

Case Study

LEGISLATIVE PROTECTION FOR PROPER CRIMINAL JUSTICE PROCEDURES AGAINST PUBLISHING ON SOCIAL MEDIA: A COMPARATIVE ANALYTICAL STUDY

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ABSTRACT

Background: In the digital era, social media platforms have become powerful spaces for public engagement in criminal justice issues, often influencing perceptions of guilt and innocence. Within this context, the Jordanian legal system faces growing challenges in protecting the integrity of judicial processes from the repercussions of premature or prejudicial online publications. This study investigates the extent to which Jordanian law safeguards key procedural guarantees—namely the presumption of innocence, the confidentiality of investigations, and judicial impartiality—against the influence of social media content and public commentary on criminal cases.

Methods: The study adopts a doctrinal and comparative legal methodology. It critically analyses the relevant provisions of the Jordanian Penal Code, Cybercrime Law No. 17 of 2023, and Telecommunications Law No. 13 of 1995, alongside related procedural statutes. The research also draws comparative insights from French and Emirati legislation to assess the degree to which Jordanian law aligns with international standards for protecting criminal proceedings from media interference and online bias.

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Results and conclusions: Findings reveal that Jordanian legislation does not yet provide sufficiently explicit or comprehensive safeguards to prevent the distortion of justice by public or media pressure. The study highlights significant gaps concerning the protection of investigative confidentiality and the neutrality of judicial authorities. Accordingly, it recommends enacting explicit criminal provisions to prohibit the premature publication of investigative materials, to protect public prosecutors and judges from undue influence, and to increase penalties for unauthorised disclosures. These reforms would strengthen the fairness and independence of the criminal justice system while maintaining a balanced respect for freedom of expression in the digital sphere.

1 INTRODUCTION

The rise of social media has reshaped the relationship between the public and the criminal justice system. These platforms allow individuals to post, comment on, and circulate crime-related content freely and instantly, often ahead of any judicial determination. While this democratisation of information empowers public discourse, it also introduces significant risks to the administration of justice, particularly concerning the presumption of innocence and the confidentiality of investigations.

In recent years, Jordan has witnessed an increase in the premature dissemination of information regarding criminal cases via social networks. Citizens frequently publish names, photos, and commentary about suspects, which may prejudice judicial outcomes and contribute to what is often referred to as a “trial by media.” Such social-media-driven publicity can compromise the fairness of proceedings and erode public confidence in judicial impartiality. These actions challenge the principle of a fair trial and the right to a neutral judiciary.

Despite the growing seriousness of these threats, Jordanian legislation remains fragmented and incomplete. While the Penal Code,¹ the Cybercrime Law No. 17 of 2023,² and the Code of Criminal Procedure³ contain provisions on defamation, confidentiality, and online conduct, none explicitly regulate the publication of ongoing criminal matters in a manner that adequately protects the justice process.

This study arises from a recognised legislative gap: the lack of comprehensive legal safeguards against the undue influence of digital media on criminal trials. The purpose of the research is

1 Jordanian Penal Code No (16) of 1960 [in Arabic] <<https://maqam.najah.edu/legislation/33/>> accessed 20 September 2025.

2 Jordanian Law No (17) of 2023 ‘Cybercrime Law’ [2023] Official Gazette 5874 [in Arabic] <<https://www.assawsana.com/article/602874>> accessed 20 September 2025.

3 Jordanian Code of Criminal Procedure of 1961 ‘Criminal Procedures Law’ [1961] Official Gazette 1539 [in Arabic] <<https://jordan-lawyer.com/2016/12/22/criminal-law-procedures-jordan-updated/>> accessed 20 September 2025.

to assess whether Jordanian law sufficiently protects criminal justice procedures from such interference and to propose legal reforms that align with European standards.

The research is structured into four main sections. The first presents the literature review and theoretical framework, identifying scholarly perspectives on the intersection between social media and criminal justice. The second analyses the criminalisation of violations of the presumption of innocence, focusing on how unlawful disclosure or coercive practices undermine this fundamental guarantee. The third examines the criminalisation of acts that influence the proper administration of justice, including prejudicial commentary and media interference during ongoing trials. Finally, the fourth section explores the European context and case law, drawing comparative insights from the jurisprudence of the European Court of Human Rights to support legislative and procedural reform proposals.

2 METHODOLOGY

This study employs a comparative doctrinal methodology supported by qualitative legal analysis. Legal sources were selected purposively according to their direct relevance to the presumption of innocence, judicial impartiality, and the impact of media publications on criminal proceedings.

Primary materials include the Jordanian Penal Code, the Contempt of Courts Act of 1959,⁴ and the Jordanian Cybercrime Law No. 17 of 2023, which currently governs online publications and digital expressions related to criminal justice. The study also draws upon the UAE Federal Decree-Law No. 34 of 2021 on Countering Rumours and Cybercrimes,⁵ as well as selected judicial decisions of the Abu Dhabi Court of Cassation. These materials were analysed to determine how national laws criminalise prejudicial acts that may distort judicial processes and threaten procedural fairness.

The research further incorporates a European comparative dimension by examining the jurisprudence of the European Court of Human Rights (ECtHR)—notably *Allenet de Ribemont v. France*,⁶ *Worm v. Austria*,⁷ *Bédât v. Switzerland*,⁸ and *Kudeshkina v. Russia*⁹—

4 Jordanian Law No (9) of 1959 'Contempt of Court Law' [in Arabic] <<https://cyrilla.org/ar/entity/soilzb8pbvpczuj2ur700ms4i/>> accessed 20 September 2025.

5 UAE Federal Decree-Law No 34 of 2021 On Countering Rumors and Cybercrimes [2021] Official Gazette 712 <<https://uaelegislation.gov.ae/en/legislations/1526>> accessed 20 September 2025.

6 *Allenet de Ribemont v France* App no 15175/89 (ECtHR, 10 February 1995) <<https://hudoc.echr.coe.int/eng?i=001-57914>> accessed 20 September 2025.

7 *Worm v Austria* App no 22714/93 (ECtHR, 29 August 1997) <<https://hudoc.echr.coe.int/eng?i=001-58087>> accessed 20 September 2025.

8 *Bédât v Switzerland* App no 56925/08 (ECtHR, 29 March 2016) <<https://hudoc.echr.coe.int/fre?i=001-161898>> accessed 20 September 2025.

9 *Kudeshkina v Russia* App no 29492/05 (ECtHR, 26 February 2009) <<https://hudoc.echr.coe.int/fre?i=001-91501>> accessed 20 September 2025.

as well as EU legal instruments, including Article 6 of the European Convention on Human Rights¹⁰ (ECHR), Article 47 of the EU Charter of Fundamental Rights,¹¹ Directive (EU) 2016/343,¹² and Council of Europe Recommendation Rec (2003)13.¹³ These sources were examined through both content-based and normative interpretations to assess how European standards reconcile freedom of expression with fair trial guarantees.

By integrating national and European frameworks, the study employs doctrinal interpretation, comparative synthesis, and critical evaluation to identify legislative gaps, interpretive trends, and reform options that can strengthen the protection of judicial integrity and the presumption of innocence in Jordanian law.

3 LITERATURE REVIEW AND THEORETICAL FRAMEWORK

The rapid development of social media has transformed the dissemination of information related to criminal justice, creating both opportunities and serious challenges for legal systems. Among the primary concerns is the impact of uncontrolled public commentary and digital publication on the presumption of innocence, the secrecy of investigations, and the neutrality of the judiciary. Scholars in comparative criminal law and cyberlaw have increasingly examined these implications, especially in jurisdictions where legislative protections are either insufficient or outdated.

Recent legal scholarship has highlighted how unregulated exposure of criminal cases on social media can violate fair trial guarantees. For example, a 2025 law review note discusses how viral videos and posts shared by non-journalists, often referred to as "TikTok detectives," can undermine the principle of presumption of innocence and pressure judicial authorities.¹⁴ The study argues that the absence of legal safeguards against such exposure jeopardises the impartiality of proceedings and erodes public trust in due process.

Jordan's current legislative framework for addressing digital publication and online commentary during criminal proceedings remains fragmented. Al-Sarayreh analysed the Jordanian Cybercrime Law No. 17 of 2023, concluding that while the law addresses online offences in general, it lacks provisions that specifically shield criminal proceedings from

10 Council of Europe, *European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols)* (ECHR 2013).

11 Charter of Fundamental Rights of the European Union [2012] OJ C 326/391.

12 Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 On the Strengthening of Certain Aspects of the Presumption of Innocence and of the Right to be Present at the Trial in Criminal Proceedings [2016] OJ L 65/1.

13 Recommendation Rec(2003)13 of the Committee of Ministers to Member States On the Provision of Information Through the Media in Relation to Criminal Proceedings (adopted 10 July 2003) <<https://search.coe.int/cm?i=09000016805df617>> accessed 20 September 2025.

14 Paige Sanders, 'Protecting the Presumption of Innocence: TikTok Detectives, Misinformation and Private Content Moderation' (2025) 2 Utah Law Review 507.

harmful media exposure.¹⁵ The author emphasised the need for targeted statutory protections that ensure the confidentiality of pretrial proceedings and protect accused individuals from media-driven condemnation.

Khwaileh conducted an empirical study to examine the public perception of the Jordanian Cybercrime Law.¹⁶ His findings suggest that the legal framework fails to align with international standards, such as the European General Data Protection Regulation (GDPR) and the fair trial guarantees enshrined in the International Covenant on Civil and Political Rights (ICCPR). The study advocates for legislative amendments that would strike a balance between privacy protection and transparency without compromising judicial integrity.

Comparative insights from other jurisdictions provide valuable lessons. A 2025 study published in an international law journal examined the phenomenon of "media trials" in India.¹⁷ It concluded that public discourse on criminal matters—when left unchecked—can infringe upon both the freedom of expression and the right to a fair trial. The authors argued for clear statutory limits to prevent public opinion from overwhelming judicial independence.

Similarly, Ligon examined the risks posed by excessive digital transparency in courtroom settings.¹⁸ He observed that the absence of regulations on social media reporting can disrupt the solemnity of criminal trials and shift adjudication from judges to online audiences. The study recommends regulatory frameworks that uphold open justice principles while preserving the integrity of legal proceedings.

The studies reviewed above provide the foundation for this study's theoretical framework, which emphasises the delicate balance between the right to freedom of expression and the need to uphold the integrity of criminal justice procedures. Central to this framework are legal principles such as the presumption of innocence, judicial impartiality, the confidentiality of investigations, and the prohibition against undue influence on judicial processes. The reviewed literature collectively underscores the need for legislative clarity to navigate these competing interests in the digital age.

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- 15 Riyadh Mahmoud Al-Sarayreh, 'Jordanian Cybercrime Law No (17) of 2023 between Regulating Social Media Sites and Restricting Freedom of Opinion' (2024) 7(9) *Scholars International Journal of Law, Crime and Justice* 339. doi:10.36348/sijlcj.2024.v07i09.002.
 - 16 Khaled Mohammad Khwaileh, 'Public Perceptions of Jordan's Cybercrime Law: Protecting Social Media Data and Aligning with International Standards' (2025) 23(1) *Pakistan Journal of Life and Social Sciences* 2947. doi:10.57239/PJLSS-2025-23.1.00233.
 - 17 PA Anusree and Shampa I Dev, 'The Impact of Social Media Trials on Freedom of Speech and Fair-Trial Rights' (2025) 5(3) *International Journal of Applied Law Review*.
 - 18 Nicole J Ligon, 'Open Trials in the Social Media Age' (2023) 30(3) *Virginia Social Policy Review & the Law* 288.

4 INCRIMINATION OF VIOLATION OF THE PRESUMPTION OF INNOCENCE

4.1. Violation of the Presumption of Innocence through Torture and Coerced Confessions

The presumption of innocence is a fundamental principle in criminal justice, ensuring that every accused person is considered innocent until proven guilty by a final, binding court ruling. This principle, enshrined in both national and international legal frameworks, protects the dignity and physical integrity of the accused and prohibits any infringement or harm unless authorised by law.¹⁹

The meaning of the presumption of innocence is that the accused, no matter how severe his crime is, and no matter how dangerous a criminal he may be, is innocent until legally proven guilty. Accordingly, he shall be treated as innocent, not as a convicted defendant, until the court passes a final, decisive sentence of conviction.²⁰ The accused does not have to prove his innocence if the Public Prosecution cannot establish evidence. Likewise, this evidence must be firm and decisive, and the trial judge shall be convinced.²¹

On this basis, and through an extrapolation of the Jordanian Penal Code, the researcher has found that the Jordanian legislator has, in many cases, punished the violation of the presumption of innocence.²² Article 208 of the Penal Code punishes the forcible extraction of statements and information, as it constitutes a clear violation of the presumption of innocence, which states that “the accused is innocent until proven guilty” by a final court ruling issued by the competent court. The same Article stipulated that: (1) whoever inflicts any torture on a person to obtain a confession of a crime or information about it shall be punished by imprisonment from one to three years. (2) For the intent of this Article, torture means any act that results in severe physical or moral pain; or torture which is intentionally inflicted on a person to obtain from him, or another person, information or a confession; or to punish him for an act committed, or suspected of having been committed, by him or

19 Ali Abdul Qader Al-Qahwaji and Sami Abdul Karim Mahmoud, *Principles of Criminology and Penology* (Al-Halabi Legal Publications 2009) [in Arabic]; Maria Stoyanova, ‘The Impact of Media Publicity on the Presumption of Innocence’ in Lieve Gies (ed), *Trial by Media: Participatory Justice in a Networked World* (Palgrave Macmillan 2025) 269. doi:10.1007/978-3-031-80593-6_11.

20 Fathi Abdul-Ridha Al-Jawari, *The Development of the Iraqi Criminal Justice System* (Legal Research Centre 1986) [in Arabic]; Oksana Khablo and Ivo Svoboda, ‘International Standards for the Application of the Presumption of Innocence in Criminal Proceedings’ (2024) 29(1) *Scientific Journal of the National Academy of Internal Affairs* 55. doi:10.56215/naia-herald/1.2024.55; Mikaela Rabinowitz, “What Will Become of the Innocent?”: Pretrial Detention, the Presumption of Innocence, and Punishment Before Trial’ (2023) 7(1) *UCLA Criminal Justice Law Review* 22. doi:10.5070/CJ87162080.

21 Muhammad Muhi al-Din Awad, *Human Rights in Criminal Procedures* (Dar al-Nahda al-Arabiya 1989) [in Arabic].

22 Jordanian Penal Code (n 1).

someone else, to intimidate or coerce this person or others, or, when such pain or suffering is inflicted on the person for any reason, an official, or any person acting in his official capacity, adopts discrimination of any kind, incites it, consents to it, or is silent about it.

The crime of torture is considered a crime against the integrity of the body from a material point of view and its human dignity, as the practice of torture constitutes a serious violation of human rights that are consistent with the principle of the presumption of innocence.

This crime requires a unique criminal intent, represented in the intent to confess, as it is primarily a crime of harm. However, it is an independent crime affecting the proper administration of justice and the integrity of the presumption of innocence.

It is noticeable that the Jordanian legislator did not specify in the aforementioned Article the persons who committed this crime. Hence, the Jordanian legislator equated the officer with the non-officer in the act. The Jordanian legislator should devote a special provision establishing penalties for public servants who employ torture, force, or other means to obtain a confession, as is the case in the UAE legislation.

The Emirati legislator has dedicated a text for the general public and another for public servants.²³ Article 259 of the Federal Penal Code stipulates the punishment of individuals for this act and classifies it as a misdemeanour, as is the case in Jordanian legislation. At the same time, it has devoted another text to public servants, classifying the act as a felony. Article 290 Federal penalties stipulate that "every public servant who uses torture, force or threat, by himself or through the mediation of others, with an accused, witness or expert to induce him to confess to a crime or to give statements or information to conceal a matter, is punished with temporary imprisonment".

According to scholarly analysis, the gravity of this critical crime lies not only in the integrity of the body but also in the proper administration of justice and the uncovering of the truth. In light of this, the Jordanian legislator should include a special provision to punish public servants who commit this act, as per UAE legislation, and to treat it as a felony punishable by a term of imprisonment. This is important given that the consequences of treating it as a felony are entirely different from those arising from treating it as a misdemeanour, such as rehabilitation, prescription, and other processes.

This offence not only threatens the integrity of the body, as previously mentioned, but also jeopardises the progress of the criminal proceedings and the pursuit of the truth. Therefore, a confession lies within the discretionary authority of the trial court. If the court is satisfied with the validity of the confession and convinced of its truth, it may rely upon it. In contrast, if the court is not convinced of the confession, and it is established that it was taken under duress, it must exclude it from the evidence list, as such evidence cannot be relied upon. In such cases, the court must continue to hear the evidence to form its conscience conviction.

23 UAE Federal Law No 3 of 1987 'Promulgating the Penal Code' [1987] Official Gazette 182, and amendments.

Therefore, in its ruling on this matter, the Abu Dhabi Court of Cassation ruled that the plea to invalidate a confession on the grounds of coercion, together with a request to refer the case to a forensic doctor to prove material coercion, constitutes a substantial defence, with a corresponding response being required. Violating this constitutes a deficiency and a breach of the right of defence.²⁴

Among the crimes that affect the presumption of innocence and the proper administration of justice is the disclosure of the secrets of a criminal investigation. Criminal legislation has ensured that criminal investigations are confidential, and their contents must not be disclosed. The rationale for confidentiality lies in protecting the interests of the investigation, on the one hand, and preserving the innocence and reputation of the accused, on the other hand, by avoiding exposure of the accused person and their reputation, as well as influencing witnesses.²⁵

It is impermissible to interfere with an ongoing investigation by disseminating its details to the public, commenting on them, taking notes, or using them as informational material for individuals to share on social networks. This aligns with recent comparative analyses of digital offences in Emirati law, which recognise that misuse of digital applications and online platforms can constitute criminal interference with justice when such tools are used to disseminate prejudicial or confidential information.²⁶ Individuals who repeatedly and widely publish details of an investigation via such networks and comment on them pose a grave danger to the freedom and reputation of the individuals whose destinies have led them to the courts as a result of error or injustice. Ultimately, it is only after judicial scrutiny that the truth becomes clear to the judges.²⁷

This misuse of social media platforms parallels broader cyber-offences addressed in comparative legal research, which demonstrate how digital communication tools may be exploited to exert pressure, distort reputations, or influence legal proceedings—issues that equally endanger the presumption of innocence and the impartial administration of justice.²⁸

24 Appeal No 95 of 2012 (Penal) [2012] Abu Dhabi Court of Cassation.

25 Fair Trials, *Presumption of Innocence and Right to be Present at Trial Directive: Presumption of Innocence, Right to Remain Silent and Not to Incriminate Oneself, Right to Be Present at the Trial* (Fair Trials 2020) <<https://www.fairtrials.org/the-right-to-a-fair-trial/the-presumption-of-innocence/>> accessed 20 September 2025; Rabinowitz (n 20).

26 Ali Sultan Ali and Raed SA Faqir, 'Criminal Protection of Digital Applications in the UAE Legislation: A Comparative Study' (2024) 16(1) *Pakistan Journal of Criminology* 489. doi:10.62271/pjc.16.1.489.504.

27 Roger Merle and Andre Vitu, *Traité de droit criminel: Procédure pénale* (5th edn, Dalloz 2000) vol 2.

28 Mohammed Salem Alneyadi and others, 'The Crime of Electronic Blackmail in the Emirati law' (2022 International Arab Conference on Information Technology (ACIT), Abu Dhabi, UAE, 22-24 November 2022). doi:10.1109/ACIT57182.2022.9994165.

The Jordanian legislator has stipulated that the disclosure of investigation secrets is prohibited to protect the interests of the individual and the investigation, as well as to safeguard public confidence in certain professions. This prohibition reflects a broader social interest in preserving secrets and protecting public opinion from undue influence due to the publication of news about the crime and the investigation. To ensure the effectiveness of this protection, liability is not limited to criminal liability but also extends to disciplinary responsibility.²⁹

Torture directly undermines the presumption of innocence by transforming the accused from a rights-bearing individual into a source of forced evidence, thereby reversing the burden of proof and destroying judicial impartiality.

In conclusion, coerced confessions represent a dual infringement against human dignity and against the procedural guarantee that every person must be presumed innocent until proven guilty. Such acts distort justice at its very foundation and justify the need for strict statutory provisions to deter them.

4.2. Violation of the Presumption of Innocence through Disclosure of Investigative Secrets

The unauthorised disclosure of investigative information undermines the presumption of innocence.³⁰ Because it publicly associates the suspect with criminal behaviour before judicial verification. Such premature exposure creates bias, shapes public opinion, and may pressure judicial actors, thereby threatening the neutrality of the criminal process.

Hence, both torture-induced confessions and the disclosure of investigative secrets constitute distinct yet interconnected forms of violating the presumption of innocence. Each disrupts the balance between the rights of the accused and the public's right to information. These violations pave the way for broader media-related offences, which will be examined in the following section on Incrimination of Influencing the Proper Administration of Justice.³¹

29 Abdulaziz Alhassan and others, 'Substantive Criminal Protection for the Right to Image in the Digital Era under UAE and French Legislations' (2024) 7(2) Access to Justice in Eastern Europe 325. doi:10.33327/AJEE-18-7.2-a000216.

30 *Allenet de Ribemont v France* (n 6).

31 Ferry de Jong and Leonie van Lent, 'The Presumption of Innocence as a Counterfactual Principle' (2016) 12(1) Utrecht Law Review 32. doi:10.18352/ulr.324.

5 INCRIMINATION OF INFLUENCING THE PROPER ADMINISTRATION OF JUSTICE

Achieving justice requires that every citizen has the right to resort to a fair and impartial judge who is only affected by right and justice.³² The supreme objective of the judiciary is to establish justice, which reassures the soul and secures the individual's dignity, property, and life.³³ With such reassurance, people feel secure enough to build and contribute to society. The judge symbolises judicial justice, and their pursuit makes truth attainable. The judiciary holds a unique status among public authorities due to its role in maintaining social stability, settling disputes, protecting freedoms, and upholding justice. For this reason, it must function independently and without external influence. No authority governs the judiciary except for the law.³⁴

Based on this, to ensure the judiciary can perform its role free from undue influence, legislators have criminalised actions that obstruct the proper functioning of the justice system. Such offences are serious because they undermine the foundations of judicial integrity and public confidence. The increasing integration of digital and telecommunication technologies into criminal proceedings has further complicated this issue, requiring legislators to establish clear procedural safeguards that preserve judicial impartiality and protect data integrity in the digital age.³⁵ In this context, modern scholarship on digital criminal investigations highlights that the rise of artificial intelligence and automated data analysis introduces both opportunities and legal vulnerabilities in the pursuit of justice. Ensuring the reliability, transparency, and procedural legitimacy of AI-assisted investigations is now a crucial dimension of judicial protection.³⁶ The Jordanian Penal Code outlines several such offences:

- Article 196(3) punishes insults or threats directed at a judge during a session with imprisonment from six months to two years.
- Article 223 criminalises submitting petitions or verbal arguments to influence a judge's decision.

32 Adnan Ajil Obaid, *The Impact of the Independence of the Judiciary from Conflict in the State of Law: A Comparative Constitutional Study between Arab and International Regulations* (Arab Centre for Publishing and Distribution 2018) [in Arabic].

33 Ahmed Ali Alnuaimi and Mohammad Amin Alkrisheh, 'Advancing Criminal Justice through Mediation: Analysing the Integration of Mediation in Emirati Criminal Legislation' (2024) 11 *Humanities and Social Sciences Communications* 927. doi:10.1057/s41599-024-03458-8.

34 Obaid Muhayer Alshamsi and Mohammad Amin Alkrisheh, 'Criminal Settlement Provisions in Emirati Legislation' (2024) 16(3) *Pakistan Journal of Criminology* 1073.

35 Mohammad Alkrisheh, 'Guarantees to the Use of Telecommunication Technology in Criminal Proceedings in the United Arab Emirates Legislation' (2020) 10(4) *The Lawyer Quarterly* 509.

36 Raed S A Faqir, 'Digital Criminal Investigations in the Era of Artificial Intelligence: A Comprehensive Overview' (2023) 17(2) *International Journal of Cyber Criminology* 77.

- Article 224 punishes publishing news or criticism that may impact a judge or witness or discourage testimony.
- The Contempt of Courts Act (1959), Article 11, criminalises publications that influence judges, prosecution, witnesses, or public opinion regarding pending cases.
- Telecommunications Law No. 13 of 1995, Article 75(a) penalises threats, insults, and the dissemination of false news via communication channels.

Article 196(3) requires that the insulting or threatening conduct be committed in court, and that it addresses the judge directly during proceedings. While this protects judges, it excludes prosecutors who also fulfil a judicial role. To ensure the complete protection of the judicial process, it is recommended that these protections be extended to members of the Public Prosecution, as they are also integral to upholding justice.

Furthermore, Articles 223 and 224 should be amended to include prosecutors. This ensures that any act aimed at influencing a legal proceeding, whether before a judge or a prosecutor, is equally punishable. For instance:

- Article 223 should read: "Everyone who submits a petition to a member of the Public Prosecution or a judge... shall be punished..."
- Article 224 should be amended to read: "Whoever publishes news, information, or criticism that may affect any judge, prosecutor, or witness..."

Publishing that interferes with justice is not limited to negative remarks. Excessive praise can also bias judicial conduct. Judicial influence via social media, whether through rumour, exaggerated support, or criticism, poses a serious threat to judicial neutrality and public trust.

Foreign legal systems recognise this danger. Courts in the UK, Canada, and the US have ruled that media content predicting or praising court outcomes constitutes contempt of court. For example:

- In the UK, commentary on pending cases may be seen as interference.³⁷
- In Canada, articles assuming guilt or predicting trial outcomes were ruled contemptuous.
- In the US, a newspaper article implying the accused was certainly guilty and urging public acceptance of this was deemed a direct insult to the judiciary.³⁸

37 UK Contempt of Court Act 1981, c 49 <<https://www.legislation.gov.uk/ukpga/1981/49>> accessed 20 September 2025; Eric Barendt (ed), *Media Freedom and Contempt of Court* (Routledge 2009). doi:10.4324/9781315091297.

38 ABA, 'Judicial Ethics, Impartiality, and the Media' (American Bar Association, 12 August 2019) <<https://www.americanbar.org/groups/judicial/resources/judges-journal/archive/judicial-ethics-impairity-media/>> accessed 20 September 2025.

Even praise may influence judges, foster arrogance, or affect impartiality. Judges must avoid both excessive severity and undue leniency. Justice demands clarity, fairness, and emotional neutrality. Hatred or bias—even unconscious—can compromise verdicts.³⁹

Finally, individuals must refrain from publishing or commenting on material that may influence judicial proceedings. Reporting should be limited to factual crime news and public trial outcomes. Confidential investigations and private hearings must remain undisclosed to safeguard justice and individual rights. This balance ensures that the public stays informed without violating privacy, dignity, or the presumption of innocence.

6 EUROPEAN CONTEXT AND CASE LAW

Having analysed the Jordanian legal framework governing the publication of criminal justice information on social media, it is essential to situate these findings within the broader European context. European human rights law, particularly the jurisprudence of the European Court of Human Rights (ECtHR), has developed a rich body of principles concerning the balance between freedom of expression and the right to a fair trial. A comparative analysis of European standards provides valuable insights to inform Jordanian legal reform, particularly regarding the presumption of innocence, judicial impartiality, and the confidentiality of criminal investigations.

6.1. European Legal Standards on Fair Trial and Media Freedom

At the European level, the right to a fair trial is primarily enshrined in Article 6 of the European Convention on Human Rights (ECHR), which guarantees the presumption of innocence and the right to a fair trial before an independent and impartial tribunal.⁴⁰ Similarly, Article 47 of the Charter of Fundamental Rights of the European Union (EU Charter) ensures the right to an effective remedy and a fair hearing before an independent court.⁴¹ Directive (EU) 2016/343 on the presumption of innocence and the right to be present at trial sets minimum rules to prevent public officials or authorities from presenting suspects as guilty before conviction.⁴² Furthermore, the Council of Europe's Recommendation Rec(2003)13 on the provision of information through the media in relation to criminal proceedings outlines the delicate balance between the public's right to

39 Mohammad Amin Alkrisheh and Fatiha Mohammed Gourari, 'Criminal Liability for Paid Disinformation in the Digital World: A Comparative Study Between UAE Law and The European Digital Services Act (DSA)' (2025) 8(2) *Access to Justice in Eastern Europe* 341. doi:10.33327/AJEE-18-8.2-r000110; Stoyanova (n 19).

40 Council of Europe (n 10) art 6(1)-(2).

41 Charter of Fundamental Rights (n 11) art 47.

42 Directive (EU) 2016/343 (n 12).

information and the need to protect ongoing judicial processes.⁴³ Together, these instruments articulate a framework in which restrictions on speech are permissible only when proportionate, necessary, and directed at safeguarding the fairness of the proceedings.

6.2. ECtHR Jurisprudence on Balancing Media Freedom and Fair Trial Rights

The ECtHR has consistently recognised the potential of media reporting and official statements to prejudice the fairness of trials. In *Allenet de Ribemont v. France*, the Court found a violation of Article 6(2) ECHR after senior police officials publicly referred to the applicant as one of the instigators of a murder prior to any conviction,⁴⁴ thereby undermining the presumption of innocence. Similarly, in *Daktaras v. Lithuania* and *Butkevičius v. Lithuania*, the Court reaffirmed that public authorities must refrain from making statements that could be interpreted as declarations of guilt while proceedings are pending.⁴⁵

Conversely, in *Worm v. Austria*, the Court upheld the conviction of a journalist who had commented on an ongoing criminal case, holding that such expression could endanger the impartiality of the judiciary and the presumption of innocence of the accused.⁴⁶ This reasoning was later refined in *Bédât v. Switzerland*, where the Grand Chamber held that imposing a criminal fine on a journalist for publishing confidential investigative material did not breach Article 10 of the ECHR, as it pursued the legitimate aim of preserving the authority of the judiciary and protecting the private life of the accused.⁴⁷

Finally, in *Kudeshkina v. Russia*, the Court underlined that judicial independence requires safeguarding judges from disciplinary or political pressure, while also ensuring that public communication by judges does not compromise public confidence in the judiciary.⁴⁸

6.3. Comparative Perspective: Jordan and Post-Social Legal Transitions

The jurisprudence of the ECtHR is particularly relevant to post-social and transitional legal systems that seek to balance freedom of expression with the integrity of judicial institutions. In Eastern European contexts such as Lithuania, Russia, and Poland, the Court's case law has served as a guiding framework for achieving a balance between open

43 Recommendation Rec(2003)13 (n 13).

44 *Allenet de Ribemont v France* (n 6).

45 *Daktaras v Lithuania* App no 42095/98 (ECtHR, 10 October 2000) ECHR <<https://hudoc.echr.coe.int/eng?i=001-58855>> accessed 20 September 2025; *Butkevičius v Lithuania* App no 48297/99 (ECtHR, 26 March 2002) <<https://hudoc.echr.coe.int/eng?i=001-60344>> accessed 20 September 2025.

46 *Worm v Austria* (n 7).

47 *Bédât v Switzerland* (n 8).

48 *Kudeshkina v Russia* (n 9).

justice and impartial adjudication. Jordan's experience—where public commentary and online discourse can influence perceptions of guilt—reflects similar transitional challenges. As in these European jurisdictions, there is a need for codified prohibitions on prejudicial statements by public authorities, regulation of investigative secrecy, and proportionate penalties for unauthorised disclosures. Aligning Jordanian provisions with European standards would enhance both judicial independence and public trust in criminal proceedings.⁴⁹

Drawing on European jurisprudence, the study concludes that Jordanian legislation would benefit from adopting explicit rules on neutral communication by public authorities, proportional limits on media coverage, and codified investigative secrecy aligned with the EU Directive (2016/343) and the ECtHR standards. Such reforms would strengthen judicial independence and public confidence in the justice system.

7 CONCLUSIONS

The findings of this research confirm the serious risks posed by public exposure and social media engagement in ongoing investigations and secret judicial proceedings. Publishing investigative materials, images of defendants or witnesses, or commentary on ongoing trials interferes with the judiciary's independence and impairs the presumption of innocence. Recent comparative legal scholarship has highlighted that restorative justice mechanisms, such as criminal reconciliation, contribute to reinforcing judicial integrity and public trust by promoting fairness, transparency, and community-based dispute resolution.

Such acts represent a tangible threat to the integrity and confidentiality of the judicial process and must be subject to stringent regulation.

The rapid spread of information on digital and social networking platforms amplifies these risks exponentially. Unlike traditional media, social media enables instantaneous and widespread dissemination of unverified information, often accompanied by emotionally charged public commentary. This dynamic environment blurs the boundary between public opinion and judicial reasoning, creating parallel “digital trials” that can prejudice judges, prosecutors, and even witnesses before a verdict is reached.

49 European Commission, *Report from the Commission to the European Parliament and the Council: On the Implementation of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the Strengthening of Certain Aspects of the Presumption of Innocence and of the Right to be Present at the Trial in Criminal Proceedings* (COM/2021/144 final, 31 March 2021) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:144:FIN>> accessed 20 September 2025; European Union Agency for Fundamental Rights, *Presumption of Innocence and Related Rights: Professional Perspectives* (FRA, 2021) <<https://fra.europa.eu/en/publication/2021/presumption-of-innocence>> accessed 20 September 2025.

Media publication—whether critical or overly supportive—can create undue pressure on judges and the public prosecution. These influences can distort judicial conscience and undermine public confidence in legal outcomes. Although international legal systems, such as the French model, emphasise the judge's inner conviction as a safeguard against external influence, comparative analysis reveals gaps in Jordanian legislation on this issue.

One of the key findings of this study is the disparity in legal protection offered to judges and members of the public prosecution in Jordan. Article 196(3) of the Penal Code provides explicit protection for judges but excludes prosecutors, which represents a negative legislative distinction. Similarly, Articles 223 and 224 fail to impose criminal liability on those who attempt to influence prosecutors, as they do on judges. This imbalance undermines the prosecution's institutional integrity, a key pillar in the pursuit of justice.

Additionally, the study finds that the Jordanian Penal Code, particularly Article 225, imposes insufficient penalties for the publication of confidential judicial documents. The penalties are minimal and do not deter the publication of information that should remain confidential. This, in turn, facilitates harmful practices that compromise due process and the dignity of persons involved in criminal proceedings.

The absence of criminalisation of online publication of sensitive legal materials—such as investigation records, names or photos of suspects, and details of closed-door hearings—under the Jordanian Cybercrime Law is another critical legislative gap. Compared to the Emirati approach, which draws a clear distinction between public and official actors in defining and punishing such offences, Jordanian law appears underdeveloped and outdated.

In light of these deficiencies, the study concludes that Jordanian criminal law requires a systematic revision to align with contemporary challenges posed by media and digital technologies. The law must ensure that both judges and prosecutors are equally protected from attempts to influence their impartiality. This approach aligns with broader international legal perspectives that emphasise transparency and institutional integrity as essential safeguards of justice.⁵⁰ Furthermore, any act that interferes with the proper administration of justice—especially those involving the publication of confidential information—must be met with practical legal consequences.

Ultimately, safeguarding the presumption of innocence in the digital era requires more than procedural amendments—it necessitates a cultural and regulatory shift that acknowledges the pervasive influence of social media on the justice system. Establishing clear legislative boundaries for online expression in criminal matters, while respecting freedom of speech, will strengthen public trust in the judiciary and ensure that the principles of fairness and impartiality remain intact in the digital age.

50 Jamal Barafi and others, 'Anti-Corruption Mechanisms: A Study in the Light of International Law and National Regulations' (2022) 11(4) *Journal of Governance and Regulation* 224. doi:10.22495/jgrv11i4siart3.

Only through these reforms can the Jordanian legal system fulfil its constitutional mandate to safeguard justice, dignity, and individual freedoms against the influence of public discourse and technological abuse.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Тематичне дослідження

ЗАКОНОДАВЧИЙ ЗАХИСТ НАЛЕЖНИХ ПРАВОВИХ ПРОЦЕДУР У КРИМІНАЛЬНОМУ ПРОЦЕСІ ВІД ПУБЛІКАЦІЙ У СОЦІАЛЬНИХ МЕРЕЖАХ: ПОРІВНЯЛЬНО-АНАЛІТИЧНЕ ДОСЛІДЖЕННЯ

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АНОТАЦІЯ

Вступ. В епоху цифрових технологій платформи соціальних мереж стали потужним простором для залучення громадськості до питань кримінального судочинства, часто впливаючи на уявлення про вину та невинуватість. У цьому контексті правова система Йорданії стикається зі все більшими викликами щодо захисту цілісності судових процесів від наслідків передчасних або упереджених онлайн-публікацій. Це дослідження вивчає, наскільки йорданське законодавство захищає ключові процесуальні гарантії, а саме презумпцію невинуватості, конфіденційність розслідувань та неупередженість судової влади, від впливу контенту соціальних мереж та публічних коментарів щодо кримінальних справ.

Методи. У дослідженні використовується доктринальна та порівняльно-правова методологія. У ньому аналізуються відповідні положення Кримінального кодексу Йорданії, Закон про кіберзлочинність № 17 від 2023 року та Закон про телекомунікації № 13 від 1995 року, а також відповідні процесуальні закони. Дослідження також спирається на порівняльний аналіз законодавства Франції та Еміратів, щоб оцінити ступінь відповідності йорданського законодавства міжнародним стандартам захисту кримінальних проваджень від втручання ЗМІ та упередженості в Інтернеті.

Результати та висновки. Результати дослідження показують, що законодавство Йорданії ще не забезпечує достатньо чітких або вичерпних гарантій для запобігання впливу на правосуддя, що здійснюється через тиск громадськості чи ЗМІ. Дослідження висвітлює значні прогалини щодо захисту слідчої таємниці та неупередженості судових органів. Відповідно, було подано рекомендації запровадити чіткі кримінальні положення, щоб заборонити передчасну публікацію матеріалів розслідувань, захистити прокурорів та суддів від стороннього впливу та посилити покарання за несанкціоноване розкриття інформації. Ці реформи зміцнять правосуддя та незалежність системи кримінального судочинства, зберігаючи при цьому баланс у дотриманні свободи слова в цифровій сфері.

Ключові слова: процедури кримінального судочинства, соціальні мережі та кримінальні судові процеси, справедливий суд, презумпція невинуватості, Кримінальний кодекс Йорданії, Закон про кіберзлочинність, порівняльне кримінальне право, незалежність судової влади.

ABSTRACT IN ARABIC

حالة الدراسة

الحماية التشريعية لإجراءات العدالة الجنائية من النشر على وسائل التواصل الاجتماعي: دراسة تحليلية مقارنة

تيل شيباب وحاكم السرحن ومحمد الكريشية*

الملخص

الخلفية: في العصر الرقمي، أصبحت منصّات التواصل الاجتماعي فضاءات مؤثرة لإشراك الجمهور في قضايا العدالة الجنائية، وغالبًا ما تسهم في تشكيل تصورات الرأي العام بشأن الإدانة أو البراءة. وفي هذا السياق، يواجه النظام القانوني الأردني تحديات متزايدة في حماية نزاهة الإجراءات القضائية من الآثار السلبية للنشر الإلكتروني المبكر أو المنحاز. وتتولى هذه الدراسة بحث مدى قدرة التشريعات الأردنية على صون الضمانات الإجرائية الرئيسية، ولا سيما قرينة البراءة، وسرية التحقيق، وحياد السلطة القضائية، من تأثير المحتوى المنشور على وسائل التواصل الاجتماعي والتعليقات العامة المرتبطة بالقضايا الجنائية.

المنهجية: تعتمد الدراسة منهجًا قانونيًا تحليليًا مقارنًا، حيث تقوم بتحليل نقدي لأحكام قانون العقوبات الأردني، وقانون الجرائم الإلكترونية رقم 17 لسنة 2023، وقانون الاتصالات رقم 13 لسنة 1995، إلى جانب القوانين الإجرائية ذات الصلة. كما تستخلص الدراسة رؤى مقارنة من التشريعين الفرنسي والإماراتي بهدف تقييم مدى اتساق القانون الأردني مع المعايير الدولية المخصصة لحماية الإجراءات الجنائية من التدخل الإعلامي والتحيز الرقمي.

نتائج واستنتاجات: وتكشف النتائج عن أن التشريعات الأردنية لا تزال تنفق إلى الضمانات الصريحة والشاملة الكفيلة بمنع تأثير الضغط الإعلامي أو المجتمعي على سير العدالة. وتبرز الدراسة وجود فجوات واضحة تتعلق بحماية سرية التحقيقات وضمنان حياد السلطات القضائية. وبناءً على ذلك، توصي الدراسة بسنّ نصوص جنائية صريحة تحظر نشر المواد التحقيقية قبل أوانها، وتكفل حماية أعضاء النيابة العامة والقضاة من التأثيرات غير المشروعة، وتعمل على تشديد العقوبات المترتبة على أي إفصاح غير مصرح به. من شأن هذه الإصلاحات تعزيز عدالة واستقلالية النظام الجنائي، مع الحفاظ على التوازن المطلوب بين هذه الحماية وحرية التعبير في الفضاء الرقمي.