, frequently deviates from this pattern. First and foremost the Hashemite monarchy does not recognise the absolute sovereignty of the nation. The sovereign is always the King, the descendant of Muhammed. The monarchy may grant

the society with significant prerogatives, but it can also withdraw them and its existence is out of the question. Therefore, in the history of Jordan there were long periods of authoritarian leadership. One must bear in mind that the Western wording of many Jordanian legal acts is to protect more rudimentary norms. Even today, despite the parliamentary system Jordan has a lot of features of the absolutist monarchy².

However, the major part of the article is the discussion of a specific constitutional experiment, which was legislating the Jordanian National Charter in 1991. The document was legislated during rapid democratization of the Kingdom, which was initiated in 1989. It also occurred during the crisis connected with the Gulf War. King Hussein I at that time made an attempt to satisfy certain political claims of the society while maintaining main sources of political power and he succeeded in doing the trick. Without getting into details it may be stated that the Charter included declarations consistent with views of various politically active groups. In a certain sense it was meant to serve the constitutional role. Hereafter several aspects of this document are presented; additionally its main drawbacks are indicated.

The article is based on monographies in English and in Polish on the history and politics of Jordan. The source for the content of the Jordanian National Charter is a relevant webpage. It must be emphasised that it was available in 2008. In time the authorities lost interest in popularizing its content; thus, the webpage is now unavailable. The charter is such a vast document that the article presents essentially its three aspects, namely the role of the monarch, the multiparty system and, finally, the definition of nation, which is a rather complex issue in Arabic countries.

II. Establishment and development of the state

The Emirate of Transjordan, that is a separate political entity on the East of Jordan, was created in 1921 by the British. Abdullah I bin Al-Hussein, the son of Hussein bin Ali, the King of Hejaz, was nominated the Emir. Transjordan was a British protectorate and it only had internal autonomy. Formally, it was

² B. Milton-Edward, P. Hinchcliffe, *Jordan. A Hashemite Legacy*, London–New York 2009, p. 66.

not separate from the mandated Palestine. The British founded Transjordan because of economic reasons (they did not have to create administration in the desert area). The second reason was the fact that thanks to this they reduced the area where Zionists had the rights to establish Jewish settlement. What must be emphasised is that in 1921 there was no movement postulating foundation of a country on the Eastern Bank. Transjordan was a result of a coincidental political game³.

Until 1946 Transjordan remained a protectorate. However, its separateness gradually increased. In order to enhance this process Abdullah I legislated in 1928 the Organic Statue, in which he announced formation of a parliament. In February 1929 election was held and it was participated by 3% of the people entitled to vote. The first parliament was formed; it must be added that the Organic Statue did not specify its rights. In reality it was an insignificant entity. The Emir established it not because of internal needs, but under the influence of British advisors. They suggested that during negotiations concerning extension of the autonomy the existence of such institution was essential⁴.

In fact, Transjordan remained an absolute monarchy in spite of extending the rights of the parliament. After World War II the British decided to grant independence to the Emirate. In 1946 it was transformed into the Kingdom of Transjordan and its full sovereignty was proclaimed. In fact, it resulted from aggravation of the situation in Palestine. Granting sovereignty formally separated Transjordan from Palestine. Abdullah I was able to act on the international stage, which was consistent with the interests of London. The internal system of the state did not change in any way⁵.

It was the 1947–1949 Palestine war that brought real changes. In consequence of the war Transjordan gained the West Bank and East Jerusalem. Until that moment the kingdom had approximately 400 thousand inhabitants. 720 thousand Palestinian Arabs dwelled in the conquered area and tens of thousands of others fled to the East Bank. Within several years Amman,

³ M.A. Nowar, *The History of The Hashemite Kingdom of Jordan. The Creation and Development of Transjordan: 1920–1929*, vol. 1, Oxford 1989, p. 44.

⁴ K. Salibi, *The modern History of Jordan*, London, New York 1998, p. 115.

⁵ M.A. Nowar, *The Struggle for Independence 1939–1947. A History of the Hashemite Kingdom of Jordan*, Reading 2001, pp. 187–188, 191.

which until that time was inhabited by several dozens of thousand habitants was fled by 100 thousand Palestinian refugees⁶.

What is even more important is that the newcomers did not recognize the Hashemite legitimization of power. In Transjordan the traditional tribal society generally recognized the descent of the king from the house of Hashemite as sufficient legitimization to exercise power. The politically active Palestinians generally supported the pan-Arab ideology and rejected traditional monarchism. They totally rejected any negotiations with Israel, which Abdullah I considered a normal aspect of politics. The result of tensions and animosity between the king and his new subjects was the assassination on 20th July 1951. On that day Abdullah I was murdered by a Palestinian in Jerusalem⁷.

After the death of the first king of the state, which since 1950 began to be called the Hashemite Kingdom of Jordan (in western languages), there was a short period when his son Talal reigned, and since 1953 the ruler was Hussein I, the grandson of Abdullah⁸. In that time the authority of the king declined.

III. Between parliamentarism and dictatorship

During the transition period there occurred liberalisation of the Jordanian system. In 1953 the new basic law was announced. According to it, foundation of political parties was legalised and multiparty elections to the Chamber of Deputies (the Senate was appointed by the King) were introduced. The rights of the Chamber of Deputies were extended and since that time the prime minister was accountable to this body. The chamber could abolish the government and the new one was supposed to gain its vote of confidence. Simultaneously, it must be remembered that the monarch was the absolute leader of the army, police and civil service. He could also dissolve the Chamber, although in such a case he was obliged to hold election. During the transitional period he could issue decrees. Nevertheless, the new constitution could be

⁶ B. Wróblewski, *Jordania*, Warsaw 2011, p. 115.

⁷ Ph. Robins, *A History of Jordan*, Cambridge 2004, p. 74.

⁸ *Ibidem*, p. 77.

an introduction to the state democratization and the monarch and parliament parties collaborated with each other⁹.

The problem lied in the fact that the parties driven by the ideologies of pan-Arabism and Arab socialism gained at that time mass support. These parties struggled, in fact, to abolish the monarchy of the Hashemite. Collaboration was initiated and in April 1957 King Hussein I banished the leftist government with the help of the army. Political parties were abolished and monarchy authoritarianism was introduced¹⁰.

The consecutive dozens of years were in fact a struggle between pan-Arab left, represented in Jordan by Palestinians, and king Hussein I. Although the constitution of 1953 was still in force the parliament became marginalized. Additionally, after the defeat in the 1967 war against Israel the martial law was in force. In reality parliamentarism seized to exist, formally due to the fact that half of the MPs were supposed to come from West Bank and this part of the state was under occupation¹¹. Eventually, new conflicts between armed units of the Palestinians gathered around Al-Fatah and the Popular Front for the Liberation of Palestine and the monarch led in September 1970 to the outbreak of a civil war. The result of this was that the Jordan professional army destroyed military forces of Palestinian radicals in Amman and northern Jordan. In 1971 the remaining Palestinian forces were banished from the Kingdom. Thanks to this the Hashemite authority was finally consolidated in a permanent way¹².

In the 70's and 80's of the twentieth century king Hussein I exercised his power in a stable manner. The economic situation of Jordan improved, mainly due to money transfers from the citizens working in the Gulf. Simultaneously, Jordan became a state ruled in an authoritarian manner and the authorities got used to such situation¹³.

In the second half of the 80's the situation, however, began to change. The oil boom ended and the economic situation of Jordan visibly deteriorated.

⁹ Ibidem, p. 77 i 80–82.

¹⁰ J. Lunt, *The Arab Legion*, London 1999, pp. 155–158.

¹¹ A. George, *Jordan. Living In the Crossfire*, London, New York 2005, pp. 14–17.

¹² C. Bailey, *Jordan's Palestinian Challenge 1948–1983. A Political History*, Boulder Colorado 1984, pp. 56–61.

¹³ Ph. Robin's, op.cit., p. 140.

Western financial institutions requested savings; when meeting the requests the government introduced advances in prices in 1989 and violent riots broke out. King Hussein I acknowledged that the solution to the crisis shall be new political liberalization and he announced first general election since decades¹⁴.

IV. The issue of the Jordanian National Charter

On 8 November 1989 the election to the Chamber of Deputies was held. Formally, political parties still did not exist, but the election was competitive and the candidates openly declared their viewpoints. In result of voting the Islamists gained a very strong position, especially the members of the Muslim Brotherhood. The Islamists gained 34 out of 80 seats, while the political left of all kinds gained only 11. Nevertheless, King Hussein I had to continue liberalization¹⁵.

There was an unanimous agreement that the multiparty system should be restored. In 1990 the works over the electoral system were commenced. However, rather than restoring the liberal constitution of 1953 it was decided that a new document reflecting political rules applied to the state and the society shall be developed. This document was called the Jordanian National Charter and it was compiled by a committee composed of sixty experts. They attempted to include the ideas supported by both the Islamists and the pan-Arab left, while not violating the rights of the Hashemite. The Jordanian National Charter that was compiled this way was legislated 9 June 1991 after long discussions. It was legislated not by the parliament, but a nationwide conference with 2 thousand delegates representing the elites of various social groups of Jordan, e.g. tribal leaders, urban notables, academic professors, leaders of labour unions. This fact should be pointed out as it implies that the document was not legislated by a legislative assembly with relevant constitutional rights and that the parliament was not involved. Nevertheless, neither the Islamists nor the leftist opposition objected this procedure and did not notice potential threats¹⁶.

¹⁴ Ibidem, pp. 166–167, 169.

¹⁵ Ibidem, p. 171.

¹⁶ J. Zdanowski, *Historia Bliskiego Wschodu w XX wieku*, Wrocław 2010, p. 456.

In this way an eclectic document was compiled, that was in reality a declaration of principles, but at the moment of its legislation it was considered as a form of new constitution. The previous one, however, was not withdrawn.

The Jordanian National Charter consisted of a historical introduction which was followed by eight chapters. The first one presented fundamental rules guiding the state, the second one the issue of political pluralism and the rule of law, the third one the issue of state security, the fourth one concerned economic issues, the fifth one the social issues, the sixth chapter concerned the issues of education and culture, the seventh one the Jordanian-Palestinian relations and finally chapter eight referred to the issue of the Jordanian identity and their relation to the Arab community and Muslim communities¹⁷.

In the first chapter the following declaration was made: “The system of government in the Hashemite Kingdom of Jordan is parliamentary, monarchic and hereditary. Adherence by all to legitimacy and to respect of the Constitution shall enhance the union between the people and their leadership”. Within the whole charter it is the only passage which discusses the basis for the authority. It makes a reference to the previous constitution. In general, the Charter relentlessly declares liberties and rights of the people, emphasising, at the same time, connections with Islam. An attempt was made not to specify the rights of the king. However, in the beginning there is the information that the whole Charter was created on the demand of King Hussein I. In any case, avoiding descriptions of the rights of the monarch and the society is characteristic of this document¹⁸.

In the same chapter in point eight one may read that “Jordanian men and women are equal under law. There shall be no distinction between them in rights and obligations regardless of difference in race language or religion”. The same declaration should be contrasted, however, with point four: “Islam is the religion of the state, and Islamic law is the principal source of legislation”, as well as with a passage from point six: “The Arabic language is the official language of the state. It is the language of the Holy Qur’an”. It is imperative that the supremacy of Arabic is stressed by Jordanian society at all

¹⁷ http://www.kinghussein.gov.jo/charter_national.html, p. 1. (12.05.2022).

¹⁸ *Ibidem*, p. 2.

levels. Arabic should be used in all stages of education. Thus, on one hand one may notice a declaration of full gender equality before the law, regardless of gender, race, language or religion. Thereafter there is a declaration of the supremacy of the Arabic language, Muslim religion and a reference to Quran, despite the fact that it is itself a source of law. It can be seen that the wording of this declaration connected mechanically the Declaration of Human Rights with elements of Islamism and Arabic nationalism¹⁹.

In the second chapter of the Charter, which is an important one, it was declared that Jordan is a *rechtsstaat* (state of law) and the return to multiparty system was declared, which was meant to comprise the basis of civil liberty: “Jordanians enjoy the right to establish and belong to political parties and groupings, provided that their objectives are legitimate, their methods are peaceful and their statutes do not violate the provisions of the Constitution”. The charter, however, imposes a major limitation. It requires, in an absolute manner, that the parties have to be inner-Jordan establishments. They cannot be financed from abroad or have non-Jordanian leaders: “There shall be no structural or financial affiliation by the leadership or members of any party with any non-Jordanian”²⁰.

What is also noteworthy is the issue of the definition of community, namely the nation. In the perspective of Western viewpoints, nation is a sovereign so in general it is clearly defined. In the Charter there is a different approach. In chapter seven one may read: “Jordan is an indivisible part of the Arab and Islamic nation. Hence, its national identity is Arab just as Islam is the faith of the nation”. It must be added that in European languages the use of the words “Arab and Muslim nation” sounds strange. In Arabic the word “umma” is used and these compounds do not come across as strange. In a different passage one may read: “the Arab society to which Jordan aspires is one that is informed by the democratic principle, believes in Arab unity”. In general, the creators of the Charter did not want to distinguish Jordanians as a nation. They strived to something different – to emphasize that they belong to the Arab and Muslim community²¹.

¹⁹ Ibidem, pp. 2–3.

²⁰ Ibidem, pp. 1–2.

²¹ Ibidem, p. 2.

V. Summary

The Jordanian National Charter was created during the political crisis of 1990–1991. The Jordanian monarchy had to take into account in that period the postulates of the society, especially two ideological movements, namely Islamists and Pan-Arab groups of political left. King Hussein I declared the return to liberty, rule of law and parliamentarism. The opposition had an opportunity to struggle for constitutional form of the state. Bearing that in mind it needs to be pointed out that the opposition did not struggle for changes in the foregoing constitution, e.g. specifying the rights of the king. It was agreed to create a new text that was a declaration satisfying various trends in the Jordanian society. The text is so eclectic that its particular paragraphs are mutually contradictive. In fact, certain fragments taken from it may content both a communist and an Islamist. In result the Charter did not provide real protection of liberties and the Hashemites were indeed quite quick to neutralize the opposition and the document became forgotten.

In retrospect, the Jordanian National Charter appears to be a very clever manoeuver of the king; instead of reforming the old constitution a fabulously sounding declaration of all liberties was made, but it was not a constitutional act and it was not legislated by the parliament. In fact, the Jordanian National Charter was an act of unclear legal status.

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