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Research Article

THE BEST INTERESTS OF JUVENILES: EVALUATING JORDANIAN JUVENILE LAW AGAINST THE CONVENTION ON THE RIGHTS OF THE CHILD

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ABSTRACT

Background: *The principle of the "best interest of juveniles" is a cornerstone of Jordanian law, reflecting the country's commitment to safeguarding the rights and welfare of children. Anchored in the Juvenile Law No. 32 of 2014 and international obligations under the United Nations Convention on the Rights of the Child (UNCRC), this principle ensures that the rights, development, and protection of juveniles are prioritised in judicial, social, and administrative decisions. Jordanian law emphasises rehabilitation over punishment, focusing on the social reintegration of juvenile offenders while considering their psychological and developmental needs.*

Methods: *This paper examines how the best interest of juveniles is operationalised in Jordanian law, analysing its strengths, challenges, and alignment with international standards. It highlights the importance of a multidisciplinary approach involving legal, social, and psychological perspectives to ensure that juveniles' rights are upheld in all phases of criminal proceedings. Given the nature of the study, multiple research approaches were employed, including an analytical approach to examine all legislative Articles related to the subject, aiming to identify their content, implications, and objectives. Additionally, a comparative approach was used to analyse relevant domestic laws and international conventions concerning juvenile offenders, providing critical analysis and commentary.*

Results and Conclusions: *The paper's findings indicate that the principle of the child's best interest functions as a fundamental right, a key interpretative legal standard, and a procedural framework. Yet, its application varies across the stages of criminal proceedings under Jordanian law, with the trial stage exhibiting the strongest adherence to this principle compared to earlier stages of the criminal process. It is recommended that the Jordanian Juvenile Law be*

revised to include explicit provisions ensuring legal representation for juveniles at all stages of criminal proceedings, covering all types of offences, rather than limiting it to felonies during the trial phase. The law should also restrict the authority of public prosecutors to extend juvenile detention, expand the jurisdiction of juvenile conciliation courts to include all misdemeanours not only those punishable by up to two years of imprisonment—and exempt juveniles from the application of flagrante delicto rules.

1 INTRODUCTION

The juvenile's right to protection is an intrinsic right, safeguarded by natural instincts and the very essence of existence. It is upheld by divine teachings, reinforced by international conventions and treaties, and supported by protective laws. Juveniles are the cornerstone of a nation's future, and it is essential to equip them to live fulfilling lives in society, fostering their development with strong moral values. Addressing juvenile delinquency should not focus on punishment and suffering; rather, it should aim to rehabilitate and reintegrate offenders into society by offering educational and employment opportunities.

From this perspective, Jordanian lawmakers have demonstrated a commitment to prioritising juveniles' welfare in accordance with the principle of their best interests. This study explores the extent to which the Jordanian Juvenile Law aligns with international standards in safeguarding the best interests of juvenile offenders, focusing on its application throughout all phases of the criminal justice process.

This is crucial as it emphasises the need to examine the legal and procedural aspects of handling delinquent juveniles while addressing the vital issue of safeguarding and promoting their rights. Understanding the theoretical and practical dimensions of the juvenile's best interests will aid those responsible for their protection, including legal professionals and other stakeholders. The central focus, therefore, is to define the components and scope of the juvenile's best interests and evaluate how these are reflected in Jordanian Juvenile Law. This includes analysing their application across all stages of the criminal process: police investigations, public prosecution inquiries, court proceedings, and the post-proceeding phase, which ensures ongoing care and support for the juvenile's reintegration into society.

1.1. Methodology

To achieve this purpose, descriptive, analytical, and comparative approaches are utilised. The descriptive and analytical methods are applied to examine relevant domestic laws and international conventions related to juvenile offenders. This involves analysing the internal mechanisms through which the principle of the best interests of juveniles is reflected in Jordanian Juvenile Law. Meanwhile, the comparative approach is employed to assess the extent to which Jordanian legislation aligns with international conventions on this crucial matter.

2 THE ESSENCE OF THE BEST INTERESTS PRINCIPLE

2.1. The Concept of the Best Interests Principle

Defining the principle of a juvenile's best interests is challenging because it depends on the specific circumstances of each case, as well as variations in social culture and upbringing. These variations include factors such as the juvenile's age, level of maturity, environment, personal experiences, need for protection from abuse, exploitation, and neglect, the importance of physical development, and the role of the family, society, and law in providing necessary protection and care.[1]

There is no single, universally accepted definition of the juvenile's best interests in international conventions governing children's rights, including the Convention on the Rights of the Child (UNCRC) of 1989.[2] However, the United Nations High Commissioner for Refugees[3] (UNHCR) guidelines on determining the best interests of the child interpret the term[4] as referring to the child's overall well-being. This well-being is determined by various factors, such as the child's age, level of maturity, environment, and personal experiences. Furthermore, General Comment No. 14 of 2013 from the Committee on the Rights of the Child defines the best interests of the child as a "right, a principle, and a procedural rule."[5] The European Union (EU) upholds this principle as a core value across its policies, legislation, and practices. It is firmly rooted in several international and EU legal frameworks—most notably the UNCRC, to which both the EU and all its member states are parties. Additionally, EU Directive 2016/800[6] lays down specific procedural safeguards to protect children involved in criminal proceedings, ensuring that their rights and well-being are prioritised.[7]

1 Razan Salhub, 'The Best Interests of the Child' (master's thesis, An-Najah National University, Faculty of Law 2018) 2; Mostafa Owiyish, 'The Best Interests of the Child and the Expected Outcomes of Reforming the Moroccan Family Code' (2024) 5(2) Humanities & Natural Sciences Journal 173-4, doi:10.53796/hnsj52/11.

2 Convention on the Rights of the Child (UNCRC) (UNGA Res 44/25, adopted 20 November 1989) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> accessed 15 March 2025.

3 UN High Commissioner for Refugees, *UNHCR Guidelines on Determining the Best Interests of the Child* (UNHCR 2008) 14 <https://www.unhcr.org/media/unhcr-guidelines-determining-best-interests-child> accessed 15 March 2025.

4 UNCRC (n 2) art 3, para 1.

5 UN Committee on the Rights of the Child, *General Comment no 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art 3, para 1)* (UN 2013) <https://digitallibrary.un.org/record/778523?ln=en&v> accessed 15 March 2025.

6 Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on Procedural Safeguards for Children Who are Suspects or Accused Persons in Criminal Proceedings [2016] OJ L 132/1.

7 The UNCRC is not directly part of EU law but influences it significantly. The EU and all member states are bound by the UNCRC, and its principles are reflected in the EU Charter of Fundamental Rights 2009, and laws like Directive (EU) 2016/800. See: Charter of Fundamental Rights of the European Union (CFR) [2012] OJ C 326/391; Directive (EU) 2016/800 (n 6).

The full implementation of the concept of the best interests of the child requires adopting a rights-based approach and involving all relevant stakeholders to ensure the comprehensive physical, psychological, moral, and spiritual well-being of the child, regardless of gender, while promoting their human dignity.[8] According to Article 3(1) of the UNCRC, the child's best interests must be a primary consideration in all actions or decisions affecting them, whether in public or private contexts.[9] The Committee on the Rights of the Child has emphasised that the concept of the child's best interests is three-dimensional.[10] That is, this principle is multi-dimensional and covers several aspects, including: [11]

A **Fundamental Right**: The best interest of the child is a fundamental right, ensuring that a child's well-being is assessed and prioritised when making decisions that affect them. This right must be upheld for any identified child or group of children, whether specifically named or not, and extends to all children in general. Article 3(1) of the UNCRC imposes a substantive obligation on States, making it directly applicable and enforceable in courts. This means that the child's best interests must be given primary consideration in all actions concerning the child, providing a legal basis for ensuring that this principle is respected throughout all phases of criminal proceedings.

B **Basic Legal Interpretative Principle**: When a legal provision allows for multiple interpretations, the interpretation that most effectively serves the child's best interests should be prioritised. This principle guides the application of laws to ensure the child's well-being is at the forefront of legal decision-making. The rights outlined in the UNCRC and its Optional Protocols provide the essential framework for this interpretation, ensuring that legal decisions align with the overarching goal of promoting and protecting the rights and interests of the child.

C **Procedural Rule**: Whenever a decision impacts an identified child, a group of identified children, or children in general, the decision-making process must include assessing the potential positive or negative effects on the child or children involved. This assessment and determination of the child's best interests require

8 The General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration was issued by the United Nations Committee on the Rights of the Child to provide guidance on the interpretation and implementation of Art. 3, para. 1 of the UNCRC.

9 Karima Mohammed Alzytoni, 'A Legal Analysis of the French Juvenile Justice Law no 2018 of 2021, issued on 26 February 2021' (2024) 4(10) Alasala Journal 322.

10 Lisa Sandgren, '"The Best Interest Principle": A Qualitative Study on Interpreting "The Child's Best Interest" by the European Court of Human Rights and National States' (*GUPEA*, 31 January 2022) <https://gupea.ub.gu.se/handle/2077/70497> accessed 15 March 2025; Susana Sanz-Caballero, 'The Best Interests of the Child in Judicial Perspective: Morocco and Chile as Case-Studies (1990–2020)' (2023) 44(1) Children's Legal Rights Journal 25.

11 UN Committee on the Rights of the Child (n 5) para 6.

procedural safeguards to ensure fairness and thorough consideration. Furthermore, the justification for the decision must demonstrate that the child's rights were explicitly considered. In this context, States parties must explain how the child's best interests were respected in the decision-making process, detailing the factors considered, the criteria applied, and how the child's interests were balanced against other considerations, such as public policy concerns or individual circumstances.

It is clear from the above that, although the UNCRC does not provide a specific definition of the child's best interests, standards have been established through the General Comment. These standards act as guiding principles to ensure the child's best interests are upheld and actively pursued in various legal, social, and procedural contexts.

The same applies to national legislation, where no specific definition has been provided for the principle of the child's best interests, including in Jordanian law. The Jordanian legislator has acknowledged the juvenile's best interests principle without clearly outlining its elements or scope. This approach may have been intended to grant judges the flexibility to determine the juvenile's best interests based on the specifics of each case, as the best interests can vary from one child to another depending on various factors, as previously mentioned.

However, Jordanian Juvenile Law[12] has outlined the ways in which the juvenile's best interests are realised, whether the juvenile is delinquent or requires immediate or ongoing care for delinquency and punishment. These aspects include recognising the juvenile's inherent human dignity, prioritising their education despite their delinquency, and mandating that any institution housing the juvenile must provide appropriate care and refer them to specialised medical facilities for necessary treatment, whether for illness, addiction, or other conditions. Additionally, the law ensures that the juvenile's criminal history does not result in a stigma when they reach adulthood. The legislator also prohibited the mixing of detained or sentenced juveniles with adults and classified juveniles based on their risk level (Article 4). Furthermore, the law requires the judge to consider the probation officer's report and base their decision on the juvenile's best interests, as outlined in the report (Article 18).

Although Jordanian law does not offer a specific definition of the principle of the juvenile's best interests, it does establish fundamental rights for juveniles and sets out principles that allow judges to consider the juvenile's best interests during the investigation and trial phases. These interests are safeguarded whether the juvenile is considered delinquent or in need of care. This approach is consistent with the interpretation of Article 3 of the UNCRC, which views the concept of the child's best interests as flexible and adaptable. It must be tailored to the specific circumstances of

12 Jordanian Law no 32 of 2014 concerning Juvenile Law [2014] Official Gazette 5310/6371.

each child, considering their personal situations, circumstances, and needs[13] under all types of legislation.[14] In individual decisions, the child's best interests must be assessed and determined based on the child's unique circumstances.[15]

The child's best interests must be applied to all matters concerning the child or children and considered when addressing any potential conflict with the rights outlined in the UNCRC or other human rights treaties. It is crucial to identify solutions that serve the child's best interests, particularly as states are obligated to clarify and apply this concept to all children, including those in vulnerable situations, when adopting and implementing measures.[16]

2.2. Scope of the Best Interests of the Juvenile Principle

The principle of the best interests of the juvenile encompasses a broad spectrum of considerations focused on ensuring children's welfare, rights, and development within legal and social systems. Its scope spans multiple areas, including legal protection, rehabilitation, education, and psychological well-being. This principle acts as a fundamental standard in judicial decisions, policy-making, and applying laws concerning juvenile offenders, victims, and other at-risk children. In the legal context, it emphasises rehabilitation over punishment, safeguards children from harm, and facilitates their reintegration into society. Furthermore, it calls for adherence to international frameworks, such as the UNCRC, which underscores the importance of addressing each child's unique needs and circumstances. Thus, the scope of this principle extends to various dimensions, as outlined below.

2.2.1. Personal Scope of the Principle

The United Nations Convention on the Rights of the Child (hereafter: UNCRC)[17] recognises the child as a rights holder in the full legal sense. Unlike earlier, more neutral texts that listed rights to be respected and upheld, the Convention establishes what some experts describe as a democratic dynamic in favour of the child. It positions the child as a rights holder equal to any human being, marking a significant departure from previous approaches.

13 Owiyish (n 1) 173.

14 Ibrahim Kamel Al-Shawabkeh, 'Disabled Persons under the Jordanian Sales Tax and Customs Laws: Favourable Treatment among Conflicting Rules' (2016) 30(2) Arab Law Quarterly 163, doi:10.1163/15730255-12341318.

15 UN Committee on the Rights of the Child (n 5).

16 Mohammed Taher Al-Humaidi, 'Protecting the Rights of Child Victims in the Criminal Justice System from the Perspective of International Standards: A Study to Ensure the Provision of Professional, Unbiased Justice by Honorable Judges Holding Professional Honor Degrees' (Tunisia 2016) 21.

17 UNCRC (n 2).

The 1924 Declaration of the Rights of the Child and the 1959 UNCRC viewed the child primarily as an object of protection—entitled to enjoy all the rights set forth without any distinction or discrimination based on race, colour, gender, religion, political or non-political opinion, national or social origin, wealth, birth, or any other status belonging to the child or their family.[18] With the adoption of the UNCRC, the child's entitlement to rights was affirmed, ensuring they are no longer merely subjects of protection but active holders of rights under international law.

The legal basis for the child's enhanced status under the Convention is primarily derived from Articles 3 and 12,[19] which enshrine the principles of the child's best interests and the right to be heard. These provisions form the legal and practical foundation for recognising children as full rights holders. The best interest principle is further reinforced by **Article 24 of the EU Charter of Fundamental Rights (CFR)** and **Directive (EU) 2016/800**, establishing child-friendly justice, legal representation, and procedural safeguards in criminal proceedings.[20] This principle is applied and interpreted in alignment with all other provisions of the Convention, including **Article 1**, which defines a child as *"every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."*[21]

This definition adopts a functional approach, emphasising the identification of individuals eligible for the protection offered by the Convention. While it establishes the upper age limit for such protection at eighteen years, it does not explicitly address issues like the starting point of childhood.

The Convention allows for some flexibility in determining the age of majority, as dictated by national laws. However, other provisions provide clear and specific criteria regarding aspects of childhood to ensure children can fully benefit from the rights and protections guarantees. These stipulations include detailed guidance on applying the doctrine of the best interests of the child in different contexts, as outlined below.

1. **Prohibition of Severe Penalties for Minors**: The Convention prohibits executing individuals under the age of eighteen or sentencing them to life imprisonment without the possibility of release. It also requires States Parties to establish a minimum age for criminal responsibility (Articles 37(a) and 4 of the EU Charter of Fundamental Rights).

18 Declaration of the Rights of the Child (UNGA Res 1386 (XIV), adopted 20 November 1959) <https://digitallibrary.un.org/record/195831?ln=en&v> accessed 6 March 2025.

19 Muhammad Al-Mousa, *The Best Interests of the Child: A Guideline for Legal Practitioners* (Mizan Publications 2012) 5.

20 CFR (n 7) art 24; Directive (EU) 2016/800 (n 6).

21 UNCRC (n 2) art 1.

2. **Protection Against Arbitrary Deprivation of Liberty**: The Convention mandates that the deprivation of a child's liberty must only occur in the child's best interests, emphasising the necessity of such measures being a last resort and for the shortest appropriate period (Articles 37(b) and 24 of the EU Charter of Fundamental Rights).
3. **Non-Discrimination in Application**: The Convention obliges States Parties to apply its provisions to all children under their jurisdiction without discrimination of any kind, ensuring equal protection and rights for all children (Articles 2 and 21 of the EU Charter of Fundamental Rights).
4. **Limitation on Parental Authority**: The Convention stipulates that parental authority to provide guidance and direction must always align with the child's best interests, ensuring that this principle overrides all other considerations in parental decisions (Arts. 5, 24 of the EU Charter of Fundamental Rights).
5. **Right to Survival and Development**: States Parties are required to guarantee the child's right to survival and development by fostering an environment that supports their physical, mental, spiritual, and moral growth to the fullest extent possible, in line with human dignity (Articles 6(2) and 24 of EU Charter of Fundamental Rights).
6. **Right to Be Heard**: The Convention establishes the child's right to express their views freely in all matters affecting them, with appropriate weight given to these views based on the child's age and maturity. This right is unrestricted unless the child is incapable of forming or expressing an opinion (Articles 12 and 24 of the EU Charter of Fundamental Rights).

2.2.2. Subjective Scope of the Principle

The subjective scope of the principle of the best interests of the child refers to the specific individuals and institutions responsible for ensuring its application. Undoubtedly, this principle has become a binding international standard for all states that have ratified the UNCRC. The state holds the responsibility for enforcing this principle and must take all necessary measures to implement this right in accordance with its international obligations regarding child rights protection.

States that have ratified the Convention are required to involve all relevant stakeholders to ensure the application of the best interests of the child principle, guaranteeing the child's holistic physical, psychological, and spiritual well-being. This principle must be integrated into all actions, policies, and services that directly or indirectly affect the child, as emphasised in Article 3(1) of the 1989 UNCRC.

From this perspective, state administrative authorities, public and private care institutions, legislative bodies, and courts at all levels are obligated to prioritise the best interests of the child, ensuring that legislation and procedures align with the proper implementation of this principle and respect all rights established under the Convention.

Jordan ratified the UNCRC on 24 May 1991, the Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography on 4 December 2006, and the Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict on 23 May 2007. As is well established, Jordan upholds the principle of the supremacy of international treaties, placing them second in the legislative hierarchy within the Kingdom. The Jordanian Court of Cassation affirmed this principle in its ruling in Case No. 945/2009.[22]

Based on this, the Jordanian legislator has undertaken significant reforms to amend legal provisions to align with the Convention's principles, focusing on key areas while avoiding excessive detail. Although the Jordanian Constitution predates the UNCRC, the legislator explicitly enshrined the principle of equality among Jordanians, ensuring non-discrimination and the right to education, security, and equal opportunities for all citizens. Article 6(5) of the Constitution specifically emphasises the protection of childhood and the care and safeguarding of youth from abuse and exploitation.[23]

In terms of criminal protection for children, the Jordanian legislator has implemented several amendments to Penal Code No. 16 of 1960[24] to safeguard children's rights and ensure their best interests in alignment with the UNCRC. To uphold the child's right to life and development, crimes committed against children—from the fetal stage to the age of eighteen—have been criminalised. The legislator also designated age as an aggravating factor in crimes committed against juveniles and prohibited perpetrators from benefiting from mitigating excuses, particularly in honour-related crimes when the victim is under the age of majority.

For instance, abortion is criminalised under Articles 321–325 of the Jordanian Penal Code No. 16 of 1960 and its amendments. Furthermore, the use of mitigating excuses in honour crimes is prohibited if the victim is a minor, regardless of gender, under Article 308 (repeated) of the same law. The minimum age for the crime of beating leading to death under Article 330 has been raised to twelve years if the offence is committed against someone under fifteen years of age. While many other aspects of the Penal Code and its supplementary laws could be elaborated upon, these are some of the key measures aimed at protecting children.

Regarding the Personal Status Law, the doctrine of the child's best interests has been accommodated as a key criterion in custody decisions, requiring specific conditions to be

22 See also, the Jordanian Court of Cassation judgments nos. 4390/019 of July 2020; 2433/2006 of 2006; 3965/2003 of February 2004. For more on this, see: Abdallah Majed Abdel Mutaleb Al-Akayleh Esraa, 'The Effectiveness and Supremacy of International Treaties over Domestic Laws in Jordanian Legislation: A Comparative Critical Study' (2023) 4(2) Al-Zaytoonah University of Jordan Journal for Legal studies 108, doi:10.15849/ZUJJLS.230730.06.

23 Constitution of the Hashemite Kingdom of Jordan (adopted 1 January 1952, rev 2011) art 6 <https://www.constituteproject.org/constitution/Jordan_2011> accessed 6 March 2025.

24 Jordanian Penal Code no 16 of 1960 <https://www.wipo.int/wipolex/en/legislation/details/15077> accessed 15 March 2025.

met by those seeking custody of a minor. If these conditions are not fulfilled, custody is not granted.[25] The law also stipulates that custody is retained until the age of fifteen for the mother and ten for others, after which the minor has the right to choose their custodian.[26] In terms of administrative procedures within Sharia courts, training programs are conducted for judges, their assistants, and court staff across the kingdom. These courses focus on the detailed rights of the child as outlined in the Personal Status Law.

3 ASPECTS OF UPHOLDING THE BEST INTERESTS OF THE JUVENILE IN JORDANIAN LAW

The principle of the juvenile's best interests is a cornerstone in Jordanian law, reflected in various guarantees provided by legal provisions and practices to safeguard the rights and welfare of children involved in legal proceedings. The following are key elements of how this principle is upheld in Jordanian law:

3.1. Juveniles' Guarantees During the Three Phases of Criminal Proceedings

In Jordanian law, the protection and well-being of juvenile offenders are prioritised throughout the criminal justice process, which is divided into three main phases: the investigation phase (e.g. police preliminary inquiries and public prosecution investigations), the trial phase, and the post-trial phase.[27] Each stage includes specific legal guarantees aimed at safeguarding the rights of juveniles and ensuring that their best interests are upheld, and their future is not defined by their mistakes. Below is a detailed outline of these guarantees across the three phases.

3.1.1. Guarantees During Police Preliminary Inquiries

The Jordanian legislator has established a comprehensive legal framework that governs this stage of the legal process, ensuring the protection of the rights of both juvenile offenders and crime victims. The legal provisions are specifically designed to prevent any violation of all parties' rights, ensuring that they are treated with dignity, fairness, and respect throughout the criminal proceedings.[28]

When discussing the concept of "crime victims," the immediate focus is often on the individual who suffers harm from the crime. However, the concept can have a broader

25 Jordanian Law no 15 of 2019 on Personal Status, art 171 <https://www.refworld.org/legal/legislation/natlegbod/2019/en/123423> accessed 15 March 2025.

26 ibid, art 173.

27 Jordanian Code of Criminal Procedure no 9 of 1961 <https://bwcimplementation.org/sites/default/files/resource/Jordan_CriminalProcedureCode_EN.pdf> accessed 15 March 2025.

28 Muhammad Saeed Namour, *Fundamentals of Criminal Procedure* (Dar Al Thaqafa Publishing 2016) 88.

dimension, especially in cases where the perpetrator is also a victim, such as when a juvenile commits a crime. Juveniles, due to cognitive limitations and a lack of full discernment, may not fully understand the consequences of their actions. This developmental stage leads to juveniles' relatively incomplete comprehension of their behaviour. As a result, the Jordanian legislator acknowledges that juveniles can be seen as both offenders and victims of their circumstances.

This dual recognition is reflected in the Jordanian Juvenile Law, which prioritises reform and rehabilitation over punitive measures. The law includes numerous specific guarantees throughout the juvenile criminal process to protect the rights of juveniles, ensuring their welfare is considered at all stages. The Jordanian legislator has adopted a proactive approach in the Juvenile Law to activate the principle of the juvenile's best interests during this stage. This is reflected in several key provisions and reforms aimed at prioritising the welfare and rehabilitation of juveniles within the criminal justice system. These include:

First: Specialised Juvenile Police Unit

The Jordanian legislator has established a specialised Juvenile Police Unit as part of the broader effort to implement the principle of the best interests of the juvenile. This unit plays a crucial role in ensuring that juveniles are treated with care and respect throughout the legal process, particularly during the initial stages of the criminal justice system.

In line with Beijing Rule No. 12,[29] and Article **7** of Directive (EU) 2016/800, Article 3 of the Jordanian Juvenile Law states: "A police department specialised in juvenile affairs shall be established within the Public Security Directorate by this law."[30] This provision highlights the Jordanian legislator's pioneering approach in prioritising juvenile protection within the criminal justice system. Unlike other Arab countries, such as the UAE and Syria, which do not have specific police departments dedicated to juvenile matters, Jordan has set a notable precedent by establishing a specialised unit within the Public Security Directorate. The creation of this specialised police unit ensures that juveniles are treated in a manner that is appropriate to their age, psychological development, and legal status. It reflects Jordan's commitment to upholding the principle of the best interests of the juvenile and fostering a system that prioritises rehabilitation over punishment.

However, it would have been preferable if the Jordanian legislator, in line with the reformative goals unique to the Juvenile Law and its emphasis on the juvenile's best interests, had established specific conditions and legal guidelines for the personnel within these specialised police departments. For example, the selection process for officers could require

29 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (adopted 29 November 1985) <https://digitallibrary.un.org/record/120958?ln=en&v> accessed 15 March 2025.

30 Jordanian Law no 32 of 2014 (n 12) art 3.

them to undergo specialised training courses that focus on psychological and social aspects, equipping them with the skills necessary to handle juveniles effectively. Additionally, it could be beneficial for officers to hold a bachelor's degree in psychology, education, or related fields, ensuring they are qualified to deal with delinquent juveniles in a manner that accounts for their developmental stage and immature thinking.[31]

Such qualifications and training would better align with the juvenile justice system's reformative goals, ensuring that juveniles are treated with understanding, care, and respect throughout their interactions with the police. It would also ensure that the police personnel are equipped with the expertise needed to address the specific needs of young offenders and to minimise the risk of further harm or trauma during the investigative process.

Second: Prohibition of Restraining the Juvenile

In accordance with Article 10 of EU Directive 2016/800**,** Article 4(d) of the Jordanian Juvenile Law similarly prohibits restraining a juvenile, except in cases explicitly outlined by the law.[32] These cases involve the juvenile displaying defiance or violence. The law has rightly restricted the authority of law enforcement officers concerning the restraint of juveniles, recognising the importance of the inquiry stage as the initial point of contact between the juvenile and judicial authorities. Restraining the juvenile could provoke fear and suspicion and instil a sense of belonging to the criminal class, which may have significant psychological impacts on the child.[33] This contradicts the principle of the juvenile's best interests, which requires considering the juvenile's psychological and social well-being.[34]

Third: Presence of Probation Officer

In Jordanian juvenile law, the presence of a probation officer is essential for guaranteeing that the juvenile justice system adheres to the principle of prioritising the best interests of the juvenile. Probation officers play a key role in the rehabilitation and monitoring of juvenile offenders, providing necessary guidance and support throughout the various stages of the criminal proceedings. Likewise, Article 7 of Directive (EU) 2016/800, Article 10(b) of the Jordanian Juvenile Law, requires the presence of a probation officer with the juvenile at all stages of the criminal process.

31 Ibrahim Harb Mohsen, *Procedures for Pursuing Delinquent Juveniles in the Pre-Trial Stage: Inquiry and Investigation* (Dar Al Thaqafa Publishing and Distribution 1999) 51.

32 UNCRC (n 2) art 37.

33 Doha Jamal Muhammad Hamed, 'Procedural Safeguards for Juveniles in Palestinian Legislation in Light of the Best Interests of the Child (An Analytical Study in Light of International Standards)' (master's thesis, Arab American University, Faculty of Law 2023) 17.

34 Suhair Amin Muhammad Tubasi, 'Reformative Justice for Juveniles under Jordanian Criminal Laws' (PhD thesis, University of Jordan, Faculty of Graduate Studies 2015) 70.

The law assigns specific tasks to probation officers, including preparing two types of reports: comprehensive reports and follow-up reports.[35] These reports are crucial for determining the most appropriate reformative measures for juveniles in need of care.[36] This provision aligns with modern criminal policy objectives, emphasising rehabilitation over punishment.[37]

Establishing this guarantee is especially beneficial as it focuses on diagnosing the underlying causes of juvenile delinquency and selecting the most suitable measures for rehabilitation and reform. By prioritising the juvenile's best interests, probation officers—who are experts in psychological and social fields—can provide personalised interventions to address the root causes of delinquent behaviour. This approach not only aligns with the core principles of juvenile justice but also emphasises rehabilitation over punishment, ensuring that juvenile offenders are treated with care and their successful reintegration into society is facilitated.

Fourth: Settlement of Juvenile Disputes

The settlement of juvenile disputes refers to the legal and social mechanisms through which conflicts involving juveniles, whether as offenders or victims, are resolved without resorting to lengthy and punitive legal processes. In many legal systems, including Jordanian law, the aim is to protect the juvenile's best interests by offering alternative methods of conflict resolution that focus on rehabilitation rather than punishment. In Jordan, the settlement of juvenile disputes is governed by specific laws designed to ensure that juveniles are treated fairly, their rights are protected, and their development is not harmed by prolonged involvement in the legal system. Juvenile disputes can involve a wide range of issues, from criminal offences committed by minors to conflicts between juveniles and other parties, such as victims or families.

35 As part of the probation officer's report, an assessment should be conducted to determine whether the juvenile has any physical, intellectual, or psychological disabilities. This evaluation is essential to ensure that the juvenile receives the necessary support and rehabilitative services in accordance with their best interests and applicable legal standards, including national laws and international obligations such as the Convention on the Rights of the Child. In cases where a disability is identified, the report should include clear and direct recommendations to the relevant authorities on the appropriate measures to be taken. These recommendations should address how to effectively manage the juvenile's case considering their specific needs and circumstances, ensuring their rights are protected and their rehabilitation is supported in a manner that is both just and humane. If the probation officer fails to fulfil any of the duties assigned to them, the court may request their replacement and address the Minister of Social Development to take the appropriate disciplinary action against them. See, Jordanian Law no 32 of 2014 (n 12) art 11.

36 Instructions for Determining the Requirements and Information that Must Be Included in Probation Officers' Reports [2015] Official Gazette 500, art 3.

37 Ahmed Abdel Latif Al-Faqi, *The Public Prosecution and the Rights of Crime Victims* (Dar Al-Fajr Publishing and Distribution 2003) 23.

To this effect, Articles 13 and 14 of the Jordanian Juvenile Law No. (32) of 2014 allows for the settlement of juvenile disputes through the Juvenile Police Unit, aiming to implement more restorative and rehabilitative measures for juvenile offenders, moving away from a purely punitive approach. However, certain conditions must be met before the settlement process can proceed. These conditions ensure the settlement is voluntary, confidential, and based on mutual consent. Additionally, it applies only to contraventions and misdemeanours punishable by imprisonment for up to two years, where the initiation of the criminal case depends on a complaint from the victim or their representative.

Arguably, while this mechanism contributes to promoting rehabilitation and safeguarding juveniles' rights throughout the process, there is room for improvement in Jordanian law to adopt a more effective approach. Specifically, Article 13 of the Jordanian Juvenile Law should be amended to expand the scope of settlement to include all misdemeanours, rather than limiting it to those punishable by imprisonment of up to two years. Furthermore, the Dispute Resolution System in Juvenile Cases, No. 112 of 2016, explicitly excludes crimes against morality and public decency from the settlement process.[38] However, it can be contended that the sensitive and private nature of these crimes, both personally and socially, warrants their inclusion within the scope of settlement procedures to better address the needs of the affected parties.

Additionally, Article 7(B) of the Dispute Resolution System in Juvenile Cases No. 112 of 2016 states: "The settlement agreement between the parties to the dispute referred to in paragraph (A) is subject to the provisions of the civil settlement contract as outlined in the applicable legislation..."[39] This approach warrants reconsideration, as even though settlements made before the police fall under the framework of a civil settlement contract, it does not preclude the injured party from seeking compensation at a later stage.[40]

This is because settlement procedures are treated as confidential, and any statements, discussions, or waivers of rights made by the disputing parties during these procedures cannot be used as evidence in any court or before any authority, as stipulated in Article 14(a) of the Juvenile Law No. 32 of 2014. Moreover, the settlement agreement does not require judicial approval, rendering it essentially a certificate issued by law enforcement officers (police) documenting reconciliation between the parties. For a settlement agreement to effectively serve as a mechanism to bypass lengthy criminal proceedings, it should be subject to judicial approval. This would enhance its credibility and ensure fairness in its implementation.

38 Dispute Resolution System in Juvenile Cases no (112) of 2002, art 5(D) <https://psd.gov.jo/media/izpfv35o/5-1.pdf> accessed 15 March 2025.

39 ibid, art 7(B).

40 Muhammad Khalil Yousef Abu Bakr, 'The Conclusion of a Mediation Agreement before Appearing before the Judicial Authorities under the Jordanian Legislations' (First International Forum "Alternative Justice as an Exceptional Measure for Judicial Work", Al-Zaytoonah University of Jordan 2018) 18.

Although the Jordanian Juvenile Law appears to align with international conventions on the rights of juveniles, a closer examination reveals room for improvement. Additional guarantees could be incorporated into the law to further enhance the protection of juveniles during police investigations. These guarantees include the following:

First: The Necessity of Legal Representation

Examining the provisions of the Jordanian Juvenile Law reveals that the law does not guarantee legal representation to juveniles during the preliminary investigation stage. This oversight starkly contrasts with Article 6 of Directive (EU) 2016/800, which ensures that children involved in criminal proceedings can access legal assistance from the outset.[41] The right to defend oneself is recognised as subordinate to the presumption of innocence, which underpins criminal proceedings, according to which no one is guilty unless the contrary is evident. The right to an attorney is recognised as a fundamental right in international human rights instruments and most countries' criminal procedural laws.[42] For instance, Article 14(3)(b) of the International Covenant on Civil and Political Rights (ICCPR) states: "Everyone charged with a criminal offence shall have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing."[43] The right to legal assistance during this stage is essential for effectively safeguarding juveniles' procedural rights before law enforcement agencies. Thus, it is highly recommended that the Jordanian Juvenile Law be revised in accordance with Article 37(d) of the UNCRC and Beijing Rule No. 7 to effectively address this contentious issue and ensure the law's intended purpose is upheld throughout all criminal proceedings.

Second: Medical Examination Before and After Police Preliminary Inquiries

Any authority where a juvenile is detained is required to provide the necessary health and medical examination, if needed, in accordance with Article 4(w) of the current Jordanian Juvenile Law, which aligns with Article 6 of the EU Directive 2016/800. However, the medical examination should not be limited solely to cases where the juvenile explicitly needs care. Instead, this guarantee should be made mandatory and unconditional before and after the preliminary investigation stage. Subjecting the juvenile to a medical examination at

41 See also, Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty [2013] OJ L 294/1, art 3.

42 Mouaid Muhammad Ali Al Qudah, Mamun Muhammad Said Abu Zaytun and Ahmad Musa Muhammad Hayjinah, 'Right to Legal Representation during Pre-Trial Stages: The Victim vs The Accused: Where Does The Law Stand?: A Critical and Comparative Review' (2018) 10(3) Jordan Journal of Law and Political Sciences 11.

43 International Covenant on Civil and Political Rights (UNGA Res 2200A (XXI), adopted 16 December 1966) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> accessed 15 March 2025.

these stages would ensure their well-being and serve as a direct oversight mechanism for the conduct of law enforcement personnel. This measure would help protect the juvenile from coercion during their testimony or interactions with law enforcement officials.

Third: Exclusion of Juveniles from the "Flagrante Delicto" Rules

The state of flagrancy in criminal cases is an exceptional situation that broadens the procedural scope for law enforcement officers under Article 28 of the Jordanian Criminal Procedures Law. In such cases, officers are granted additional powers typically reserved for public prosecutors, including arresting suspects without a warrant and entering and searching premises without a warrant (Articles 44, 46, 99, 100). These powers apply broadly, encompassing all suspects, including juveniles, under Article 43 of the juvenile law. However, given these procedures' inherent severity and firmness, it is arguable that their application to juveniles, without a doubt, undermines the principle of acting in the child's best interests. The purpose of pursuing juveniles who commit unlawful acts is reform and rehabilitation, which calls for a less harsh, gentler, and lenient approach.[44] This approach is applied in some comparative laws, such as the Algerian Child Protection Law 2015, Article 64, which states that "the procedures for flagrante delicto are not applied to crimes committed by a child."[45]

3.1.2. Guarantees During Public Prosecution Investigations

In Jordanian law, the doctrine of the best interests of the juvenile continues to be upheld during the public prosecution investigation phase. Several legal provisions ensure that juveniles' rights are safeguarded and treated fairly, with particular emphasis on protection, rehabilitation, and avoiding harm during the investigation process. The following discussion addresses each of these guarantees in turn.

First: Safeguards Pertaining to the Search and Seizure of Materials

A review of the Jordanian Juvenile Law reveals that it contains no specific provisions governing procedures for the search and seizure of materials related to crimes committed by juveniles. Instead, the general rules outlined in the Jordanian Code of Criminal Procedure No. 9 of 1961 are applied. This is affirmed by Article 43 of the Jordanian Juvenile Law No. 32 of 2014, which states: "The provisions of the Criminal Procedures Law apply to all situations not explicitly governed by this law."

44 Thaer Saud Al-Adwan, *Juvenile Criminal Justice: A Comparative Study* (Dar Al Thaqafa Publishing 2012) 134.

45 Law of the Algerian Republic no 15-12 of 15 July 2015 on Child Protection [2015] Official Journal 39/4; Dalali Al-Jalali, 'The Role of Restorative Justice Principles in Reducing Juvenile Delinquency and Protecting Children at Risk According to Law no 15/12 on the Protection of the Child' (2021) 13(2A) Academic Journal of Social and Human Studies 280.

A closer analysis of these articles reveals various guarantees and requirements that must be upheld during the search and seizure process, including cases involving juveniles. These guarantees include, for example:

- A warrant from the public prosecutor is required before entering and searching premises, except in cases where the accused is caught in the act (Article 81).
- Only the premises of the suspect may be entered and searched (Articles 81 and 82).
- The presence of the accused or their representative during the search and seizure is mandatory, along with their signature on the report (Articles 83, 84, 85).
- The search must be limited to materials directly related to the crime under investigation (Articles 87–89).
- The suspect must be confronted with the seized materials, and both the prosecutor and the suspect must prepare and sign a detailed report (Article 32).

Second: Interrogating the Juvenile by a Specialised Public Prosecutor

The interrogation of juveniles should be conducted in an appropriate psychological environment that acknowledges their status as children in need of protection, rather than as criminals. It is reasonable for the public prosecutor to exercise discretionary power in specific procedures during the investigation, provided these actions are consistent with the juvenile's age and do not contravene the law.[46] Jordanian law has demonstrated significant attention to this issue. Article 7 of the Juvenile Law mandates that only members of the specialised public prosecution may handle juvenile cases. This ensures that investigations are conducted by qualified and trained personnel adept at dealing with juveniles in a manner appropriate to their developmental stage and understanding—distinct from the treatment of adults.

This approach aligns with Article 3 of the UNCRC, which obligates member states to prioritise the best interests of the child in all actions concerning children—whether undertaken by public or private social welfare institutions, courts, administrative authorities, or legislative bodies.

It is also worth highlighting that Article 11(a) of the Juvenile Law requires a probation officer to submit a detailed written report to the public prosecutor at the start of an investigation involving a juvenile. This report must cover various aspects of the juvenile's life, including their personal conditions, family background, financial and social circumstances, upbringing environment, schooling, and educational level. This provision serves as a crucial safeguard, enabling the public prosecutor to gain a comprehensive understanding of the factors surrounding the juvenile's situation that may have contributed to the offence. Armed with this detailed report, the public prosecutor can make informed and appropriate decisions regarding the measures to be taken against the juvenile.

46 Al-Adwan (n 44) 147.

Third: Confidentiality of the Investigation Process

Confidentiality of the investigation means that the procedures are conducted privately, not in public. This principle is a fundamental aspect of the inquisitorial system and serves as a crucial safeguard to ensure the investigation is carried out appropriately, allowing it to proceed without unnecessarily compromising individuals' interests. Therefore, the investigation and its outcomes must remain confidential and cannot be disclosed by the investigator, public prosecutor, their staff, or anyone involved in the investigation, including employees, experts, and others.[47]

Although the Jordanian Juvenile Law does not specifically mandate the confidentiality of juvenile investigations as outlined in Article 14 of EU Directive 2016/**800**, this matter is governed by the general provisions of the Jordanian Code of Criminal Procedure (Article 64),[48] in accordance with Article 43 of the Juvenile Law, which stipulates that the general rules apply to all situations not explicitly addressed within its provisions.

Fourth: Right to Legal Assistance

Legal assistance is a crucial safeguard during the primary investigation and a fundamental aspect of the process (Beijing Rule No. 7; Article 6 of EU Directive 2016/**800**).[49] A lawyer enables the accused to defend themselves against charges, ensuring their right to self-defence. The lawyer's presence offers valuable support in this regard. Article 65 of the Code of Criminal Procedure stipulates that each party may be represented by only one lawyer before the public prosecutor, and the lawyer may address the investigation only with the investigator's consent.[50]

While the Jordanian Juvenile Law does not explicitly include an article guaranteeing this right, it is ensured under Article 65 of the Code of Criminal Procedure, as referenced in Article 43 of the Juvenile Law. This provision extends the rules outlined in the Code of Criminal Procedure to matters not specifically addressed in the Juvenile Law, ensuring that the same protections afforded to adult offenders also apply to juveniles. However, it is strongly recommended that the legislator amend the Jordanian Juvenile Law to include

47 UNCRC (n 2) art 40; The Beijing Rules (n 29) no 8; Namour (n 28) 372.

48 Art. 64 states that: "1: The accused, the person liable for damages, the civil claimant, and their legal representatives are entitled to attend all investigation procedures, except for witness testimonies. They may not speak during the proceedings unless granted permission by the public prosecutor. If such permission is denied, this must be officially recorded in the investigation minutes. 2: The persons mentioned above have the right to access and review the parts of the investigation that were conducted in their absence. 3: The public prosecutor may, in cases of urgency or when deemed necessary to uncover the truth, conduct the investigation without the presence of the aforementioned parties. This decision is final and not subject to appeal. However, upon completion of the investigation, the prosecutor is obligated to allow the concerned parties to review the proceedings".

49 See also, Directive 2013/48/EU (n 41) art 3.

50 Namour (n 28) 374.

a specific provision mandating the public prosecution to appoint a lawyer for juveniles during the investigation stage if the juvenile, their guardian, or custodian does not do so. Additionally, any procedures conducted without the presence of a lawyer should be deemed null and void.

Fifth: Detention and Restraint of the Juvenile

Article 4(d) of the Jordanian Juvenile Law prohibits using restraints, force, or isolation on juveniles, except in cases where a delinquent juvenile demonstrates defiance or violence towards judicial authorities. Even in such cases, the law strictly prohibits excessive force, allowing only the minimum necessary to address the situation.

Regarding juvenile detention, the Jordanian law permits it under specific conditions:

- **Judicial Authorisation**: Any decision to detain a juvenile or place them in a juvenile care or rehabilitation facility must be issued by a competent judicial authority. This authority includes either the court specialising in juvenile cases or the public prosecution handling juvenile investigations. Thus, the Jordanian legislator restricts juvenile police from detaining or limiting a juvenile's freedom, delegating this authority exclusively to specialised judicial bodies, as outlined in Article 8 of the Jordanian Juvenile Law No. 32 of 2014.

- **Separate Facilities**: Detained and sentenced juveniles must be placed in facilities designated specifically for juveniles and kept separate from adult offenders at all stages of the trial process, including investigation, trial, and execution of the sentence. Article 5(a) of the Juvenile Law explicitly mandates this, in alignment with Article 37(c) of the UNCRC, Article 12 of EU Directive 2016/800, and Beijing Rule No. 13.

To safeguard delinquent juveniles from criminal contamination and ensure their welfare, the fourth provision of the Beijing Rules mandates the separation of detained juveniles from adult detainees in mixed facilities when separate juvenile facilities are unavailable. This provision also emphasises addressing the unique developmental needs of juveniles by providing appropriate social, educational, vocational, psychological, medical, and physical support tailored to their age, gender, and personality. In Jordan, Article 9(a) of the Juvenile Law requires that if the public prosecutor specialising in juvenile investigations decides to detain a juvenile, they must release the juvenile on bail, personal guarantee, or cash security to ensure their presence during investigation or trial unless detention is deemed necessary for the juvenile's best interests.

However, the public prosecutor's authority to detain a juvenile is limited to a maximum of ten days, as outlined in Article 9(d). This detention period may be renewed once for an additional ten days, provided the renewal decision is formally communicated to the juvenile care facility where the juvenile is held. If further detention is necessary for investigative purposes, the Juvenile Court may extend the juvenile's detention for up to ten days per

extension. Unlike the prosecutor, the court's authority to extend detention is not bound by a specific maximum duration, as the general rules of the Jordanian Code of Criminal Procedure do not apply to this matter. To address concerns over excessive detention, the Jordanian legislator recently amended Article 114 of the Jordanian Code of Criminal Procedure. This amendment introduces significant safeguards by limiting detention durations and preventing unwarranted extensions, reflecting a commitment to safeguarding the rights of the accused and promoting fair judicial practices.

3.1.3. Legal Guarantees During the Trial Stage

The trial stage is a critical phase in the administration of justice, particularly for juveniles or vulnerable individuals. Several guarantees are provided to ensure fairness, protect the rights of the accused, and uphold the integrity of the judicial process. The following discussion highlights some of these guarantees under Jordanian law.

First: Presumption of Innocence and the Right to Be Informed of Charges

The principle of presumption of innocence asserts that the accused is considered innocent until proven guilty.[51] This means that the burden of proof rests with the prosecution, and the accused must be acquitted if there is any reasonable doubt about their guilt. Additionally, in line with Article 40 of the UNCRC, Article 22 of the Juvenile Law grants accused juveniles the right to be informed of the charges against them in the presence of their lawyer, probation officer, guardian or custodian, or parent. This ensures they understand the allegations and can adequately prepare a defence. The accused also has the right to present evidence, challenge the prosecution's evidence, and testify in their defence. They cannot be compelled to testify against themselves or confess to a crime. These safeguards protect individuals from coercion or undue pressure during trial proceedings. This fundamental right ensures a fair trial process and upholds the individual's legal standing.

The combination of these rights—presumption of innocence, the right to be informed of charges, active participation in the trial, and protection from self-incrimination—ensures that the legal process remains fair and just for all individuals, including juveniles. They reflect the commitment to providing every accused person, regardless of age, with the means to defend themselves effectively and to avoid wrongful convictions. These principles not only align with national laws but also uphold international standards of justice, reinforcing the importance of safeguarding human rights in the legal system.

51 Jordanian Code of Criminal Procedure no 9 of 1961 (n 27) art 147. This rule is in line with Art. 40 of the UNCRC, Art. 48 of EU Charter of Fundamental Rights, and Beijing Rule No. 7.

Second: Separate Juvenile Courts

Juvenile trials are conducted exclusively in juvenile courts overseen by specialised judges. In this regard, Article 15(a) of the Juvenile Law specifies that juveniles may only be tried before specialised courts.[52] In accordance with Article 20 of EU Directive 2016/800, the legislator underscores the importance of this provision by requiring judges in juvenile courts to have expertise in handling juvenile cases. This reflects the Jordanian legislator's commitment to appointing not only specialised judges but also ensuring that these judges possess the necessary experience in dealing with juveniles. Article 40(3) of the UNCRC reinforces this principle by obligating member states to establish a specialised and independent judicial authority or body to adjudicate juvenile cases. Additionally, the same article emphasises the need for prompt handling of juvenile cases and ensuring a fair trial in accordance with the law.

To this effect, Article 15 of the Jordanian juvenile law states that: "A. A juvenile shall only be tried before juvenile courts that are specialised in accordance with the provisions of this law. B. Judges of juvenile courts and execution of judgment judges in these courts shall be appointed from those with relevant expertise. C. Continuity of the same judge handling juvenile cases across various levels of juvenile courts shall be observed. D. At least one Juvenile Conciliation Court shall be established in every governorate, with jurisdiction over minor offences (contraventions, misdemeanours with penalties not exceeding two years, protective or care-related measures. E. A Juvenile Court of First Instance shall be established in the centre of each governorate, if necessary, with jurisdiction over Felonies and misdemeanours with penalties exceeding two years. F. Judgments issued by the Juvenile Conciliation and First Instance Courts are subject to the appeal and objection procedures stipulated in the Conciliation Court Law and the Criminal Procedures Law, as applicable. A guardian, custodian, or legal representative may act on behalf of the juvenile in these procedures. G. The geographical jurisdiction of the court is determined as follows: 1. The place where the crime occurred. 2. The place of residence of the juvenile, 3. where the juvenile was found, or the place of arrest, 4. The location of the care facility where the juvenile has been placed."[53]

Third: No Criminal Records for Juveniles Upon Conviction

Article 4(g)(1) of the Juvenile Law explicitly states that a juvenile's conviction should not be recorded as part of a criminal record. This provision marks a departure from the general rules applied to adults. The legislator aims to prevent juveniles from being stigmatised by their actions, ensuring their future opportunities are not jeopardised and facilitating their rehabilitation and reintegration into society as contributing members.

52 Judgment no 3098/2018 [2018] Jordanian Court of Cassation; Judgment no 1985/2018 [2018] Jordanian Court of Cassation.

53 Jordanian Law no 32 of 2014 (n 12) art 15.

This approach is grounded in the understanding that juveniles are often victims of circumstances that led them to commit offences. To support this perspective, the legislator has excluded juveniles from the Penal Code's provisions on rehabilitation and recidivism, emphasising a more rehabilitative and protective approach to juvenile justice.[54]

Fourth: Confidentiality of the Trial

Unlike the general provisions of the Jordanian Code of Criminal Procedure, which require trials to be public, Article 17 of the Juvenile Law mandates that juvenile trials be conducted privately, in accordance with Article 40(b)(vii) of the UNCRC and Article 14 of EU Directive 2016/800. Any violation of this rule results in the trial being deemed null and void.[55] The only individuals permitted to attend are the probation officer, the juvenile's lawyer, their parents, legal guardian, or custodian, and those deemed by the court to have a direct interest in the case. This provision aims to protect the privacy of the juvenile and prevent unnecessary public exposure.

Fifth: Speedy Trial

The principle of expediting legal procedures is one of the foundations upon which the Juvenile Law is based, aiming to quickly resolve juvenile cases in comparative laws such as the French law.[56] Under Article 40/b (iii) of the UNCRC, Article 13 of EU Directive 2016/800, and Beijing Rule (No.20), the Jordanian legislator has given priority to juvenile cases by classifying them as urgent under Article 4(i) of the Juvenile Law. This law mandates that misdemeanour cases (crimes punishable by imprisonment for up to three years) be resolved within three months, and felony cases (crimes punishable by imprisonment for up to 15 years, life imprisonment, or the death sentence) within six months from the date of filing, unless a conclusive medical report or witness testimony is still pending.

In general, felony cases must be concluded within six months, and misdemeanour cases within three months. While swift justice is crucial, strict time limits may hinder the court's ability to make well-informed decisions, especially when cases require more time for thorough investigation. Therefore, the legislator should reconsider the time limits set in Article 20(b) of the Juvenile Law and allow extensions when necessary.

Additionally, the law restricts the court's ability to postpone trial sessions to no more than seven days, except when necessary, and mandates that the reasons for any postponement be documented in the trial record.

Article 22(a) of the Juvenile Law further strengthens safeguards for juveniles by ensuring that no juvenile can be tried without the presence of a parent, guardian, custodian, or

54 Al-Adwan (n 44) 195.

55 Judgment no 1356/2019 [2019] Jordanian Court of Cassation.

56 Alzytoni (n 9) 327.

caregiver, along with a probation officer and the juvenile's lawyer. This safeguard is essential for protecting the juvenile's psychological well-being and ensuring that decisions are fair, in line with Article 37 of the UNCRC.

A positive development in the Juvenile Law is the introduction of Article 19, which allows the court to hold sessions on weekends, official holidays, or evenings if the juvenile's best interests require it. This demonstrates the legislator's commitment to prioritising the juvenile's rights and welfare throughout the judicial process.

Sixth: Separation of Juveniles from Adults During Trials

In cases of criminal complicity or joint criminal actions, Article 16 of the Jordanian Juvenile Law mandates that when juveniles and adults are involved in the same crime or related offences, they must be separated by a decision from the public prosecution. This provision mandates the creation of a distinct case file for each juvenile involved, which is then processed independently and tried in the juvenile court. This separation aims to uphold the principle that juveniles are not subjected to the same legal framework as adults, safeguarding their rights and ensuring a more rehabilitative approach to their justice process.

Seventh: Privacy Protections

In addition to mandating that all juvenile criminal hearings be held in private, as stipulated in Article 17 of the Juvenile Law, Article 4(h) further prohibits the publication of a juvenile's name or picture during any phase of criminal proceedings, including police inquiries, public prosecution investigations, and the trial stage.[57] This provision is designed to safeguard the juvenile's privacy and prevent unnecessary public exposure, which could negatively impact their reputation and impede their rehabilitation. It aligns with international standards that stress the importance of shielding juveniles from media scrutiny and stigmatisation, ensuring that their rights are upheld throughout the legal process. That is, records of juvenile offenders must remain strictly confidential and inaccessible to third parties. Access shall be restricted to individuals directly involved in the case's resolution or other duly authorised personnel. [58]

Eighth: Right to Legal Representation

According to Article 21(a) of the Juvenile Law, the court must appoint a lawyer for a juvenile in all criminal cases if the juvenile has not chosen an attorney or cannot afford one. The court is responsible for covering the attorney's fees as stipulated by the Code of Criminal Procedure. The appointed lawyer must be present during the trial and is required to

57 Judgment no 462/2006 [2006, 2 May] Jordanian Court of Cassation.
58 The Beijing Rules (n 29) no 21.

effectively defend the juvenile.[59] This provision aligns with Beijing Rule No. 7, Article 6 of EU Directive 2016/800,[60] and Article 40(3) of the UNCRC, which states that a juvenile cannot be tried without legal counsel or appropriate assistance and must have the presence of their parents or legal guardians, unless it is deemed contrary to the best interests of the child, particularly considering their age or condition.

3.2. Guarantees After Concluding the Criminal Case

After the criminal proceedings have concluded, the juvenile's best interests remain a primary concern, particularly in relation to their placement and the penalties they may face. Jordanian law ensures that juveniles are not treated in the same manner as adult offenders, and their rehabilitation and reintegration into society are prioritised.

3.2.1. Placement in Specialised Care Facilities

Jordanian Juvenile Law prioritises rehabilitation over punishment by mandating the placement of juveniles in specialised care facilities instead of adult prisons. These institutions provide educational, psychological, and social support to aid reintegration into society.[61] Under Articles 25 and 26, juveniles convicted of serious crimes may be placed in reform institutions, with sentences ranging from 5 to 10 years for felonies punishable by life imprisonment and 8 to 10 years for felonies punishable by death. Courts may also impose alternative non-custodial measures, such as parental supervision or community service, recognising the importance of individualised rehabilitation while ensuring accountability.[62]

3.2.2. Alternative Penalties and Community Service

Furthermore, in line with Beijing Rule No. 18, in addition to the lenient and reduced sentences that may apply to juvenile offenders, the alternative penalties available to juveniles under the Jordanian juvenile law (Articles 24, 25, 26) reflect a shift away from

59 Judgment no 834/2018 [2018, 4 June] Jordanian Court of Cassation.

60 See also, Directive 2013/48/EU (n 41) art 3.

61 These institutions currently operate under the authority of the Ministry of Social Development in accordance with the Jordanian Juvenile Law. However, it may be proposed that they be restructured as independent bodies, possessing their own administrative frameworks and financial budgets. This transformation could enhance their operational autonomy, improve the quality and consistency of services provided to juveniles, and allow for more specialized and accountable management. Independence may also foster better coordination with other justice and welfare institutions, contributing to more effective rehabilitation and reintegration of juvenile offenders. See, Ibrahim Kamel Al-Shawabkeh and Mouaid Al Qudah, 'Independent Regulatory Bodies in the Jordanian Legal System: An Evaluative Review' (2023) 9(2) International Journal of Public Law and Policy 188, doi:10.1504/IJPLAP.2023.130014.

62 Jordanian Law no 32 of 2014 (n 12) arts 25, 26. See for more details: Azah Adnan Al-Shami, 'The New Measures and Penalties in the Jordanian Juvenile Law no 32 of 2014' (master's thesis, Middle East University, Faculty of Law 2014) 93.

traditional punitive measures. These alternatives may include community service, probation, or other rehabilitative measures that address the underlying causes of delinquency. The goal is to support the juveniles' personal growth and reintegration into society, rather than subjecting them to the harsh conditions of conventional detention, which could potentially harm their prospects.

Under the Jordanian Juvenile Law, all measures imposed on juvenile offenders—whether custodial or non-custodial—are carried out under the supervision and authority of the execution judge (Articles 27, 30, 32). This ensures that every action taken respects the legal safeguards afforded to juveniles, aligns with their best interests, and adheres to the principles of justice and rehabilitation. The execution judge plays a central role in monitoring the implementation of these measures, reviewing their appropriateness, and making necessary adjustments to promote the juvenile's reintegration into society while safeguarding their rights.[63]

The law aims to prevent recidivism and provide a more constructive path forward for young offenders by prioritising their well-being and focusing on rehabilitative rather than punitive measures. These guarantees underscore the importance of treating juveniles in a manner that respects their age, potential for change, and right to a fair chance at reintegration.

63 Art. 27 states that: "The competent execution judge must visit juvenile rehabilitation and care centers, as stipulated in this law, within their jurisdiction on a regular basis—at least once every three months. A report on each visit must be submitted to the President of the Judicial Council, with a copy also provided to the Minister." Art. 29 states that: "A. Following the issuance of the judgment related to the juvenile, the execution judge shall have the following duties and powers: 1: To monitor the enforcement of any measure or procedure imposed on the juvenile in accordance with the provisions of this law or other applicable legislation. 2.To continuously verify the juvenile's compliance with the conditions of the judgment. The judge may assign a probation officer to carry out this task and submit the necessary reports. B. The juvenile shall remain free during the period of enforcement of any non-custodial sentence". Art. 32 states that: "A. The execution judge may authorize the release of a juvenile from a rehabilitation center after consulting the center's director, provided all the following conditions are met: 1. The juvenile has demonstrated good behaviour during their stay. 2.The juvenile has served at least one-third of their sentence. 3.The release does not pose any risk to the juvenile's life or safety. 4. The juvenile was not convicted of an offense punishable by death or by a sentence of imprisonment for fifteen years or more [This is the original penalty prescribed by law for the offense, which must be reduced when sentencing a juvenile offender to a more lenient punishment] . B. The execution judge is required to periodically review, at least once every three months, the cases of juveniles serving custodial measures to evaluate their eligibility for release based on the conditions outlined in paragraph (A). C. A probation officer in the juvenile's area of residence shall supervise and guide the juvenile throughout the remainder of the sentence following release. D. If the execution judge finds that the juvenile is not complying with the terms of release, the judge shall issue a warning and may revoke the release order. In such a case, the juvenile shall return to complete the remaining custodial sentence, with the time spent in compliance deducted from the total sentence, in accordance with the procedures specified in this article. E. Any decision by the execution judge to deny release or to return a juvenile to a rehabilitation center may be appealed before the competent Court of Appeal…" See, Jordanian Law no 32 of 2014 (n 12).

The introduction of alternative juvenile penalties reflects a thoughtful and deliberate approach to juvenile justice, which aligns with international conventions such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the UNCRC. These frameworks emphasise the importance of rehabilitation, proportionality in sentencing, and avoiding unnecessary deprivation of liberty, enhancing the offenders' sense of responsibility.[64]

4 CONCLUSION

This study highlights that Juvenile Law No. 32 of 2014 provides a comprehensive legal framework aimed at protecting the best interests of juveniles throughout all stages of criminal proceedings, with the trial stage demonstrating the highest level of compliance with this principle compared to earlier phases. The law reflects a strong commitment to protecting the rights and welfare of juveniles through several key principles. A fundamental aspect of the law is the recognition of juveniles' human dignity. It strictly prohibits using restraints, force, or isolation against juveniles and ensures the confidentiality of legal proceedings by banning the publication of their names or images.

In addition, the law prioritises juvenile health, requiring institutions responsible for juveniles to provide proper medical care and refer them to specialised services, regardless of their condition. To support rehabilitation and reintegration, the law severes ties between a juvenile's criminal past and adulthood. Convictions during juvenility do not constitute criminal records, recidivism laws do not apply, and all related records must be erased once the juvenile reaches the age of 18. This ensures that past offences do not create barriers to future opportunities.

Additionally, the law mandates strict separation between juveniles and adults in detention or sentencing. Juveniles must remain apart from adults at all stages of investigation, trial, and imprisonment. Furthermore, they must be categorised based on case severity, ensuring that detainees are housed separately from those serving sentences. Prioritising the juvenile's best interest is a guiding principle in court decisions, ensuring that legal measures focus on rehabilitation rather than punishment. In line with this, juvenile cases are treated as urgent matters, requiring expedited handling to prevent prolonged legal uncertainty.

64 Fatuh Abdullah Al-Shadhili, *United Nations Rules for the Administration of Juvenile Justice* (Dar Al-Matbouat 2006) 66; Jean Chazel, *Delinquent Childhood* (Awadid Publications 1983) 10; Samia Jabari, 'The Role of Community Service in Reducing Juvenile Delinquency' (master's thesis, University of Djilali, Faculty of Social and Human Sciences 2017) 41; Mohamed Salama Ghabari, *Social Service and the Care of Family, Childhood, and Youth* (Modern University Office Alexandria 2011) 66; Beghacheme Zeggay, 'Review of Measures as a Protection Mechanism for the Delinquent Child After the Criminal Trial' (2023) 7(1) International Journal of Legal and Political Research 594.

Recognising the vulnerability of juveniles in legal proceedings, the law guarantees **legal representation** for all juveniles during the trial stage. If a juvenile lacks a lawyer, the state is responsible for appointing one and covering the associated fees. Moreover, the law introduces **specialised procedures and rehabilitative measures** to enhance juvenile justice. It establishes dedicated police units, public prosecutors, and courts exclusively for juvenile cases. Juvenile offenders are also subject to reduced criminal sentences alongside structured rehabilitation programs designed to support their reform and reintegration into society. Through these provisions, **Juvenile Law No. 32 of 2014** reinforces a justice system that is not merely punitive but fundamentally protective and rehabilitative, ensuring that juveniles receive fair treatment, essential support, and the opportunity for a second chance.

Although the Jordanian Juvenile Law No. 32 of 2014 aligns with international standards aimed at serving the best interests of juveniles, closer analysis reveals areas where amendments are necessary to enhance its effectiveness and ensure more comprehensive protection for juveniles in Jordan. One crucial reform involves mandating legal representation at all stages of criminal proceedings, not just during the trial, and extending this requirement to all offences rather than limiting it to serious felonies. This would guarantee consistent legal protection and advocacy throughout the justice process.

Additionally, the law should introduce stricter limitations on juvenile detention periods, with enhanced judicial oversight to prevent excessive detention. Specifically, Article 9(c) should be revised to state that while the public prosecutor may renew the detention period once, any further extension must be approved by the court, ensuring that the total detention period does not exceed three months under any circumstances.

Another significant amendment concerns the juvenile dispute resolution system, which currently excludes crimes against morals and public decency under Article 5(d). Given the sensitive nature of such offences, it is advisable to include them within the dispute resolution framework to avoid lengthy trial procedures, while also requiring judicial oversight of settlement agreements arranged by the police. Furthermore, expanding the jurisdiction of the settlement court to cover all misdemeanours, rather than limiting it to offences punishable by a maximum of two years' imprisonment, would enhance access to restorative justice mechanisms. Similarly, Article 15(d) should be amended to extend the jurisdiction of Juvenile Conciliation Courts to all misdemeanours, ensuring a broader application of restorative justice principles.

Additionally, the law should mandate medical examinations for juveniles before and after police inquiries to safeguard their physical and mental well-being and provide documented evidence in cases of mistreatment. Lastly, juveniles should be excluded from applying flagrante delicto provisions, as such rules prioritise expedited procedures that may compromise essential safeguards and the rehabilitative approach central to juvenile justice.

These reforms would significantly improve the Jordanian Juvenile Law by strengthening legal protections, ensuring procedural fairness, and prioritising the best interests of juveniles within the justice system.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

НАЙКРАЩЕ ЗАБЕЗПЕЧЕННЯ ІНТЕРЕСІВ ДІТЕЙ: ОЦІНКА ЙОРДАНСЬКОГО ЗАКОНОДАВСТВА ЩОДО НЕПОВНОЛІТНІХ ВІДПОВІДНО ДО КОНВЕНЦІЇ ПРО ПРАВА ДИТИНИ

Муаїд Аль Кудаг, Ібрагім Аль-Шавабкех, Могаммад Алькрішег, Мамун Абу-Зейтун та Агмад Закібг

АНОТАЦІЯ

Вступ. *Принцип «найкращого запезбечення інтересів дітей» є наріжним каменем йорданського законодавства, що відображає зобов'язання країни захищати права та благополуччя дітей. Закріплений у Законі про неповнолітніх № 32 від 2014 року та у міжнародних зобов'язаннях за Конвенцією ООН про права дитини (UNCRC), цей принцип гарантує, що права, розвиток та захист неповнолітніх мають пріоритет у судових, соціальних та адміністративних рішеннях. Йорданське законодавство наголошує на реабілітації, а не на покаранні, зосереджуючись на соціальній реінтеграції неповнолітніх правопорушників з урахуванням їхніх психологічних потреб та необхідності розвитку.*

Методи. *У цій статті досліджується, як принцип «найкращого забезпечення інтересів дітей» втілюються в йорданському законодавстві, аналізуються його сильні сторони та проблеми відповідно до міжнародних стандартів. У роботі підкреслюється важливість міждисциплінарного підходу, зокрема правових, соціальних та*

психологічних аспектів, для забезпечення дотримання прав дітей на всіх етапах кримінального провадження. З огляду на характер дослідження, було застосовано кілька дослідницьких підходів, включно з аналітичним підходом для вивчення всіх законодавчих статей, що стосуються теми для того, щоб визначити їхній зміст, значення та цілі. Крім того, було використано порівняльний підхід для аналізу відповідних національних законів та міжнародних конвенцій щодо неповнолітніх правопорушників з метою надання критичного аналізу та коментарів.

Результати та висновки. *Результати статті свідчать про те, що принцип «найкращого забезпечення інтересів дітей» функціонує як основоположне право, ключовий правовий стандарт тлумачення та процесуальна основа. Однак його застосування варіюється на різних стадіях кримінального провадження за йорданським законодавством, причому стадія судового розгляду демонструє краще дотримання цього принципу порівняно з попередніми стадіями кримінального провадження. Рекомендується переглянути Закон Йорданії про неповнолітніх та додати до нього чіткі положення, що забезпечують юридичне представництво неповнолітніх на всіх етапах кримінального провадження, охопивши всі види правопорушень під час судового розгляду, а не лише тяжкі злочини. Закон також повинен обмежити повноваження державних прокурорів щодо продовження терміну тримання неповнолітніх під вартою, розширити юрисдикцію судів із питань примирення неповнолітніх, додавши до неї всі проступки, а не лише ті, що караються позбавленням волі на строк до двох років, а також звільнити неповнолітніх від застосування правил щодо затримання на місці злочину.*

Ключові слова: *найкраще забезпечення інтересів дітей, Конвенція про права дитини, ювенальне право Йорданії, юридичне представництво, права дітей, реабілітація неповнолітніх.*