

القول الفصل

دراسة في اتجاهات القضاء الأردني في التعامل مع
قضايا المطبوعات والنشر 2000-2006

الباحث الرئيسي
المحامي بالنقض
نجاد البرعي

الباحثون المساعدون
محمد حسين النجار

المحامي محمد قطيشات

المحامي عاصم عبد الله

المحامي سامر زريقات

المحامون

أمين حنتيش - إياد الحمارنة - عبد الحميد سالم
خالد خليفات - محمود إبراهيم - أحمد العمري - نانسى حنا

المشرف العام

نضال منصور



تصميم الغلاف والإشراف الفني

سمير الرحمي

الإخراج الفني

هيثم أبو عطية

التدقيق اللغوي والمطبعي

محمد الجميعان

طلال منصور

المطبعة

إهداء

إلى ذكرى القاضيين الجليلين موسى الساكت و علي مسمار ، اللذين

سطراً بمواقفهما صفحات خالدة في سجل القضاء العربي بعامة

والأردني على وجه خاص

نهدي هذه الصفحات المتواضعات

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القول الفصل

القضاء وحرية الإعلام

بقلم: نضال منصور *

1989

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*



" "

" "

2000 2006.

نضال منصور
رئيس المركز



مقدمة

القول الفصل .. القول الذي لا قول بعده

2000 2006¹

2

229

1

2

241

241 .1

2006 2000

229 .2

229 .3

.4



3

()

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()

:



2006 2000
-
-
%300



:

2003

2003

.2006

2006 2005

4

4





2006 2000





المحامي بالنقض
نجاد البرعي
القاهرة في الخامس من نوفمبر عام 2007



الملخص التنفيذي

الملخص التنفيذي
المستخلصات والتوصيات

()

"114

"

....



.1

45



51.55% 48.45%

5.600.000

2006

2003

2006

1980

2004

-

-

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15

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%34

" "

%56

" "

1969

()

1953

650

1989



- 2006

515 2006

2006

"

40

10

"



:

:

:

:

:

.1



					.2
14					
	19	-			.3
					-
			2005	47	
					.4
					.5
	12				
					.6
					.7
	59	39			
			2006		
				18	



2005

%42

()

" "

%60

%65

:

.1

.2

%100



2007 8 601

"

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6

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.4

.5

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.4



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.1

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.4



190-188

278 273

.150

38

15

191

14 13 11

1959 9



.2

40

.

273

"

"

190

5

360

.

.3

"

17



188

190

.4

.5

.6



"

"

37

"

42

" " " " " "

"



.1

.2

.3

.4



.5

.6

.7

.1

.2

.3



- .1
- .2
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- .6
- .7
- .8
- .9

- .1
- .2
- .3
- .4
- .5



.6

.7

.8

.9

.10

.11

.12

.13

:



%75

:

.1

.2

.3



7 5 4

%70

80

53

189 188

359 358

%40,35

49

4

%18

18

%63

31

191



7%

9

150

273

2.63%

278

2.7%

2006-2000

1959

9

11

11

1959 9

1959

9

15

3.5%



14

%1

1959 9

26

%8

27

%90

:

7 5 4

.1

358

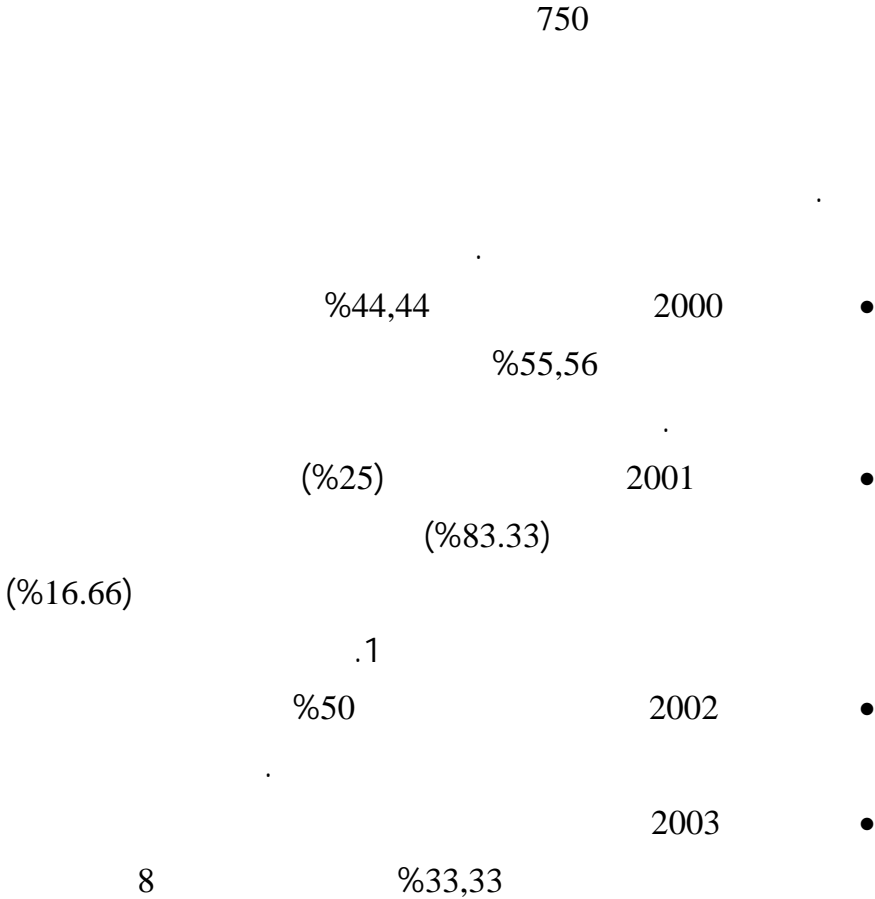
-

359

.2

27





الملخص التنفيذي

			% 80	
			%20	
	26		2004	•
	(%38.46)	10		
	(%87.5)	14	.2004	
			(%12.5)	
	%55		2005	•
			%88,89	
			(%11.11)	
11		26	2006	•
	2006		(%42.31)	
	(%57.69)	(15)		
	(%73.33)	11	2006	
			(%26.67)	

.2006-2000

20006-2000



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-



9 7 5 4

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7 5 4

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7 5 4



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.6



.1

.2

.1

.2

.1

.2

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.5

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.2

.2



.1-2

• 1-1-2

• 2-2-2



()

• 3-2-2

• 4-2-2

2007 27

2-2

• 1-2-2



• 2-2-2.

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25

• 1-2-2-2.

• 2-2-2-2.



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• 4-2-2-2

3-2

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• 1-3-2



• 2-3-2.

• 3-3-2.

- 2006

2007

-

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• 4-3-2.

-

9 7 5

4-2



.1-4-2

.2-4-2

.3-4-2

.4-4-2



الفصل الأول

...
المملكة الأردنية الهاشمية ... إطلالة أولية

مدخل إلى الدراسة

المملكة الأردنية الهاشمية .. إطلالة أولية

1952

1

1-1

1937

"

723

1951 20

1951 20

1951 4

1

2

1

() ()

...

"

2

1951 30

723 1951 20

...

"...



"	1951	9
1952	12	"()
3.		
(38)	()	1952 13
"	(1)	
1962	4	1962 30
-	-	
" 25	"	" 24
"		
...	:"	3
1952	11	"
(28)	()	
"	"	" 1952/8/11
1962/1/30	.1953/5/6	4
"	()	"
"	28	()
"	"	1965/4/1
"	"	



.26

5 .

.2-1

40 30

5

1958/ 5/ 4 1380

1958/ 9/ 1 1396

1974/ 11/ 10 2523

35

40



45

" 47

6

" 49

"

51

" 53

7

.3-1

.1-3-1

"

1958/ 5/ 4 1380

6

"

"

1958/ 9/ 1 1396

"

1954/ 4/ 17 1179

7



.2-3-1

1928

1929

.1947

4

20

.1947/10/

1954/ 4/ 17

1179

53

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67

(110)

(68)



35

.3-3-1



1998/1/26

1997 (27)

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4-1

14

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97

98

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: (100) :

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.1-4-1

" "

2001 4480

1984 1976 1974

1952

1976 43

1988 24

1960 16

1966 12

.1961

.2-4-1

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1: ...

2

1:

2.

3.



17

.1959



" (1974) " " (1975) "

" (1992) "

" " (1991) "

" " (1991) "

(2000) "

" (1968) "

(98) "

:

" (1958 ,1966) "

(105) (29) "

(111) "

" (1966) "

(100) "

" (1998) "

(138) "

" (1963) "

(2000) "

(182) "

:

(2/ 9) :

(4/ 15) .

(1/ 16) .

(21 20 14) :

1990



" /

"

.⁸2004 /

.3

.⁹

- "

" .1-3

,2002 (75)

.2-3

3

⁸

⁹



2003

.3-3

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.4-3

1998

1996

.5-3

2000

.6-3



1990

.7-3

1990- 1984

1990 10

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.8-3

2000

" "

1998

.9-3



(10)

(20)

.66

-

-11

"



”

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”

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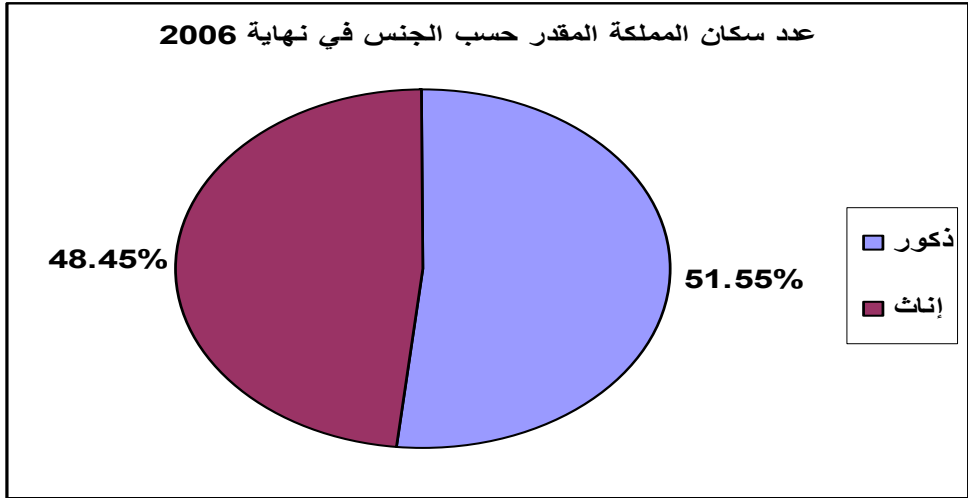
” ” ” ”



(11)

“ “ “ “

48.45 %51.55



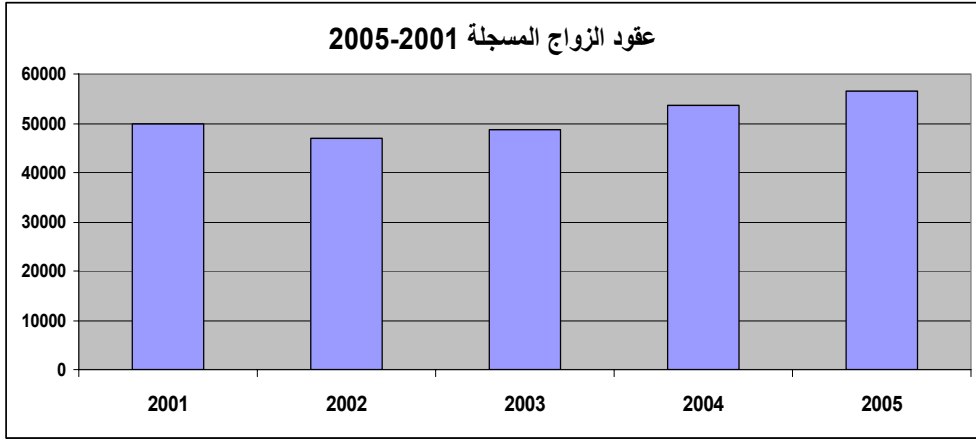
(22)

2003



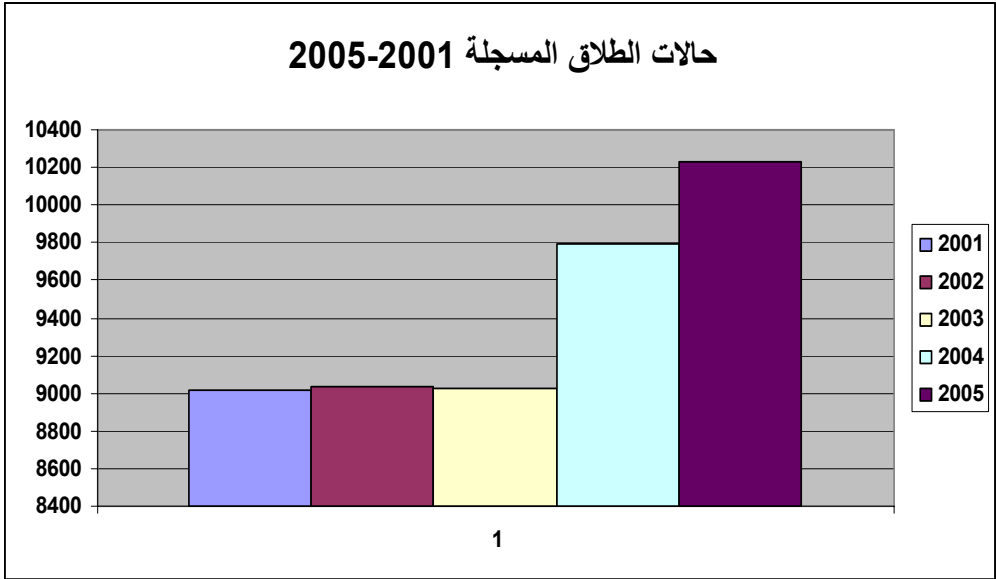
1999

2002



2005





.6

5.600.000 2006

2003

2004

2006

2004

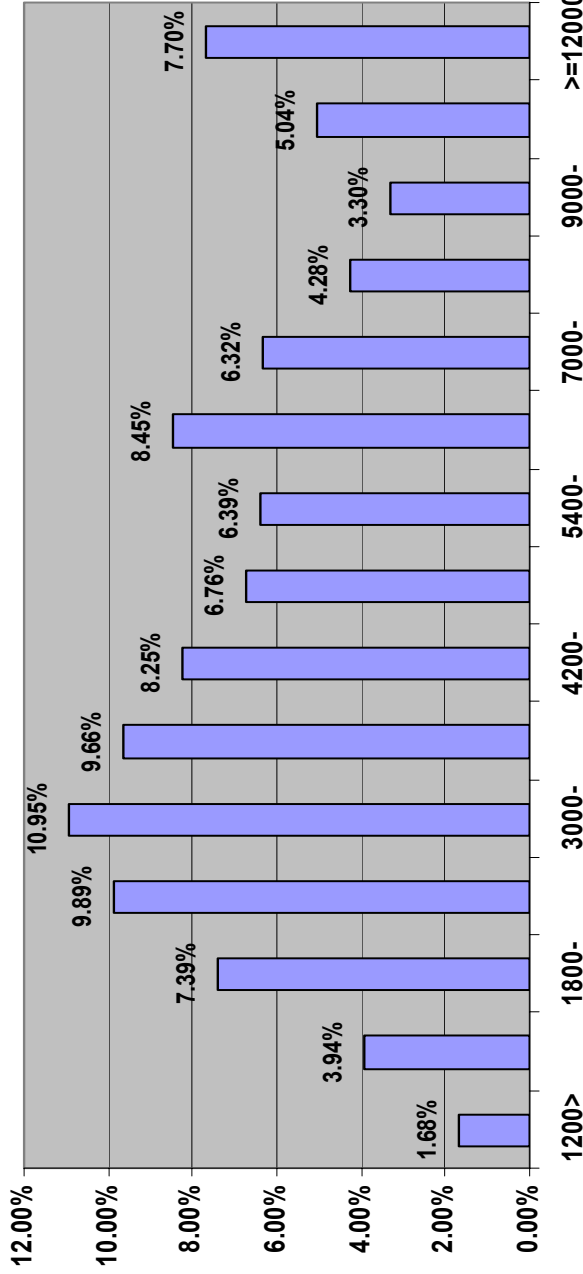


2002-2003.¹²

التوزيع النسبي للأفراد حسب فئات الدخل الجاري السنوي 2002 - 2003	
فئات الدخل الجاري السنوي للأفراد (بالدينار الأردني)	
الدخل السنوي	النسبة
>=1200	7.70%
0	5.04%
10000-	3.30%
9000-	4.28%
8000-	6.32%
7000-	8.45%
6000-	6.39%
5400-	6.76%
4800-	8.25%
4200-	9.66%
3600-	10.95%
3000-	9.89%
2400-	7.39%
1800-	3.94%
1200-	1.68%
1200>	94270
عدد الأفراد	368997
النسبة	1.68%



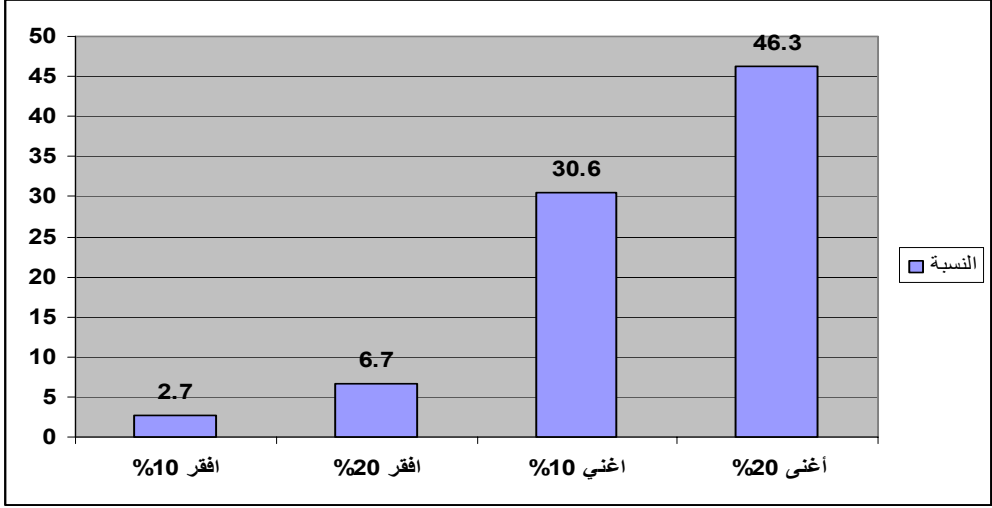
فئات الدخل السنوي للأفراد (بالدينار الأردني)



	%10,95				
		%7,7	2400	%9,89	
2006					
2004				1980	
-					
	%7		%2 -		
	2004				
%10					
%6,7		%20		%2,7	
	%30,6		%10		
		%46,3		%20	



%20	%10	%20	%10	
46.3	30.6	6.7	2.7	



.7

15

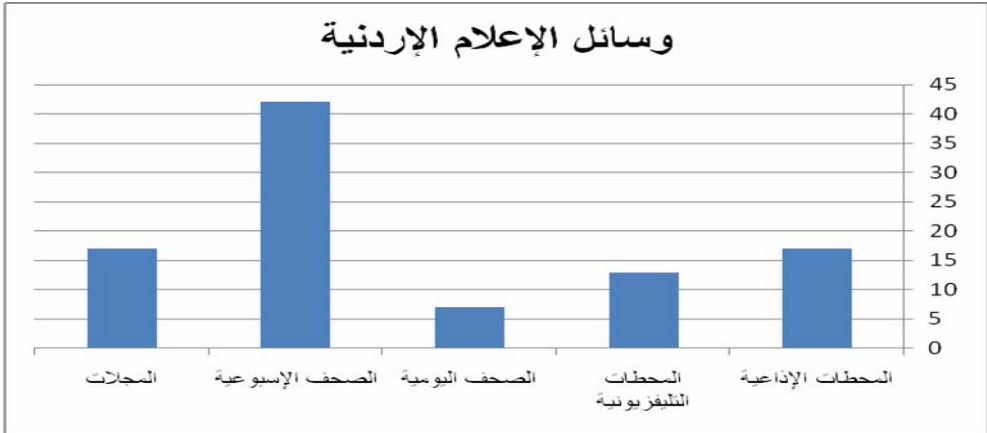


900

13

14

96	17	42	7	13	17



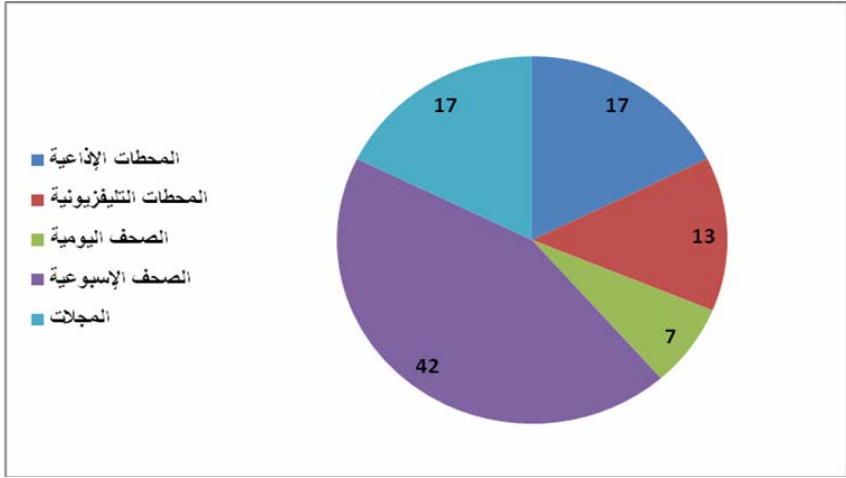
13

www.hmc.org.jo

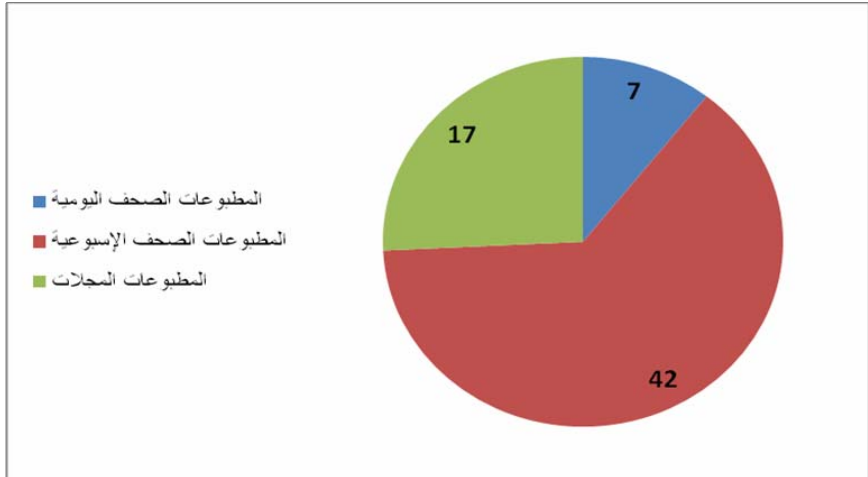
4

14





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2006

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15

1993 10

19

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1997 27

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%56

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108

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(1)

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(3)

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(4)



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(6)

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. F.M

"Outdoor"

" "



%72

101

%69.3

(2004)

%18.8 (%35.6)

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%22

/ ()

2005

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2003

.3

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2005

.4

2006

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.5

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.6

<http://www.pogar.org/arabic/countries/country.asp?cid=1> (



- .7
www.ajazeera.net
- 2007 / 22 .8
- 30 A/HRC/4/G/17
March 2007
- .9
<http://ar.wikipedia.org/wiki/%D8%A7%D9%84%D8%A3%D8%B1%D8%AF%D9%86>
- .10
<http://www.pm.gov.jo/>
- .11
http://www.dos.gov.jo/dos_home_a/main/index.htm :
- .12
– 2006



الفصل الثاني

الفصل الثاني
القضاء والقضاء

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14

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6 26 29 / 32
. 40 1985 1985 / 13 40146 1985
.1985 / 13 146/40 1985 29 32/40



الفصل الثاني

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الفصل الثاني

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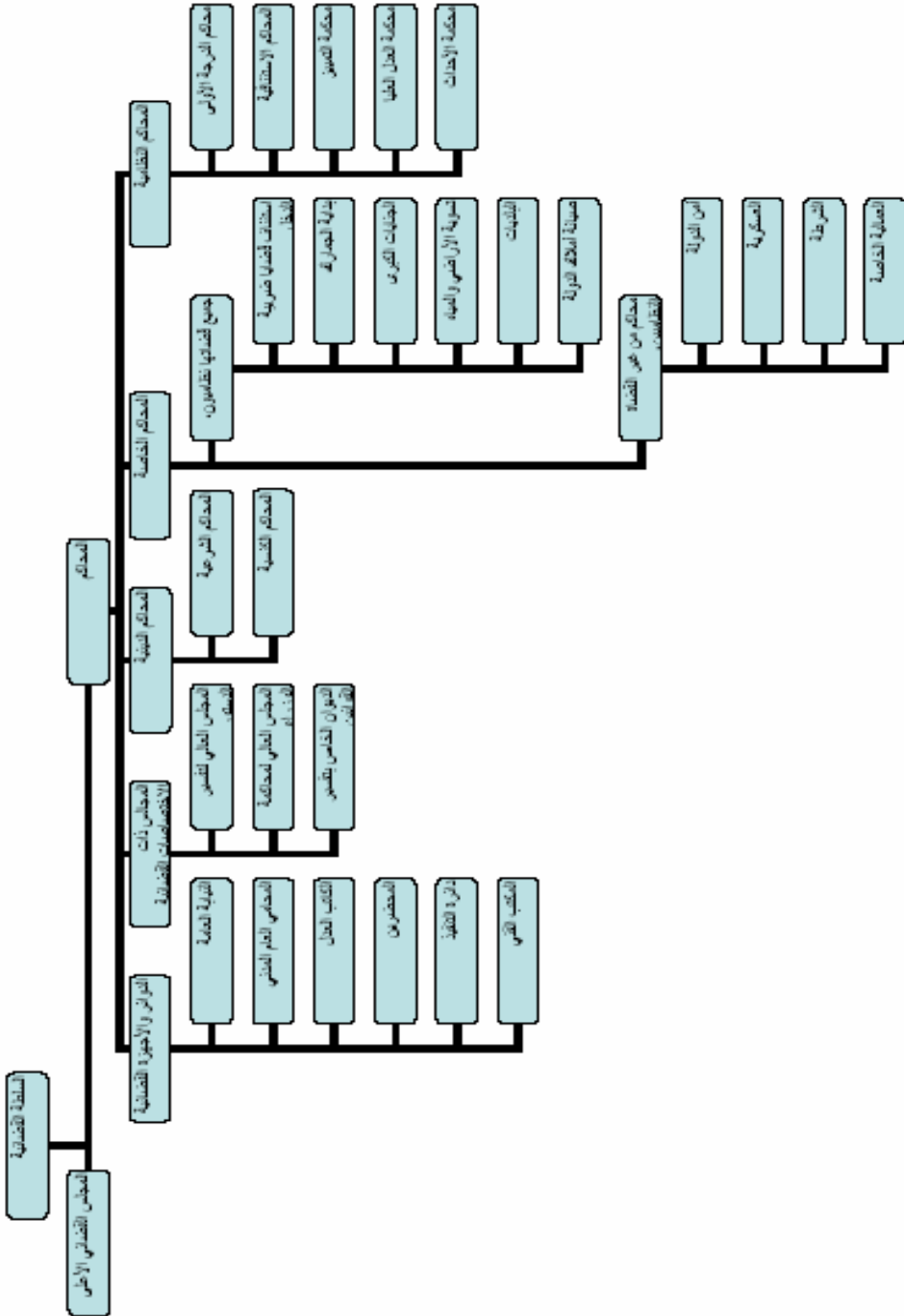
.2 -

.1-2 .

2001

2001





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3

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-1

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.2-1-2

102

1958/5/4 1380

103

2001 (17)

.3-1-2

) : 1968 (24) (2)

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() : () ..()

.4-1-2

"

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106

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22

.1978 7

1972 19

.5-1-2



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5

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.2-2

.1-2-2

6

(686) 2006

(646)

(32)

2006

<http://www.moj.gov.jo>⁴
<http://www.jc.jo/Default.aspx?tabid=76>⁵

6

2006



2006

7

75

2006	2005	2004	
47	49	51	
18	18	25	
30	28	25	
55	61	60	
95	93	97	
100	98	91	
195	123	74	
146	169	181	
686	639	604	
32	25		

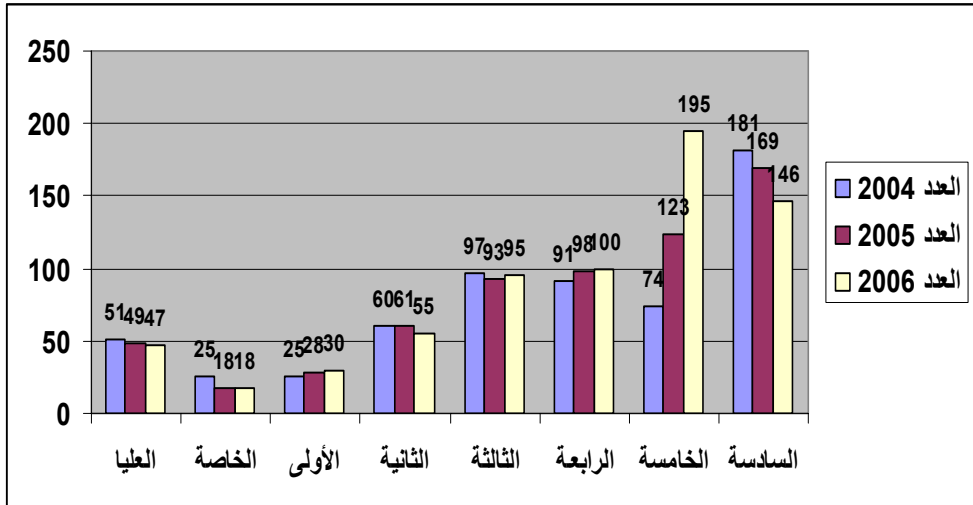
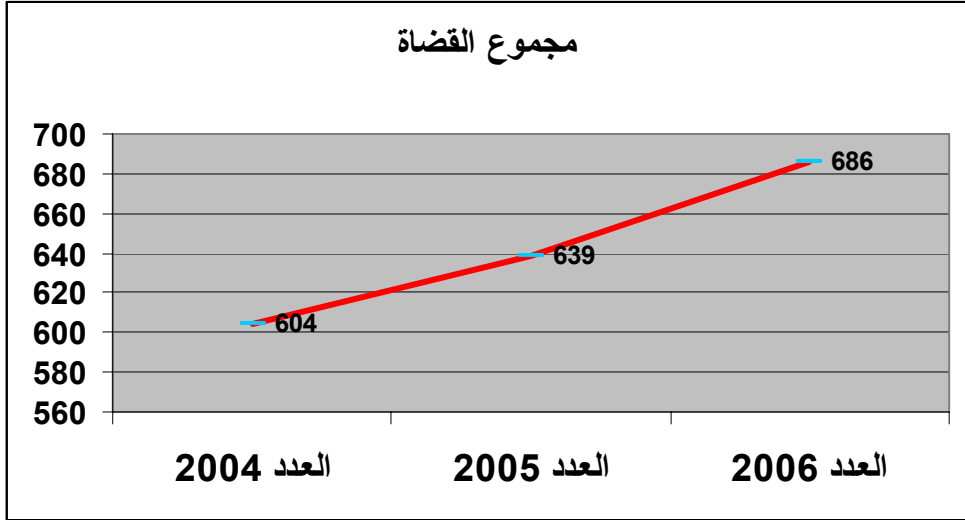
(21)

7

()

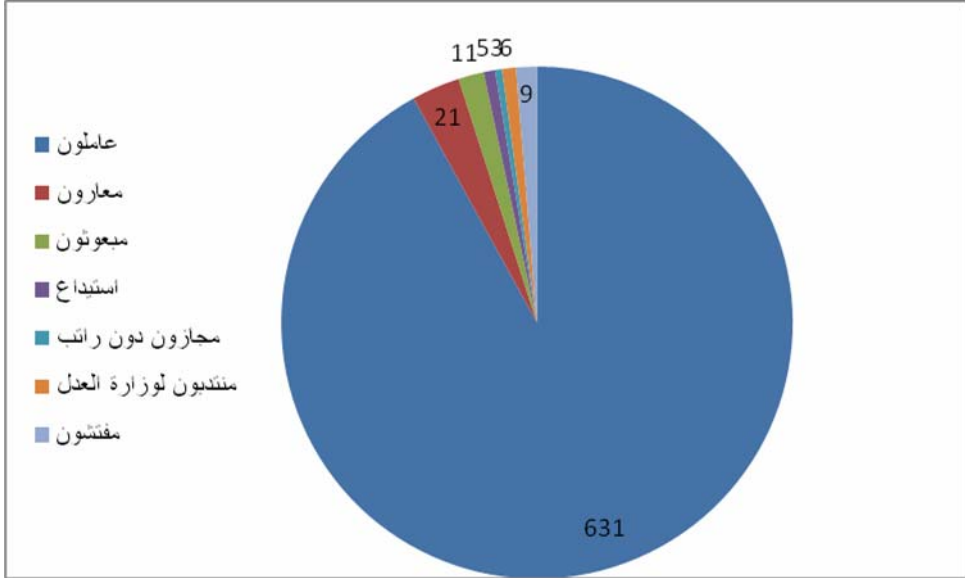
(5)







9	6	3	5	11	21	631	
%1	%1	%0	%1	%2	%3	%92	
							686

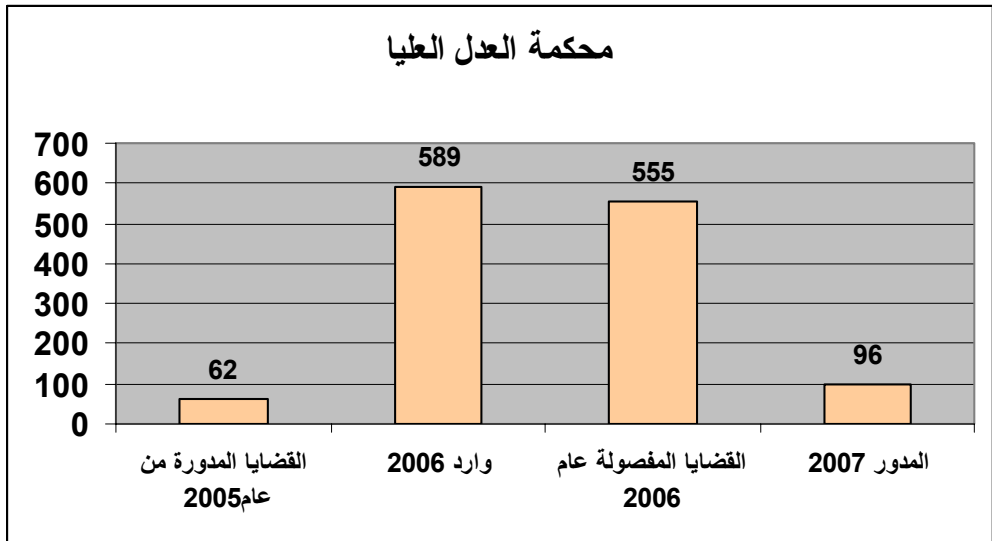
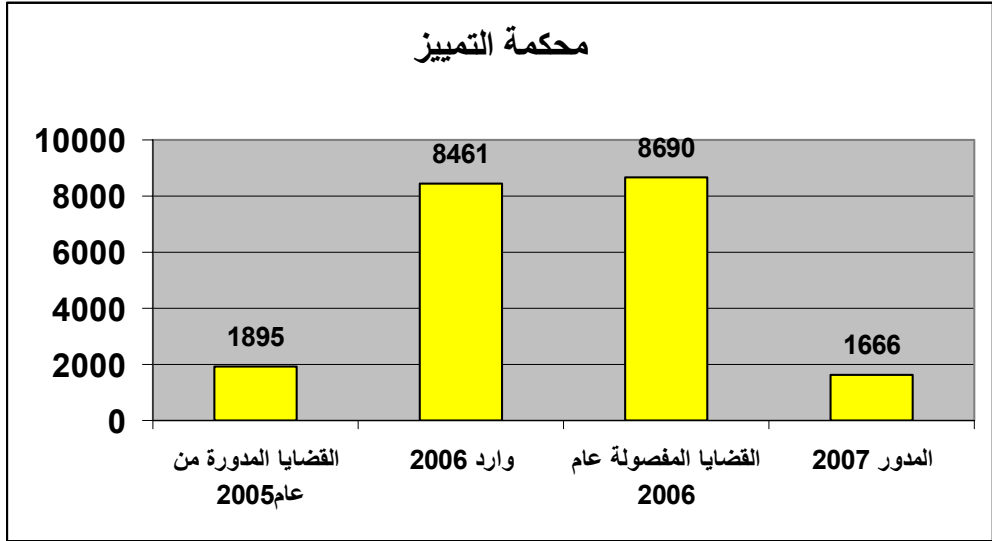


2007

.2006

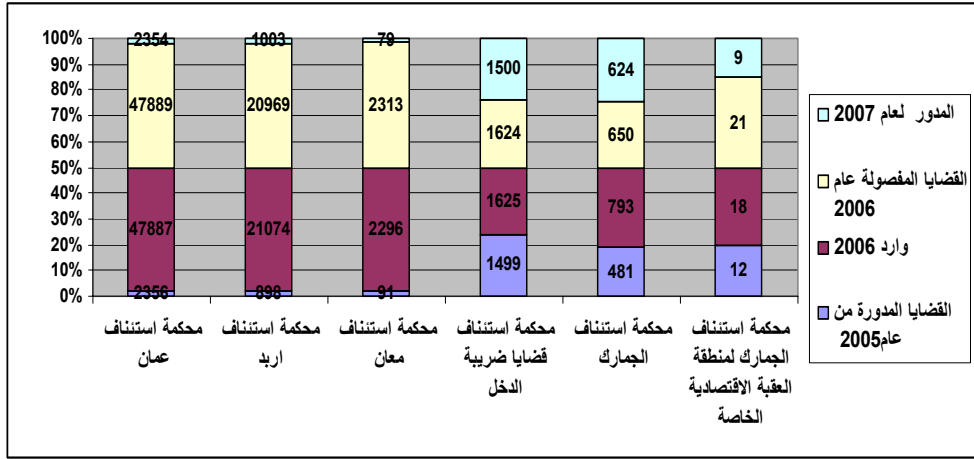


2007	2006	10356	2006	2005	
1666	8690	10356	8461	1895	
96	555	651	589	62	

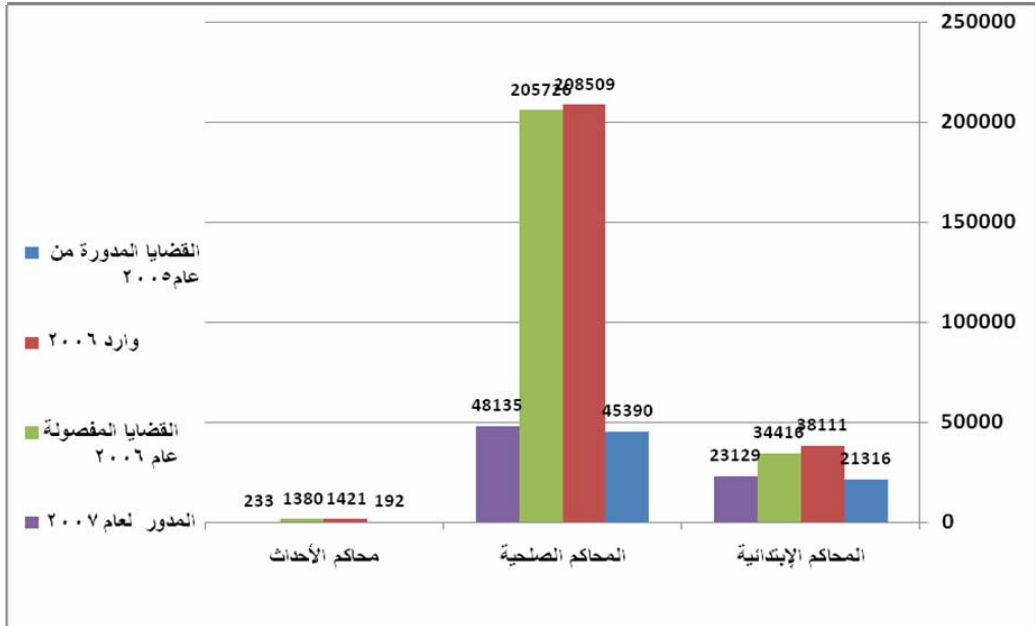


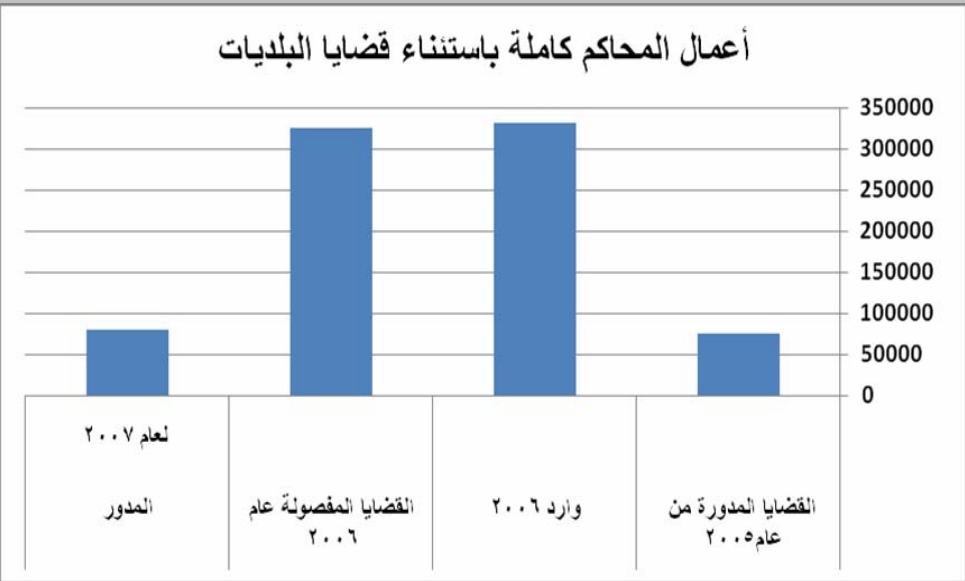
2007	2006		2006	2005	
2354	47889	50243	47887	2356	
1003	20969	21972	21074	898	
79	2313	2387	2296	91	
1500	1624	3124	1625	1499	
624	650	1274	793	481	
9	21	30	18	12	
5569	73466	79030	73693	5337	





2007	2006		2006	2005	
23129	34416	59427	38111	21316	
48135	205726	253899	208509	45390	
233	1380	1613	1421	192	



114965	1528089	1643054	1531202	111852									
79603	325438	406956	332006	74950									
<p>أعمال المحاكم كاملة باستثناء قضايا البلديات</p>  <table border="1" style="width: 100%; text-align: center;"> <tr> <td>٢٠٠٧ لعام المدور</td> <td>القضايا المفصولة عام ٢٠٠٦</td> <td>وارد ٢٠٠٦</td> <td>القضايا المدورة من عام ٢٠٠٥</td> </tr> <tr> <td>114965</td> <td>1528089</td> <td>1531202</td> <td>111852</td> </tr> </table>						٢٠٠٧ لعام المدور	القضايا المفصولة عام ٢٠٠٦	وارد ٢٠٠٦	القضايا المدورة من عام ٢٠٠٥	114965	1528089	1531202	111852
٢٠٠٧ لعام المدور	القضايا المفصولة عام ٢٠٠٦	وارد ٢٠٠٦	القضايا المدورة من عام ٢٠٠٥										
114965	1528089	1531202	111852										
194801	1854907	2051623	1864629	186994									
1770	1972	3742	2376	1366									
31	297	328	304	24									



775	1205	1980	1222	758	
98	983	1081	1014	67	
1390	25162	26533	25194	1339	
769	7264	8036	7060	976	
* 847	139	2881	2211	670	
61	142	203	203	0	

- 2006

515 2006



2006

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.2007 - 2004



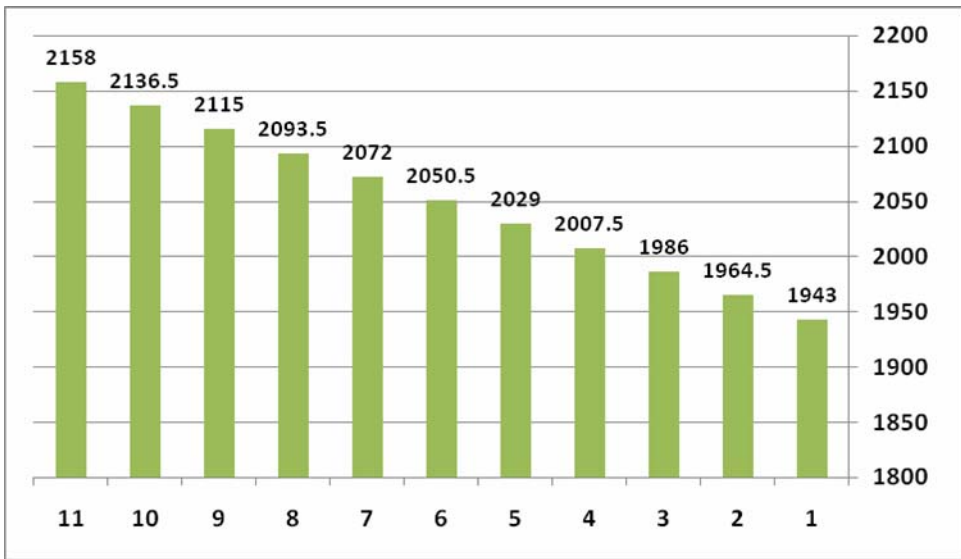
11

		**	*				-
	3007	7			1500	1500	-1
	1943	15	36	1012		880	1
	1964.5	15	36	1023.5		890	2
	1986	15	36	1035		900	3

) 10 11
 36 (1
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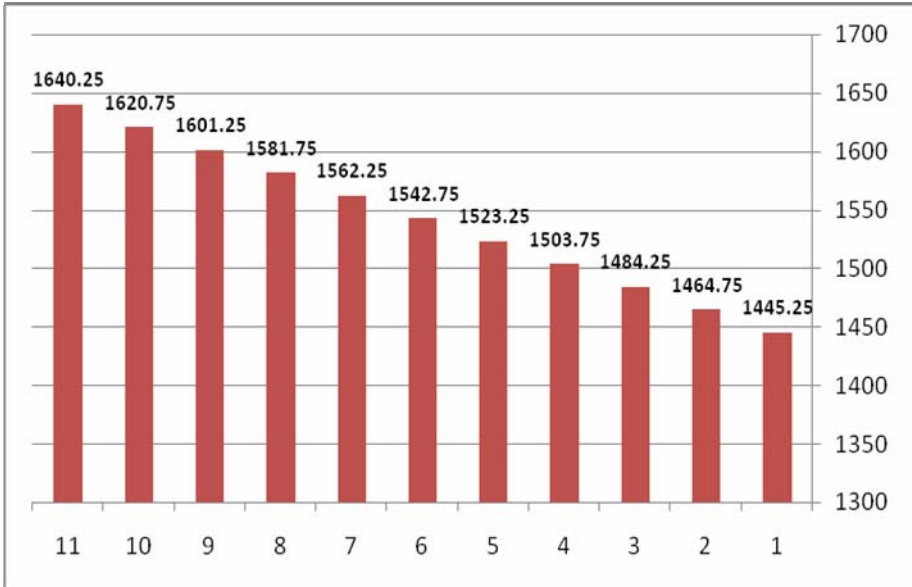
%115	2007.5	15	36	1046.5		910	4	-2
	2029	15	36	1058		920	5	
	2050.5	15	36	1069.5		930	6	
	2072	15	36	1081		940	7	
	2093.5	15	36	1092.5		950	8	
	2115	15	36	1104		960	9	
	2136.5	15	36	1115.5		970	10	
	2158	15	36	1127		980	11	



	1445.25	15	36	679.25		715	1
	1464.75	15	36	688.75		725	2
	1484.25	15	36	698.25		735	3

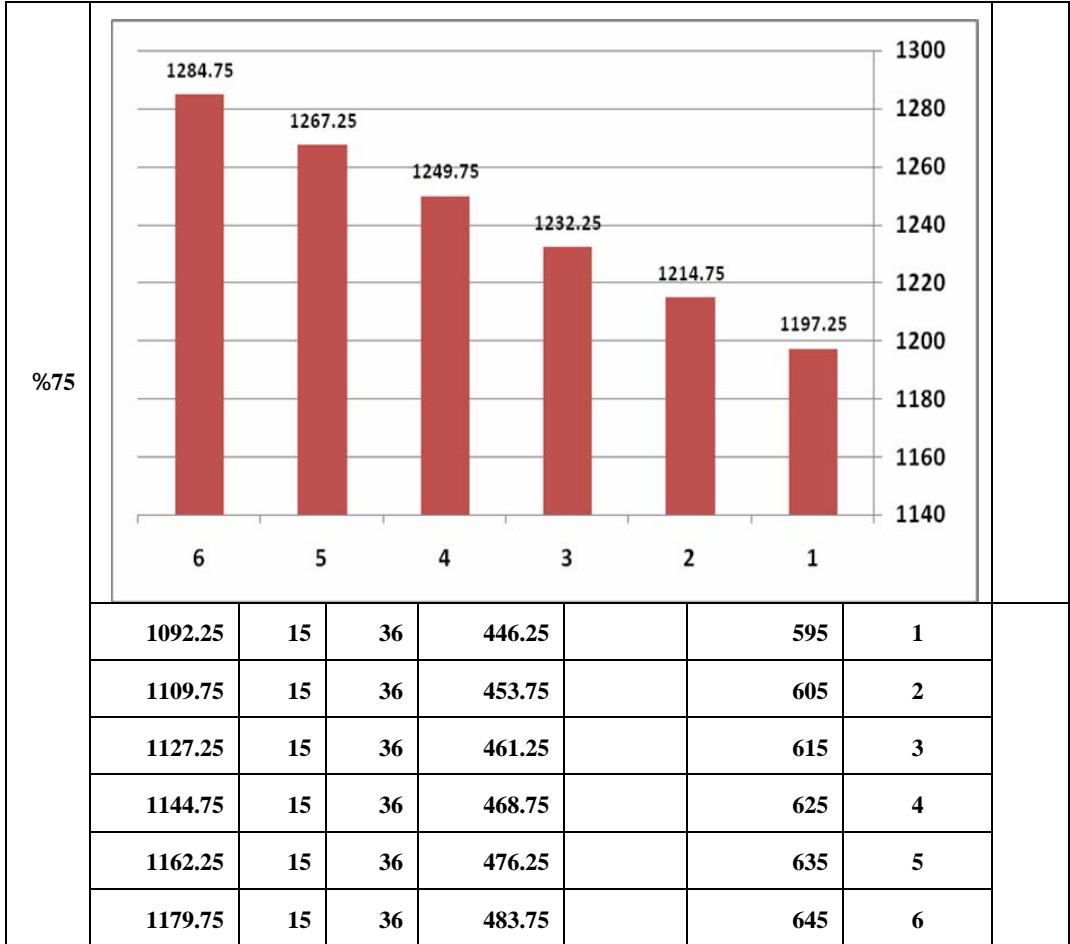


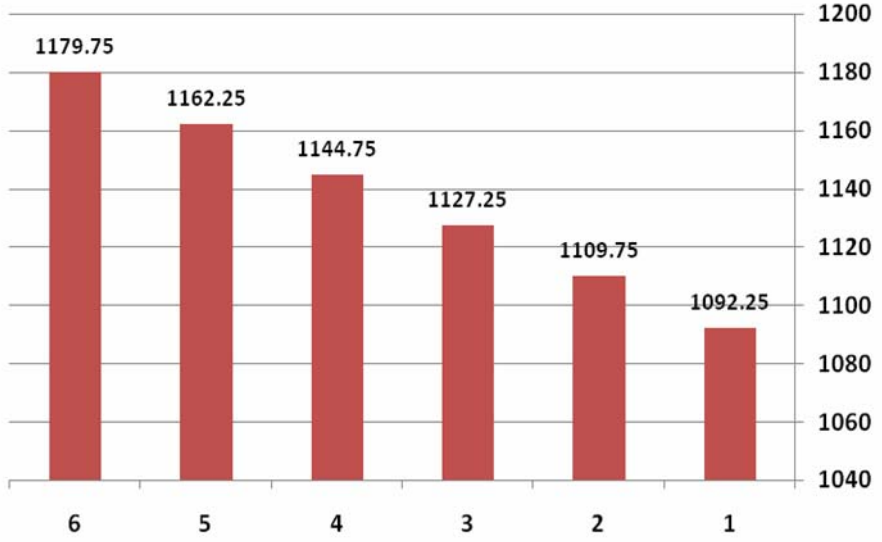
%95	1503.75	15	36	707.75		745	4
	1523.25	15	36	717.25		755	5
	1542.75	15	36	726.75		765	6
	1562.25	15	36	736.25		775	7
	1581.75	15	36	745.75		785	8
	1601.25	15	36	755.25		795	9
	1620.75	15	36	764.75		805	10
	1640.25	15	36	774.25		815	11



	1197.25	15	36	491.25		655	1
	1214.75	15	36	498.75		665	2
	1232.25	15	36	506.25		675	3
	1249.75	15	36	513.75		685	4
	1267.25	15	36	521.25		695	5
	1284.75	15	36	528.75		705	6

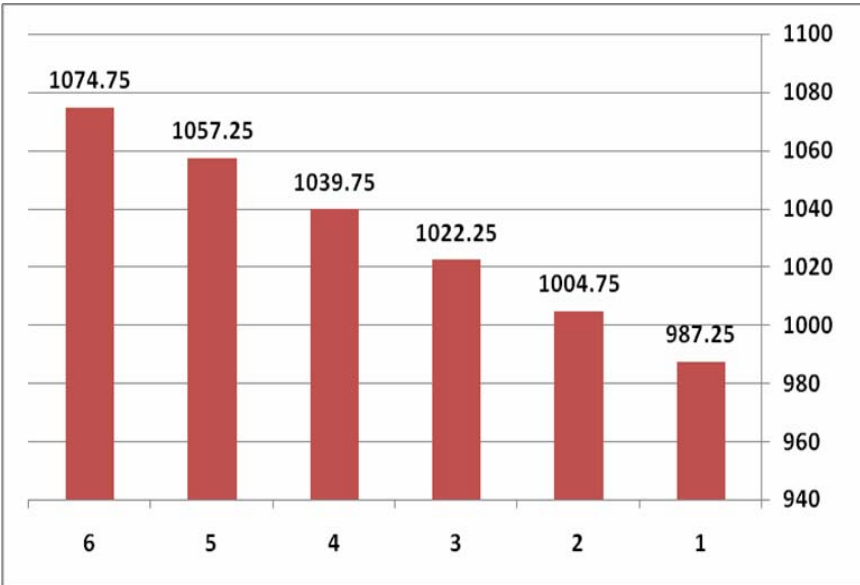






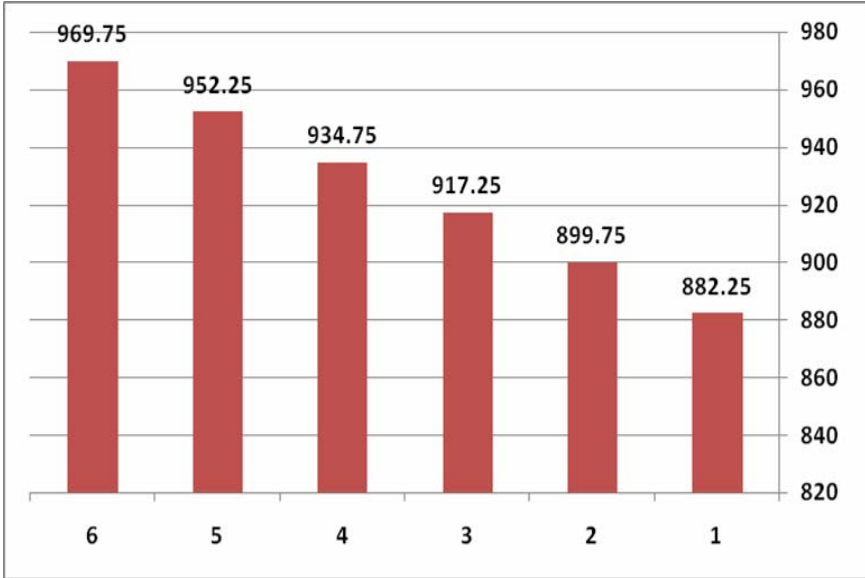
987.25	15	36	401.25		535	1
1004.75	15	36	408.75		545	2
1022.25	15	36	416.25		555	3
1039.75	15	36	423.75		565	4
1057.25	15	36	431.25		575	5
1074.75	15	36	438.75		585	6





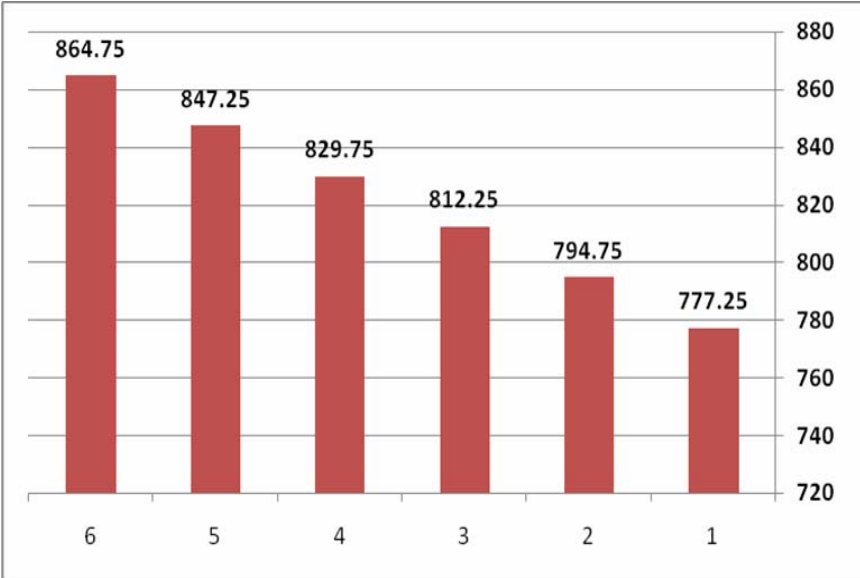
882.25	15	36	356.25		475	1
899.75	15	36	363.75		485	2
917.25	15	36	371.25		495	3
934.75	15	36	378.75		505	4
952.25	15	36	386.25		515	5
969.75	15	36	393.75		525	6





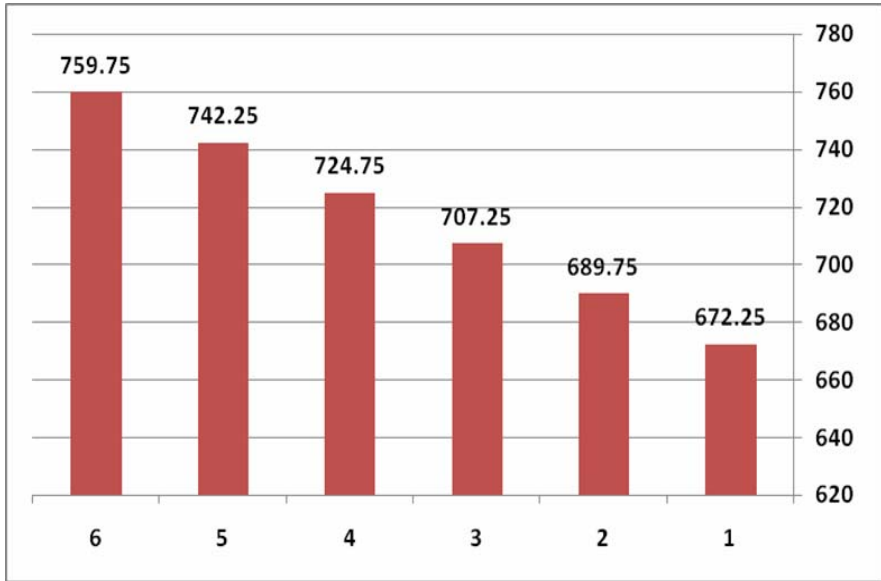
777.25	15	36	311.25		415	1
794.75	15	36	318.75		425	2
812.25	15	36	326.25		435	3
829.75	15	36	333.75		445	4
847.25	15	36	341.25		455	5
864.75	15	36	348.75		465	6





672.25	15	36	266.25		355	1
689.75	15	36	273.75		365	2
707.25	15	36	281.25		375	3
724.75	15	36	288.75		385	4
742.25	15	36	296.25		395	5
759.75	15	36	303.75		405	6





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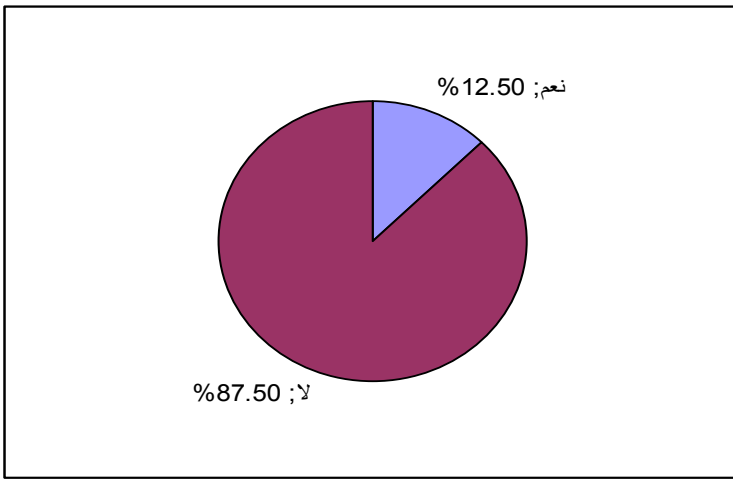
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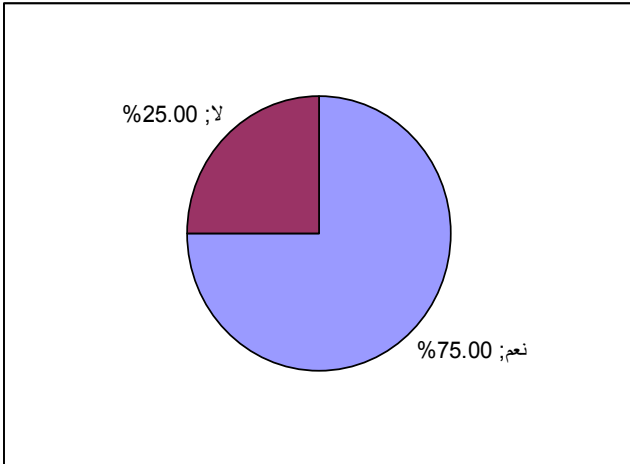
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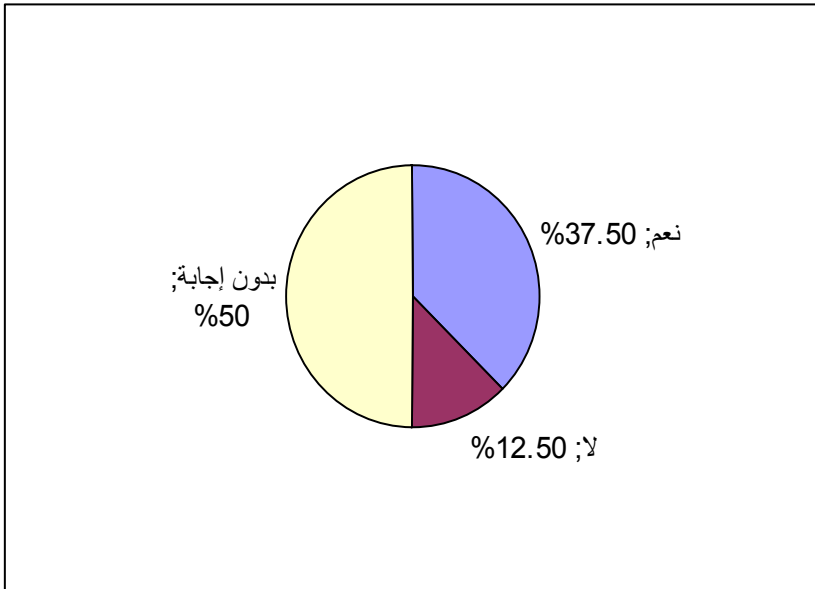
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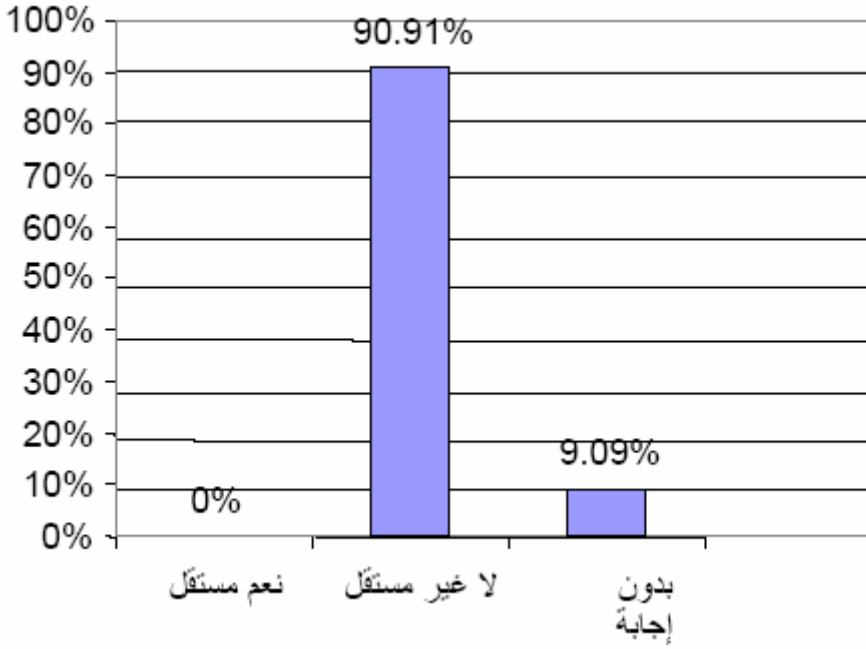
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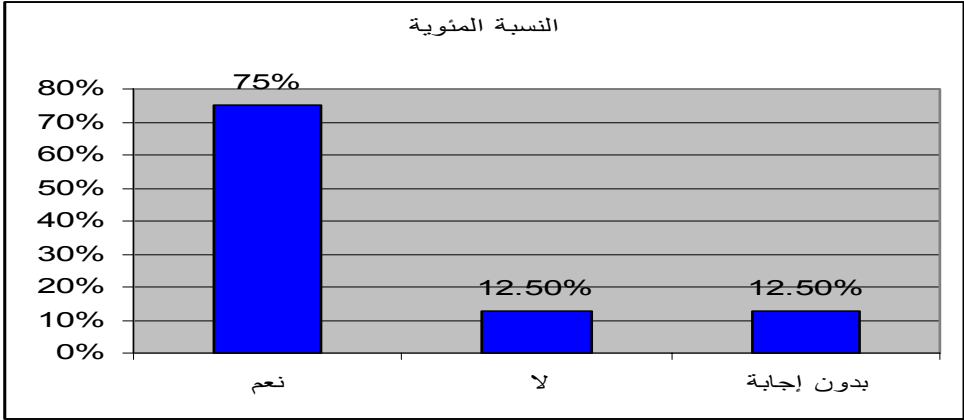
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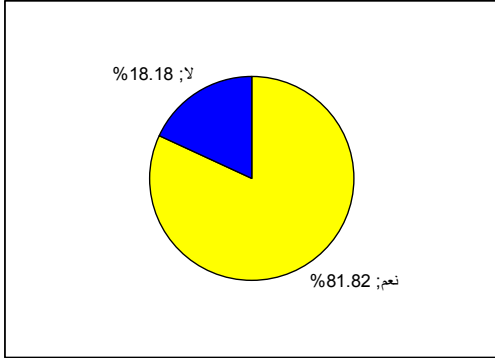
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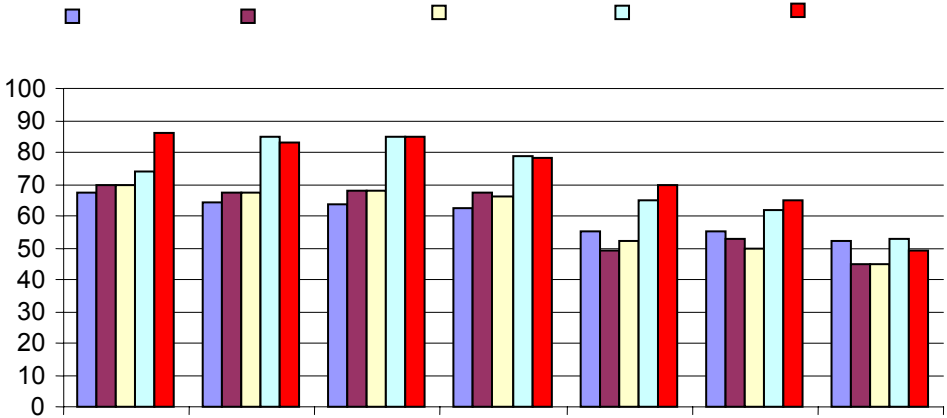
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23 January 2006 E/CN.4/2006/52



الفصل الثالث

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المعايير الدولية، والقانون الأردني

القدح والذم والتشهير
المعايير الدولية والقانون الأردني

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الفصل الرابع

فرنسا. الولايات المتحدة الأمريكية - مصر

رؤية للاتجاهات العامة للقضاء الدولي والإقليمي بشأن قضايا النشر بشكل عام فرنسا - الولايات المتحدة الأمريكية - مصر

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<http://www1.umn.edu/humanrts/arabic/regdoc.html>¹⁰⁵
<http://www1.umn.edu/humanrts/arab/eu-rights-charter.html>¹⁰⁶



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الفصل الرابع

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1. <http://www1.umn.edu/humanrts/arab/eu-rights-charter.html>
2. -1984
3. www.findlaw.com
4. - 1977 -
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		133	35	1984/6/14
	- 756	135	38	1987/6/11
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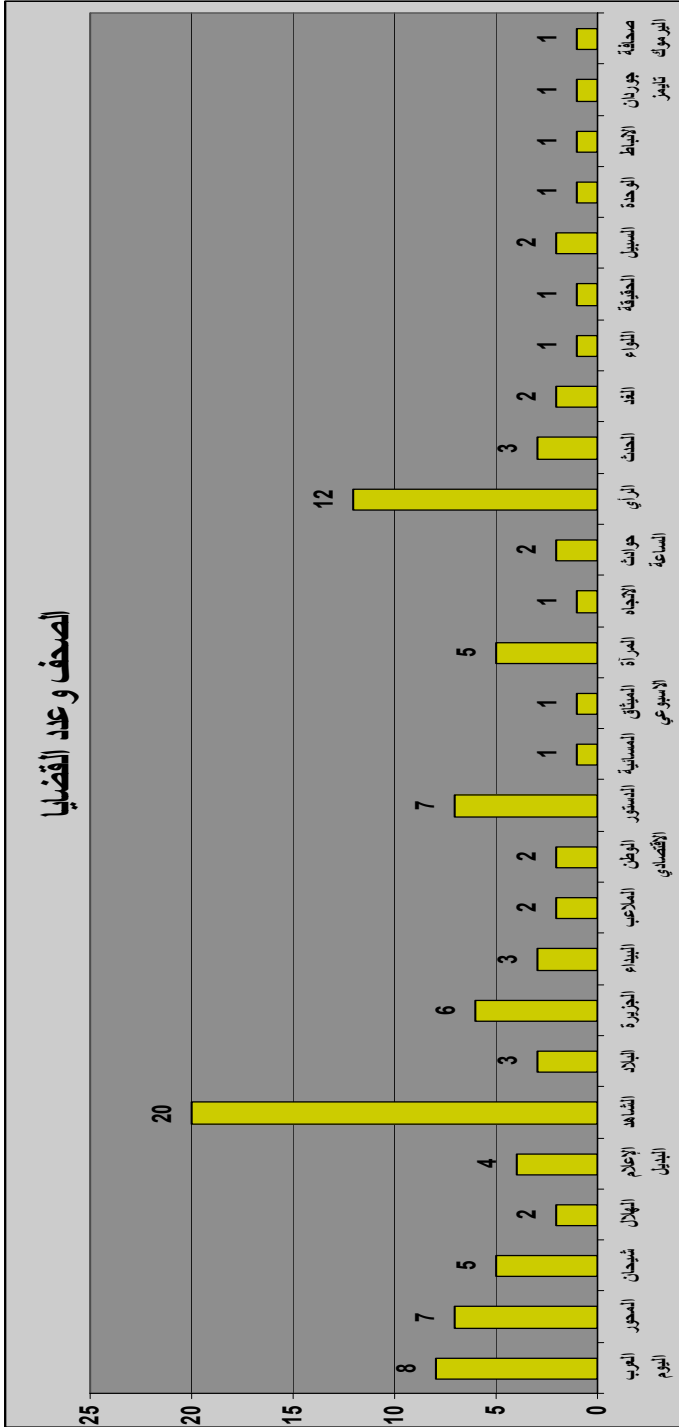
الفصل الخامس

الفصل الخامس
الاتجاهات العامة للقضاء الأردني
في منازعات التشهير



15



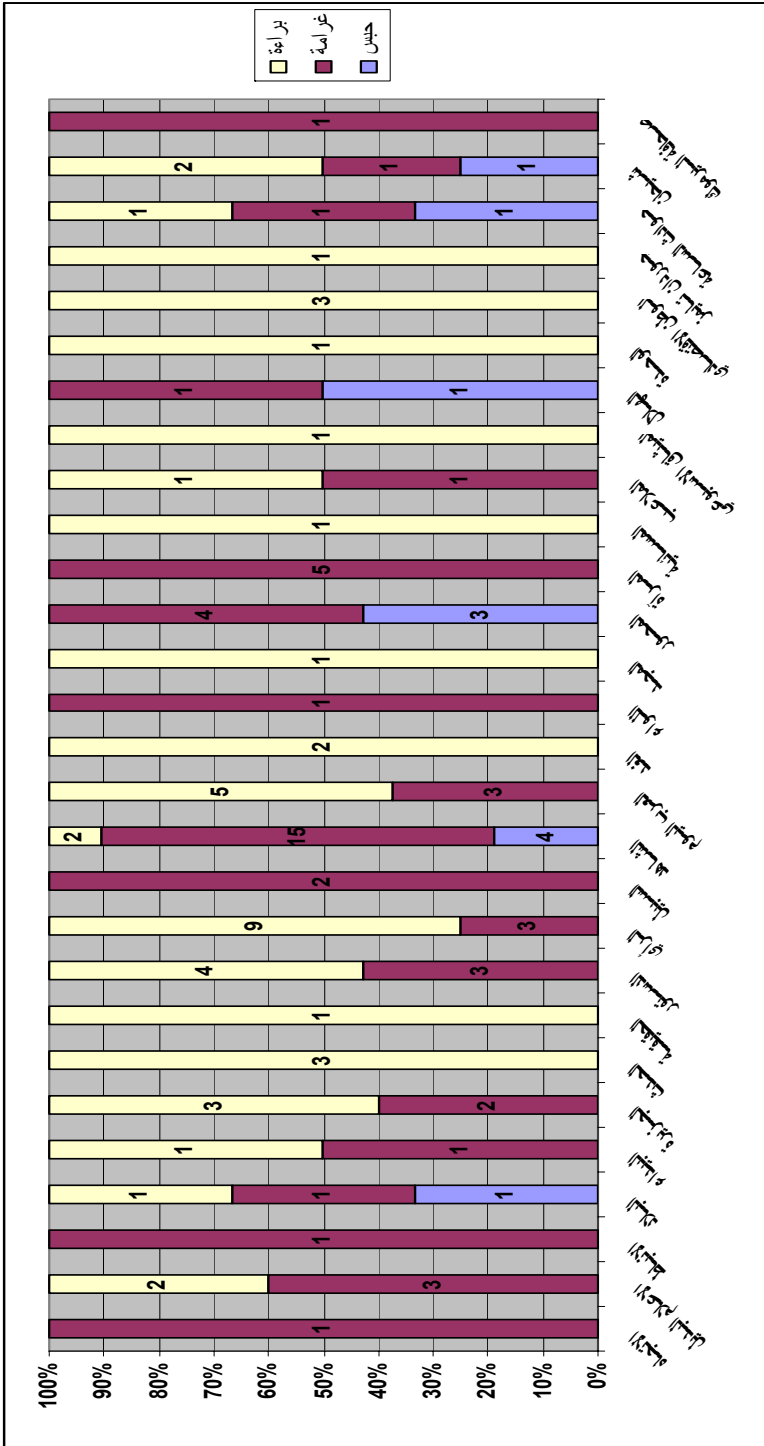


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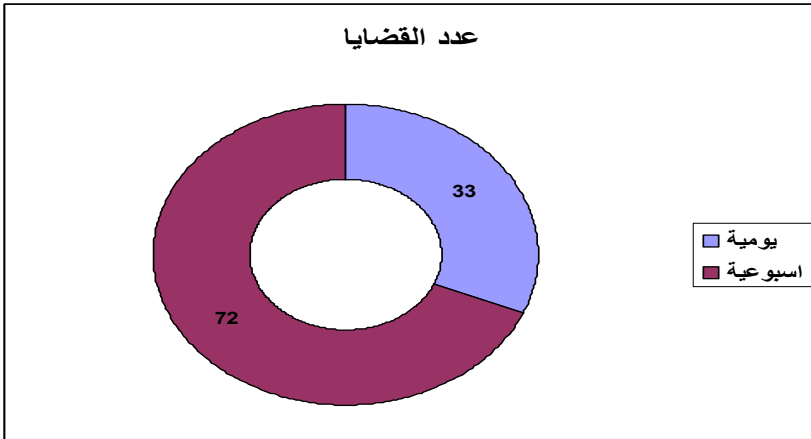
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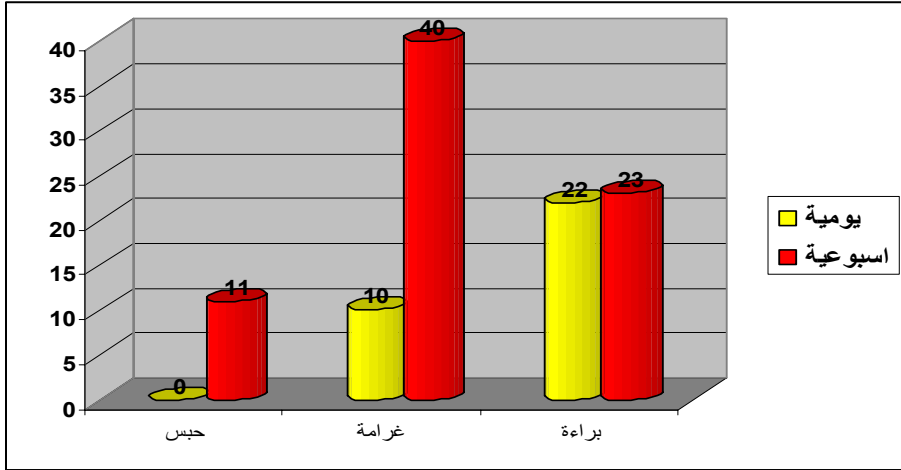


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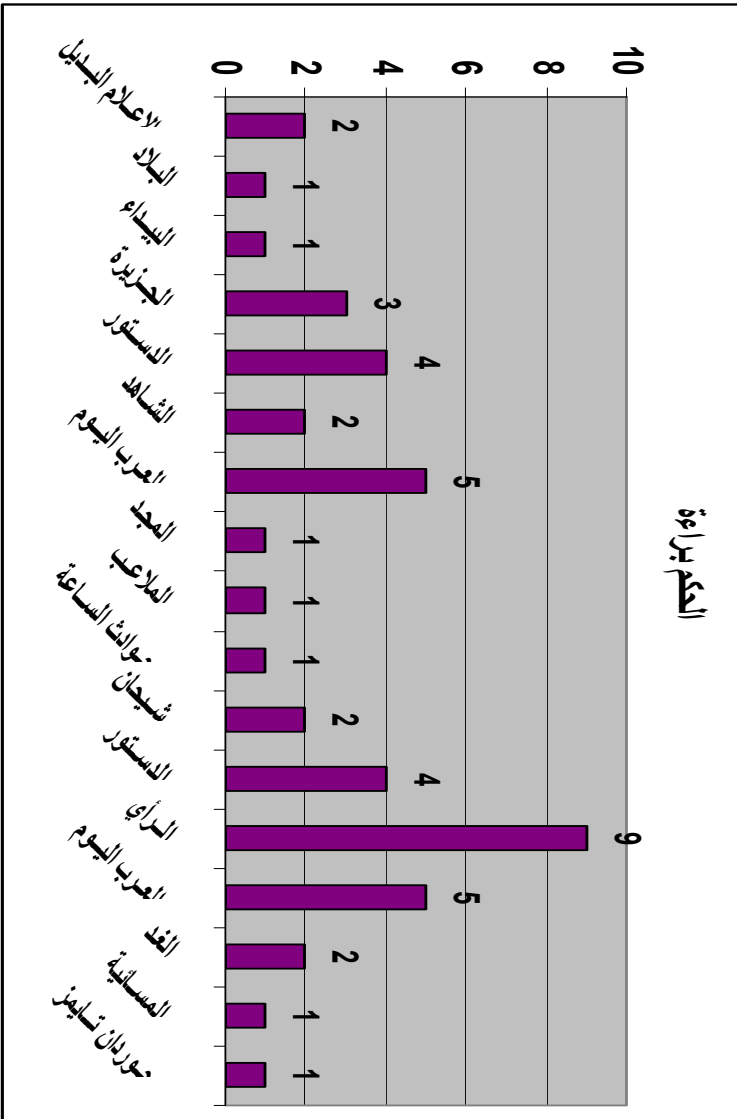
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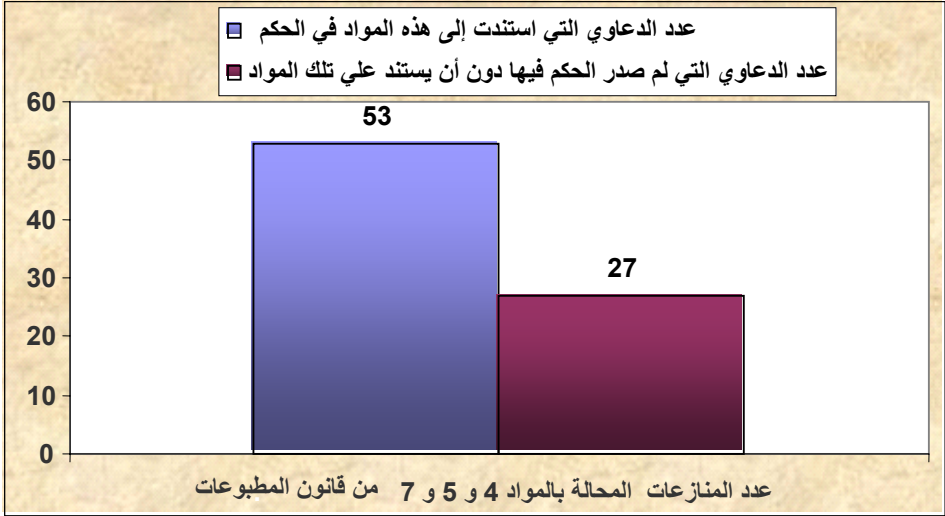
7 5 4

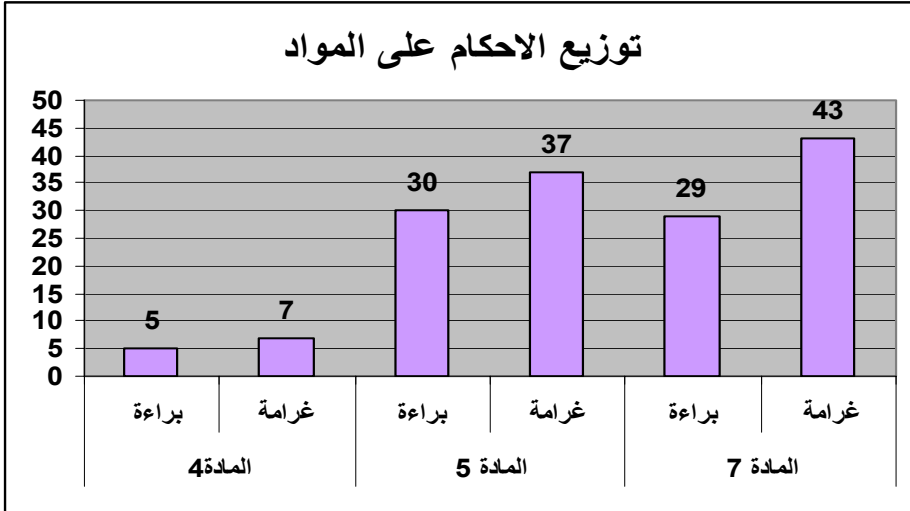
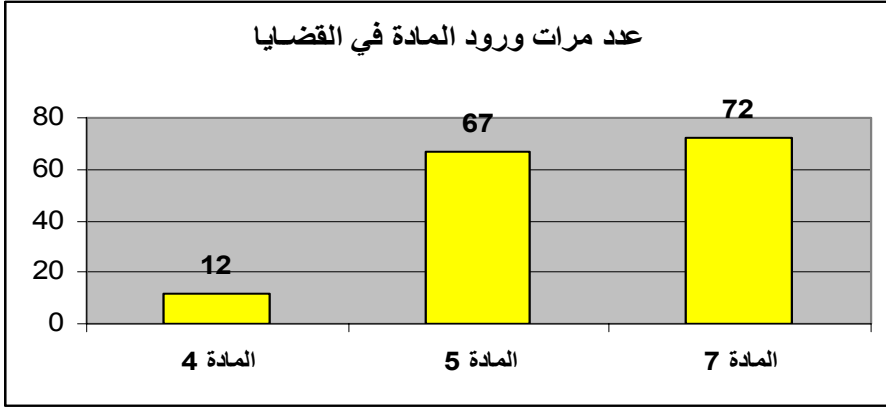
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%40.35

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31	18	49
%63.27	%36.73	% 40.35

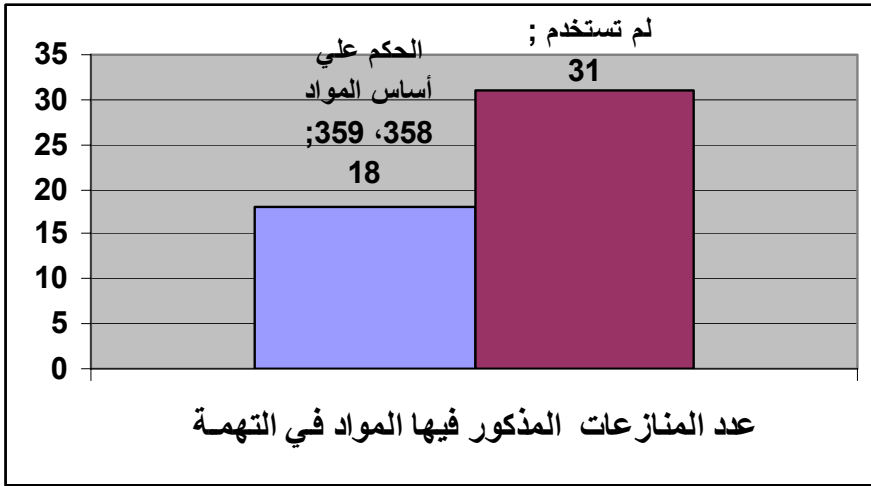
%36

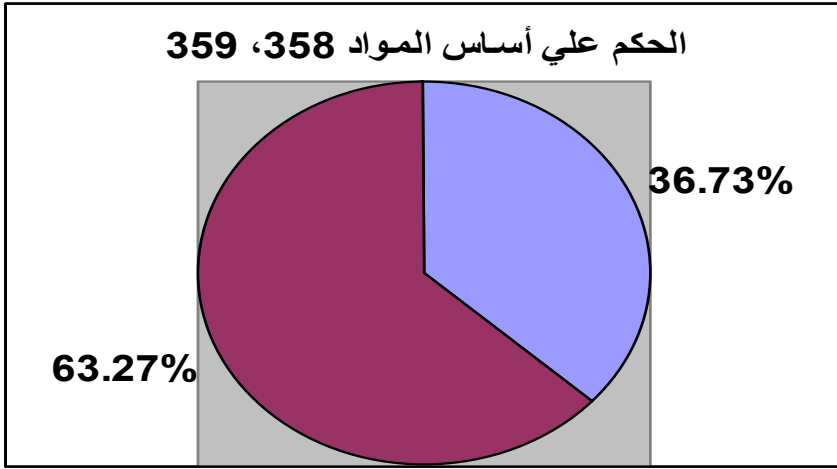
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%63



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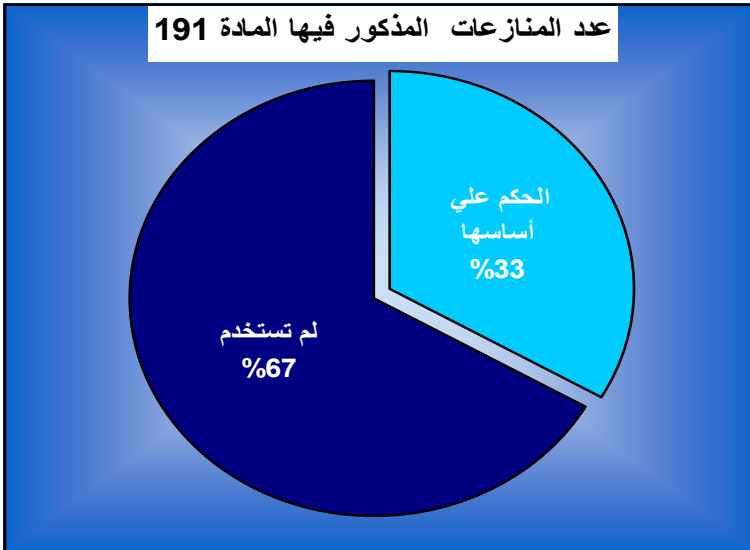
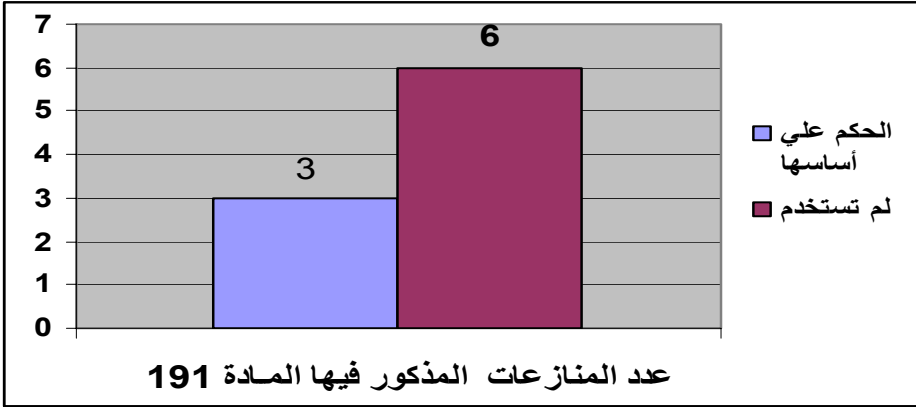
%7.8

%66.66

%33.33



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%66.66	%33.33	% 7.02



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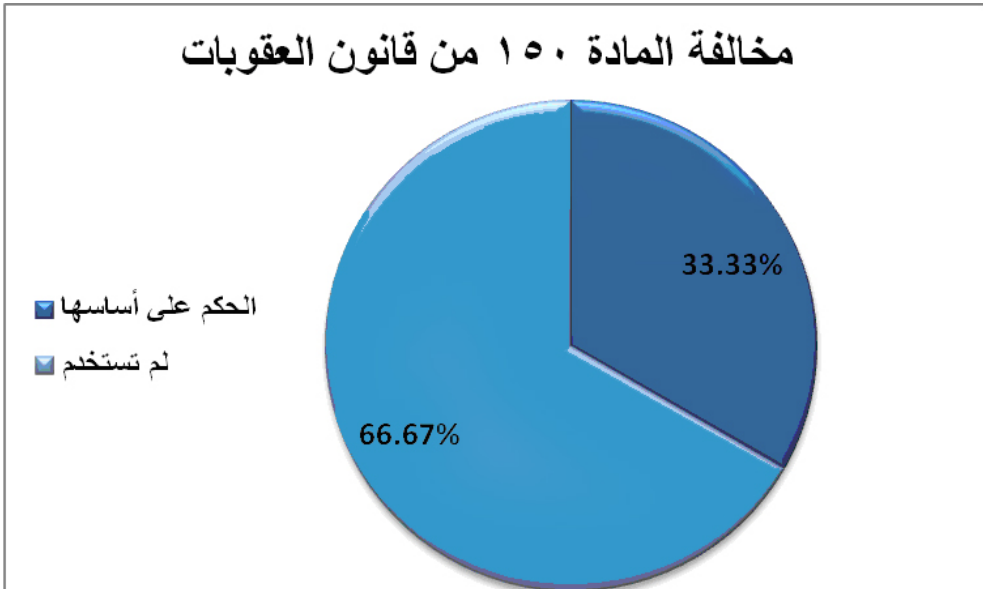
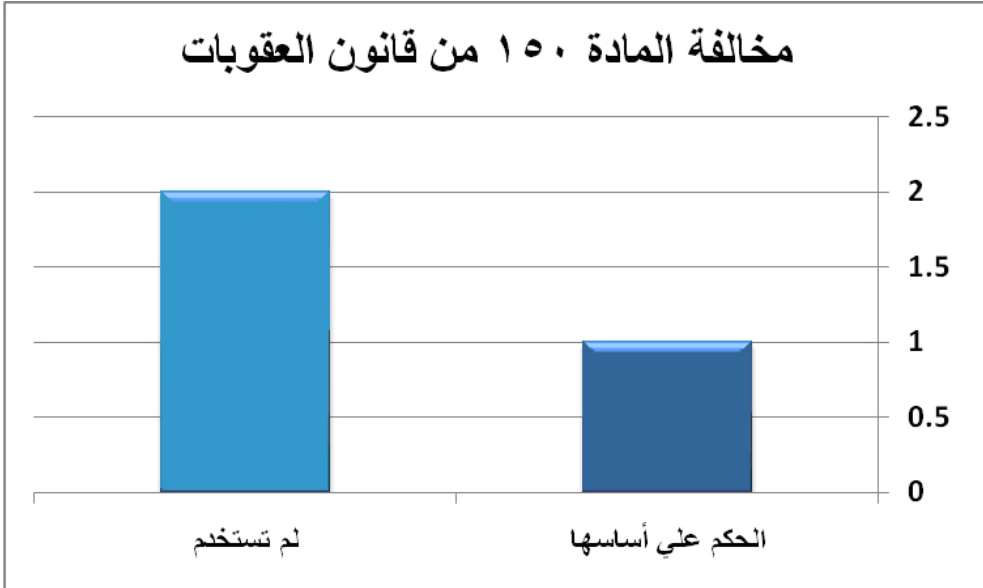
150

.5-1

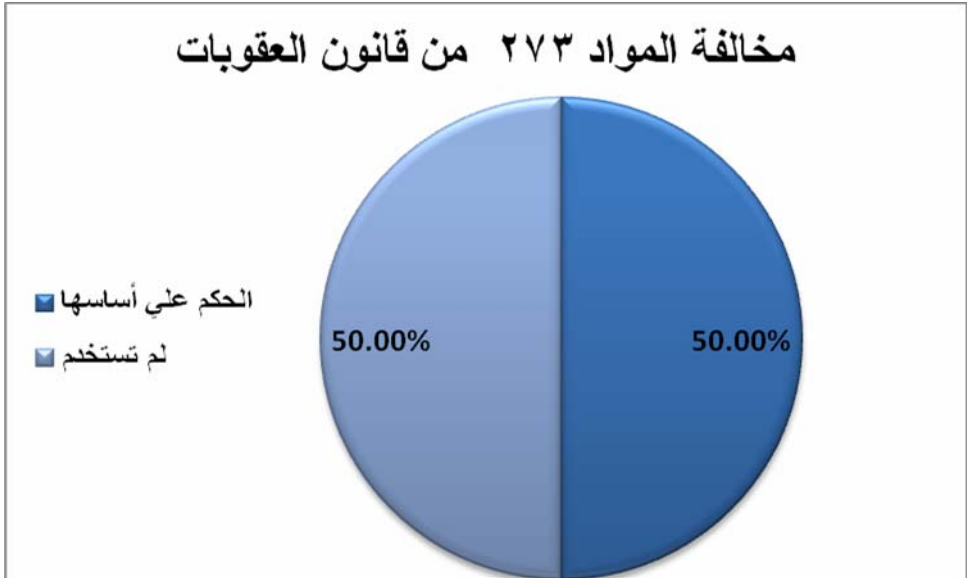
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2	1	3
%66.67	%33.33	% 2.63





1	1	2
%50.00	%50.00	% 1.75



278 .7-1

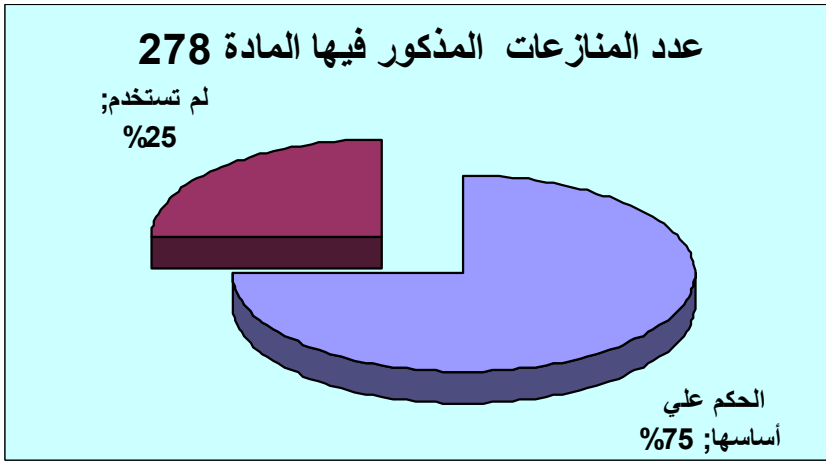
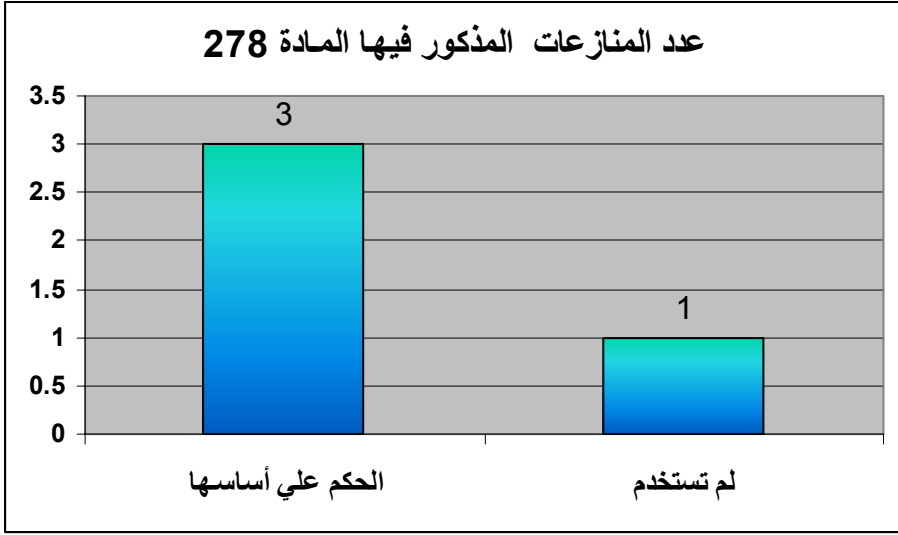
2006-2000

%2.7

%66,68

1	3	4
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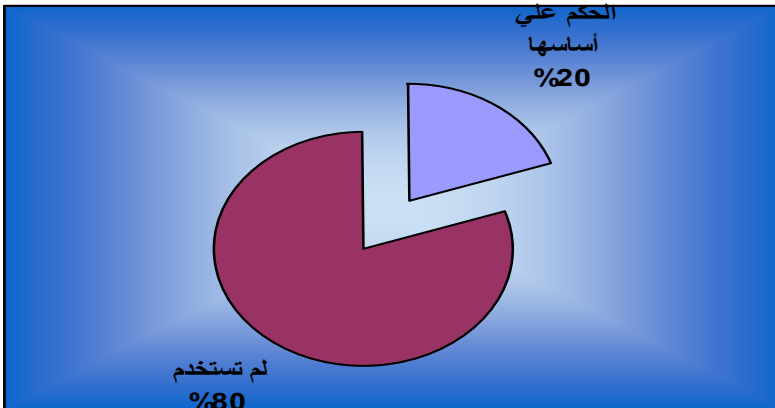
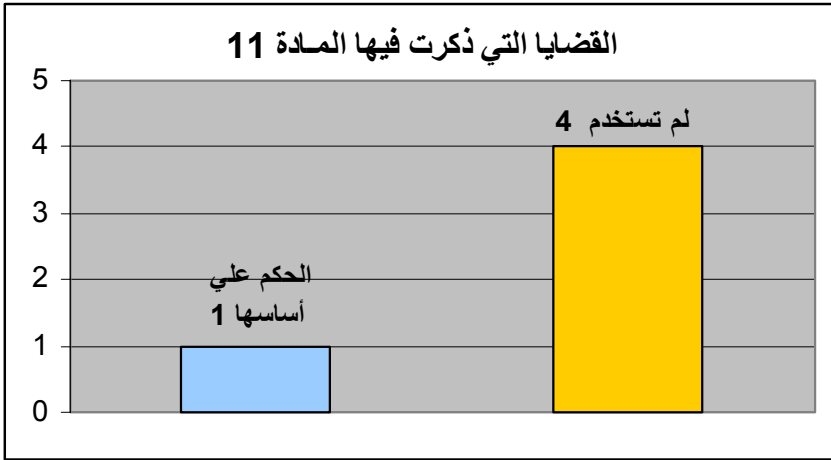
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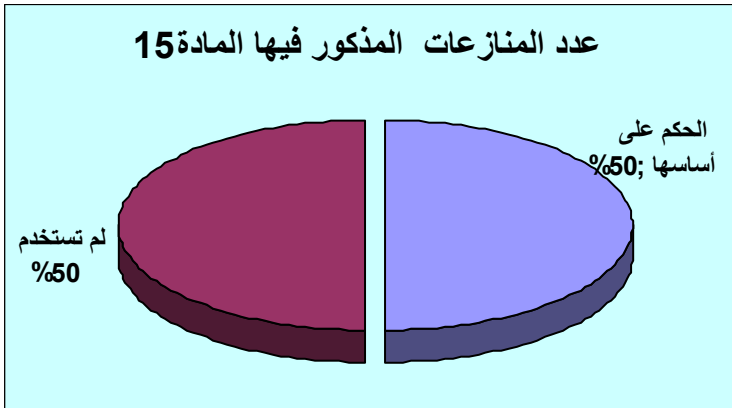
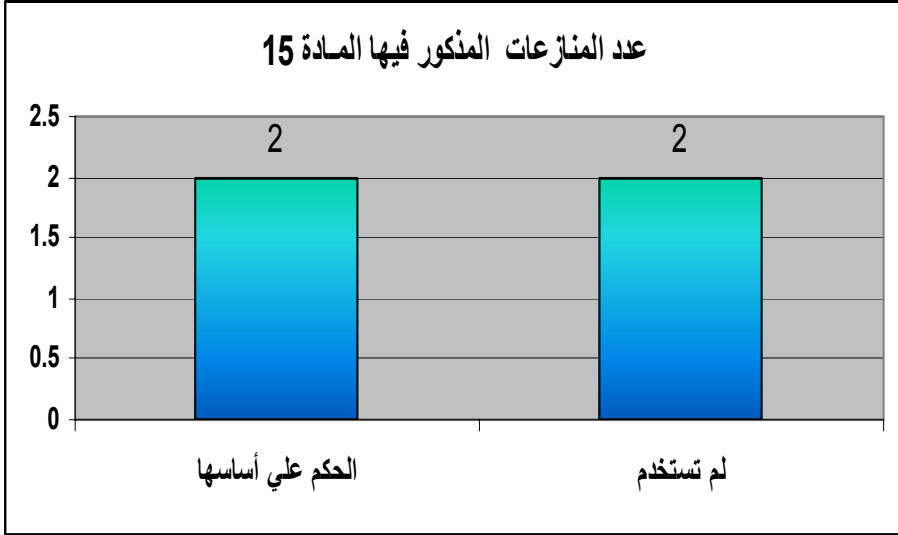
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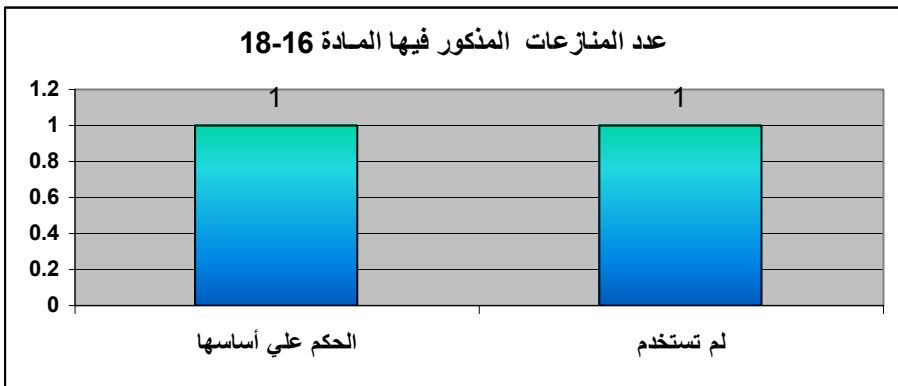
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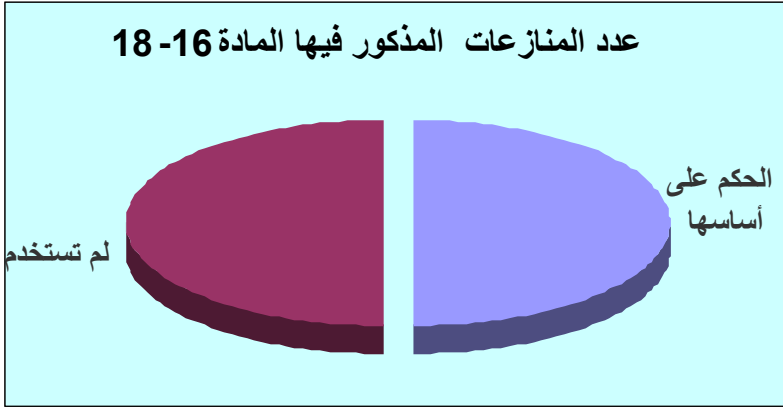
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%50	%50	% 1.75





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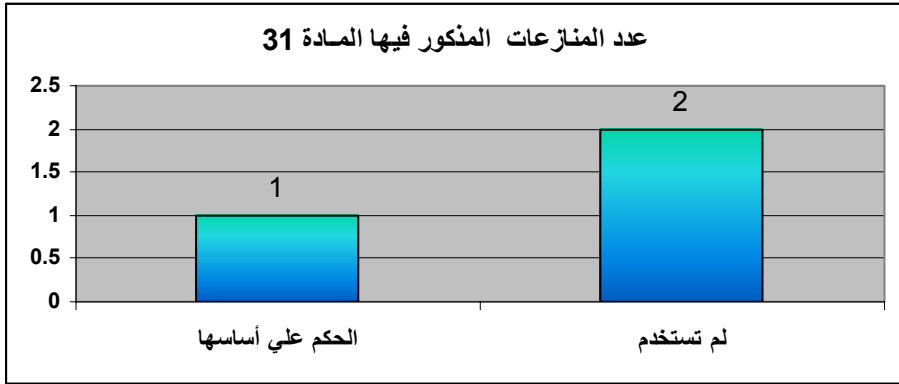
0	1	1
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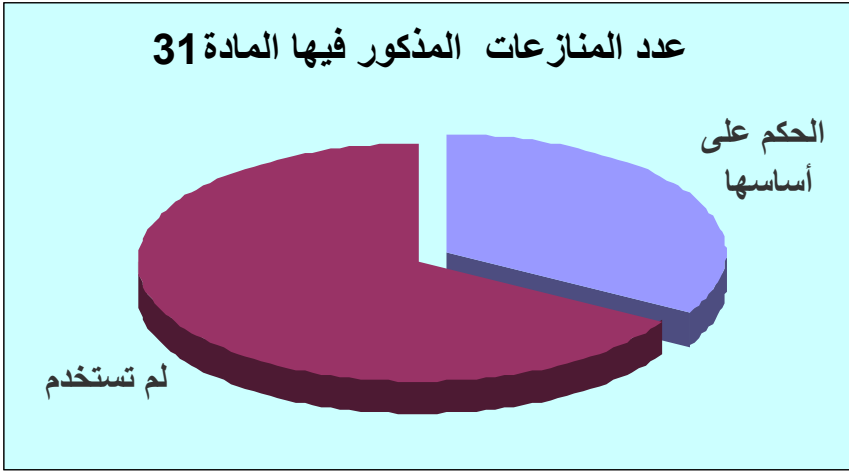
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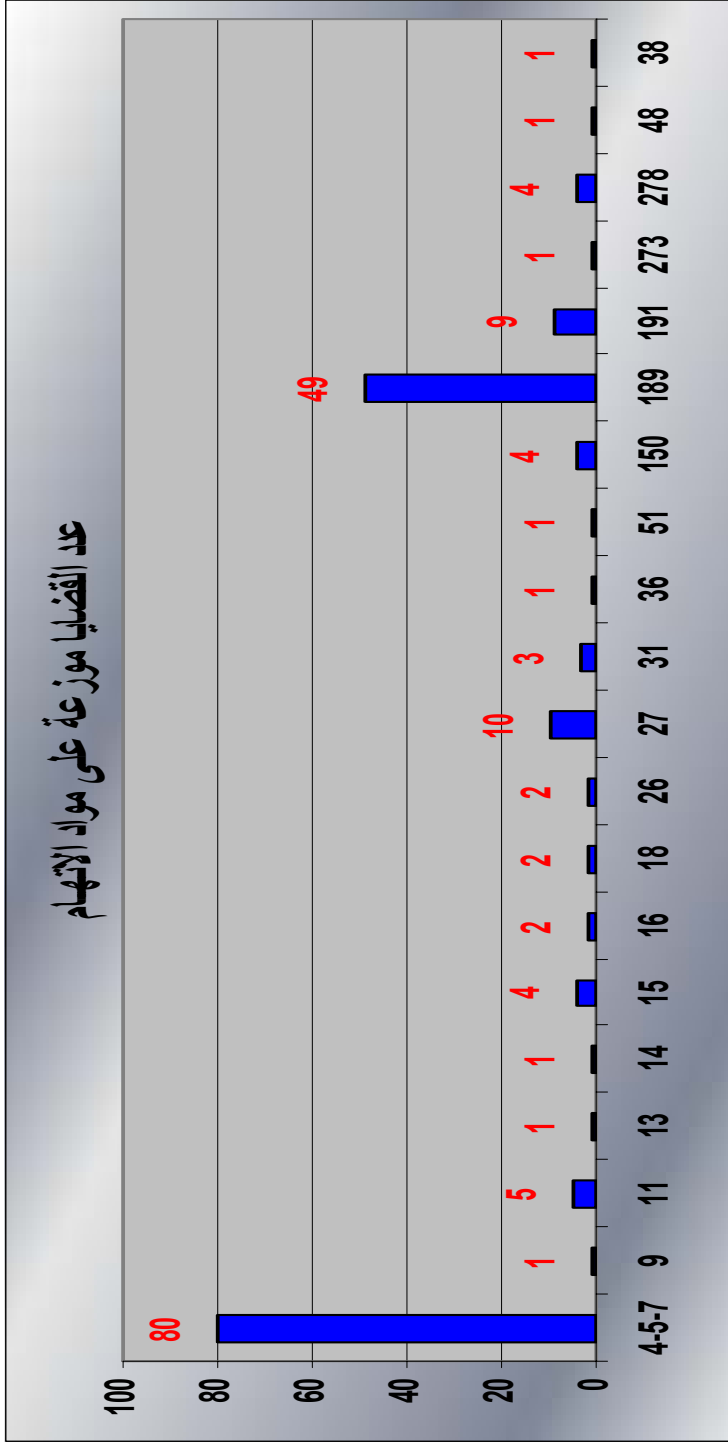
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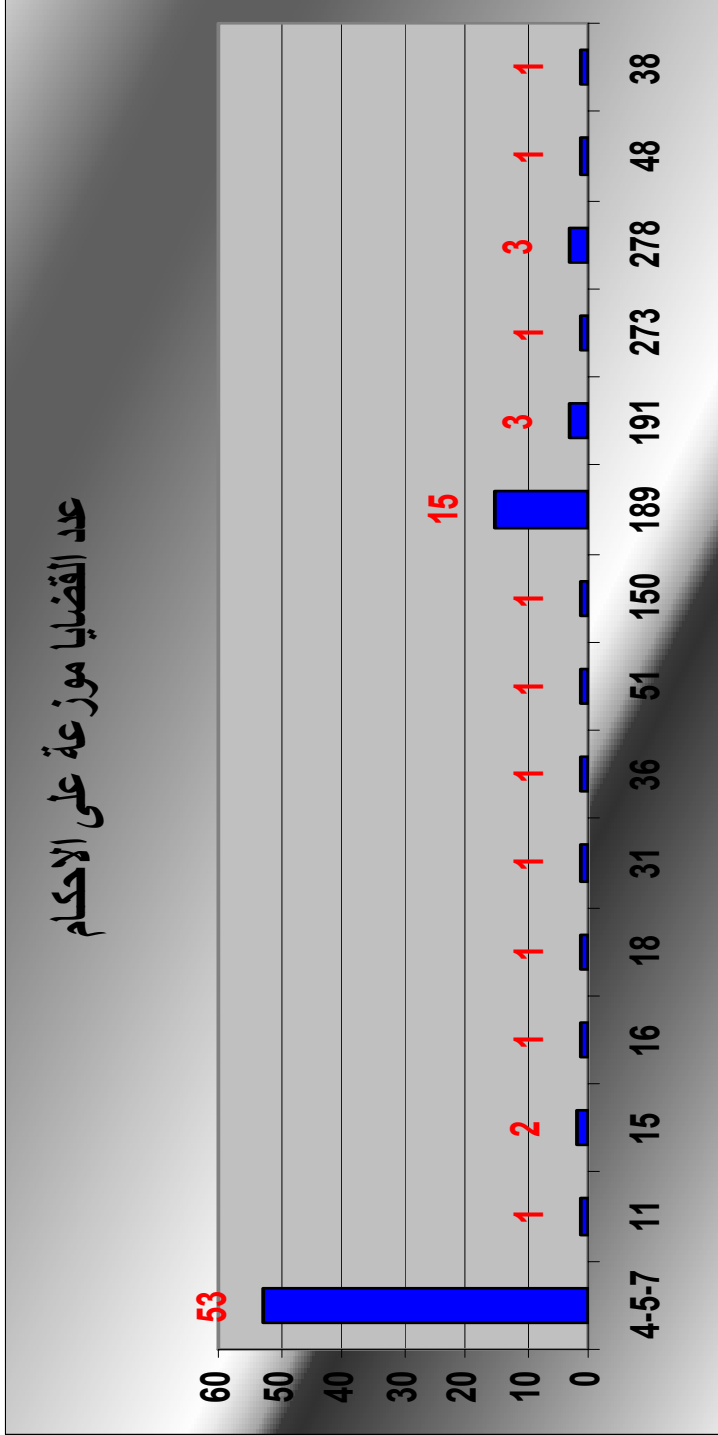
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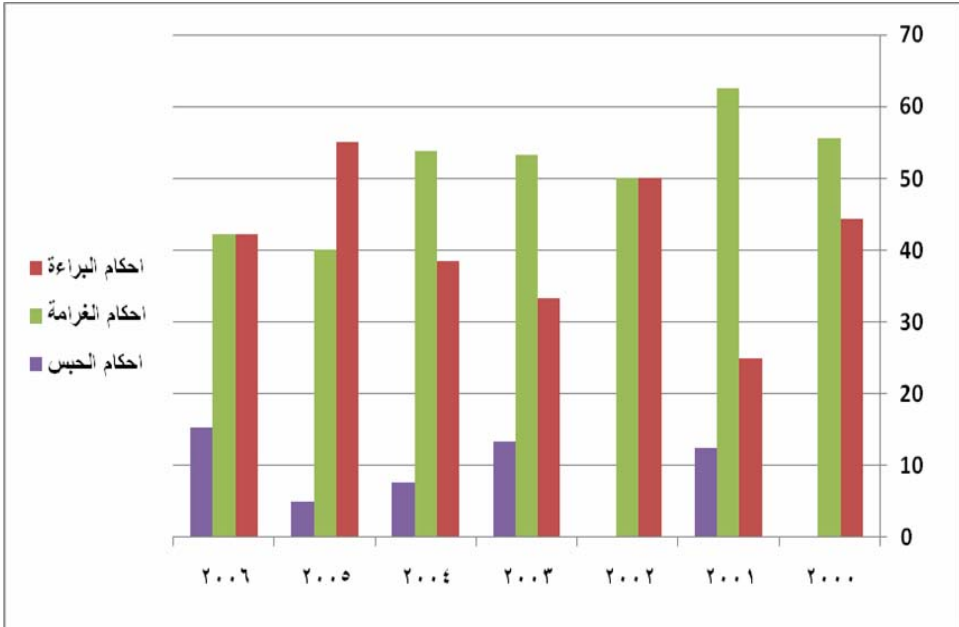
الفصل الخامس

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الملاحق

ملحق رقم 1
تلخيص للقضايا التي خضعت للدراسة والتحليل
عام 2000

-1	927)) ((2000/95	1
150				
-2				
191				
87 77		2000/95		
/23	2001/427			
-3				
(17)				
(/46)				
1998 8				
	384		2000/337	2
189 188	92/2/29			
		1992/11/15		



-1	96/6/8 )) ((		.2000/98	3
(9)				
.93 10				
-2				
8/40	1999/3/18			
-3	" "			
(28)				
(48)				
-4				
(191)				
(188)				
4/189				
-1	2000/4/12	350	2000/1057	4
5				
-2				



359 4/189 188	"			
(17 5) 1998 8	324 2000/3/7 (())		2000/1058	5
(17 5) 1998 8	318 2000/1/25) ((35		2000/2185	6
(7 5) 1998 8	2000/5/8) .(.....		2000/2186	7
256 258 257	1999/3/18		2000/ 5	8



46	1999		2000/254	9
8	600			
.1998				
		46		

عام 2001

/ 48			2001/212	1
8	2000/12/17	412		
15	1998)		
99	30) ((
.	/ 42	(
			
		2001/212		
		.2001/6/28		



(/38)	-1	1999/12/26	952	2001/551	2
(/45)		1998			
8		((
14	-2	.....		
9		26			
		2000/11/ 7	2000/302		
		2001/551			
		2001/6/28			
188	-1	4	97/10/	2001/223	3
40	-2				
93		1999/4/8			
		1999	6		
(7 5)	-1	2000/12/27	27	2001/1614	4
	8)		
.1998			34) (
4/189	-2	(....		



5	-1	26	2001/1/ 1	2001/935	5
	-2				
359	189	188			
189	-1	2/188	28	2001/935	6
	-2	5)		
		/46	(
			1999/3/18		
	-1			2001/1803	7



46	5	288			
		"	2000/8/23		
			600		
	-2				
189			"		
		290	2000/9/6		
			"		
				
		"		
(7 5)	-1	2001/1/3		2001/858	8
		28			
.1998	8)			
	-2	(
11					
				
				

عام 2002

	.1			2002/3086	1
(1/278)					
	.2				
	(/34) (35)				
8					
1998					



		2001/214		
		2002/863		
		2002/3086		
-1 (17) .1998 8 191 -2	58 59 60 61 64 ) (..... ) ( ) ( ) ( ) ( ) (		2002/2257	2
5) -1 (7	12410 2002/2/14		2002/1127	3



1998 8))			
-2	((
191				
189				
	10476		2002/41	4
38	99/5/16			
	2001/4/18		2002/890	5
-1	..... 403			
(27)				
1998 8				
-2				
188				
190 199				
358				
360 359				
5)	2002/1/2		2002/1973	6
(27 7	)) 440			
8				
1998				



	(
360 359 358	99/8/21) ((.....		2002/962	7
/46 /31	2003/1/14		2002/352	8
5) 1998 8	2001/8/22 60 ) ... (		2002/2151	9
5) 1998 8	62 2001/9/5 ..... ) (		2002/57	10

عام 2003

	2003/1/14 111 " 16 "		2003/103	1
150 -2				



273				
11	1532	2002/11/27	2003/731	2
)		
189	()		
191				
	()		
	()		
359 358	4	2001/1/3 12277	2003/197	3



		"			
27 5)	-1 (46	2001/6/11 11472		2003/494	4
	-2 359 358				
	-3 15	2002/876			
		2003/494			
	-1 359 358	"		2003/404	5
191	-2	6 35			
		2003/8/14			
4)	-1	76		2003/1895	6
(27 7 24 23 5		2001/12/12			



-2 /4/189 188 76	(
-1 (46 7 5)	2001		2003/285	7
-2 4/189	)) 28 (.) 28 .((
4) (27 7 6 5	-1 2002/12/11 128)		2003/471	8
-2 4/189(
(7)	2001/1/9		2003/244	9
(/7) (4)	2000/11/29 39 1291		2003/1389	10



	..... ) ( ..... 2001/933 2003/1389 2003/886			
(7) (5) .	1200/8/8 258) (.....		2003/191	11
5 4) (27 7 46 41	2000/12/10 1302) () (.		2003/752	12
(27 7 5) .	2001/6/11 364 ) ( - ) ) (		2003/284	13



	-			
	((
(7) 8 41	2003/2/4 11830 46 (1)		2003/1237	14
1998 46) .(
(7 5)	2002/9/29		2003/283	15
.	" :"			
(7 5)	12046 2003/9/10		2003/408	16
.	" "			



44 42) !!			
189 -2	: !! (
-1 7 6 5	..... ..... .....		/2250 2004	5
-2 191 189 188	.....		
-3 11 15				
-1 7 4	..... ..... )...		2004/128	6
-2 189 188	(
190				
-1 (5)	) (		/1516 2004	7
-2 (189)	(.....			
-1 7 5	..... 1999/10/16		/12571 2004	8



<p>188</p> <p>190 189</p> <p>-2</p>	<p>.....</p> <p>(122)</p> <p>1998/3/30</p> <p>) (</p> <p>.....</p> <p>1999/ 10/16</p> <p>.....</p> <p>(225)</p> <p>1998/3/24</p> <p>.....</p> <p>.....</p> <p>.....</p>			
<p>188</p> <p>189</p>			<p>2004/31</p>	<p>9</p>
<p>7</p> <p>-1</p>	<p>2004/3/17</p> <p>" 99</p> <p>"</p>		<p>2004/287</p>	<p>10</p>



<p>-2 189 188</p>	<p>1/ 283 73 5</p>			
<p>188 189</p>	<p>..... :..... :..... :.....</p>		<p>2004/527</p>	<p>11</p>
<p>7 4</p>	<p>.....</p>		<p>/1790 2004</p>	<p>12</p>



188	-1	350	2000/4/12	/1572 2004	13
	359 198				
5	-2				
	7				
41	4/189	39	2002/10/19	/2223 2004	14
				
		11			
		)		/1433 2004	15
		(
		(
188		2003/4/24		/1641 2004	16
198 190 189		.....		
		(34)			
)			
		(
				



<p>-1 7 5</p> <p>-2 189</p>	<p>2003/6/16 37</p> <p>.....</p> <p>1999/3/18</p> <p>" "</p>		<p>2004/471</p>	<p>17</p>
<p>-1 188</p> <p>189</p> <p>-2 7</p>			<p>/1154 2004</p>	<p>18</p>
<p>7 5 4</p>	<p>: 18) () 8</p>		<p>/1517 2004</p>	<p>19</p>



7 5 4	"		/2293 2004	20
5) (7	..... (812) 25 		/2065 2004	21
5) (7	: "		/1791 2004	22
5) (7	33266 113" " 113 :		2004/506	23



	..			
	..			
	(
			
			
	..			
	...			

عام 2005

(42 27)	(59)		2005/210	1
189 188	(67)			
	(61) (6)			
	(2000)			
	(60)			
	) (59)			
) (
	(
150	...		2005/2292	2



<p>6 5 4) (27 7</p>	<p>.....</p>			
<p>18 16 10</p>	<p>: <i>2005/ 140</i> (16) 18 10</p>		<p>2005/1139</p>	<p>3</p>



		2005/1055		
		2005/1139		
(7 5)	(355)	2004/7/21	2005/746	4
		" "		
			
11 6)	(13)		2005/139	5
		) (	2005/53	6
41	4/189			
			



7 5	.....		
6 . 189 188 .	202/6/19 383 " " " " " 65		2005/4	7
7 5) (11)	2001/11/28 (45) (74)		2005/1374	8



358 188	.....		
7 5 -1	48		2005/2059	9
191 -2	"			
			
7 5	3	2005/5/3	2005/576	10
	"	"		
	"....."	"		
		
	"....."		
	"	"		
		



7 5	...		2005/519	11
			
		(1)		
		
7 5			2005/1997	12



-1	20		2005/666	15
7 5				
-2				
278	/			
41	21			
4	.....		2005/500	16
41	7 5			
188	359 358		2005/21	17
	189			
	"			
			
	...			
191 188	2000/12/18		2005/205	18
)			
			



	(.....			
	:			
			
	.(
	(2)			
	)	2001/1/1		
	(.....			
)			



	((4)) 2001/1/15 : ) .(.....			
189 188	2002/10/30 ) ... / (		2005/556	19
359 358 189 188	2005/7/18 229		2005/559	20
-1 7 5 4 5 -2 45 .2001	" " "		2005/1380	21



عام 2006

51	36	54	2006/6/5	2006/808
			
				2006/525



			
			
	].	378		
	[
	150			
	273			
	5			
			.7	
		:		
	278			
	.			
	5			
			7	
		150		
	-			
		-		



	2006/525 5	7		
18 16	2005 (.....)		2006/428	3
26			/1806 2006	4
(31) (8) .98	2006/6/14		/1420 2006	5



(8)	(31)	(98)	2006/6/19 : ()	6 /1844 2006
7 5	-1	360359 358	12664 33 2005/5/24) (.	7 2006/429
7 5	-1	(4/189) (359)	2006/6/4 (81) ) (	8 /2569 2006



1/ 278	148 2005/11/10		2006/901	9
	.2006/2/2 159			
1/ 278	2006/2/2 1112		2006/900	10
188) (/46) (189) (358)	(205) 2004/6/16 ... ) ( ) ... ) ( ( ..... ) .... ) ( (		/2294 2004	11
			



		...		
		(.		
		(2000/7713)	2006/426	12
(/7)		(10935)		
189)		
		(
	2428	2004/1/26	2006/431	13
189 188)		
/41	(
			
		:		
		*		
		*		
		*		
		*		



		*		
)	<ul style="list-style-type: none"> ▪ 2006/426 		2006/436	14
(189				



	.... 2000/7215 2000/10/8) (
188) (/46) (189	324 2003/7/30) : /!!! (!! " "		2006/434	15
7 5 * 189 188 *	.... 2004/12/23 103 ()) : ()		/1638 2006	16



):) (
7 5 *	2006/1/22 (62)) (()		2006/369	17



) (
5	*	81		2006/582
.	7	)	2002/1/16	18
		
		:(
		:	*	
			
		.	*	
			
5	*			/1753 2006
				19



7	<p>) 2006/6/22 (179)</p> <p>...</p> <p>(:</p> <p>)</p>			
7 *	<p>(46)</p> <p>: 2003/10/30</p> <p>)</p> <p>130 /</p> <p>....</p> <p>(30)</p> <p>(.</p> <p>*</p> <p>130</p> <p>30</p>		2006/427	20



		(* () (3) !... ! * * () * * "....."		
7 5	*	(282)	2006/378	21



		..) 25 ((.....)		
7 5 *	" "	(96)) : 2006/9/17	/2150 2006	22
7 *	(12234) 30 2005/3/20 (.....)		2006/502	23



		()(
7 5 .	* 17) 2002 / (.....		2006/432	24
7 .	* (323) :) / / / /	2003/7/23	2006/421	25



	/			
	/			
	(
7 5 *	) 294		/2501 2006	26
	:	(



كشفت تفصيلي يظهر واقع قضايا المطبوعات والنشر في المحاكم الأردنية منذ العام 2000 – 2006

عدد الأحكام التي خضعت للدراسة	عدد القضايا التي تم تطويرها (وهي ما تم تسجيلها في الوزارة بالمرافعة وتمت تحليلها)	عدد القضايا المسجلة في محاكم المحكمة
<p>العدد الكلي - 229 قرار *</p> <ul style="list-style-type: none"> ❖ قضايا قصر العدل؛ • المجموع: 191 قرار ❖ قضايا شمال عمان؛ المجموع: 32 قرار ❖ محكمة بداية مادبا؛ المجموع: 2 ❖ محكمة بداية الزرقاء؛ المجموع: 3 قرارات ❖ محكمة بداية السلط؛ المجموع: 1 قرار. 	<p>العدد الكلي - 114 قضية</p> <p>وتفصيلها على النحو الآتي :</p> <ul style="list-style-type: none"> أولاً : محاكم عمان <ul style="list-style-type: none"> • قصر العدل: 91 قضية • محكمة بداية شمال عمان : 16 قضية ثانياً : محكمة بداية مادبا : <ul style="list-style-type: none"> • قضية واحدة ثالثاً : محكمة بداية الزرقاء : <ul style="list-style-type: none"> • قضيتين رابعاً : محكمة بداية الزرقاء : <ul style="list-style-type: none"> • ثلاث قضايا خامساً : محكمة بداية السلط : <ul style="list-style-type: none"> • قضية واحدة 	<p>العدد الكلي - 241 قضية في جميع محاكم المملكة</p> <p>وتفصيلها على النحو الآتي:</p> <ul style="list-style-type: none"> أولاً : محاكم عمان <ul style="list-style-type: none"> • قصر العدل : 208 قضايا سجلت في محكمة ابتدائية • محكمة الصلح : قضيتين تم تسجيلهما ونظرهما في العام 2006. • محكمة بداية شمال عمان : 24 قضية ثانياً : محكمة بداية مادبا : <ul style="list-style-type: none"> • قضية واحدة ثالثاً : محكمة بداية الزرقاء : <ul style="list-style-type: none"> • قضيتين رابعاً : محكمة بداية الزرقاء : <ul style="list-style-type: none"> • ثلاث قضايا خامساً : محكمة بداية السلط : <ul style="list-style-type: none"> • قضية واحدة

* يجب ملاحظة أن 229 قرار المحاكم هي 114 قضية، حيث أن بعض القضايا حصلت أكثر من رقم.



الأرقام المسجلة في المحاكم الأردنية من العام 2000 - 2006

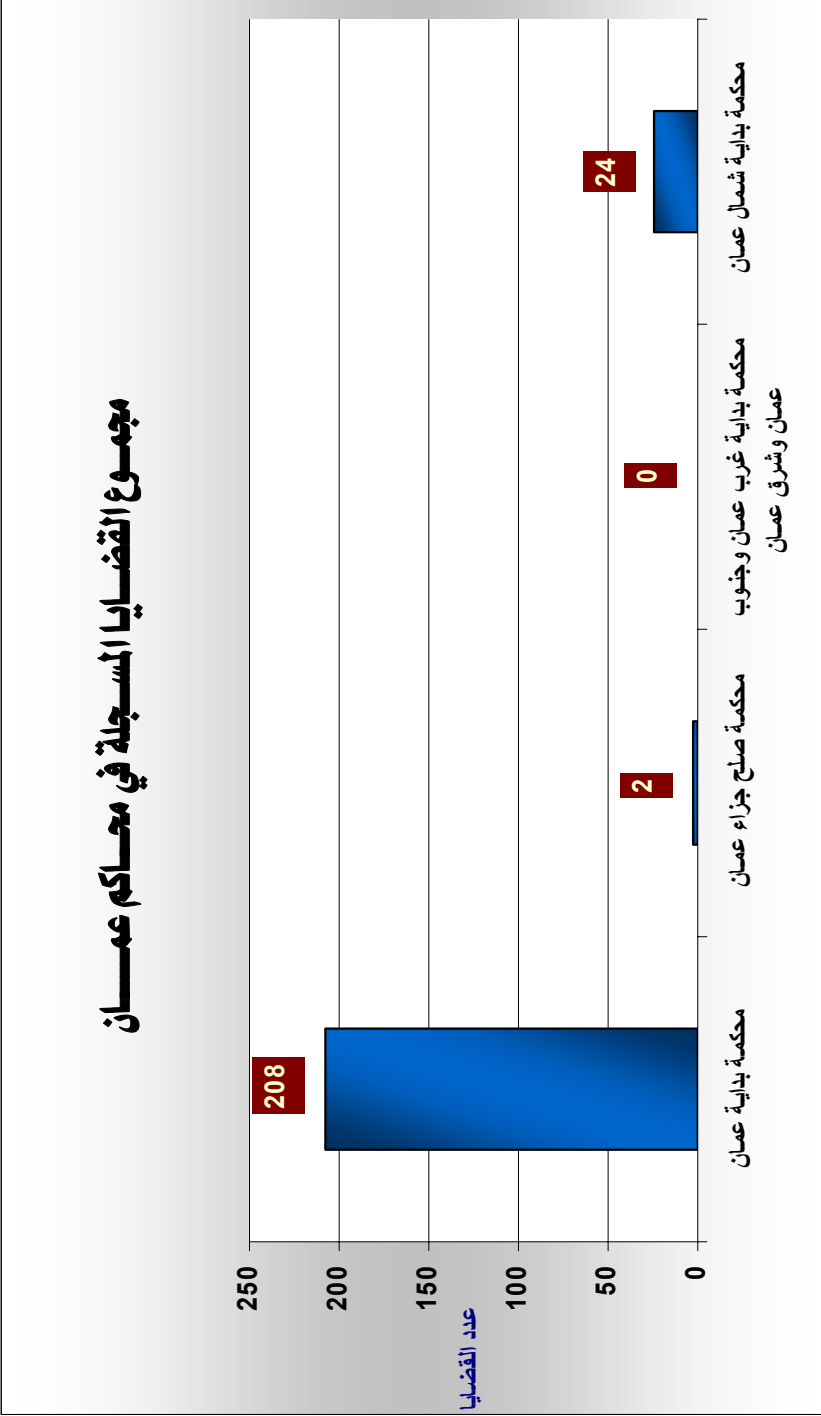


ملاحظة:

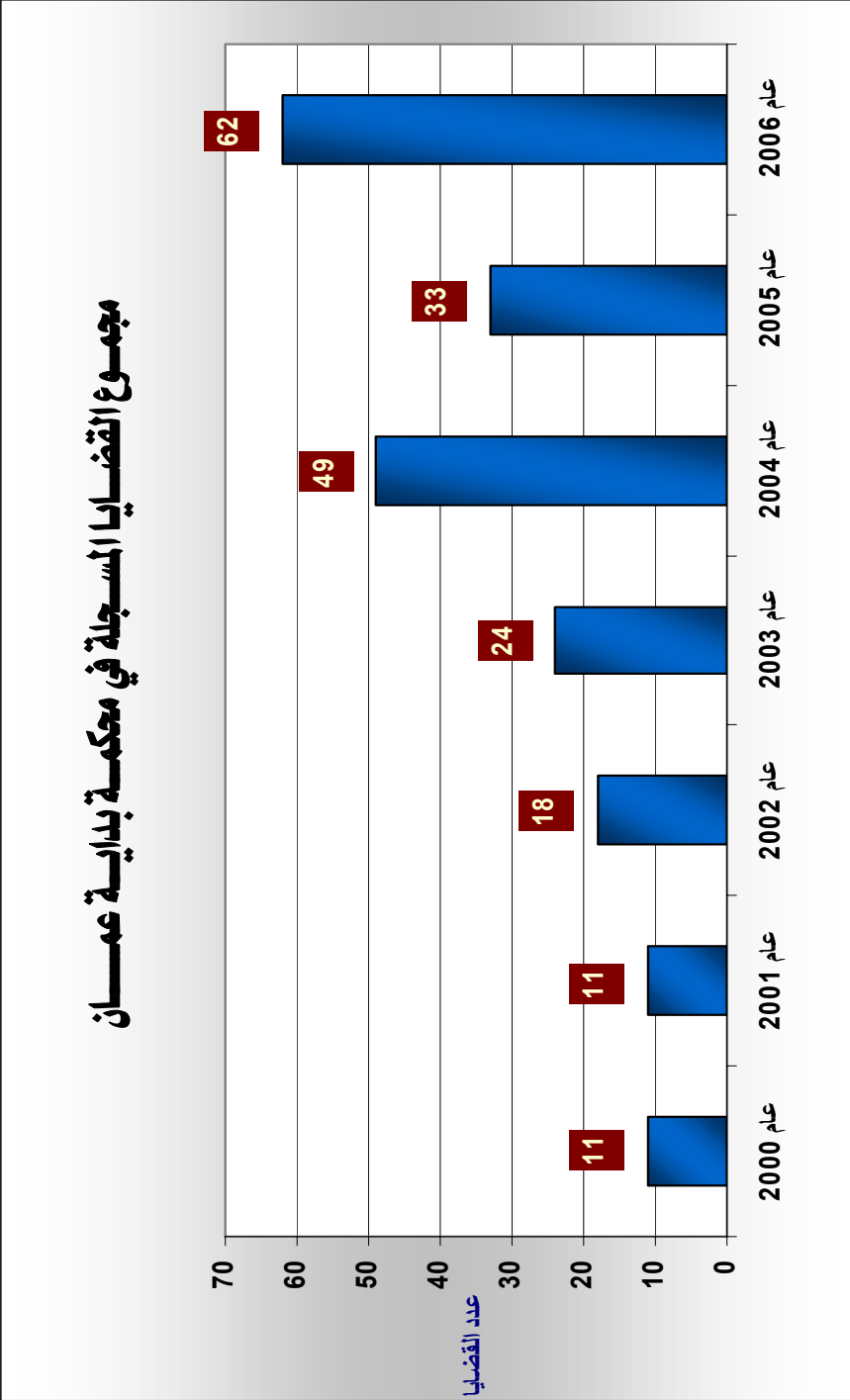
إن الأرقام الواردة في الرسم البياني أعلاه لا تمثل العدد الصحيح من القضايا لان القضية الواحدة كانت في بعض الأحيان تأخذ أكثر من رقم في عدة سنوات وبالتالي فان العدد الحقيقي للقضايا هو أقل من ذلك



مجموع القضايا المسجلة في محاكم عمان



مجموع القضايا المسجلة في محكمة بداية عمان



ملحق رقم 2

جدول بأسماء السادة الصحفيين المستجيبين للدراسة

		.1
/		.2
		.3
		.4
/		.5
		.6
		.7
		.8
		.9
		.10
		.11
		.12
		.13

الأسماء مرتبة أبجديا



جدول بأسماء السادة السياسيين المستجيبين للدراسة

		.1
		.2
		.3
		.4
		.5
		.6

جدول بأسماء السادة القضاة المستجيبين للدراسة

		.1
		.2
		.3
		.4
		.5
		.6
		.7
		.8
		.9



جدول بأسماء السادة المحامين المستجيبين للدراسة

/		.1
1971/1/1 - 1962		
/		
/		
/		
.		
		.2
/		
/		
		.3
/		
/		
		.4
/		
/		
.		
/		
/		.5
.		



1997 " - -		
- -		.6
		.7
/ /		.8



ملاحق رقم 3

الاتفاقيات الدولية التي صادقت عليها المملكة الأردنية الهاشمية¹

		/					
--	(4764) -6-15) (2006	1975-5-28	-6-30 1972		-3-23 1976	-16 -12 1966	
--	(4764) -6-15) (2006	1975-5-28	-6-30 1972		-1-3 1976	-16 -12 1966	
--	--	--	--	--	-3-23 1976	-16 -12 1966	



--	--	--	--	--	-7-11 1991	-15 -12 1989	
--	--	--	--	--	-10-20 2001	-12-4 1989	
--	--	--	--	--	-9-5 1991	-6-27 1989	
--	--	--	9 - 22 1966 -	--	-5-23 1953	-6-29 1951	
--	--	--	--	--	-6-15 1960	-6-25 1958	
--	(4764) -6-15)	1974-5-30	--		-1-4 1969	-21 -12 1965	



	(2006						
--	--	--	--	--	-7-18 1976	-30 -11 1973	
--	--	--	--	--	-5-22 1962	-14 -12 1960	
--	--	--	--	--	-10-24 1968	-10 -12 1962	
--	--	1987-8-26	-5-16 1986		1988-1	-10 -12 1985	
--	--	--	--		-7-7 1954	-20 -12 1976	
--	--	--	--	--	-8-11 1958	-1-29 1957	



) 9 (2							
) 15 (4	--	1992-7-1	-12-3 1980		-9-3 1981	-18 -12 1979	
) 16 (1,C							
) 16 (I,D,G							
--	--	--	--	--	-12-22 2000	-10 -12 1999	
							OP-CEDAW () 1999
(14) (20) (21)	(4787) -10-16) (2006	1991-5-24	-8-29 1990		-9-2 1990	-20 -11 1989	
--	(4787) -10-16) (2006	--	-9-6 2000		-1-18 2002	-5-25 2000	
							OP-CRC-SC() 2000



--	(4787)	--	-9-6 2000		-2-12 2002	-5-25 2000	
--	-10-16) (2006						<u>(OP-CRC-AC)</u> <u>2000</u>
--	--	--	--	--	-6-19 1976	-6-26 1973	
--	--	--	--	--	-11-19 2000	-6-17 1999	
--	(4764) -6-15) (2006	1991-12-13	-13 -11 1991		-6-26 1987	- 10 84-12 19	
--	--	--	--	--	-6-22 2006	-18 -12 2002	
--	--	--	-7-1 1992		-12-9 1964	-11-7 1962	
--	--	--	--	--	-7-15 1966	-7-9 1964	



--	--	--	--	--	-7-4 1950	-7-9 1948	
--	--	--	12 -12 1968 -	--	-7-18 1951	-7-1 1949	
--	--	--	-5-5 1959	--	-3-9 1927	-9-25 1926	
--	--	--	--	--	-12-7 1953	-23 -10 1953	1926
--	--	--	-9-27 1957	--	-4-30 1957	-4-30 1956	
--	--	--	--	--	-5-1 1932	-6-28 1930	
--	--	--	--	--	-1-17 1959	-6-25 1957	
--	--	--	--	--	-7-25 1951	-12-2 1949	



--	--	--	--	--		-15 -11 2000	
--	--	--	--	--		-18 -12 1990	
--	--	--	--	--		-15 -11 2000	2000
--	--	--	--	--	-12-13 1975	-8-30 1961	1
--	--	--	--	--	-6-6 1960	-9-28 1954	
--	--	--	--	--	-4-22 1954	-7-28 1951	



--	--	--	--	--	-10-4 1971	-18 -11 1966	
--	--	--	-4-3 1950		-1-12 1951	-12-9 1948) (
--	--	--	--	--	-11-11 1970	-26 -11 1968	
--	(4815) -3-15) (2007	--	-5-29 1951		-10-21 1950	-8-12 1949	()
--	(4815) -3-15) (2007	--	-5-29 1951		-10-21 1950	-8-12 1949	()
--	(4815)	--	-5-29 1951		-10-21 1950	-8-12 1949	()



	-3-15) (2007						
--	(4815)	--	-5-29 1951		-10-21 1950	-8-12 1949	()
	-3-15) (2007						
--		--	-5-29 1951		-12-7 1979	-6-8 1977	12 1949 /
	(4815)	--	-5-29 1951		-12-7 1978	-6-8 1977	12 1949
	-3-15) (2007						



--	--	--	--	--	--	--	--	--



ملحق رقم 4
قائمة بوسائل الإعلام الأردنية

المحطات الإذاعية.

(Mood – Beat) . .	-
.(Play)	-
.()	-
.()	-
.()	-
.() /	-
.() ()	-
.()	-
.()	-
.()	-
.(Melody)	-
.()	-
.()	-
.()	-
.()	-

المحطات التلفزيونية

(+) .(ATV)	-
() .()	-
() .()	-



()	.	()	-
()	.	(Supertech)	-
()	.	(Smart-Way.TV)	-
()	(Signal	/	-
			.One)
()	Seven		-
			.(Stars.TV)
()	.	(stock TV)	-
()	.	(WTV) . .	-
)	.		-
(SNG			-
)			-
(SNG			.ABS
()	.JCS		-

الصحف اليومية

-
-
-
-
-
-
-
-



الصحف الأسبوعية

" "



Luxury

ملحق رقم 5
بيان بالدورات التدريبية التي نظمها المعهد القضائي في الأردن



•



_____•

_____•



مرفقات

1

"

"

2007 1 - 30

-1

-2

-3



"

"

2007 1 - 30

"

"

.

"

:

2006 - 2000

440

%87

131

114

14

12

62

5

19



2000

2006

-1 _____ :

-2 _____ :



16

-3



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provided the training is continuing. This means that there should be weekly visits to press foundations to discuss with its leaders the legal problems they are facing.

4-2-2 Finalizing the legal protection program that contributes to raising legal awareness for journalists and organizing practical training courses to train journalists how to express their opinions without violating the law. This program should also brief journalists on ways to handle the slander laws in the kingdom.

4-2-3 Issuing an experimental newspaper edited by the journalists who are taking part in legal awareness courses and reviewed by the lawyers participating in the courses aimed at improving professional competence in order to issue a free experimental newspaper enjoying the maximum of freedom under the prevalent laws. Further, the issuance of such newspaper will serve as continuing practical training for journalists and lawyers.

Expanding the categories targeted by the legal protection program so that it can reach the largest possible number of media people on TV, radio, and websites.



ways of organizing and building legal help units and how services are extended by these units.

3-3-2 Continuing the efforts that have thus far been exerted by collecting the 2006 rulings that could not be added since they were still be debated at courts as well as the 2007 rulings that could be available, sorting, and commenting on them. In addition, a one-day session could be organized to identify the judicial trends in those rulings in comparison with those reached by this study -- a mission that we believe should be undertaken by the center regularly.

4-3-2 The study calls on the center, given the lack of empirical studies on the press and publication cases, to embark on commissioning some experts at the Legal Aid Unit to write booklets that briefly and explicitly explain the defamation laws in the kingdom and the basics of the press responsibility as well as the judicial view of those laws, especially those crimes stated in Articles 5, 7, and 9 and other articles of the Press and Publication Law. This book or booklet should be distributed to the students of the Judicial Institute through their administration and to lawyers through the Bar Association.

4.2 Raising Legal and Professional Awareness for Journalists:

The study has definitely proved that raising the professional and legal awareness of journalists will help in avoiding the negative impacts of slander laws and other laws regulating the freedom of expression. Hence, the study recommends the following:

4-2-1 Designing an internal training program for leading journalists on the concepts of slander, and ways to develop the various journalistic work and alternative legal formulas,

justified verdicts. Specialized trainers from the Judicial Institute can do this and use it to train the students of the Judicial Institute how to deal with the publication cases.

3-2 Training Lawyers, and Creating a New Generation of Lawyers Who are Specialized in Defending Cases of Freedom of Expression

Reviewing the legal defense demonstrated by the majority of lawyers in slander cases of the study has shown that there is dire need to develop the skills of lawyers who are interested in working in the field of providing legal support for media people. Therefore, the study recommends that the Center for the Protection and Freedom of Journalists adopt a program to improve the professional competence of lawyers and improve the unit extending legal help to media people as follows:

2-3-1 Providing in-depth training for 50 lawyers to prove the unconstitutionality before the judiciary in Jordan, use this argument in Jordanian courts, cite international agreements before a Jordanian judge, file slander lawsuits, and prove the real acts of slander crimes. This should include the training of judicial applications not to mention the advanced Arab and international applications of slander crimes and criminal precedents in the various countries that a Jordanian judge might deem applicable in such cases. The number of participants should not exceed 25 lawyers and enough practical and theoretical practices should be offered in the meantime.

2-3-2 Expanding the work of the legal help unit, and providing this unit with new lawyers, and providing them with regular training with the purpose of raising their professional competence. The capabilities of lawyers should be boosted in such cases through dispatching the unit's lawyers to Arab and European countries to look into the



should not be sacked by anyway other than disciplinary action, provided that disciplinary action and moving judges be the job of the High Judicial Council according to clear rules that cannot be subject to estimation.

As to raising the professional competence, the study recommends that the Center for the Protection and Freedom of Journalists start, in collaboration with the High Judicial Council and the Judicial Institute and in coordination with the Ministry of Justice, integrated training programs for at least 100 young judges and attorney generals in Jordan with the purpose of teaching them how to deal with slander cases. This should be done as follows:

2-2-2-1 Organizing a three-day training discussion in which 25 judges and attorney generals take part to know at least how to adjust claims in slander cases, the criterion of goodwill, the criminal intention in such cases and its applications. Moreover, they should know how to deal with the laws contradicting the constitution, provide reasons for the verdicts delivered in slander cases, describe cases, and know the need for resorting to experience in order to determine the criteria of imbalance and subjectivity and the acts contradicting the profession's rules of conduct

2-2-2-2 Dispatching the best three trainees in each training course to an advanced training course on slander cases in the United States and Europe to benefit from the international experience in this domain .

Training judges who have not been selected, giving them a one-day advanced course in Europe in order to discuss the latest developments on slander cases, and keeping them abreast of the latest developments on such cases.

2-2-2-4 Designing a training guideline including theoretical and practical practices of slander cases in addition to

media for the purpose of spreading lenient judicial interpretations and verdicts in such cases.

2-2-3 Organizing visits for deputies, senators and judges nominated by the High Judicial Council to developed or developing countries so that they can meet with legislators and judges and discuss similar legislations and alternative laws that can be borrowed.

In this regard, the study calls for reconsidering the amendments to the Press and Publication Law No. 27 of 2007, which have added new criminal laws and hefty fines impeding the freedom of expression of the press.

2.2 Supporting the Independence of the Judicial Authority

The study has proven that the Judicial Authority in Jordan is suffering from many problems that judicial authorities in various Arab countries are suffering from. The Judicial Authority is somehow dependant on the Executive Authority, and its members are generally deprived of the freedom of expression and of forming special independent unions. Therefore, the study recommends that large-scale discussion be initiated with judges, lawyers, and others to ensure real independence of the Judicial Authority, which is based on solid legal clauses that can make the High Judicial Council only for the men of the Judicial Authority and exclude the men of the Executive Authority, who execute its wills irrespective of their names and titles. This should take place, provided the judicial inspection is directly affiliated with the High Judicial Council, which should supervise the judiciary's budget that is part of the general budget. Judges in Jordan should also be able to form their own unions, the appointment of judges with putting them to the test should be abolished, and judges



1-2 - Improving the legislations of the freedom of expression and its judicial applications

The legislations governing the freedom of expression in the kingdom are very backward in comparison with the international laws on slander. This does not help the enhancement of discussing public issues that are of concern to the public opinion. In addition, lenient laws help in supporting the freedom of expression. Hence, the study recommends that the Center for the Protection and Freedom of Journalists cooperate closely with the Ministry of Justice, the High Judicial Council, experts from the Judicial Institute of Jordan, deputies and senators, and legal experts to do the following:

2-1 – 1 Measuring, reviewing and assessing the laws regulating the freedom of expression and media in Jordan or relevant laws, including the Press and Publications Law as well as its amendments, the Access to Information Law, the Penal Code, and the Code of Penal Procedure in view of the Jordanian constitution, the international agreements that Jordan signed, and the internationally-recognized guidelines in order to enact bills to replace those laws. Dialogue should also be initiated with media people, deputies, judges and others so as to rally support for these bills and endorse all or some of them.

2-2-2 Translating the laws regulating the freedom of expression and media in the developing countries and democratic countries like the United States and Europe, comparing these laws with the laws enforced in the kingdom, and distributing them to the members of the Cabinet (deputies and senators) so that they can use them when legislating.

3-3-2 Gathering and analyzing the judiciary's trends in the developing countries like Ukraine and India and developed countries like the United States and others, and distributing them to judges in Jordan. This will enable judges to benefit from the various judicial experiences in reaching verdicts as to the freedom of expression and

even if the defendant adjusts status after the press association issued an ultimatum.

The study concludes that the judiciary in the kingdom depends on full evidence as to the crimes of slander, subjectivity and imbalance. This means that a journalist is tasked with everything attributed to the plaintiff. In addition, the judiciary does not take into consideration the information obtained by tricks, illegal ways, or from a source that has clear enmity towards the plaintiff. The information taken from official documents shall be considered unquestionable pieces of evidence.

The study has also stressed that the judiciary does not follow a certain method in order to prove slander, and that the defendant can follow any way to prove it.

It has also stressed that among of the important judicial conclusions is that a photo must have been published by clear approval from the plaintiff and used lawfully and harmlessly.

Finally, the study has revealed a significant judiciary practice to refrain from enforcing a law article contradicting the constitution. The conclusion has been that the judiciary in Jordan sees that a judge has the right to refrain from enforcing a law article if it contradicts the constitution. The court of appeals can monitor judges when exercising this right.

3. The Final Recommendations:

The Jordanian judiciary's verdicts and applications in the field of slander cases are better than the laws enforced. This is what can be derived from this additional study. This prompts us to offer some recommendations that can be an ambitious action plan aimed at achieving justice and helping the defenders of legality improve and update not only the Jordanian legislative structure but also the professional skills of judges in such cases, and helping lawyers to do their roles more professionally.



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1. Goodwill cannot be a reason for permissibility or punishment in the crimes of offending religious sentiments. It is inappropriate for a person to fight crimes by committing similar ones.
2. Using well-known religious symbols or signs is not considered offence of religious sentiments.

On the different ways of violating the sacredness of courts, the following are some of the most important issues the study has observed:

1. Newspapers have the right to publish the news of crimes unless they have received something banning that.
2. Irresponsible and impolite phrases that make courts suspicious and affect the course of justice are unacceptable.
3. It is not enough that published phrases are filed in a lawsuit before the judiciary; rather the use of phrases should affect the judiciary.
4. Language used while addressing judges or referring to them must be appropriate to their ranks and positions.
5. In case a judge is slandered, a defendant must prove all slanderous phrases about the public employee.

On working without being enlisted in the press association; the crime of issuing unlicensed publication or violating the license's terms. The most important observations of the study have been:

1. The license's terms should be approached from a wide angle as the license's terms cannot be inflexible.
2. No one can work in journalism save for those whose names are registered with the press association. This is considered a crime



vague but the proofs and clues leave no room for doubts about reference to the defamed person, the reference should then be viewed as an explicit and direct instance of libel and vilification.

3. The presence of a personal interest for the plaintiff behind the publication of the press material overrides the public interest and makes all his/her writings inspired by personal motives; thus, the right to appeal will be dropped.
4. To pursue a crime of libel and vilification, a lawsuit should be filed by the defendant; otherwise, no action shall be taken with regard to that crime.
5. Some words cannot be considered defamatory unless used in an offensive context.
6. Using Koranic verses in certain instances could be viewed as libel, not offense, in accordance with the context and the circumstances surrounding the publication.

As for the crime of libel against an official body or courts or public administrations or army or against any civil servant while on duty, the study identified the following trends in the Jordanian judicial system:

1. In order to consider the article as libelous of an official body, the libel should be directed against the body itself and not its head.
2. Criticizing an official body is different from defaming it. The benchmark is the overall impact of the expressions used in the article.

As for the crime of arousing racial sentiments and defaming religions and offending religious sentiments, the study has come out with several observations. The most important of those are:



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First Observation: The judicial system in Jordan allows in all circumstances the journalist to prove the validity of what he/she attributed to the public employee although the legal procedures in the lawsuit at hand violate Articles 4, 5, and 7 of the Press and Publications Law which do not sanction the verification of the published materials. However, the judiciary assumes that it will look into a case of libel and vilification against a public employee. Thus, it enables the journalist to prove the validity of the published material, but in the end it enforces the fine penalty in accordance with Article 4 and the subsequent articles of the Press and Publications Law, which is a source of ease and support for the freedom of expression that merits commendation.

Second Observation: Although there is no specific definition for public interest, the judiciary accepts in all instances the argument that the disputed statement is meant to serve the public interest. However, it takes into account the understanding of the entire article or piece and views the smooth and gentle language as a sort of balance and objectivity in the press article.

Third Observation: Lack of attribution in any news report means that it lacks objectivity. Any news report must be attributed to a known source or at least can be recognized irrespective whether the journalists wants to, or does not want to, mention it.

Fourth Observation: The general nature of the article and absence of specific happenings are proof of its lack of objectivity and balance.

In addition, the study identifies some trends in the libel and vilification cases, most important of which are:

1. For the defense to accept the right to appeal, the expressions should be compatible with the topic of the article, and the latter should be of interest to the public.
2. In case of libel and vilification crimes, if the name of the defamed person is explicitly mentioned or if the reference is

The study states that despite the fact that the crime of lack of balance and disrespect for objectivity and integrity makes no distinction between a civil servant and an ordinary individual, since this point is only applicable when it comes to libel and vilification against the civil servant for the purpose of proving the charges, yet this could be understood as one way of mitigating the negative impact should legal articles be used by the judge to enforce a freedom-robbing penalty if the plaintiff is found guilty. On the other hand, it can be viewed as an additional protection for the defendants either because the happening does not constitute a crime, as is widely recognized, but the Public Prosecution seeks to indict the journalist or newspaper for one reason or another --like a political acquittal of a minister for example -- or because the plaintiff will make no effort to prove the libel charges if he/she realizes that he will be fined no matter what the circumstances are. The judge can as well have leeway when it comes to proving the validity of the lawsuit since it will all end in inflicting a fine in the range of 25 dinars. Thus, all parties will come out with minimal losses by the end of the day.

The study also states in this regard that the Jordanian judiciary always seeks, as much as possible, to protect the plaintiffs. It looks into the lawsuit taking into account that the charges facing the plaintiff are libel and vilification, and, therefore, discusses the press materials from this angle and grants the defendants a chance to prove the validity of the libel and vilification charges. However, if the charges are proved, the judges' final verdict tends to be in tandem with the commuted penalties stated in Articles 4, 5, 6, and 9 of the Press and Publications Law and labels the disputed press article or report of the crime of violating the principle of integrity and balance or publishing material that offends the nation's values, which are professional, not criminal, issues by all standards.

The study also included some observations with regard to the lawsuits filed against the backdrop of violating Articles 4, 5 and 7 of the Press and Publications Law, which are:

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objectivity or even the nation's traditions and others. The understanding of such notions might well differ from one person to another and from one setting to another. For example, what might be considered as a violation of the traditions in a remote governorate in the kingdom might not be applicable in Amman. Likewise, what might be viewed by some person as extremely balanced and objective might be viewed as a violation of those principles by another. At any rate, the study, based on the rulings that were examined, concluded that balance and objectivity can be viewed differently:

- Mentioning a family's name within a political context is considered as an instance of lack of balance and objectivity.
- Failure to uncover the truth by seeking information from all parties on a certain happening is considered as an instance of lack of balance and objectivity.
- Obtaining information from someone through indirect and deceptive means is also considered as an instance of lack of balance and objectivity.
- Lack of documentation which a journalist used to build his published material on is a form of lack of balance and objectivity.
- Tackling issues that don not reflect well on the public interest are considered a violation of the notion of objectivity and balance.
- Publishing what might foment division among people is also a violation of the notion of objectivity and balance.
- This could lead us to branding all publication crimes in one crime that would be understood by the judge in a manner that goes on line with his/her culture, social setting, and political vision.



ending in indictment, resulted in fining. Two litigations, accounting for 12.5 percent, in which the plaintiffs were indicted, resulted in imprisonment term.

- In 2005, 55 percent of the litigations ended in acquittal, while 88.89 percent of the remaining litigations ended in fining. One litigation, accounting for 11.11 percent, in which the plaintiff was indicted, resulted in imprisonment term.
- In 2006 which witnessed 26 litigations, eleven litigations, accounting for 42.31 percent, ended in acquittal, while fifteen litigations, accounting for 57.69 percent, ended in indictment, including eleven litigations, accounting for 73.33 percent, in which the plaintiffs were fined, and four litigations, accounting for 26.67 percent, in which the plaintiffs were sentenced to jail.

The third topic addresses the most salient trends of the Jordanian judiciary in the defamation litigations, the expression crimes that were looked into by the Jordanian courts for the period 200-2006. The topic noted that there are eight kinds of crimes that were tackled in the litigations analyzed in the period 2000-2006. Those crimes, as noted earlier, are pertinent to violating objectivity and balance and publishing material that harms the sentiments of the nation and its traditions, disrespect for the private life and reputation of citizens, lack of balance and objectivity when reporting about public figures, libel and vilification against a civil servant, libel and vilification against individuals, libel against an official body, the crime of arousing racism, libel against religions and disrespect for religious sentiments, the crime of violating courts with their different designations, the crime of issuing a publication without licensing or violating the licensing terms, and working in the press sector without registration with Press Association's lists.

The study states in the third topic of the fifth chapter that it's impossible to set a measurable criterion for the idea of balance and



information before publishing it. This is despite the fact that indictment even with one dinar would automatically give the defendant the right to claim damage, which is the norm in Jordan. Compensations range between 750 dinars to 12,000 or even 15,000 dinars at other times. This, in turn could lead to newspapers running out of business and make the owners of newspapers exercise censorship over themselves and their editors. It also makes compensation as a reason for accumulating wealth and not to compensate for damage. The second topic of the fifth chapter mentioned the percentages of indictment and acquittal as well as the financial and imprisonment penalties in the period under study.

- In 2000, 44.44 percent of the litigations ended in acquittal, while 55.56 percent of the remaining litigations ended in fining. None of the litigations resulted in imprisonment penalties.
- In 2001, 25 percent of the litigations ended in acquittal, while 83.33 percent of the remaining litigations ended in fining. One litigation, accounting for 16.66 percent, in which the plaintiff was indicted, resulted in imprisonment term.
- In 2002, 50 percent of the litigations ended in acquittal, while the remaining litigations ended in fining. None of the litigations resulted in imprisonment penalties.
- In 2003, five out of fifteen litigations, accounting for 33.33 percent, ended in acquittal, while eight litigations, accounting for 80 percent of those ending in indictment, resulted in fining. Two litigations, accounting for 20 percent, in which the plaintiffs were indicted, resulted in imprisonment term.
- In 2004 which witnessed 26 litigations, ten litigations, accounting for 38.46 percent, ended in acquittal, while fourteen litigations, accounting for 87.5 percent of those



articles. We earlier said that the public prosecution's policy against the defendant in Jordan is to press charges arbitrarily against the defendant, thus giving full freedom to the judiciary to select from this variety whatever it deems most applicable to the circumstances of the lawsuit. We reiterate that such a plan would lead to exhausting the judges because they have to respond to each charge and explain why he/she excluded it. In fact, this plan is an indication that the Public Prosecution does not perform the range of duties associated with this position, especially the examination of the evidence and the selection of the applicable charge, and even the issuance of an order preventing the trial.

2. The crimes of lack of balance and objectivity and respect for the rights and reputation of others, followed by the libel and slander crimes are the most common in courts. This is followed by Article 27 of the Press and Publication Law which tackles the right to respond. Afterwards, the figures show that the other charges were repeated once or twice here and there.

As regards the acquittal and indictment in the libel and defamation lawsuits in general, the second topic noted that the judicial authorities try their best to avoid the freedom-robbing penalties in the freedom of speech lawsuits and resort to fines instead. This is a judicial trend that should be both encouraged and warned against. It should be encouraged because it does not lead to enforcing freedom-robbing penalties against journalists for using their freedom of expression in general, and this is acceptable and compatible with the international standards and grants legal protection to the men of letter and encourages the piecemeal approach in enforcing penalties, which an internationally-recognized principle. By the same token, it should be warned against because the fine as a penalty could make the indictment of a journalist and easy thing to do. Some would argue that since all it takes is one hundred or even five dinars, then there is no need to make efforts to prove the libel charges or even verify the



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settle lawsuits before any judicial body, these were of the few crimes being committed. During the period of the study, the public prosecutor only referred five lawsuits to courts related to Article 11 of Law No. 9 for the year 1959.

The crimes violating Article 15 of the Courts Violation Law No. 9 for the year 1959 represented in publishing an appeal against a judge or a court, or a comment on an issued verdict with the intent of questioning and showing contempt to the court. These are of the rare cases as only four lawsuits were only referred to the judiciary, representing 3.5% of the total number of lawsuits at that period.

Moreover, only 1% of the lawsuits being studied were referred to the judiciary on charges of violating Article 14 of the Courts Violation Law No 9 for the year 1959, represented in the disclosure of a secret investigation.

Two lawsuits were referred to the judiciary on charges of violating Article 26 of the Press and Publications Law, represented in writing on issues for which the publication was not licensed.

2-4-1 The public prosecutor referred around 8% of the cases being studied to the courts on charges of violating Article 27 of the Press and Publications Law, represented in abstaining from publishing the right to response. The judiciary cleared 90% of these cases and passed judgments on one case by issuing a penalty verdict.

Ten second topic reached two fundamental observations:

1. The public prosecution always prefers to use articles 4,5, and 7 of the Press and Publication Law; that is, the articles that punish lack of balance and lack of objectivity, disrespect for other people's right and reputation -- as alternative articles along with other articles. Those articles are generally used with articles 358 and 359 of the Penal Code -- which are the articles that punish for libel and slander and other accusatory



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to issue verdicts in accordance with these articles in 31 lawsuits that constitute more than 63% of the lawsuits referred in accordance to these articles.

Then, the other articles according to which cases are referred to courts are the violation of Article 191 of the penal code represented in slandering one of the official departments or public employees while carrying out their duties. In many of these cases, in which public prosecutors based their argument on this article, were not referred to the judiciary in Jordan. The lawsuits that were referred to courts are not more than 7% of the total number of lawsuits being analyzed.

This is followed by a number of law articles according to which lawsuits were referred to courts under the pretext that the violation crime of Article 9 of the Press and Publications Law, which stipulates that people should comply with their professional ethics and decorum, was committed in these lawsuits. Only one case was referred to court in accordance with this article.

The violation crime of Article 150 of the penal code represented in fomenting confessional feud and insulting national unity, a charge that the public prosecutor did not use except in a limited number of lawsuits, namely three lawsuits that represent 2.63% of the total number of cases.

The violation crime of Article 273 of the penal code represented in insulting religious leaders, which is of the uncommon crimes in the Arab societies in general, and the Jordanian society, in particular. The public prosecutor only referred two cases to courts on these charges.

The violation crime of Article 278 of the penal code represented in hurting religious sentiments, a charge that was used by the public prosecutor four times, representing 2.7% of the total lawsuits lodged between 2000 and 2006.

As for the charges of violating Article 11 of the Courts Violation Law No 9 for the year 1959, represented in influencing judges assigned to



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a cause for controversies over the freedom of expression and its feasibility.

The second part tries to point to the approaches of the public prosecution authorities to keep a record of defamation lawsuits and their consequences. The chapter notes that the violation of articles 4,5,7 of the Press and Publications Law represented in publishing what contradicts national responsibilities, the respect of personal life of others, and the respect of truth are of the best material in defamation lawsuits to refer to courts in the kingdom. These issues or along with other materials constituted 70% of lawsuits referred to courts. The most important is that 53 out of 80 lawsuits, verdicts were based on them. Although they are loose material and contradict the constitutional principle that conforms to the rules, namely the principle of the legality of crimes and penalties regardless of the approach adopted in settling the lawsuits, be it through acquittal, or lack of responsibility, or even conviction, no one single judge stopped to engage in a legal discussion about these articles and to mull over them in light of the legal principle that we indicated earlier.

The most important is that we did not find a single lawyer has ever presented a legal review on the constitutionality of these articles and their contradiction of the legality of crime and penalties. However, we, at any rate, see that defendants are the main responsibility of judges and they should not be held them responsible for the facts found by their lawyers in their legal reviews.

The crime of violating articles 358 and 359 as indicated in articles 188 and 189 of the penal code on defamation, vilification, and contempt come as a group of basic articles in referring these lawsuits to courts.

These articles constitute 45.35% of the articles of law according to which the public prosecutor refers the defamation lawsuits to courts. The number of these lawsuits reached 49 out of 114 lawsuits that were analyzed. Contrary to articles 4 and up of the Press and Publications Law, the courts did not pass judgments in accordance with these articles except in 18 lawsuits with a percentage of 18% and declined



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number of verdicts, as it received 15 sentences to pay fines and two imprisonment sentences. It was only cleared of two lawsuits. As for Al-Ra'y, which comes second in the number of lawsuits filed against it, it was only sentenced to pay fines in three lawsuits, while it was cleared of the rest of the lawsuits. Moreover, the analysis of litigation, the core of the study, proved that the weekly newspapers alone constitute up to 75% of the total number of litigation that were settled in Jordanian courtrooms during the period covered by the study. The first part emphasized three main facts:

1. No imprisonment sentence was handed down to workers in daily newspapers.
2. The acquittal and lack of responsibility verdicts almost equal and do not have an impact on the method of issuance. This asserts that when a judge has doubts about the evidence of conviction, he does not look at the way the newspaper is issued, its size, the kind of topics it publishes. Thus, he rushes to clear it of the charges as much as he can.
3. The sentences to pay fines and the ensuing right to reimburse prove that the weekly newspapers need a very hard process to rebuild and rehabilitate them, or else they will collapse due to the damages which they cannot pay, or because they had to resort methods, such as blackmail and defamation in a bid to support their resources to face such verdicts.

This part concludes that the weekly newspapers in Jordan are facing a real crisis and the parties that are interested in the status of the freedom of expression have to be serious in supporting them. This kind of newspapers of limited circulation is the first school that can produce competent and incompetent journalists, well-trained journalists on the basic rules of journalism or untrained journalist. Therefore, we should leave them work without extend a helping hand to them by allotting to them a fair share of the advertisements of the market, rehabilitating their employees in the administrative and technical fields in order to turn them into strong press institutions that would help in raising the ceiling of freedom in Jordan instead of being



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12. Proving that the defendants have cursed or defamed other people is not a precondition in lawsuits being brought before the judiciary in order to prove them guilty, even if the victim compromises the case, this will not be of value in the charges pressed with regard to influencing the court.
13. The Court of Merits can change the characterization of the claim received from the general prosecution.

As for the fifth chapter, which is considered the longest and most important chapters of the study, it is divided into three basic topics:

The first topic discusses the general vision of the newspapers that were prosecuted during the period of the study in order to explain its types and the types of verdicts issued against them.

The second topic examines the charges that were cited in the lawsuits discussed by the study in order to facilitate identifying the approaches of the public prosecutor in Jordan and examines the approach adopted by judges in issuing verdicts in general in such lawsuits.

The third topic reviews what we managed to conclude from the approaches of Jordanian judiciary with regard to the defamation litigation and other related or associated lawsuits. These approaches are listed in order based on allegations.

According to the first part, Al-Shahid weekly newspaper tops the list of newspapers that were subjected to judicial prosecution during the period covered by the study. Al-Ra'y Newspaper, one of the most important Jordanian newspapers if not the most important newspaper, ranked second with by a big margin Al-Dustur and Al-Arab al-Yawm are also of the major newspapers in the kingdom, Shihan and Al-I'lam al-Badil come second, then Al-Yarmuk, Al-Hadath, Al-Anbat, Al-Itjah, the Jordan Times, Al-Wihdah, Al-Mithaq, and other newspaper as illustrated. These are the least papers that were legally prosecuted as every one of them was only prosecuted once.

What is funny is that Al-Shahid, which came on top of the Jordanian newspapers in the number of the lawsuits filed against it and the



9. Journalists have the right to protect their sources and cover the news; however, national security has the priority.

On the approaches of the Egyptian judiciary in the lawsuits filed as results of practicing the right to free expression, the fourth chapter listed 13 main approaches as follows:

1. The Egyptian judiciary tended to highly value the freedom of press and called for activating the journalism code of honor.
2. The Egyptian judges are considering the principle of good intention and do not consider it of the motives, but of the main elements of the crime.
3. The Egyptian judiciary allows more room for the recognition of the right to criticism and takes for granted that the greater the responsibilities undertaken by a person, the better his ability to tolerate criticism.
4. Expanding the standard definition of public employees mentioned in the law to include public personalities and giving the right to newspapers to criticize and confront them.
5. In the criticism of public employees, defendants have to prove the truth of every act they accused the offended party of doing.
6. The public lawsuits are completely dropped in the crimes of cursing and defamation if the claim was compromised.
7. Resorting to circumvention in the methods used in instituting lawsuits is deplorable and does not permit dispensation.
8. The interpretation of the article is considered as fait accompli that the Court of Cassation does not interfere in; however, the Court of Cassation can look into the interpretation of the Court of Merits of the article in order to learn about the legal results decided by the court on the interpretation.
9. The Egyptian judiciary expands the definition of insult.
10. The Egyptian judiciary is very strict about the insults directed to the president of the republic.
11. The Egyptian judiciary does not consider a secret actually disclosed unless the competent authority does that even if the secret has become known by everybody.



is unjustifiable and includes attack against their beliefs, taking into account that copies of the book were not confiscated and the penalty that was imposed on the defendant was moderate. With the majority of four members against three, the court decided that the conviction sentence was consistent with the committed act.”

2. Journalists should prove true the claims based on which he is insulting a public personality. At the same time, the penalty pronounced against them should be consistent with the gravity of the committed act.
3. The European courts protect the reputation of the judiciary and prevent influencing them; however, they consider that if the penalty was not in proportion to the act, this per se is a violation of freedom.

The fourth chapter of the study also cites the approaches of judiciary in the United States of America in the cases ensuing from the practice of the right to free expression, the most important of which are:

1. Expanding the standard definition of good intentions, placing the onus of proof always on the plaintiff, not the journalist.
2. Expanding the standard definition of public personalities, setting a specific definition that explains the difference between public employees and public personalities.
3. Adopting the criterion of objective and balanced press coverage as a means to protect journalists from prosecution.
4. Granting journalists broader freedom when covering news of crimes, taking the social value of news into consideration.
5. The author is not held responsible if the published report is related to public issues of concern to the society.
6. Defendants should not be prosecuted for any personal opinion they made.
7. Placing restrictions on the conditions that should be met in the lawsuits filed to pay damages for defamation and slander.
8. The article should be interpreted as inseparable unit with the importance of noting the reference and warning terms.



publication is achieving public interest even if this interest involves personal interests. Instead of that or in addition to that, he can prove that the allegations he leveled against the offended party are true. Lastly, the defendant can also, in addition to all of that, prove that what he has published does not affect or harm the dignity or reputation of the plaintiff.

5. The defense based on good intentions and defamation cannot be used if the personal life of individuals was violated. The French Court of Appeals decided that the personal life of individuals regardless of the positions they are occupying is necessarily considered above any other right.
6. Journalists are enjoying a far-reaching protection whether with regard to their sources of information or profession-related issues.
7. The French judiciary is strict in protecting the criminal litigation from the influences related to publications. The French judiciary is trying to add legal protection to the criminal litigation against the influence of publications which could result in shaping public opinion in favor of or against the defendant, or in favor of and against the judges presiding over the court to settle the lawsuits provided that the criminal litigation is still unresolved.

Additionally, the fourth chapter cites a number of legal principles of human rights issued by European courts including:

1. The freedom of expression cannot be an excuse for contempt of religions and the beliefs of others. One of the European courts was cited in one of the lawsuits related to the insults directed to Prophet Mohammad, peace be upon him, as saying that “ the duty and responsibility when practicing the freedom of expression necessitate avoiding as much as possible showing enmity to others and insulting their beliefs.” The court affirmed that “this book not only includes insults, but also attack on the gracious prophet, taking into account that Turkey – although secular— Muslims living there who hold on to their religion and those will feel that what was written in this book



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of most of Arab legislations and judicial precedents. It also important to review the approaches of the Egyptian judiciary with regard to the defamation lawsuits since it represents a historical judicial reference in many Arab states, including Jordan. The provisions of the US judiciary in general, although different from any Arab judicial system, remain valuable and can be invoked in the field of public rights and freedom, especially the right to free expression. The fourth chapter cites some of the general approaches of the European and French judiciary as follows:

1. In order to consider pictures attached to an article a kind of defamation or vilification, they should be tangibly attached to the article. The French Judiciary decided that picture alone cannot be considered defamation or vilification whatsoever unless attached to articles, published terms, or comments provided that none of them can be understood separately.
2. Defamation and vilification of public personalities and politicians can be condoned. The French Judiciary tends to condone defamation and vilification of public personalities more than condoning defamation of individuals although it insists that the plaintiff in defamation and vilification cases in general should undertake the responsibility of proving the damage inflicted on him as a result, since defamation and vilification cannot be punished unless they cause direct and present damage.
3. Any act that damages or leads to damaging the reputation of the president of the state can be considered as an insult to him and might be considered defamation against him. The French judicial system added additional basic protection for the president of the state and banned any kind of defamation or vilification against him, and it was strict in so doing.
4. The French judiciary gave the defendant in defamation and vilification crimes different alternatives to win acquittal of charges. The defendant accused of defamation and vilification crimes in France can obtain acquittal through more than a way as they can prove their good intentions in publication – good intention here means that the goal of the defendant in the



prove false the criminal intention because if the incident per se does not prove false the criminal intention. Therefore, believing that it is right might not have primarily an influence on the elements of this liability. Good intentions are considered as motives that can be noted in deciding the penalty. Publishers might cite terms from a foreign magazine or such terms might have been already published in the kingdom or abroad. However, this is not considered a reason for the dispensation of the penalty, even if the publisher is citing these terms to criticize them and show that they are wrong. Moreover, according to Article 37 of the Press and Publications Law, the press material that was cited or referred to is treated as the authored or original material. The Jordanian law does not take in consideration the principle of "innocent media." In accordance to Article 42 of the Press and Publications Law, Paragraph "D" and "H," the common right lawsuits in the crimes committed through periodical publications are filed against the publication, its chief editor or the manager of the specialized publication, the writer of the press material as the principal actors who are held responsible jointly and severally for the personal rights ensuing from these crimes and the cost of the trial. However, they are not being liable to penalty unless their participation or actual involvement in the crime is proved. The common right lawsuits in the crimes committed through the unpatriotically published publications are filed against the author of the publication as the principal actor and its publisher as an accomplice. If the publisher or the author of the publication is not known, the lawsuit is filed against the owner of the printing press and its official director. This means that not only those who are convicted of the crime are held responsible, but also those whose duties do include following up on what is being published in such publications.

The fourth chapter of this study reviews the general approaches of the international and regional judiciary with regard to the publication lawsuits in general using France, the United States of America, and Egypt as guiding evidence since the Latin judiciary is the main source



speaks about contempt in Article 190, all of which are in the context of hurting the feelings. This is proved in that the law in these two articles did not stipulate that there should be damage inflicted by the victim and it did not place the onus of proof on him to substantiate that damage, but it considered uttering defamatory terms per se as inflicting damage. This affirms that the Jordanian legislator wanted to protect the feelings of victims, not their reputation, which makes the Jordanian articles internationally discreditable.

4. The defamation laws in Jordan protect the institutions, something that is internationally unacceptable as the defamation laws only enforced on individuals. Therefore, laws that ban defamation of public institutions should not be enacted under any circumstances. We can say without mentioning unnecessary details that the defamation law in Jordan – at least with regard to the lawsuits that we are studying— not only it does not protect individuals, but also it excessively protect institutions, including the parliament, courts, the armed forces, the ministries, and the like.
5. The defamation laws in Jordan imposes criminal penalties on its violators, something that contradicts the international rules that consider the criminal defamation laws as unjustified restrictions imposed on the freedom of expression and categorically rejects implementing any criminal penalty on the people accused of defamation.
6. The Jordanian legal articles violate the internationally acceptable rules in the defense against defamation lawsuits. The Jordanian law does actually protect the freedom of opinion. According to the articles of the law, people can be punished for expressing their opinions if they include defamation, cursing, or contempt. Moreover, the onus of proof in the Jordanian law – contrary to the norms – is placed on the defendants as they are responsible for proving the truth of what they have said to defame their opponents, if there were public employees. The most important thing is that the Jordanian law does not consider good intentions as a good reason for the defense as Dr. Kamil Al-Sa'id says: "Good intentions do not



the protection of reputations, which is the main goal of the defamation laws. Moreover, the legal articles incriminate people who are basically citing some information or ideas and banned publishing some information specifically. For example, Article 40 of the Press and Publications Law banned newspapers from publishing specific information slandering the armed forces or the king, or insult the feelings of the leaders of friendly states, or promote corruption etc...Additionally, the Press and Publications Law in Jordan imposes censorship on the specialized publications and imposes censorship on the content of the press letters coming from abroad. The Jordanian legal articles, which affirm that the Jordanian street is using loose and unspecific terms such as “public insult” in Article 273 of the penal code, the term “contempt” in Article 190 of the penal code, the term “rough behavior” in Article 360 of the penal code, or the term “freedom and national responsibility” in Article 5 of the Press and Publications Law etc... This is what makes these articles internationally unacceptable because they are not specific and are based on select terms. At any rate, this also make them violate the principle of legitimacy of crimes and penalties, which not only includes the need for crimes and penalties to be based on a law as much as the basic elements of crimes should be clearly specified in a way that does not allow various interpretations, or conflicting interpretations in some cases.

3. The legal articles on which the verdicts were based excessively protect the right to reputation. The Jordanian law protects the right to defend reputation even if it was violated for once by an individual contrary to the International Covenant on Civil and Political Rights, which does not protect the right to defend reputation unless if it was violated in the form of organized campaigns as Article 17 of the covenant stipulates: “The campaigns launched against his honor and reputation.” The article also stipulates “the right to protect the law from these campaigns.” Moreover, the Jordanian law defends the feelings of people more than their reputation, as the penal code in Jordan speaks about honor and dignity in Article 188 and



1. The articles, on which the verdicts of the Jordanian judiciary are based, actually cover all the acts that defamation laws can be enacted to punish them, even those which the international regulations do not allow punishment for. The abovementioned legal articles not only penalize defamation, vilification, and false allegations in the articles from 188-190 of the penal code, but also insulting religions and hurting religious sentiments in accordance with articles 273 and 278 of the penal code; and inciting hatred and racial discrimination according to Article 150. However, there are internationally-unacceptable articles, such as Article 191 of the penal code and Article 38, Paragraph A, of the Press and Publications Law, in addition to articles 11,13,14,15 of the Court Violation Law No. 9 for the year 1959, which all in all punish for publishing anything that could influence judges or others, such as the parties of the criminal litigation; for falsifying what has taken place during public sessions; publishing news on an ongoing criminal investigation; or publishing an appeal against a judge or a comment on a verdict. The study mentioned that “it can be said that with regard to the report of the violations against the law, some of the articles based on which trials were held and based on which verdicts were issued – which we are discussing in this study-- are in keeping with the international rules, but some of which are not consistent with the international rules in a way or another. This is especially true with regard to criticizing the regular institutions, publishing what might misrepresent the proceedings in public sessions, disrupting the relations with friendly states, or the like, as the international rules do not support punishment for all these acts because punishment might restrict the freedom of opinion and expression and blocking the gateways of political discussions.
2. The legal articles in Jordan imposes heavy restrictions on the freedom of expression and do not provide a positive environment to enjoy it. There is not any kind of balance between the restrictions on the freedom of expression -- which the legal articles included and which we are discussing-- and



1. Rejecting to shift the onus of proof to the defendant. It is well known that the onus of proof falls on the plaintiff as he should prove every element of the allegation including the wrongdoings of the defendant. Accordingly, the laws that place the onus of proof on the defendant with regard to proving the truth about what has been published is rejected by the international rules and consider it restrictive of the freedom of expression.
2. Nobody should be tried for expressing his opinions as opinion statements should receive the maximum protection. Thus, the law should not decide which of the views is right or wrong, but it should allow citizens to shape their own views.
3. The internationally-acceptable defamation laws should allow the defendant to present his defense based on his good intentions and his willingness to open public discussions out of keenness to allow media outlets to play their role in keeping the public opinion informed properly. When the chapters of an important news story have not been completed, journalists cannot wait at all to verify the truth of all the details before publishing the story and the law should acknowledge that and it should not punish for their good intentions.
4. Individuals should not be held responsible for reporting or citing information or cartoons or other defamatory material issued by others if this information was part of a discussion on a certain issue that affect public affairs. As long as individuals do not declare that they espouse to this information and to be clear in stating that this information or cartoons were issued by somebody else.
5. According to the international laws, all the laws --that hold the publishers, printers, distributors of newspapers and providers of Internet service responsible for what is being published or printed in the printed material they are circulating-- are against the international laws.

The third chapter also cites the legal articles on which the study is based, making a number of observations on them, including:



laws alone.” Moreover, “the applied standards on the defamation law should not be very strict to the extent that it might cause an appalling and restrictive impact on the freedom of expression.” Furthermore, not everything being published with regard to the public interest should be true, but the publisher should have exerted reasonable efforts to verify the truth.”

4. The defamation laws should protect individuals, not institutions. Laws should not be enacted under any circumstances that ban the defamation of public institutions. The principal problem in the defamation laws in these cases is that they openly seeks to restrict the right to discuss public policies or the policies of the public institutions through imposing a far-reaching ban on the criticism of the head of the state, the flag, all the public institutions, such as the parliament, the armed forces, the influential political figures, or through imposing strict penalties when published reports or articles criticize any of these entities. The presence of such laws encourages the media outlets and individuals to practice self-censorship on what they publish even if these laws were applied with reservation, or even if judges demonstrate open-mindedness in the implementation of these laws.
5. The violation of the defamation laws should not entail a criminal penalty as the international regulations strongly reject the implementation of criminal penalties on people charged with defamation because the main concern related to criminal defamation is that it might prevent citizens from practicing their right to free expression for fear of criminal penalties. These concerns will remain present even in the presence of laws that stipulate that major penalties, such as fines, should be paid by anyone who is accused of a criminal defamation charges.

The third chapter also lists a number of international rules acceptable in the defense against defamation lawsuits, the most important of which are:



- incorrect information that might be published or made public, damaging the reputation of victims.
2. These laws should protect the society from the rhetoric that incites hatred or violates the privacy of individuals. The groups of laws that fight the incitement of hatred are different from the other defamation laws in that they aim to protect the security of the oppressed groups and guarantee social equality away from the protection of reputations. These laws also aim to protect groups of normal or artificial persons, such as companies and non-profitable organization, not individuals per se. As for the laws that ban the violation of privacies, they are laws that ban the illegal interference in the details of the personal life of citizens or publishing them. As for the last group of laws, they are the laws that ban insulting religions, whether through denying or disrespecting them. Such laws do not protect the frankness of individuals or the standing of religion, but the affiliations of the followers of the religion.
 3. The need to strike a balance between the protection of individuals and the protection of the right to free expression provided that the defamation laws should not restrict public discussions. The third chapter cites the special rapporteur of the freedom of expression as saying: “The purpose of the draft laws of defamation, vilification, verbal libel, and insults is to protect the reputation of people. This means that vilification applies to individuals – not on states, institutions, or groups etc... Accordingly, these laws are not supposed to be used to ban the criticism of the government nor even using them for the purpose of maintaining public order for which specific and special incitement laws exist. Moreover, the defamation laws “should reflect the principle that says that public personalities are urged to withstand a degree of criticism more than ordinary people. The defamation laws should not grant special protection to the president - or the king – or other top political officials. The articles of laws should detail the methods of establishing justice and paying reparations in the framework of civil



minister, whom we do not want to go to court. Few days later, the prime minister called me asking the public prosecutor to go to the minister's office to document his testimony, but I refused and said that the public prosecutor is not a barber who shaves heads. Citing another example, Al-Raqqad said that one of the public prosecutors summoned a minister to give his testimony and when he called the minister and sent official letters to him, but the minister abstained from going to the office of the public prosecutor for six months and instead he asked the public prosecutor to go to his office to document his testimony. The justice minister also meddled in this issue, however, I refused that.”

3. Tribalism and regionalism have an influence on the neutrality of judges sometimes and we cannot ignore its negative impacts on them regardless of the verdicts they issue in the end.
4. The financial status of the Jordanian judges -- compared to the average incomes in general and the incomes of the government employees in particular – places them in reasonable situation. However, if we take into consideration what is being asked from the judges to do, the amount of efforts they exert, and the responsibilities they are undertaking, it transpires that the judges in Jordan need to double their salaries once or twice in order to meet their reasonable requirements of decent life.
5. The lawsuits have been piling up, something that undeniably exhausts judges and leads sometimes to the issuance of inadequate verdicts.

The third chapter of the study discusses the international laws on defamation and compared them to the Jordanian legislations. The third chapter proved that the internationally-acceptable defamation laws in general have specific characteristics, the most important of which are:

1. These laws aim to strike the right balance between the reputation of individuals and their freedom of expression. This means the protection of individuals against the



However, it is still struggling to preserve its independence. Nonetheless, the Jordanian judicial establishment enjoys-- in a way or another --the confidence of its citizens.

2. Although judges affirmed that the Jordanian judiciary and judges are independent, in addition to the high percentage of them -- that reached in many cases 100%--who affirmed the independence of the judiciary, what casts doubts on the credibility of these percentages is what was mentioned by Judge Mohammad Samid Al Raqqad, chairman of the Jordanian Higher Judicial Council, in an interview with Al-Hadath Newspaper in its issue No. 601 dated 8 October 2007. Al Raqqad indicated to the amount of interference in the work of the judges since “our financial capabilities are limited as we cannot hold seminars or anything else. This is what we call on journalists to write about in order for us to have financial and administrative independence. He told us: I, for example, cannot relocate the bellboy standing at the door of my office because he is appointed by the justice minister. Moreover, I, as a chairman of the Higher Judicial Council, if I need a pencil, I have two choices: Either to write to the justice minister about this issue or to buy it with my pocket money. The press is urged to focus on this aspect. If we want to hold a seminar, we do not have enough money to buy drinks and biscuit and other things to treat our guests. On the pressures practiced on the judicial apparatus, Al Raqqad said: Our meetings with judges are ongoing and we inform them about what is happening. For example, when a minister or other officials call us, we cannot say anything or resist the wishes of the government. He cited an incident when one of the public prosecutors called one of the ministers working at the current cabinet and summoned him to give his testimony in one of the cases. However, the minister refused to comply and called the justice minister and exercised pressures so that the public prosecutor would go to his officer to document his testimony. Al Raqqad added that the justice minister called me and asked why the public prosecutor would not go to the office of the minister to record his testimony to avoid embarrassing the



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how to discover them, the interpretation of the journalists' articles in order to incriminate them or not.

The second chapter also reviews the principle of the neutrality of the Jordanian judges with regard to the opponents. A test sample of the views of judges, lawyers, journalists, and deputies on their vision of the principle of the judicial impartiality proved that most of them – except for the judges – believed that there are widespread social impacts that might affect the idea of judges' neutrality, the most important of which is the influence of tribalism and social environment in general on the work of the judge, something that was admitted by some of the judges although they denied that this might affect the verdicts they issue.

The second chapter of the study – based on a field survey study conducted in 2005 by the Opinion Poll Department at the Strategic Studies Center at the University of Jordan on the Jordanian judicial body, 42% of polled citizens and lawyers said that judges are being subjected to pressures by various individuals and groups with the aim of influencing their verdicts. Moreover, one third of the other samples – including litigants, courts employees, and judges with whom investigative interviews were held-- expressed the same views.

Despite the high rate of Jordanians' confidence in their judges, apparently the issue of favoritism needs a solution. Although there is a reciprocal professional respect between all the judges and lawyers, 60% of lawyers believe that the judges favor specific lawyers at the expense of other lawyers. More than 65% of opponents and a large number of lawyers and court employees believe that judges show favoritism during court proceedings.

The second chapter concludes by presenting an evaluation of the status of judicial establishment in Jordan and offers a number of its general characteristics indicating that it is:

1. A judicial establishment controlled by the executive power, which has power over all its affairs and control them.

- for those who are nominated by the minister in accordance with Article 14 of the Judicial Independence Law.
3. The promotion of judges is directly linked – in accordance with the provisions of Article 19 of the Judicial Independence Law – to the reports of the judicial inspectors, who --according to the system of the regular courts inspection system No 47 for the year 2005-- directly report to the justice minister and work under his command.
 4. The members of the public prosecution are not independent and directly work for the justice minister.
 5. Judges can be dismissed not based on the disciplinary measures in accordance with the Judicial Independence Law for three years following their appointment regardless of their ranks in accordance to Article No. 12 of the Judicial Independence Law.
 6. The Justice Ministry, which is controlling the budget of judges, is in charge of all the financial issues related to the judges and it is the party that estimates the needed funds to run this independent authority, and it is the party that is controlling their wages in accordance with the budget.
 7. The judges in Jordan are banned from establishing special relations. Thus, they are deprived of a one of the basic human rights, namely the freedom of expression.

The study in its second chapter proves that out of 39 internal activities and 59 external activities in which judges took part, in addition to 133 courses organized by the Judicial Institute of Jordan, no single course was organized on the freedom of expression in the Jordanian laws, the ways to address the crimes ensuing from practicing the right to free expression, or the conclusiveness of the international charters toward the Jordanian judicial establishment, except for one lecture that was held in 2006 with the participation of the legal adviser of the New York Times Newspaper in the presence of 18 judges on the way judges should deal with media litigation, and a training day that was organized by the Center for Defending Freedom of Journalists - Jordan (CDFJ) on the legal protection of media. The training tackled the issue of defamation and libel, the criminal motive behind them,



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with them on the extent of this independence, the second chapter listed a number of main observations as follows:

The first observation: There is a difference in the independence of the judicial system as an institution and the independence of judges as individuals. Judges can be independent, in principle, even in the presence of a judicial institution which is not independent. The independence of judges in most cases springs from themselves and the appreciation of the role they are playing.

The second observation: The presence of laws and systems that undermine the independence of the judicial institution does not mean that the executive power always implements them, that is, judicial inspection might not be used for a long period of time to pressure a judge or a number of judges, but they can be used once and in a specific case with aim of interfering in it.

The third observation: Some judges might get used to many actions that might be considered as interference. Hence, they might not consider that as interference any more. When judges get used to the fact that their salaries are determined and controlled by the Justice Ministry, they do not consider that interference in their affairs. Hence, they do not consider that their independence is incomplete.

The second chapter of the study emphasizes on a number of basic points that affect the independence of the judicial system in the kingdom including:

1. Although the Judicial Council responsible for the judges' affairs in the kingdom enjoys wide-ranging authorities and the majority of its members are from the judges, the executive power represented by the Ministry of Justice is still represented in its makeup through the secretary general of the Justice Ministry and the most senior inspectors of regular courts.
2. The executive power, represented by the justice minister, is still controlling the appointments in the judicial establishment as no one can be appointed in the judicial establishment except



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we cite the report that was presented by the head of the Higher Judicial Council to his majesty the king on the conditions of judges in the kingdom. The second chapter proves that if we divided the number of lawsuits that were settled in 2006 – without taking into consideration the lawsuits lodged with the municipalities – every judge in the kingdom has settled approximately 515 lawsuits in 2006. These rates would be higher if we take the lawsuits of the municipalities into account as in this case the number of lawsuits that every judge would settle reaches approximately 2940 lawsuits, without taking into account the lawsuits of the Criminal Court and other courts and departments. The second chapter proves that the clear shortage in the number of administrative assistants who support judges, those who are called judges' assistants, influence the efficiency of the judiciary's work despite the remarkable increase in their number as they reached 2917 assistants in 2006.

This number does not meet the minimum number of the needs of the courts and the departments of the public prosecution. The chapter cites one of the judges as saying: "Before discussing the financial status of judges, the amount of effort exerted by the judge due to the great number of lawsuits that overburden him with work should be looked into before the financial issues, as looking into 40 cases a day for example -- and this what is really happening-- is different from looking into 10 cases a day. The impact of this pressure affects the quality of the work and the quality of the decisions issued by the judge."

The second chapter also discusses the financial status of the Jordanian judges and concludes that they do not earn a reasonable income that can be commensurate with their needs in proportion to the regulations imposed on them by their profession, their status, and the standing of the judicial system, even if the income was reasonable compared to the average incomes in the kingdom in general.

After the study has included the viewpoints of a number of lawyers, journalists, deputies, and judges, investigative interviews were held



The chapter also discusses briefly the experience of the weekly newspapers, which enthusiastically began publication in 1989 with the return of the democratic and parliamentary life and the cancellation of the martial laws. The chapter discussed the problems facing these weeklies, which were limited to the lack of institutionalism, independence, and professionalism, as well as their diminishing ability to compete with other newspapers, and inability to resist the temptation of money and power.

As for the second part of the study, it discusses the conditions of judges and the status of the judicial system in the kingdom. At the beginning, it reviews the international regulations that outline the principles of the independence of the judicial power in accordance with the various international declarations, and classified them into three groups:

The first group is guaranteeing the independence of the judiciary in accordance with the Constitution, guaranteeing the general jurisdiction of the judiciary in settling all the lawsuits, and providing the needed resources to enable the judiciary to carry out its duties properly.

As for the second group, it includes the qualifications, the options, the training, the conditions of work in the judiciary, and its duration.

The third group is the special group related to the professional confidentiality and immunity, disciplinary measures, and dismissals.

The second chapter reviews the conditions of the judiciary and judges in Jordan and the extent of their adherence to the international standards, starting from the formation of courts to the professional and financial conditions of judges as the judicial system in Jordan is suffering from a shortage in the number of appointed judges, judges' assistants, and administrative assistants, something that constitutes a pressure on the judges on the one hand, and delays the settlement of some of the lawsuits, and makes their settlement even a great burden on the judges, on the other. To prove the accuracy of this conclusion,



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issued, as the owners of these newspapers resort to issue these weeklies based on their financial circumstances, which determine when they can print and issue them.

The chapter also reviews the radio and television stations and other media outlets in the kingdom in light of the information made available.

The Chapter proved that there is one weekly newspaper for every 133,333 Jordanians, one daily newspaper for every 800,000 Jordanians, and one magazine for 329,412 Jordanians. This represents an indicator on the low percentage of newspapers readership in the kingdom.

The government is still represented in the Social Security Corporation as it holds 56% of the shares of Al-Ra'y Newspaper and almost 34% of Al-Dustur Newspaper-- that is one third of its shares-- which are of the most important newspapers issue in Jordan.

The government also owns Jordan News Agency, Petra, which was founded in 1969 and expresses the views of the government and its policies.

The Jordan Radio and Television Cooperation is run by an independent board of directors, who helped in achieving a better margin of freedom and independence for the television and the radio.

The chapter also indicates that there is a Jordan Press Association that was founded in 1953; however, its impact on the practical life seems to be limited. The law of the Jordan Press Association bans anybody from practicing journalism without being member of the association. The number of registered journalists at the Jordan Press Association is approximately 650 members. The Jordan Press Association is facing several problems and accusations, the foremost of which is that it is not independent and incapable of taking real steps to defend the freedom of media in Jordan or in facing the executive authority and security agencies.



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conviction, shaping of subservient, classical, and hesitant opinions. The first chapter also reviewed the social structure in Jordan, which was characterized by the approximate percentage of males and females as the percentage of males is 51.55% of the total number of population, while the percentage of females is 48.45%.

The chapter also discusses the relations by marriage, divorce, and the increase or decrease in society cohesion indicators.

On the economic situation in the kingdom, the first chapter notes that according to the last statistics conducted at the end of 2006, the number of the population in the kingdom is 5,600,000 people living in all the various governorates, the greatest number of whom is living in the capital. Although there is no up-to-date information on the economic situation in Jordan-- as no information is available after the year 2003-- the first chapter presents some economic indicators based on the information of the Jordan Department of Statistics.

The first chapter is also based on the report issued in 2006 by the United Nations Development Program, UNDP, which ranked the kingdom 86th out 177 countries. At the same time, it indicates that the development index in the kingdom is witnessing noticeable increase as the index stands at 643,000 in 1980, and 760,000 in 2004.

The first chapter also reviews – as part of the initial exploration of the Jordanian society-- the organizational outline of the media institutions in Jordan, pointing out that there are seven daily newspapers in Jordan: Al-Rai, the Jordan Times, Al-Dustour, Al-Arab al-Yawm, Al-Ghad, Al-Anbat, and Al-Diyar. It is expected that an eighth newspaper, namely Al-Itijah, which obtained the license of a daily newspaper after it was a weekly according to a report issued by the Jordan Information Center. Moreover, there are approximately 15 weekly newspapers that are issued regularly every week: Al-Hadath, Al-Sabeel, Shihaan, Al-Bilad, Al-Mihwar, Al-I'lam al-Badil, Al-Bayda', Al-Kalimah, Al-Shahid, Al-Hilal, Al-Majd, Al-Liwa, Al-Mir'at, Al-Jazeera, and Hawadith al-Sa'ah. Additionally, there are a number of other licensed weekly newspapers that are periodically



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The chapter reviews the judicial power in the kingdom, noting that there are 14 faculties of law in the kingdom where students study law to graduate after four years as qualified individuals to work as judges or lawyers. The chapter referred to the articles of the Jordanian Constitution that stipulate the independence of the judicial power and judicial system. The first chapter reviewed the basic principles of the judicial system such as the two-stage litigation, the presence of a higher committee, the separation between civil and administrative judiciary, the public sessions, the oral pleading, and the confrontations.

The first chapter also tackles the judicial structure in Jordan, the system of courts and its main parts, namely, the civil, religious, and special courts, and how to settle the issue of conflict of jurisdiction between courts.

The first chapter reviews the international agreements that were endorsed by the kingdom in detail, pointing out the date the agreements were signed, endorsed, and published in the official gazette if so. The chapter also referred to nine human rights organizations operating in the kingdom and provided a brief paragraph on each of them.

On the social environment in the Kingdom of Jordan, the first chapter noted that "the Jordanian society similar to other Arab societies is distinguished for its exaggerated respect for traditions and the firmness of its ideas, religious beliefs, and customs. We believe that excessive respect for traditions and customs and the fear of change, especially if it has to do with religious beliefs, leads automatically to the dominance of a class of those who consider themselves as guardians of the customs of the society and beliefs. Hence, they would unilaterally decide what is right and what is wrong, in addition to repressing the freedom of expression that threatens their authority or undermine it.

The chapter notes that the family is considered parental in the first place and that the educational process is based on dominance and



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lawyers, deputies, former judges, employees, and journalists for the purpose of conducting this study.

The third chapter of the study reviews the legal articles in accordance to which the verdicts -- which we are analyzing-- were issued and compared them with the accredited international rules on defamation laws based on the principle that judges enforce the law, but they do not enact it.

The fourth chapter briefly tackles some of the general approaches of the French, American, and Egyptian judiciary with regard to the lawsuits pertaining to the freedom of expression in general.

Lastly, in the fifth chapter, the study discusses the approaches of the Jordanian judges in dealing with this kind of lawsuits.

The sixth chapter includes the final conclusions and recommendations.

1. The Conclusions of the Study:

The first chapter reviews the constitutional and legal situation in the kingdom, the authority and powers of the king, the makeup of the kingdom's government in accordance with Article 45 of the Constitution and its role and responsibilities, and the legislative institution, which includes the lower and upper houses of parliament, in addition to their powers and roles.

The chapter also discusses the legislative power in the kingdom, the powers invested in the king and the parliament in accordance with the Constitution, the stages of the legislative process, the temporary laws and the circumstances under which they are issued, the decision of the Higher Court of Justice in the cases in which the issuance of temporary laws is permissible and the cases in which the issuance of temporary laws is not permissible, in addition to the impact of that on the validity of the law.

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Conclusions and Recommendations

The study of irrevocable verdicts aims is to explore the approaches adopted by the judiciary in the Hashemite Kingdom of Jordan in settling defamation litigation and other related lawsuits through analyzing "114 legal litigation." What is meant by litigation is the combination of the following elements: The merits, the opponents, and the motive, regardless of the number of verdicts issued in settling every lawsuit. A verdict could be issued in a lawsuit by the Court of First Instance and then it might be appealed by the defendant or the public prosecution. Thus, the lawsuit is referred to the Court of Appeals, which could decide to abrogate the verdict. Hence, the lawsuit is referred again to the Court of First Instance, which might also issue another verdict that can be appealed before the Court of Appeals based on the circumstances of the lawsuit, which, in turn, issues verdicts in the litigation etc.... Thus, four verdicts might be issued to settle the same litigation.

We divided the study into five main chapters:

The first chapter discusses briefly the political and social environment in the Hashemite Kingdom of Jordan in general, which we believe are two elements that indirectly have an influence on the judicial approaches in general.

In the second chapter, the study reviews the extent of the Jordanian judicial system's independence from the executive power and the impact of the social environment on the verdicts of the judiciary. The chapter also touches on the training of judges and to what degree this can meet the requirements of their training on how to handle defamation lawsuits. Not only this chapter is based on documents and reference materials that discuss the conditions of judges in the kingdom, but also it is based on investigative interviews held with



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Conclusions and Recommendations

Irrefutable Argument

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