Juvenile Criminal Justice in Jordan

Prepared By

Lawyer:
Dr. Mohammad M. Al-Tarawneh
Judge / Cassation Court, Amman

Lawyer:
Issa Al-Maraziq
Head of Monitoring and Complaints Unit, the National Centre for Human Rights (Assistant Researcher)

Revised and Edited By
Dr. Sabri Rubaihat
Socio-criminology Professor

Design and Coordination By
Muna Abu Sall

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Throughout its long history, humanity did not agree on a specific definition for childhood as an age group that needs attention, care and protection commensurate with its nature, except at the beginning of the last century. This came as a result of many transformations in the European Communities with the beginnings of the Renaissance (Aries, 1960). Prior to the Renaissance, a lot of communities viewed children as weak beings who would be exposed to risks of premature death, and taking care of them by adults would be a waste of time and effort and disrupt the performance of the adults in discharging their necessary tasks and duties.

Based on this view, during the ages of hunting, herding and agriculture a lot of families tended to delay naming their newborns for months in anticipation of their death which may result out of diseases or lack of care and to avoid their acquirement of the identity which makes them highly affectionate members in their family. This perception has led to a low level of care for kids especially the weakly built and the disabled ones who were left to face health risks, disease, and all types of cruel negligence, infanticide, torture and deportation.

Some studies on the history of childhood before the Renaissance (Aries 1960) suggest that most human societies, especially the European ones, lacked the specialized institutions that take care of the upbringing of children. Children in many of these communities were exposed to cruelty, torture, neglect and exploitation in performing works, roles and professions that did not fit their competencies and level of maturity. Often those communities were free of any products or tools for the children such as food, clothing, toys, pots, etc. These communities sought to integrate children in the adult life once they pass the stage of direct dependence on the mother. They assigned children minor roles in herding, hunting and agricultural activities in the early ages.

With human societies transition to manufacturing and urbanization, exploitation of children had increased as they were used as laborers in mines and industrial workshops and hazardous work environments for long hours without providing the necessary protection or wages equivalent to their work. In the face of this reality, many voices and movements began to call for paying attention to this group by showing the aspects of torture, exploitation and neglect encountered by the youngsters in the urban centers. These efforts and appeals have resulted in promoting community awareness regarding the nature of this stage and the importance of giving attention to this group and meeting their needs. The history of childhood as a modern concept that refers to a specific age and investigates the nature, needs and forms of its education and legal responses goes back to the early twentieth century. The first legal definition of childhood appeared in the USA in 1899 as a result of a protest by the Chicago Ladies Association against child abuse and exploitation in the city. This campaign formed a starting point for a global movement and resulted in changing the societal perception of childhood and children and drove to the enactment of legislations based on socio-psychological and educational evidence that take into account the status of children at risk or those involved in conflict with the law.

Since then, the world has begun to varying degrees to show interest in children's rights in general and children in conflict with the law in particular, and as a result, special laws emerged in many countries under the name of juveniles law and special courts to consider
their cases. In addition many social workers, behavioral supervisors and parents were involved in the evaluation and review of cases requiring legal intervention.

Juvenile laws are based on psychological and educational evidence which emphasizes that the child is a human being but an immature one, which limits liability for the acts committed by the child. Thus the child's and the community best interest dictate the viewing of the case of deviation as an opportunity to review the conditions and context in which the child lives, and to call upon all stakeholders to assume their responsibilities in restructuring this context and conditions to serve the child's right in survival, protection and development away from the dangers and threats that may affect his growth and behavioral integrity.

Therefore the law has included many of the safeguards guaranteeing justice for children so that they are not penalized for acts committed if they can't discern these acts. Other guarantees were involved to spare the children, who perpetrate acts in violation of law, to face the consequences faced by the accused adult such as incarceration, confidentiality of trial, isolation from adults in detention centers, the presence of the guardian throughout trial procedures, considering the case by competent judges, convening the sessions on specific days, and mandatory consideration of the probation report.

Despite the existence of juvenile special legislation and the participation of many institutions and agencies in the enforcement of juvenile law, the success in achieving the goals of the juvenile justice depends on many overlapping factors, foremost among these comes the system's ability to accommodate the cognitive and professional developments in this field. It also depends on the level of coordination and integration between the entities involved in the implementation of the criminal justice system and the understanding of each party of the importance of the role performance and its relationship to the roles of other entities. Furthermore, any justice system should accommodate the culture of human rights and be based on the philosophy and contents of the international conventions on these rights which are considered part of the set of the legal system of the state party to this convention after ratifying it.

Hence comes the importance of this study, which was commissioned to the research team by the National Center for Human Rights. The study was prepared according to a participatory methodology through the implementation of several workshops for all stakeholders involved in the implementation of the juvenile justice system and in other training efforts and community outreach. This up to a large extent made this study as one of the outputs of the project that is implemented by the National Center for Human Rights in the field of juvenile justice.

Since the National Center for Human Rights is a national institution that is concerned with promoting human rights in general and children's rights in particular, the research team has felt that attention to the juveniles falls under the protection of vulnerable groups whose rights are the most likely to be violated, including juveniles. Based on that, the research team has built on what has been accomplished in the previous studies to avoid duplication and repetition of work.

The research team met with all partners that deal with the juvenile groups or sometimes work with each institution separately in order to discuss the draft amended juvenile law, out of the team's belief in the importance of working in a participatory approach where participants and
members of the Study Advisory Committee were briefed on the main themes and listened to their comments, which have had a significant impact on the study implementation stages.

The research team tried to focus on all updates in the field of juvenile justice in Jordan, especially in recent years where many positive steps have been accomplished in this area, such as the establishment of some juvenile specialized courts in some major cities and the formation of juvenile specialized police. Also some civil society organizations have set a preliminary perspective for a legal aid system and taking some programs for alternative measures to incarceration or deprivation of liberty.

Here the research team would like to thank the National Center for Human Rights for giving the children in conflict with the law the care they deserve in terms of issuing annual reports on juvenile justice to be one of the most important references in this study. The research team also would like to thank the members of the Advisory Committee for their valuable comments during the workshops held to discuss the themes of this study.

The work team would like to state that this effort will remain deficient and incomplete without the support of individuals and governmental institutions which worked and still work as one team which reflected positively on this study.

As the draft amended law does not belong to a specific entity, being a common law that concerns all, it needs as such a national dialogue and a broad consensus. Ultimately, this is one of the most important goals of this study where the research team tries to visualize all the expressed views and bring these views closer to a national dialogue and broad consensus.

At the end:

We say that any state and any society that takes care of, and protects the rights of children in general, and those in conflict with the law in particular, is the society that looks to the future with steady paces.

The research team

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Preface

Legislation is one of the most important tools for building and regulating the community. Legislation in any field is based on the community's philosophy, heritage and outlook for each of the individuals, the state and the community. Due to the dynamic nature of the communities and the permanence and depth of the cultural interaction, the need arises for a developed and modern legislation to respond to the change in the philosophy, values and outlook for each of the individuals and the society and their interrelationship.

With regard to penal legislation, which represents the community's response to the abuses of individuals and groups of what the society considers as public or individual interests protected by the legislation, there were several responses to the abuses of the interests to take one or more forms of the following responses:-

1. Revenge
2. Retribution
3. Repression
4. Retaliation
5. Rehabilitation
6. Reintegration

In most phases of human history, revenge, retribution, repression and retaliation have dominated the society's responses toward the crimes and offences committed by individuals and groups. Theories of compensation, correction, rehabilitation and reintegration emerged in the last century as a result of the development in psychological and social sciences that tried to hold the community responsible for part of its adult members offences and for all offences of its youngsters.

These theories were reflected on the penal legislations of the various communities and on the juveniles' legislations and criminal justice systems.

In light of these facts, national legislations should be subjected to periodic and constant review to meet the community needs and to keep pace with changes in line with the obligations of the state stipulated in the ratified conventions.

Among the various legislations, those that concern children and children in conflict with the law in particular have been allotted special attention due to the nature and seriousness of the age group and the experiences though which individuals pass, and their needs for survival, protection and development, and the effects of all these on the present and future of the community. In Jordan children below eighteen years of age constitute a social group of almost 40% of the population.

Compounding the need to review and develop the juveniles' legislation and criminal justice system is the rapid global changes and the impact of these changes on the individual, family and community.

Based on the foregoing, this study has sought to review and analyze the legislations on juveniles' criminal justice in Jordan, aiming to answer the following questions:
- The compatibility of the national legislation on juveniles with the international legislations and conventions.
- The presence or absence of the proper procedures for dealing with juveniles in accordance with the relevant legislation.
- The level of integration and harmony between the entities working on the implementation of legislation and procedures related to juvenile justice.
- The ability of the cadres that deal with juveniles to implement the legislation and procedures in order to achieve the relevant philosophy and objectives.
- The problems and challenges faced by the juvenile justice system in Jordan and the proposals to address them.

To achieve this, the study will address its objectives through the following themes:

First: The international terms of reference of the study.

Second: A brief history of the juveniles law in Jordan.

Third: Procedures of juvenile trials in accordance with the Jordanian legislations.

Fourth: An outlook on the restorative criminal justice.

Fifth: Jordanian legislation concerning juveniles and ways to activate them in line with the principles of restorative criminal justice (recommendations).

Sixth: Constraints and challenges and ways to avoid them.

Seventh: A table of proposed amendments to the Juveniles law and alternatives to the penalties of deprivation of liberty proposed in accordance with the principles of juveniles' restorative criminal justice.

Eighth: Comments on the draft amended law of the current juvenile law.

Ninth: Recommendations, annexes and references.
Juvenile justice legislation are generally based on the principles of human rights contained in the Universal Declaration, the International Covenants and Protocols in addition to the Convention on the Rights of the Child, which represents the new global outlook to children, and calls on the states to guarantee children’s rights to survival, protection and development. The Legislation represents a natural response to the results of research, studies and theories provided by psychology, sociology and educational studies about childhood; its concept and nature, and the way to respond to its needs; ensure the safety of upbringing, and prepare children for life. The global library is full with literature on human rights conventions, reports and covenants that form the modern values of human society in its outlook and definition of the concepts of right, freedom, justice, equality and other concepts that authorities in all societies should guarantee, provide safeguards and take measures to prevent infringement of these rights. Among these terms of reference that constituted a framework of the study are the following:

1. The Universal Declaration of Human Rights.
2. The International Covenant on Civil and Political Rights and the Additional Protocols thereto.
3. The International Covenant on Cultural, Economic and Social Rights
8. Basic Principles for the Treatment of Prisoners
11. Principles of Medical Ethics relevant to Role of Health Personnel, particularly Physicians in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment.
12. Code of Conduct for Law Enforcement Officials
13. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.
14. Arab framework for Childhood
Interest in juveniles has started in Jordan since the early fifties of the last century, where the first special juveniles law was enacted in 1951, followed by the Jordanian Juveniles law No. 16 of 1954. In 1968 Law No. 24 of 1968, came be more in line with the principles and premises that take into account the nature of childhood. It included definitions and procedures that consider the child as a human being who passes through developmental stages in which he develops recognition, understanding and perception of the nature of his acts. This requires division of his development into stages depending on these changes and defining measures and community responses that are consistent with the nature of every stage (pre-cognitive, boy, teenager, youngster). This law has formed the foundation of building juvenile legislation in Jordan despite the amendments made thereto in law 7 of 1983, law 11 of 2002 and law No. 52 of 2002.

Several regulations and laws related to juveniles were issued such as the provisional Monitoring of Minors' Behavior Code No. 51 of 2001, and the related regulations of the rules of procedure for social defense institutions and the rules of procedure of the Center of Social Education for Minors and disciplinary instructions at the care and rehabilitation institutions.

Despite the issuance of these laws and regulations, Jordan still lacks an independent criminal justice system in an internationally recognized sense, because of the lack of:

1. Special juvenile police
2. Trained and qualified behavior monitors.
3. Well defined criteria to precisely describe the hazardous situations and circumstances that require legal intervention.
4. Independent public prosecution that takes care of juveniles’ issues.
5. Special juvenile courts with trained staff, and suffice by assigning magistrates to consider juveniles’ issues in the days and times other than those assigned to adult cases.
6. Programs to ensure juveniles’ correction at the detention, education and correction centers.
7. Continuous application of the Penal Code in the case where the minor participates with the adults in committing criminal acts.
1. **Key Features of the Jordanian Juvenile Law**

**Definition of the Juvenile:**

The Jordanian legislator has legally defined the juvenile as the one in the age group between seven and eighteen years. This definition is based on the concept of penal responsibility where the child under seven years does not bear the consequences of his actions, while the child between seven and eighteen is considered partially responsible for his committed acts. This responsibility ranges according to the level of cognition and maturity, which is determined by age. So the Jordanian legislator has divided the juveniles into three age groups and gave each group its own description as follows:

- The Boy: who completed seven years and did not complete twelve years of age.
- The Teenager: who completed twelve and did not complete fifteen years of age.
- The Youngster: who completed fifteen and did not complete eighteen years of age.

Perhaps the reasons which prompted the states to legislate for juveniles go back to the fact that the judicial system which deals with adults can in no way be valid to look at juvenile crime, because of the total difference between the two systems in terms of composition and jurisdiction and the bases of handling. The goal of assigning this group a special judicial system lies in correcting and reforming them. Furthermore the special juveniles law is one of the most important achievements of the legislative policy in taking into account the recent data in Criminology, Humanities and Social Sciences.

2. **Regulating Juvenile Justice:**

Addressing juveniles law through study and analysis requires essential review of the most prominent features of the juvenile justice as follows:

A. **The formation of Juvenile Courts:**

According to article seven of the currently enforced Jordanian Juvenile's Law (every regular court that looks into juvenile cases is considered a (juvenile court). The court is not considered as such if the juvenile is accused in association with a non-juvenile, provided that proper procedures are observed regarding the juveniles...). It is clear from this text that the juvenile court under the Jordanian law is any regular court before which the juvenile appears. So the presence of the juvenile defines the description of the court.

In paragraph (B) of the same article, the legislator also granted the conciliation court the jurisdiction of the juvenile court to view the offences, misdemeanors and protection or care measures. Also, the legislator granted the court of first instant the competency to hear criminal offences under paragraph (C). The last paragraph of the same article stipulated that if the juvenile is accused in association with adults, the juvenile shall be tried with the adult before the court that try the adults provided that proper procedures of the juvenile courts are observed including the submission of the probation report.

The Jordanian court of cassation upheld this trend in many rulings from which it is inferred that the Jordanian legislature has left the formation of the juvenile court to the
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general rules stipulated in the Jordanian Criminal Procedures Law No.9 of 1961 according to the type of the offence committed by the juvenile and the stipulated penalty.

B. Convening the Juvenile Court

Article Eight of the Juveniles law stipulated that the court can be held at weekends and during official holidays, as well as evening hearings if necessary, if it is in the child's best interest to do so.

To this end, we find that the legislature has taken into account the best interests of the child in terms of convening the juvenile court out of the normal times to keep the child away from ordinary trial atmosphere dominated by dread, routine and inquisitiveness.

C. The legal nature of the juvenile courts:

Juvenile courts can be considered as special type of judiciary due to their exclusive judicial jurisdiction in crimes committed by juveniles who are under eighteen years of age which is considered criminal maturity age. Therefore it is a special judiciary which does not differ from the ordinary courts in essence, because it is concerned with certain issues, whether by looking to the offender person or to the type of the crime committed. This means that these juvenile courts have autonomy from the ordinary judiciary being concerned with the cases of juvenile's unlawful behavior or in the case where the juvenile is involved in delinquency. Juvenile justice is distinguished also in terms of its procedures. In principle the sessions are held in private and the trial may be held in the absence of the juvenile with the necessity to obtain a probation report before pronouncing the sentence. So we find that any diversion involving abnormal practices basically aims to achieve the interest of the juvenile.
After we have reviewed the two previous themes of this study; the international terms of reference and the national (Jordanian) juvenile law, we would like here to address juvenile trial procedures to demonstrate whether there is any type of consistency or synergy between the national legislation and the international standards. These procedures can be summarized in the following:

1. Legal safeguards for the juvenile trial and the extent of its conformity with the standards of fair trial in accordance with the international conventions:

According to the first article of the General Principles of the Beijing Rules (...juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and maintenance of a peaceful order in society…). Paragraph six of the same article also stated:

(…Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of the personnel involved in the services, including their methods, approaches and attitudes...) . Through this text juvenile justice should be viewed as part of the comprehensive framework of social justice whereby the best interest of juvenile is taken into account.

Article seven of the Beijing Rules addressed the guarantees that should be provided to juveniles under trial and stated that (Basic procedural safeguards should be provided during juveniles' trial. These can be summarized in the following:

- the presumption of innocence,
- the right to be notified of the charges,
- the right to remain silent,
- the right to counsel,
- the right to the presence of a parent or guardian,
- the right to appeal against the issued sentences.

In order to achieve the necessary protection for the juvenile before the courts, Beijing rules stipulated several conditions to be provided in the juvenile justice and urged states parties to comply with them. These can be summarized as follows:

- The presence of a competent authority to adjudicate
- Juvenile justice shall be conducive to the best interest of the juvenile.
- Juvenile's right to access to legal assistance in terms of the presence of the defense and guardian.
- Social worker report shall be taken into account before sentencing.
- Deciding on juvenile cases without unnecessary delay.
By reference to the Jordanian legislation currently in force, we find that it included some of the modern features of criminal policy in dealing with juvenile cases which can be summarized as follows:

1. **Confidentiality of the Proceedings:**

   This is addressed in the tenth article of the Juvenile law, which states: (... Juvenile Court proceedings are confidential and no one is allowed to enter the court other than probation officers and juvenile's parents or his guardian, lawyer or any person directly involved in the case...). The aim of the confidentiality of the proceedings is to take care of public order and morals so as juvenile are not exposed to stand before the public in the appearance of the accused criminals, which may affect their personality and morals.

2. **Speedy Adjudication in Juvenile Cases:** Article five of the juveniles' law indicated that (...Juveniles cases are considered as urgent cases...). The objective is to confront the harmful consequences resulting from prolonged proceedings since the prolonged trials will result in the inability of the juvenile to connect between the act and impact of that act.

3. **The Presence of the Juvenile Guardian at the Investigation and Trial Sessions:** We find that article thirteen of the Juveniles law stipulates that the juvenile guardian, parent or the person in charge of him should be present in the investigation and trial phase, provided that the probation officer is notified. The objective is to protect the interests of the juvenile and enable him to defend himself. This is emphasized in article fifteen of the same law which stipulates:

   A. Investigation with the juvenile may not be conducted without the presence of his guardian, the person in charge of him, or his lawyer. In case none of them can attend, the probation officer shall be invited to attend the hearings.

   B. If the juvenile did not confess guilty, the court initiates hearing the prosecution witnesses and the juvenile's court, guardian or lawyer may cross-examine the witnesses.

   C. If the court upon completion of the hearing the evidence of proof finds a case against the accused, it may hear defense witnesses' testimony and allow the juvenile to present his defense, and his guardian or lawyer may help him to defend himself. In case this is not possible, the probation officer is called to help him in doing that...

   We find that the presence of the juvenile guardian or lawyer is to dispel the juvenile's fears and make him feel safe and increases his cooperation with the judge during the investigation and trial procedures.

4. **No Juvenile's Handcuffs:**

   Under article three of the Juvenile Law, the juvenile can't be handcuffed in any way except in cases where he shows rebellion and violence that requires handcuff.
5. **Obtaining Probation Officer Report:**

Article eleven stipulated that (…before deciding on the case, the court has to obtain a written report from the probation officer that contains all the information related to the physical and social conditions of the juvenile's family, his manners, intelligence degree, the context in which he grew up and was educated, his school and educational achievement, workplace, health condition, the previous offences he committed, and the proposed measures to correct him…). Focus on the importance of the probation report may be because it helps the judge to evaluate the measures to be imposed on the juvenile for the purpose of achieving his best interest, correction and rehabilitation. Moreover, the probation officer is more capable than the judge to appreciate the social conditions of the juvenile.

6. **Non-consideration of the conviction of a juvenile of an offense as being precedents:**

This is according to articles (6) and (12) of the Juvenile Law, with the aim to provide more legal safeguards for the juvenile.

7. **No resort to extensive arrest or detention:**

Despite what is stated in the text of article (4) of the Juveniles law a juvenile is not to be detained except as a last resort. Detention should be substituted by alternative measures like release on bail. It should aim to reduce restrictions and the negative effects of the detention on his freedom and his future behavior.

8. **Safeguards related to the juvenile confession during the trial:** Under article fifteen of the Juveniles Law, the confession should be recorded by words as close as possible to the words used by the juvenile in his confession and be asked about the crime attributed to him in simple and comprehensible language. The goal is to seek preciseness and affirm that measures taken are proportional to his age and the circumstances surrounding him.

9. **Limit the power of detention to the judiciary only:**

The aim is to avoid detaining the juvenile by other entities such as the governor or police departments.

10. **General Safeguards stipulated by the Criminal Procedures Law:**

In addition to the safeguards provided by the juveniles law which have been reviewed previously, there is a set of guarantees mentioned in the Jordanian criminal procedures law of which the most important is the presumption of innocence and the provision of the safeguards during arrest and search stipulated in articles (114, 100, and 147) of the Criminal Procedures Law No. 9 of 1961 as amended by Law No. 16 of 2001.

The above mentioned trend has been reinforced through the preparation of a draft law amending the currently enforced juvenile law. It was passed by the Opinion & Legislation Bureau and by the Legal Committee of the Council of Ministers in
preparation for submission to next Parliament this year 2013. We will present this draft within the annexes of this study and we hope that it will be approved as soon as possible as it includes many of the positive steps that are in the interest of the juvenile and in line with international standards in respect juvenile justice, noting that the amended draft law was the result of a national consensus between the parties concerned with children's rights in general, and children in conflict with the law in particular.

From all of the above, we find that the Jordanian juveniles' legislation is consistent with the broad outlines of international conventions and rules for the juvenile, but we find that it is insufficient in the light of the growing international attention in juvenile offenders or children in conflict with the law. Some quick legislative interventions are needed in the light of the rapid and successive developments in the whole world to address the negative impacts on juveniles and correct the imbalances that are found. This correction should take into account those aspects related to the philosophy of the modern penal system of which the most prominent features are doing everything that can be done to ensure the re-integration of the delinquent juvenile in the society again and ensure focusing on precautionary and preventive measures, beside studying the social, economic and psychological aspects surrounding the juvenile offender. These matters form the most important pillars of the restorative criminal justice, which we will address in the next theme of this study.
Fourth: An outlook on the Restorative Criminal Justice:

In this part we address the restorative criminal justice in general; its definition, techniques and the reasons for resorting to it in general to show whether it is possible to apply it in Jordan, and what are the proposed steps and recommendations to be taken at the national level in terms of the legislation or the administrative measures. Also we addressed the efforts made so far and the required next steps as follows:

1. **Definition of Restorative Criminal Justice:**

   Briefly stated, restorative criminal justice can be defined as a structured response to the offences that focuses on rectifying the damage caused to victims, aggressors and the society inflicted or caused by the crime, so the harm is defined, then the necessary steps are taken to rectify it with the participation of all concerned parties aiming to encourage local communities to participate with their governments in addressing crime.

   Perhaps, this would be shown more clearly when the perpetrator is a juvenile. So the restorative justice theory begins by looking into the reasons which drives the community to consider certain behaviors as criminal acts. The governments do so to prevent causing harm, to the public interest, people and the person who commits offenses that cause damage and harm to the society and individuals.

   Thus, we find that the criminal justice system focuses primarily on crime, while restorative justice system focuses on the offender, the victim and the community, because the crime causes damage to persons and relationships. In this regard, restorative justice is a means to repair such damage as much as possible, and the offender would bear his share of atonement.

   In short, we find that criminal justice has become in the light of modern penitentiary philosophy a sort of reforming perspective that aims to compensate for the damage caused by the offense without focusing on penalties only.

2. **Rationales for Using Restorative Criminal Justice:**

   After we have defined restorative criminal justice, we will try to identify the rationale for resorting to it to show whether it is possible to apply it at the national level in Jordan, knowing that there is a global trend to adopt it after being proved on the ground that the criminal justice in its traditional approach that focuses on freedom depriving penalties is no longer able to achieve deterrence, both at public and private level. Consequently the rationales can be summarized as follows:

   **A- Alleviate Courts and Prisons Overload:**

   Almost most countries in the world suffer from the congestion problem in the courts and penal institutions. This is indicated in the increased numbers of the court cases viewed before the courts and the increasing numbers of convicts and detainees to the point that this problem has become beyond the capacity of governments to address in a successful and effective manner. This has prompted many states to introduce standards for restorative justice. In this regard the United Nations has adopted several resolutions that focus on restorative justice or the relative programs such as mediation between the
victim and the offender. In the same direction, we find that in 2000, the Governments of Canada and Italy introduced a draft resolution proposing that the UN develop international instructions to help states to adopt restorative justice programs. More than 38 countries have joined this project, which was adopted by the Economic and Social Council.

In 2001, the United Nations convened an experts meeting and eventually the council adopted those principles. Among the debated matters was a discussion to try to alleviate overcrowding in prisons and the courts if the restorative justice programs were adopted.

**B - Increasing Access to Justice and Transparency:**

Adopting methods of restorative justice helps governments to address the lack of public confidence in the justice system, because it involves more partners in the process of applying justice through the involvement of the victim and the offender in resolving the dispute. We also find that the restorative practices facilitate reaching higher levels of satisfaction among the parties concerning the way their case was dealt with. It further creates a greater understanding of the ways in which justice is applied between the community members, and builds stronger relations of cooperation between the civil society organizations and governments. This creates a dialogue and a sense of accountability between the government and society. In addition, the participation of citizens in the process of applying justice will reduce the possibility of corruption and injustice which may result in case one party monopolizes the power.

**C - Respect the Rights of the Victims:**

Among the justifications for resorting to restorative justice is that it helps to recognize the needs of crime victims and their rights because the focus in the traditional justice is focused on the offender and the victim is neglected. However, there is a global trend towards the rights of victims of crime since every victim needs urgent psychological support, guidance, and legal assistance to claim compensation for example, through their personal rights.

**D - Reducing crime rates:**

Here, we find that restorative justice allows for a margin of dialogue and debate more broadly than is the case in the traditional trials. This helps to identify the social conditions that lead to crime so as to address them.

Knowing that many countries in the world took this mechanism and initially applied it in the juvenile justice, because their cases are less dangerous compared with the crimes committed by adults. In addition, the possibility of correction and re-integration is achieved at higher rates if the perpetrator by virtue of age is a juvenile, and the conditions which drive to commit the offense - taken into account that the errant child or who is in conflict with the law are victims of society, therefore this community is required to take legislative and administrative actions that focuses on correction. Adopting restorative justice perhaps comes at the top of those actions.
We have reviewed in the previous parts the international terms of reference for the principles and rules of restorative justice, and the current situation at the national level in Jordan in terms of the current legislation and the practical application of the law, particularly with regard to juveniles. We will try in this part to shed light on the juvenile national legislation to see whether it allows for the introduction of restorative justice programs; does this require a type of legislative review, in terms of both amending existing legislation or enact new legislation; what is the role of the national judge; should various institutions be involved in the implementation of such programs through networking and coordination between the relevant authorities; what are the reasons for that; is it necessary to see others experiences in this regard.

Many questions come to mind, and we will try in this part to answer them in a scientific methodology and from practical reality of being a judge and genuine believer in the necessity of adopting restorative justice if we realize that a juvenile offender is a member of the community. This is what we will look into in the following:

1. **Previous Efforts Made in Jordan on Restorative Criminal Justice:**

The idea started early in Jordan to adopt restorative criminal justice in the juvenile field in particular because of the fall of the theory of deterrence, in both public and private sphere, and the success of alternatives to incarceration in the countries that adopted them. The start was through some scattered efforts since they dealt with the issue in hasty way without a prepared study in advance. Among those efforts there was a national symposium held at the Jordanian Judicial Institute during the period 8-10 December, 1998 titled (.. implementation of penal provisions in accordance to modern penitentiary policy ..) where some ideas were presented in the area of reforming criminal justice. Among those ideas was an attempt to find a system of alternatives to deprivation of liberty in addition to recommending focusing on the policy of juvenile justice in the first phase, then the efforts continued and a committee was formed from the national authorities concerned with juveniles such as (the judiciary, public security, and social development). Among the things recommended by the Committee was the introduction of restorative justice. Many civil society organizations also contributed through holding a number of seminars related to juveniles that aimed to the same direction.

Some activities were carried out with international and regional bodies and institutions such as the UNICEF, the International Organization for Penal Reform, and the Arab Institute for Human Rights. Efforts has accelerated recently especially after the global interest in children has intensified. These efforts culminated in signing MOU on juvenile restorative justice project with the participation of the Judicial Council, Ministry of Social Development, Public Security Department and the National Centre for Human Rights and with the support of UNICEF and the Swedish Development Agency. The MOU of the juvenile criminal justice project was signed between UNDP and the Ministry of Social Development. Through this we find that the need has become more urgent than ever to give attention to the juveniles, especially after Jordan's
ratification of the International Convention for the child, and the endorsement of the law on childhood.

2. Development of juveniles' legislation and the administration of juvenile justice in Jordan:

When addressing legislations currently in force and the role of juvenile justice in their application, we find that there are several juvenile-related legislations. There is the Criminal Procedure Law No. 9 of 1961, as amended, which regulates the form of the trial, the court's jurisdiction and how to manage the trial or investigation; there is the Jordanian Penal Law No. 16 of 1964, as amended, which defines crimes and penalties for each crime; The Juveniles Law No. 24 of 1968, as amended. An overview of such legislation, indicates that it generally aims to raise the child's sense of dignity and self respect through a series of actions in terms of protection against handcuffs, and confidentiality of trial and respect for privacy and in terms of juvenile classification into four categories in line with Beijing Rules.

We also find that the legislation is consistent with the Convention on the Rights of the Child in terms of dealing with juveniles equally without discrimination on the basis of gender, color, race, or religion. This is confirmed by the Jordanian Constitution which considers all Jordanians equal before the law.

Jordanian legislation also took interest in measures aimed at rehabilitation and social integration through placing juveniles under the supervision of a probation officer or linkage of bail or personal guarantee, allowing family visits through the granting of leaves and the pursuit of academic achievement in addition to the general guarantees afforded by the previously reviewed Criminal Procedure Law.

However, we find that this does not cover all aspects of restorative criminal justice as it doesn't clearly specify alternatives to incarceration, neither gives the judge broad powers and flexibility to resort to the rules and principles of restorative justice, nor does it provide active participation of the civil society organizations. In addition, restorative justice programs require a kind of awareness and education for the whole society to accept these new ideas. There should be some kind of participation and networking among different parties to realize the desired goal without ignoring the role of the family, school and houses of worship and the audiovisual media. This drives us to put our perceptions on how to activate the rules and principles of restorative justice in the light of what we stated earlier.

3. Perceptions about juvenile restorative justice in Jordan:

When addressing ways to activate legislation of the restorative criminal justice, especially in the area of juvenile justice, the following matters should be taken into consideration and meanwhile viewed as (proposals and recommendations) that we put in the hands of the decision-makers, legislators and interested people so that they many find their way to practical application. They can be summarized in the following:
1. To start with, juvenile justice should be activated in terms of finding competent judges and prosecutors who are specialized in juvenile cases, and engage other parties when sentencing or at the commencement of the investigation; such as a probation officer, social worker, family protection department, psychologist, counselor, forensic or civil society organizations institutions to reach a conclusion where family courts have become an urgent necessity in the sense that the juvenile cases are no longer vested in the judge alone, but the aforementioned entities should be involved based on the nature of the committed offense. This requires legislative intervention that should take into consideration the referral of all cases involving juveniles to one court rather than dispersing them between first instant, peace and juvenile courts. At the same time, cases of juveniles’ offenses should be separated from those cases committed by adults.

2. There should be an explicit text which authorizes the judge to resort to taking the principles of restorative criminal justice. We suggest in this regard either to add a new paragraph to article 18 of the juvenile law, to read as follows (... the court may, if it finds discretionary extenuating reasons to substitute any penalty under this article in one of the following alternatives ...) or to issue independent bylaw under article 37 of the juveniles law to specify proposed rules and principles for the restorative criminal justice in line with international standards. The proposed bylaw should be prepared with the participation of all concerned parties and according to the relevant scientific methodology that is studied and prepared in advance.

3. The proposed legislative amendment should compromise a sort of conciliation between the juvenile and his family on one side and the community representative such as the public prosecutor on the other, in the less significant cases in exchange for certain guarantees and to achieve balance between the best interests of the child offender and the interests of the community in which he lives, and this requires activating the legal texts to stop the implementation of the penalty, parole, and putting him under judicial probation.

4. Activate the prior probation methods of control (preventive) for children to ensure reduced tendency to delinquency. This should be done through some legislative frameworks which allows the relevant bodies to intervene in a timely manner.

5. Raise the age of criminal accountability to the age of twelve years for example, taking into account the measures stipulated in article 21 of the Juvenile Law. This has been taken under the draft amended law.

6. Activation of post care methods for the juvenile to ensure the implementation of probation orders.

7. Establish some legal texts which restrict the right of public prosecutors to sue common right with regard to some crimes committed by some of the juveniles, or introducing the principle of appropriateness in the criminal case. The principle of appropriateness requires giving the prosecutors the authority not to sue the public common, despite the availability of the requirements for this. The prosecution under this principle may see that the interest of the group is not established by...
lawsuit against the juvenile, because it would be beneficial if the lawsuit was not established.

8. Coordination should be made with some parties regarding the implementation of custodial measures according to a reformist perspective; like signing MOUs and cooperation with these authorities so that the juvenile offender would make useful work for the community as an alternative to the imposed penalty. Among the proposals in this regard is to coordinate with the Foundation of Vocational Training, Craft Centers, Municipalities or some private sector institutions such as sport clubs. This should be done under the supervision and control of the judge or probation officer and the experience should be evaluated against guarantees taken on the juvenile offender people. This aims to achieve a dual interest of serious attempt to correct and of ensuring the right of the community which has suffered the damage.

9. The legislative process should be accompanied by a study of the causes of the phenomenon of juvenile delinquency from its social, economic and psychological aspects within a national strategy that is subjected to periodic review in the light of developments in the society.

10. A national data base should be established to include the phenomenon of delinquency and to include accurate documented statistics in order to be a reference which helps the decision-maker in making any legislative amendment.

11. Training and rehabilitation for the administrative staff which helps the judge should be conducted to the standards of restorative criminal justice.

12. The proposed legislative amendment should include activating the texts related to the right to defend the Juvenile offender, and establish bodies for legal assistance programs, especially for juveniles who can't afford it financially. Also civil society organizations to be involved in this regard.

13. Upon the adoption of restorative justice in the future, the system should be evaluated and revised according to specific scientific methodology after a period of three or six months or one year at the latest, because it is not possible to identify gaps and obstacles, except during the practical application of the system.

14. At the same time, a guide should be set for the procedures that have to be taken to achieve a type of institutional framework for the work to be done. This guide should cover judicial and administrative procedures to be carried out by each of the relevant parties. The guide should be developed at a later stage to be a unified procedural manual.

15. When embarking on any legislative amendment in the future, Women participation (female judges) should be involved in the formation of the juvenile court, because it is proved by practical experience that they are better able to handle a juvenile offender, due to motherhood and the fact that the juvenile offender, especially girls, would not find it embarrassing to talk about everything with the judge if he/she is of the same gender. This can be done through administrative procedures,
but if it is done through the legislative framework it would achieve a kind of institutionalization.

16. All the previous efforts can be realized to the best only in the case of activating the ways to care for the juvenile from the legislative side. In this regard we put in front of the legislature the following perception regarding taking care of the juvenile in all stages:

<table>
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<tr>
<th>(A)</th>
<th>(B)</th>
<th>(C)</th>
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<tbody>
<tr>
<td>Pre-(Preventive) care</td>
<td>Current (Therapeutic) care</td>
<td>Post (Preventive+ Therapeutic) care</td>
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<tr>
<td>Family</td>
<td>Family</td>
<td>Family</td>
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<tr>
<td>School</td>
<td>Police</td>
<td>Police</td>
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<tr>
<td>Worship Houses</td>
<td>Family Protection</td>
<td>Social Institutions</td>
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<tr>
<td>Society</td>
<td>Department</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Civil Society</td>
<td>Social Institutions</td>
<td>Psychologist</td>
</tr>
<tr>
<td>Organizations</td>
<td>Judiciar</td>
<td>Civil Society</td>
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<tr>
<td>Social Institutions</td>
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<td>Organizations</td>
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<tr>
<td>Media</td>
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<tr>
<td>Pre-trial</td>
<td>During trial</td>
<td>Post- trial</td>
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Through this perception we conclude the following:

The legislative intervention, both in terms of enacting new legislation or amending the existing ones, is required at every stage of dealing with a juvenile offender. In this regard we suggest issuing a separate bylaw for Juvenile Welfare to cover all phases of care.

The family has a basic and important role in the care of the juvenile, especially in the aftercare stage, noting that the role of the family is better illustrated upon the introduction of juvenile restorative justice.

There are some official parties such as (the judiciary, public security and social development) whose efforts form a cornerstone in dealing with juveniles. This requires the creation of a sort of coordination among them within a legislative framework, being complementary to each other and no party can work in isolation.

17. Decision-makers should place the legislative revision as a priority when dealing with juvenile offenders; due to the fact that the laws that care for juveniles in any society determine to a large extent the future of deviation, because the problem of juvenile delinquents has become one of the most important criminal and social problems in the contemporary societies. This requires more attention to the restorative or disciplinary measures required to reform the juvenile. Thus reforming the juvenile needs the provision of legal protection as well as other measures. This comes only through legislative review.
18. The proposed legislative amendment should focus in the future on combining two characteristics; the first one is (judicial) that authorizes the consideration of the crimes committed by juveniles and the imposition of appropriate reform measures for them. The second aspect (Preventive) gives juvenile courts the power to take preventive measures against juveniles who did not commit crimes, but they are exposed to commit them, so as to protect them from delinquency.

19. The introduction of juvenile restorative justice should take into account the following major trends:

A. **The Humanitarian Moral Trend:**

It aims to achieve complete isolation between the delinquent children and adults in terms of dealing, care and treatment and legitimate rights.

B. **The Professional Realistic Trend:**

It helps to provide professional services in dealing with delinquent juveniles, within the framework of institutional, individual, or postcare which aims to reform through judicial monitoring, parole, vocational, school, religious and moral rehabilitation; social services, mental and psychotherapy, individual and group therapy, juvenile specialized police system, public prosecutors and other institutions.

C. **The Scientific Trend:**

It elaborates a scientific theory for various methods of treatment, rehabilitation and the institutional and post care of the delinquent juveniles. This requires conducting a scientific study for the causes of the delinquency phenomenon when adopting restorative criminal justice system. The judge and officials concerned with juvenile delinquency should be knowledgeable with the principles related to juvenile delinquency such as criminal psychology, and educational counseling.

D. **The Social Trend:**

It focuses on achieving the interest of the community in terms of community participation in the juvenile reform process and engaging the juvenile in works that benefit the society.

All these aforementioned trends should be taken into account in the legislative review of the juvenile law. At the same time they should be observed when dealing with juvenile cases by all relevant authorities.
Despite what has been said previously, I think, if we admit some of challenges and obstacles and deal with them in a clear practical and scientific vision, we will reach the best results and in a direct way. These can be summarized as follows:

Dealing with the juvenile legislation amendments was done at spaced intervals and in a partial manner, without the participation of the concerned parties. This requires a comprehensive and periodic review all juvenile laws.

There are no specialized police, prosecutors or judges in dealing with juveniles. This requires the creation of specialized police to deal with juveniles and specialized prosecutors and judges with a focus on the women component.

The lack of financial capabilities prevents the implementation of many aspects of the reform process in terms of the establishment of specialized courts, rehabilitation of the staff, and conducting of studies. This can be avoided through support from international institutions, donor countries and the civil society institutions.

The society still views the juvenile as (a criminal) and the juveniles welfare houses (as prisons), and this requires a sort of courage in making legislative amendments aiming at penal reform which should be accompanied by a sensitization process for the society in all its sectors. It aims to emphasize that the juvenile is one of the members of the society and all of us must help to reintegrate him into the community.

The current enforced legislative texts in dealing with juveniles restrict the judge to a large extent. The judge is supposed to be given broad discretionary powers to select the reform measures that are commensurate with the status and the circumstances surrounding the juvenile when he committed the criminal act.

The terms of the introduction of alternative measures aiming to reform should be stipulated in the texts and as follows:

Confession of the juvenile regarding the inflicted harm, since this confession forms an essential element to commence the alternative measures as it confirms the conviction of the juvenile that he had erred.

The acceptance of the juvenile to perform work for the public benefit or to compensate the victim. This is an essential condition as it is forbidden to force the juvenile to do something without being convinced since the results would not be satisfactory. The juvenile acceptance would develop his sense of legal and social responsibility towards the committed harm and confirm his intent to reform and compensate.

The challenge we may face is the uncertainty of getting the juvenile acceptance or the acceptance of his family or community. In amending any legislation by either the Lower House or those who draft the legislation intended to be amended, the concerned parties with children issues in general, and juveniles' cases in particular, are not involved in the legislative revision. This is what we hope to redress through the draft j
juvenile restorative criminal justice which is based on participation of all concerned parties.

One of the most important challenges is the rapid and successive development in using modern technologies such as the Internet, satellites, and telecommunication means which is reflected in some respects on the children. This is not accompanied by a similar pace of legislative development, so we observe in some cases a big gap between the social development and the legislation which governs the movement of its development.
# A - Proposed amendments to certain provisions of the Juveniles Law:

<table>
<thead>
<tr>
<th>The Current Text</th>
<th>The Proposed Text</th>
<th>The Rationale</th>
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<tbody>
<tr>
<td>Article 2: The juvenile, boy…, adolescent, teenager</td>
<td>Everyone who did not complete 18 years of age, delinquent or in need of protection and care. The draft added the word juvenile who can't distinguish, and did not complete 18 years of age.</td>
<td>To match the international Standards To achieve equality among all age groups To be in line with the child draft law of 2004</td>
</tr>
<tr>
<td>Article 3/2: Measures should be taken to isolate Juvenile offenders from adult accused or convicts who exceed 18 years of age.</td>
<td>Necessary Measures should be taken to separate juveniles based on the classification of their cases, seriousness, and measures taken against them. Separation of detainees from convicts. Necessary measures should be taken in all phases of inference, preliminary investigation and trial to separate juveniles from adults.</td>
<td>If the word (juveniles) is mentioned in absolute terms it will include delinquent juveniles and children in conflict with the law.</td>
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<td>Article 5: Juveniles Cases</td>
<td>A- Juvenile cases are considered urgent B-The specialized court considers the case soon after being referred to it. No sessions shall be postponed for more than 3 days C- The court should decide in Juvenile cases within 3 months from the date of referral to the court registry, and to decide in the criminal case within 6 months from the date of receipt at the registry, except cases where decision is pending a final</td>
<td>The rapid decision should not be at the expense of justice or the right of the defense, since practical experience through courts work does not achieve this urgency.</td>
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| Article 7: Juveniles’ Court | A. A specialized juvenile judiciary should be formed under the provisions of this law, and no juvenile should be tried except before juvenile courts. The following procedures are to be followed:  
1. Juvenile judges, conflict resolutions judges, and the executive judges should be appointed from the experts in juveniles’ affairs, and should be promoted in their courts equally to those in regular courts.  
2. Juvenile conciliation courts should be formed at the center of each governorate. It shall consider offences, misdemeanors and measures of protection and care. It should be convened of a single judge with an assistant expert in juvenile affairs, whose his presence is obligatory in all proceedings.  
3. Formation of first instance juvenile court at the center of each governorate if necessary to consider felonies and is convened of 3 judges assisted by two experts in juvenile affairs; one of them at least to be a woman. The presence of the two experts is obligatory to submit recommendations to the court after looking into the juvenile’s conditions from all aspects before the court issues its decision.  
4. Minister of Social |
| | This achieves a sort of specialization in juvenile justice. |
| | Contributes to create specialized public prosecution for juveniles |
| | Assists in creating juvenile model court. |
| | Helps to avoid dispersion and multiplicity of agencies before which the juvenile is tried |
| | Helps to unify the judicial jurisprudence in dealing with juvenile cases, and makes it possible to study the causes of the phenomenon of Juvenile delinquencies. |
| | Contributes in deciding with juvenile cases in case of adults involvement in the commission of the crime. |
Development nominates experts in juvenile affairs at juveniles courts of at least first university degree graduates in one of the social science disciplines.

5. the judicial sentences issued by the juvenile conciliation court are subject to appeal before the juvenile court of first instance

6. The sentences issued by the juvenile first instance court are subject to appeal before the appeal and cassation court.

7. If the one or multiple crimes are shared by juveniles and adults, they should be separated by a decision from the public prosecutor. A special file shall be arranged for juveniles to be tried before juvenile court.

B. in spite of what is mentioned in items 5 and 6 of paragraph (1) of this article, the sentences issued by the conciliation and first instance court are subject to appeal procedures stipulated in the conciliation court law and criminal procedures law as appropriate. The parent, guardian, or lawyer or delegate may represent the juvenile in these procedures as appropriate.

C. The venue or territorial jurisdiction of the juvenile court is applicable in the following places:

1. Residence of the juvenile or the place where he was found
2. The house where he is sheltered
3. The crime scene.
<table>
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<tr>
<th>Article/ 9</th>
<th>Preference in the territorial jurisdiction is for the place or residence or where the juvenile is found.</th>
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<td></td>
<td>It is proven through practice that the education counseling role is very vital. According to statistics most offences are committed by children who are still at school. Truancy or Drop out of school is of the reasons of delinquency.</td>
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<tr>
<th>Article/ 10</th>
<th>I propose to name chapter five as follows: Fifth: trial guarantees: (the court has to take into account the following guarantees, under the threat of nullification) Juvenile trial shall be confidential under the provisions of nullification, no one is allowed to enter the court except the probation officer, juvenile's parents, or his guardian as appropriate in addition to his lawyer and whoever has direct relation to the case.</th>
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<td>Since articles 10-14 of the currently enforced law are related to the guarantees of the trial of the juvenile, the text stipulates that ignoring any of the guarantees would lead to nullification which drives the court to take precise procedures to confront the juvenile. Since this guarantees that all judicial and administrative measures against the juvenile are taken in confidentiality.</td>
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<tr>
<th>Article/11</th>
<th>a. an office for probation officers shall be established in each court to include specialists in psycho-social counseling. b. when arresting any juvenile, juvenile police should call a probation officer according to territorial jurisdiction. c. probation officer called by the juvenile police according to paragraph (B) above shall be accredited for all phases of investigation and trial if he works within the same territorial jurisdiction.</th>
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<td></td>
<td>This includes activating the alternative to incarceration sanction system, and achieves a sort of networking between the sentencing court and other juvenile concerned parties.</td>
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<tr>
<td>d. probation officer shall be granted the status of law enforcement in relation to powers granted to him under this law.</td>
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</tr>
<tr>
<td>a. the probation officer, upon starting an investigation, should submit a detailed written report to the public prosecutor that includes all information related to the financial, social and contextual condition of the juvenile and his family, the place where he grew, the school, academic achievement, and all surrounding circumstances the child and his family. He has to submit successive report to the court.</td>
<td>b. the probation officer report shall be considered the basis for assessing the juvenile and his interest. If not convinced by the report, the court may discuss assigning another probation officer to submit a new report, and address the Minister to take disciplinary action against the first one.</td>
</tr>
<tr>
<td>c. if probation officer violates any of his designated duties under the court decision, it may replace him and address the minister to take disciplinary action against him.</td>
<td>d. a probation officer who does not submit a report in line with the minister's instructions or who breaches his assigned duties, shall be fined by not less than 100 and no more than 300 dinars.</td>
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<tr>
<td>Article / 13 informing</td>
<td>The juvenile's parents or guardian should be invited</td>
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<td>Article/ 16</td>
<td>Release</td>
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<tr>
<td>Article / 17</td>
<td>Challenging</td>
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<td>Article/ 18</td>
<td>Chapter five</td>
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<td>Article/ 21</td>
<td>measures to protect the boy</td>
</tr>
<tr>
<td>Article/ 36:</td>
<td>General provisions</td>
</tr>
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</table>

B – List of Alternative Measures and Procedures for Freedom Depriving Penalty by which the judge can be guided:
- Ask the juvenile to do useful work for the community.
- Ban going to certain places and for limited periods.
- Participate in some training courses in some vocational or professional institutes.
- Help the sick, elderly, and alike for a certain period.
- Participate in the relief work during crises or in duties of civil defense.
- Participate in environmental cleanliness campaigns.
- Expand the imposition of fines as an alternative to incarceration for certain crimes.
- Introduce the system of probation.
- Deposit some amounts pending lawsuit.
- Introduce the system of the undertaking as an alternative to the penalty of deprivation of liberty.
- Expand the parole system.
- Deportation for foreigners.
- Introduce judicial settlement and reconciliation system between the parties.
- Introduce penalty suspension system.
- Refer to addiction treatment centers, especially with regard to alcohol or dangerous substance addicts.
- Introduce electronic monitoring system.
- Ban contact with some people.
- Ban carrying weapons and sharp objects.
- Stop the practice of the profession or the social activity.
- Impound the driver's license, or fishing license or weapons permit.
- Confiscate the weapons or the instrument used in committing the crime.

Note: The above mentioned table includes a summary of the most prominent views of the partners over several years on juveniles' law and the proposed amendments. However, the latest draft amendment is more advanced in many ways. We introduced the current text, the proposed text and the rationale to discern whether the proposed text meets the demands aiming to make the amendments consistent with international standards and lead to the achievements of restorative justice. We will introduce later the draft law for the use and comments of the research team.
Eighth: Draft amended law for the current juveniles law

Prface:

This draft was a result of fruitful participatory approach in dealing with the juveniles. The official governmental parties, civil society organizations, and some donors are concerned with childhood general and juveniles in particular participated in the preparation of this draft law. Perhaps there is no need to say that this project receives the support of the highest leadership in the Jordanian state. The evidence is the reference made to it in the royal designation letters sent to successive governments and in His Majesty's speeches from the throne.

So we will introduce the draft law as we have obtained it from the Ministry of Development and the Office of the Legislation which has just finished reviewing it and referred it to the Council of Ministers for the purpose of presenting it to the next parliament. There is a desire and a consensus to give this draft a sense of urgency due to its importance.

We will present the draft law, and then highlight the comments and observations on this draft.

1. Draft Amended Law for the Currently Enforced Juveniles Law:

   (Draft Juveniles Law for the year 2011)

Article (1)

This law is called (the Juveniles law of 2011) and shall go into force three months after its publication in the Official Gazette.

Article (2)

The following terms and expressions shall have the designated meanings assigned to them below, unless the context indicates otherwise:

Ministry: The Ministry of Social Development.

Minister: The Minister of Social Development.

Juvenile: Everyone who did not complete eighteen years of age and is delinquent or in need of protection and care.

Unrecognizing Juvenile: the one who did not complete twelve years of age

Teenager: Whoever completes twelve years but not fifteen years of age.

Youngster: Whoever completes fifteen but not eighteen years of age.

Guardian: Every person who the court considers as care taker or monitor of the juvenile.

Directorate: The competent directorate in the Ministry that follows-up juveniles' affairs according to this law.
Juvenile Police: The department established at the Directorate of Public Security for the purposes of the provisions of this Law.

Probation Officer: An employee at the Ministry, who monitors the behavior of juvenile in accordance with this law and the regulations issued thereto.

House of Juvenile Rehabilitation: Any house established in by a decision of the Minister to host, educate and rehabilitate the detained juveniles.

House of Care: Any institution accredited by a decision of the Minister for the purposes of sheltering the needy for protection or care.

Court: the competent court under this law.

Judge of Conflict Settlement: is the judge who tries to resolve the dispute between the case parties in accordance with the provisions of this law and enjoys powers thereof.

Judge of Executing Sentences: is the judge who oversees the execution of the final sentences issued by the competent court.

Guardian: any person or family entrusted under the religious or the regular court's decision or based on the decision of the Minister to take care of the juvenile.

Medical Committee: The committee formed to estimate the age according to the medical committees system in force, or under any other legislation that replaces it.

Article (3)

This law aims to protect, correct, and rehabilitate the juveniles in accordance with what the court decides as their best interests.

Article (4)

A – A juvenile shall not be prosecuted criminally if he doesn't complete twelve years of age.

B – A juvenile shall not be sentenced to death or hard labor.

C – A juvenile shall not be handcuffed, forced or isolated except in cases where he shows rebellion or ferocity. This should be to the minimalistic necessary limit.

D - Necessary measures shall be taken to separate juveniles according to the classification of their cases or degree of severity and the sentencing measures against them. The detained should be separated from convicts.

E - Necessary measures should be taken to separate the juveniles from adults in all stages of inference, primary investigation and the trial.

F – In all cases, any sanctions, measures or actions should not affect the enrollment of the juvenile in schooling. Necessary measures should be taken to ensure this.
G – The custodial party to which the juvenile is sent, should provide care to him and refer him to the competent medical authorities to receive the treatment he needs, whether for illness, addiction or otherwise.

H – Juvenile conviction of an offence shall not be considered as precedents, and the provisions of repetition stipulated in the Penal Law or any other law shall not be applied against him. The competent authorities shall omit any record whatsoever on the juvenile at the age of eighteen.

**Article (5)**

A - Civil status records of date of birth are considered proof unless they are forged.

B - If the defendant in the lawsuit is proved to be unregistered in the civil status records, and he claimed that he is still a juvenile or younger than he looks which would influence the outcome of the proceedings, the court then has to refer him to a medical committee to estimate his age before the commencement of the trial. In this case the period related to age-estimation shall not be considered part of the duration of the trial.

C – The significance of the age-estimation is for the day in which the act is committed and to see whether he is in need of protection.

**Article (6)**

In any case, the juvenile, his parent, guardian, or the institution where he is taken care of should be notified of the action taken at all stages.

**Article (7)**

Subject to the provisions of paragraph (h) of Article (14) of this law:

A - Notwithstanding the provisions of any other law, juveniles are detained in the juvenile center for a period not exceeding five days. The power to arrest them is exclusively the domain of the judiciary.

B - If the juvenile is arrested for a misdemeanor charge, he should be released against a financial guarantee to ensure his presence in the stages of the investigation and trial unless the juvenile interest requires otherwise.

C - If the juvenile is arrested for a charge of having committed a felony, the prosecutor general and the court may release him if the circumstances of the case or the case of juvenile require this. This dictates a financial guarantee to ensure his presence in the stages of the investigation or trial.

D - The competent prosecutor may renew the juvenile arrest period for one time only after having reviewed the report of the probation officer. The prosecutor has to inform the juveniles' welfare house in writing about the renewal decision, and if the investigation requires keeping the juvenile under arrest, he has to ask the competent court to extend the arrest for a period not exceeding ten days.
Article (8)

Whoever holds a juvenile with adults in police custody or at any stage of the proceedings or during the implementation of the sentence shall be penalized by imprisonment for not less than three months and not more than one year.

Article (9)

A- Notwithstanding the provisions of any other legislation, the juvenile's name and photo shall not be published while he is undergoing investigation and trial. The publication and use of the court's investigations and proceedings or their summary are not allowed to be published in any media.

B- Whoever violates this term shall be penalized by imprisonment for no more than one year or by a fine of no more than five hundred dinars, or both penalties unless other legislation stipulated a harsher punishment.

Article (10)

A juvenile competent police department shall be established under this law.

Article (11)

A juvenile competent public prosecutor office shall be established under this law.

Article (12)

A. A probation office shall be established in each court to include specialists in psychological and social counseling.

B. The juvenile police when arresting any juvenile shall call a probation officer according to the territorial jurisdiction.

C. Probation officer who is summoned to the juvenile police in accordance with the provision of paragraph (b) of this article shall be accredited for all stages of investigation and trial if he works within the same territorial jurisdiction.

D. Probation officer is granted the status of law enforcement regarding the powers granted to him under the provisions of this law.

Article (13)

A. The probation officer has to submit to the prosecutor general, when commencing an investigation, a detailed written report containing all information relevant to the conditions of the juvenile and his family whether in terms of the financial, social and environmental surroundings in which he grew up or in terms of the school, educational achievement and all the circumstances surrounding the juvenile and his family. He has to submit other subsequent reports to the court.

B. The probation officer report is considered a basis for estimating the status of the juvenile and his interest. If the court is not convinced by the report after discussing it, may
mandate another probation officer to submit another report and address the Minister to take disciplinary action against the first officer.

C. if the probation officer breaches any of the mandated duties by the court decision, it may replace him with another one, and address the Minister to take disciplinary action against him.

D. A probation officer who does not submit a report compatible with the Minister's instructions or who breaches any of the duties entrusted to him, shall be fined by not less than one hundred dinars and no more than three hundred dinars.

**Article (14)**

A. The juvenile police shall settle the dispute in the offences and misdemeanors which are not penalized by no more than two years that are committed by a juvenile for the first time. It has to rebuke the juvenile in case of committing an offense. It has to oblige the guardian or the care giver to submit a personal pledge or guarantee to ensure the non-repetition of the committed act in case of a misdemeanor.

B. Police should call one of the juvenile's parents, guardian, custodian or nurturer unless this is contrary to the interest of the juvenile. It has to call the probation officer and lawyer to attend its proceedings.

C. If the police is not successful in the resolving the dispute, it refers the case to the conciliation judge.

D. With the exception of the offenses set forth in paragraph (a) of this article, juvenile police shall refer other juvenile cases to the reconciliation judge.

E. The conciliation judge shall manage the process of settlement of the dispute by himself or refer it to civil society institutions or any other party approved by the Minister for this purpose, so that all juvenile cases would be referred to initially before taking any legal action.

F. Institutions and bodies that resolve disputes should follow procedures stipulated in this law.

G. The above procedures shall not prevent the prosecutor of the juveniles to commence investigations in the juvenile cases.

H. In any case, the juvenile should not be arrested during the dispute settlement phase.

**Article (15)**

A. The entities referred to in paragraph (e) of article (14) shall administer dispute settlement in juvenile cases, and perform the following tasks and functions:

1. Set a session for the dispute parties, who are; the juvenile, his guardian, custodian or nurturer and his opponents and probation officer.

2. Meet the dispute parties in a preliminary session that is held to discuss with them the dispute issue and urge them to settle it amicably and help them to do so.

3. Commence serious action to settle the dispute that arises before it, and to try to end the dispute and resolve it taking into account the status of the juvenile and achieving his best interests.
4. Document the minutes of the meetings to inform the competent authorities when the case is referred to them and affirm the reconciliation or any other agreement.

5. Propose imposing any of the measures contained in article (28) of the law in case of resolving the disputes of misdemeanors that have a penalty of no more than two years, and direct a rebuke in the event of a settlement of offences.

B.

C. In order for the meetings of dispute settlement to be held, they should be attended by the juvenile, and if one of the parties to the dispute is a legal entity, the presence of an authorized person is required. In all cases, turning the case to the competent court is required in the event of juvenile failure to attend.

D. The judge of dispute settlement or the competent authority should try to resolve the dispute between parties amicably within two weeks from the date of the first session. They have the right to extend this period for one time in the case they found a possibility for a resolution. In all cases, a report should be organized for all taken actions.

E. The judge of dispute settlement or the competent authority to which the case is referred, may mandate the parties to submit brief notes or evidence if it deems this to be necessary to resolve the dispute.

F. The judge of dispute settlement or the person in charge of the competent authority may meet each party separately, and to take the appropriate actions to bring the views closer aiming to reach reconciliation and settle the dispute.

G. The judge may not -under the provision of nullification- consider the dispute issue which he had previously viewed as a judge of dispute settlement.

Article (16)

If the dispute is referred to be settled to one of the institutions or entities mentioned in paragraph (e) of article (14) other than the judge of dispute settlement, they should take into account the measures contained in article (15) of this law besides the following:

A. The necessary notifications are issued by the judge of dispute settlement and he is the one who decides their validation by commenting on them. These notices and documents can be exchanged by any means of communication between the judge and dispute settlement institutions and bodies, the original shall be kept in the file after the conclusion of the settlement for any reason.

B. The file, after the end of the proceedings whether by conciliation or not or by the end of the specified period, must be referred to the judge of dispute settlement to indorse the procedures and refer the file to the court. The endorsement should be done during twenty-four hours maximum of the date of the receipt of the file.
Article (17)

In all cases, the judge of dispute settlement shall save the case file and not refer it to the court if the settlement has been done in front of him or in front of the competent authorities in the cases of offence or misdemeanors whose the penalty doesn't exceed two years.

Article (18)

1. If there is reconciliation between the parties and the personal right is dropped in cases where the penalty exceeds two years, the dispute the settlement judge shall refer the case to the competent court.

2. Immediately after the end of the legal period set for dispute settlement where there is no reconciliation or a drop of the personal right, the judge refers the case to the competent court.

Article (19)

A. Competent juvenile judiciary shall be formed under the provisions of this law, and no juvenile shall be tried except before juveniles' courts where the following procedures are followed:

1. Juvenile judges, judges of dispute settlement and judges of execution shall be appointed from judges of experience in the juvenile's affairs. Their promotion shall take place in their courts, similar to the regular courts.

2. Conciliation juvenile court shall be established at the center of each governorate if necessary. It is specialized in considering the offences and misdemeanors and the protection or care measures. It is held by a single judge assisted by an expert in the area of juveniles' affairs, and whose attendance to court proceedings is mandatory.

3. First instance juvenile court is established at the center of each governorate if necessary, to consider felonies and is held by three judges assisted by two experts in juveniles affairs; at least one of them is a woman. Their attendance of the trial proceedings is mandatory. The two experts should submit their recommendations to the court after considering the conditions of the juvenile in all respects before the court issues the judgment.

4. Minister of Social Development nominates the experts in juvenile's affairs at juveniles' courts, of at least first university degree holders in one of social science disciplines.

5. The judicial rulings issued by the conciliation court are subject to appeal at the juvenile court of first instance.

6. The judicial rulings issued by the juvenile court of first instance are subject to appeal at both appeal and cassation courts.
7. If juveniles and adults are associated in the same offense or associated offenses they shall be separated by a decision of the Public Prosecution. A file shall be organized for the juveniles to be tried before juvenile justice.

B. Notwithstanding the provisions of items 5 and 6 of paragraph (a) of this article, the rulings issued by the conciliation and first instance courts are subject to the challenge procedures stipulated in the Law of Conciliation Courts and the Criminal Procedures Law as the case may be, and the parent, guardian or custodian, or the acting lawyer may represent the juvenile in these proceedings as appropriate.

C. The territorial jurisdiction of the juvenile court shall be any of the followings:

1. juvenile's residence or the place where he was found,
2. the house where he was placed.
3. the crime scene,

Preference in territorial jurisdiction will be given to the juvenile's residence or where he was found.

Article (20)

The trail of the juveniles must be secret, and no one should be allowed to enter the court expect the conduct observer, parents of the juvenile or his guardian, as appropriate, and those with direct connection to the legal case.

Article (21)

The court determines the child's best interest based on the probation report and the evidence presented in the case and the opinion of the juvenile. This should include, respect for the observed juvenile's rights and the ways to rehabilitate and integrate him into the community.

Article (22)

The court has to listen to the opinion of the juvenile before taking any measures against him. It has to take his views into account in accordance with his age and maturity.

Article (23)

The court holds sessions in weekly and official holidays, and in evening periods, if the interest of the child requires so.

Article (24)

A- Juvenile cases are considered urgent.
B- The competent court considers the case immediately after being referred to it. No postponement of sessions may be made for more than three days.
C- The court should decide on the juvenile case within three months from the date of receipt by the court's registry. It should decide on the criminal case within six months from the date of receipt by the registry, except for cases where decision on the case depends on receiving final medical report.
D- Juvenile cases must be decided within the periods mentioned under the threat of disciplinary liability.

Article (25)

A - The prosecutor general and the competent court must appoint a lawyer for the juvenile if he doesn't have a lawyer. The lawyer's fees are paid from the state treasury, according to the amount stipulated in the criminal procedures law.

B - The lawyer acting on behalf of the juvenile should attend with him all stages of investigation and trial.

Article (26)

A – No minor should be tried except in the presence of one of his parents or his guardian and the behavior observer in addition to the juvenile lawyer.

B – The court shall inform the juvenile of the charge against him at the beginning of the trial and ask him about it in a simple language.

C– If the juvenile admits the charge his confession shall be recorded in words that are closest to his words. His mere confession should not be sufficient evidence to judge him, unless it is a clear and convincing confession.

D– If the juvenile refuses to reply, he is considered as non-confessing to the charge and the court president will order this to be recorded in the minutes.

E– In all cases the court proceeds in hearing statements of the prosecution and defense; hears the probation report and the discussion of the parties; discusses all the evidence of the lawsuit; then decides on the case.

F– If the court finds, upon hearing the evidence of proof, that there is a case against the juvenile, it listens to the juvenile's testimony of defense and proceeds to hear the defense proofs. Defending the juvenile is done through his lawyer. His parent or guardian may help to defend in offence cases.

G– The court listens to the probation report. The court, the juvenile and his lawyer may discuss this report with the probation officer.

H– The court may get the juvenile out of the courtroom at any time leaving his representative and behavior observer if the juvenile interest requires so. The juvenile is entitled to know what proceedings happen in his absence.

I– The prosecutor general or the court may, if necessary, use modern technology for the protection of the one who did not complete the age of eighteen in the witnesses hearing, confronting and discussing procedures. This new technology should enable any opponent to discuss with the juvenile or the witness during the trial. The new technology may also be used in the juvenile's hearing proceedings as witness in any case.
Article (27)

A. Subject to the provisions of articles (29 / d) and (30 / c) of the law, if any mitigating circumstances are found applicable according to the observed laws, the court should reduce the penalty stipulated in this law by a minimum of one third and it may reduce it to a maximum of half.

B. In addition to the reduction of penalty stipulated in paragraph (a) of this article and any other reduction on the penalty for any reason, and if the dispute is settled, any sentence issued against the juvenile should be reduced one third of the penalty.

Article (28)

Bearing in mind the provisions of articles (29) and (30) of the law, the court may take any of the following non-liberty deprivation measures when the conditions are conducive:

1. **Rebuke:**
   
The court may reproach and reprimand the juvenile due to that which he has committed, and warn him not to return to such behavior again. This should not degrade his dignity.

2. **Delivery:**
   
   A. hand over the juvenile to one of his parents or to his guardian.
   
   B. if no one of the juvenile's parents or guardians is eligible to take care of him, he shall be handed over to eligible member of his family. If there is no eligible family member, the juvenile shall be handed over to someone or to a family that is trusted to take of him where the trusted family breadwinner undertakes to do so after agreeing to that.
   
   C. The verdict to hand over the juvenile to someone who is not compelled to sponsor him shall not last for a period of more than one year.

3. **Cram service for the public benefit:** an obligation to provide service in one of the public facilities such as public parks, governmental schools and voluntary civil society institutions that work for public interest.

4. **Enrolment in vocational training:** where the court hands over the juvenile to one of the specialized centers, which are accredited by the Minister for this purpose. The court determines in its judgment the duration of this measure provided that the period for which the juvenile stays at this institution does not exceed one year.

5. **Commission to specific duties:** by attendance at certain directive meetings or banning visitation of certain types of places or shops or for the purpose of attendance at specific times in front of people or certain bodies or other restrictions. The judgment by this measure is for a period of not less than six months and not more than one year.

6. **Probation:** by placing the juvenile in his natural environment under the guidance and supervision taking into account the duties specified by the court. Probation should not exceed a period of one year and in accordance with the following procedures:
   
   A. The court delivers a copy of probation order to the probation officer who will oversee the juvenile and another copy to the juvenile, and a copy to his parent,
guardian or the one who takes care of him. The juvenile must submit to the supervision of a probation officer during the period of supervision.

B. The court that issues the probation order shall appoint a probation officer who will oversee the juvenile during the observation period. If the observer can't perform his duties for any reason, the director of the department may ask the execution judge to appoint another observer to execute the probation order.

C. The court shall determine upon issuing the probation order, the required time period, and number of reports to be provided by probation officer about the status of the juvenile. There should be no more than one report a month.

D. If a female is put under the supervision of a probation officer, the probation officer should be female.

E. The court that issues the probation may at the request of the probation officer, the juvenile or his guardian abolish the mentioned order or modify it after reviewing the report of the probation officer in this regard.

F. The court may abolish the probation order if the juvenile is convicted of an offense, during the enforcement of this order unless the original penalty for his act was a fine.

Article (29)

A - If a teenager commits a felony that requires death penalty, he shall be sentenced to stay at a juvenile rehabilitation house for at least eight years and no more than twelve years.

B - If a teenager commits a felony that requires hard labor penalty, he should be sentenced to stay at a juvenile rehabilitation house for at least five years and no more than seven years.

C - If a teenager commits a felony that requires temporary hard labor or arrest penalty, he should be sentenced to stay at a juvenile rehabilitation house for at least three years and no more than five years.

D - If a teenager commits a misdemeanor that requires imprisonment, he should be sentenced to stay at juvenile rehabilitation house for no more than one third of the penalty stipulated in the penal law.

E – The court, if there are extenuating discretionary grounds, should substitute any penalty set forth in paragraph (d) of this article by any of the measures provided for in article (28) of this law.

F- If a teenager commits an offence, the court has to a rebuke him.

Article (30)

A - If a youngster commits a felony that requires death penalty, he shall be sentenced to stay at a juvenile rehabilitation house for at least six years and no more than ten years.

B - If a youngster commits a felony that requires penalty of hard labor for life, he shall be sentenced to stay at a juvenile rehabilitation house for at least three years and no more than six years.
C - If a youngster commits a felony that requires penalty of temporary hard labor, and detention he shall be sentenced to stay at a juvenile rehabilitation house for at least one year and no more than three years. If the court finds discretionary insinuating grounds, it should substitute the penalty with any of the measures provided for in article (28) of this law.

D - If a youngster commits a misdemeanor, the court should decide on the case in any of the proceedings stipulated in article (28) of this law.

E - If a youngster commits an offence, the court should send him a rebuke him.

Article (31)

The court may rule by rejection or seizure when deciding the case.

Article (32)

The lawsuit of personal right are not accepted before the juvenile court, the aggrieved party has the right to resort to a competent court.

Article (33)

The execution judge shall have the following duties and responsibilities after the juvenile sentence is issued:

1. Monitor the execution of any penalty or measure issued against the juvenile according to the applicable laws.

2. If he sees that the interest of the juvenile requires that, he has the right to convert the measure of incarceration if it doesn't exceed one year to execute the duration of the incarceration by binding the juvenile to serve the public interest in one of the entities specified by the Minister with the juvenile consent. This should be mandatory if the juvenile commits the act for the first time.

3. The juvenile is set free during the conversion period from incarceration to the service of public interest.

4. Subject to what is stipulated in paragraph (2) of this article, the execution judge may determine the proper conditions for converting freedom depriving penalty into public service with the consent of the juvenile.

5. The execution judge has to continuously check the juvenile compliance with the terms of converting the freedom depriving measure to public service which was commissioned to him. The judge may entrust the probation officer to do so, and to submit the necessary reports. If the execution judge finds the juvenile incompliant he has to warn him to comply with the terms of the conversion of the penalty. He has the right to cancel the decision to convert the penalty and return the juvenile to complete the freedom depriving penalty.

6. In the event of cancellation of the conversion measure the time that the juvenile has spent during the service for the public benefit is counted among the duration of the freedom depriving penalty and shall be deducted from the sentenced period.
Article (34)

A. The juvenile who turned eighteen years of age before the completion of his sentence must be removed to the correction and rehabilitation center to complete that term by a decision of the execution judge.

B. The execution judge, upon a written request from the director of the directorate, may extend the juvenile's stay at the juveniles rehabilitation center until he completes twenty years of age to finish his education or vocational training.

Article (35)

A – The director of the directorate, by his own initiative or upon a recommendation by the director of center, may transfer the detained or convicted juvenile from one center to another by a decision based on one or more of the reasons specified in instructions issued for this purpose.

B- The director of the center, with the consent of the director of the directorate, may send the juvenile who is staying at the center to any public or private institution to pursue his education or professional career there. The juvenile shall go back to the center daily after he finishes that.

C - The director of the directorate has to notify the execution judge immediately about any action done in accordance with the provisions of this article and follow his instructions in this regard.

Article (36)

A - The execution judge, after seeking the opinion of the director of the center, may release any juvenile put in the rehabilitation center, if he finds a justification for that and according to the following conditions:

1. The period of the juvenile's stay in the center should not be less than one-third of the sentence period.
2. The juvenile should be of good behavior during his stay in the center.
3. The juvenile release should not result in the exposing him to adverse social effects.
4. The juvenile should not be convicted of a crime originally punishable by the penal law by death or hard labor for a period of fifteen years or more.

B- Subject to the provisions of paragraph (a) of this Article, the execution judge has to review the cases of the convicted juveniles by freedom deprivation measure every three months to study the possibility of conditional release if the conditions are available.

C – The execution judge decides the conditions that the juvenile should abide by in his decision of release.

D- If the execution judge finds that the juvenile is not committed to the terms of his release he has to warn him to comply with the conditions of release, and has the right to cancel the decision to release and return the juvenile to the center to complete the term of the freedom
deprivation measure, and the period of release in which the juvenile was complying by the terms, would be deducted in accordance with the measures set forth in this article.

E - The probation officer in the area where the juvenile resides shall direct, and supervise him throughout the remaining term of the sentence.

F- The execution judge may, upon the recommendation of director of the directorate, decide to return the juvenile to the center to complete the term of the measure adjudged if he deems it appropriate and in the interest of the juvenile. His decision should be reasoned and justified.

G- The execution judge decision of refusing to release the juvenile and his decision to return him to the center shall be subject to appeal at the juvenile's court of first instance.

H- The director of the directorate after seeking the opinion of the center may grant the juvenile who shows good behavior a leave for a period not exceeding one week to visit his family in the holidays or in necessary cases.

Article (37)

A. If the director of the directorate, after the expiration of the sentence term and upon the recommendation of the probation officer, finds that the juvenile condition requires to extend his stay and refer him to the rehabilitation center due to:
   1. That one of his parents, or guardian, is accustomed to criminality, drunkenness or misconduct, provided that his rights to the measures of protection and care are taken into account.
   2. That he did not finish his education or guidance term in the programs which he joined.

      The director shall address the execution judge and if the judge is satisfied that this true may issue a decision as to consider the juvenile in need of care and protection and decides to put him in the rehabilitation center for a period of no more than one year.

B. In the above mentioned case, the director of the directorate shall take the necessary measures to consider the juvenile in need for protection in accordance with the provisions of this law.

Article (38)

No juvenile shall be put in any rehabilitation center set forth in this law except in accordance with the decision of the competent judicial authority.

Article (39)

The juvenile is considered in need of protection or care if the following cases are applicable to him:

1. Whoever was under the care of an unqualified person to take care of him, because he is used to criminality, addiction of drugs or alcoholics, psychotropic substances, moral misconduct, or convicted of an immoral offense against his legitimate or illegitimate children, or against any of the ones he is entrusted to care of.

2. Whoever committed an act related to prostitution, debauchery, corruption, or gambling, or serve those who do these acts or accompanied those who are well known for bad deeds.
3. Who have no stable home or who usually spend the night in the streets.
4. Who have no legitimate way of livelihood or have no entrusted breadwinner and his parents or one of them is dead or imprisoned or absent.
5. Who has been of bad behavior and is beyond the authority of his father, guardian or mother, and the guardian is dead or absent or incompetent.
6. Who has been begging, even if he conceals it by any means.
7. Who is one of the hawks or waste searcher.
8. Who has been exposed to intended harm from a parent or spouse in a way that exceeds disciplinary acts which are permitted by the law and public norms.
9. Who is exposed to grave danger if he stays in his family.
10. Who was exploited for begging, or acts related to prostitution, debauchery, misconduct, or served those who commit these acts or any illegal acts.
11. Juvenile who doesn't recognize and commits a misdemeanor or felony.
12. The working juvenile contrary to the applicable legislation.

Article (40)

A. The probation officer may, with the consent of the director of the directorate, send any juvenile who is in need of protection or care to the competent juvenile conciliation court. He may also seek the assistance of one of the members of the judicial police to secure his or her appearance before the court. The court may issue the decision to keep the juvenile in the rehabilitation house until his case is decided if his interest so requires.

B. The court may, if satisfied after checking that the person who is presented to it is under eighteen years of age and is in need of protection or care to take any of the following measures:

1. Order the father or guardian to take care of him in an appropriate manner and to sign a pledge to ensure the provision of this care.
2. Refer the father or guardian to one of the rehabilitation programs which will be issued under special regulations for this purpose.
3. Refer him for a period of no more than two years to the care center or any similar accredited institution provided that the institution consents to this. The probation officer must submit a detailed report to the execution judge every three months to review the decision.
4. Place him under the care of a suitable person or a suitable family, subject to the consent of either of them, and provided that either of them shall have the right to supervise him as parents, and for such period as determined by the court.
5. To issue a decision to put the one in need of protection or care under the supervision of a probation officer, as well as to any of the measures contained in this article or otherwise for a period of not less than one year and not more than five years.

C. Notwithstanding the provisions of paragraph (3 /b) of this article, the execution judge may consult with the director of the directorate to extend the stay of the needy of protection or care in the care house if one of the following cases is applicable:

1. If there is no alternative family that can care of him, and it was found that he will be harmed if he gets, out of the center after the end of the prescribed period because the person in
charge of his care is an addict to drink, crimes or misconduct, for such period until the end of the reasons for the extension and that the period should not be more than two years at a time, until the one in need for protection or care reaches the age of twenty.

2. If he doesn't finish training in the profession or trade he initiated in that house.

D. The court may issue decisions according to this article in the absence of the needy of protection or care.

E. Decisions made under this article are subject to appeal at the juvenile first instance court.

Article (41)

A – The director of the center where the needy for protection and care stays must allow him to attend educational or training programs in the competent institution provided that he returns to the center daily.

B - The director of the directorate, after seeking the opinion of the director center in which the needy for care or protection stays, may grant him a leave to visit his family on holidays and special occasions for determined days and on condition that he returns after it to the center.

Article (42)

A - Subject to what is stated in paragraph (b) of this article, the care center entrusted to take care of the needy for protection and care shall have the right to supervise him and be responsible for his care. The juvenile who is in need for care or protection shall remain under the care of the center even if his father or anyone else asked for his return.

B - If the person responsible for the expense of supporting the juvenile who needs protection or care, appears to have the capacity to provide the expense of the dependent, in whole or in part, the Minister or whoever he authorizes in writing and on behalf of the one who needs of protection or care, may take the necessary judicial measures at the competent judicial authorities to commit the responsible person to spend as determined by the competent judicial authorities.

Article (43)

The execution judge may release any one who is need of protection or care who was entrusted to any care who washouse as he deems appropriate, if he sees the interest of the one who is in need of protection or care requires that.

Article (44)

1- Everyone who commits the following acts shall be penalized by a fine of not less than one hundred dinars and imprisonment for no more than three months:
   a. Helped or incited any of the needy of protection or care to escape from the care house.
   b. Sheltered or hid the one who fled in the above described manner, or prevented him knowingly to go back to the center.
Everyone who commits the following acts shall be penalized by a fine of not less than three hundred dinars and imprisonment for no less than three months and no more than a year:

a. Helped or incited any juvenile to escape from the care house or the rehabilitation center, if the juvenile is kept for it for committing an offence.
b. Sheltered or concealed the one who fled in the above described manner, or prevented him knowingly to go back to the center.

3- The penalty in paragraph (2) of this article is doubled if the juvenile was kept in center for committing a felony.

**Article (45)**

The competent execution judge must visit the juvenile care houses provided for in this law within his competence periodically every three months at least. Each one who conducts the visits should report back to the president of the Judicial Council and the Minister.

**Article (46)**

Provisions contained in the Criminal Procedures Law shall be enforced in the cases that are not stipulated in this law and in a manner that does not conflict with its provisions.

**Article (47)**

The Minister shall issue the necessary instructions to enforce the provisions of this law, including the following instructions:

1. The necessary instructions to determine which bases should be applicable to civil society institutions or other parties for the purposes of accrediting them for the settlement of disputes.
2. The necessary instructions to determine which bases should be applicable to the civil society institutions or other parties for the purposes of accrediting them as care centers.
3. The necessary instructions to define requirements and information that should be available in the reports of behavior observers.

**Article (48)**

The Council of Ministers shall issue the necessary regulations to enforce the provisions of this law.

**Article (49)**

The Prime Minister and the Ministers shall be responsible for the implementation of the provisions of this law.
2- Comments on the Draft Law Amending the Currently Enforced Juvenile Law:

1. The draft law provided in the first article some new vocabulary and expressions such as the undiscerning juvenile, the nurturer, the juvenile police, the judge of dispute settlement and the sentence execution judge. This strengthens the role of judiciary in terms of taking alternative measures through the judge of dispute settlement and the execution judge and adopting the concepts of restorative justice.

2. The draft indicated in article 3 the standard of the best interest of the child in line with the Convention on the Rights of Child. This reinforces the concept that the spirit of the law is to be applied rather than its literal text in dealing with the juvenile.

3. Raising the age of Penal Responsibility to twelve enhances better attention to the juvenile through giving more protection.

4. The draft focused on the concepts of restorative justice that is based on prevention programs and post care aiming at reintegrating the juvenile in the community, rehabilitate him and compensate the community and remedy the damage. This is demonstrated clearly in some of the draft proposed texts which aim to find alternative programs such as community service.

5. Propose the establishment of an assisting judicial police (specialized police) and specialized public prosecution and special juvenile judiciary in line with international standards aimed at finding exemplary juvenile justice, since the competent judge in juveniles cases who has the desire to work as a judge for juveniles and who is assisted by specialized police and prosecutors positively impact the way of dealing with the juvenile who is in conflict with the law.

6. The draft law introduced the system of the sentence execution judge, since many of the problems afflicting the juvenile are the result of the lack the concept of the sentence execution judge, particularly since the relation between the judge and the juvenile under the currently enforced law ends as soon as the sentence against the juvenile is issued. This does not seem to realize the concept of aftercare for the juvenile in full sense.

7. The creation of this mechanism helps to decide in many of the problematic execution forms such as the substitution of fine, and the calculation of periods and dates, separation of convict adults from the juveniles, and the juvenile's reaching the age of eighteen during the execution of the measure.

8. The draft dealt with the dispute settlement judge and this shows that one of the components of the restorative justice is to create a mechanism for mediation,
conciliation and compromise between the parties of lawsuit in which a juvenile is involved and it requires this to be taken through the judicial process and by a binding judicial decision on all parties.

9. The draft formed a kind of comprehensive review of juveniles law because the work in the past was done by amending different texts and on spaced intervals and without an in-depth study.

10. Participatory approach (approach of multilateral institutions) was adopted during the preparation of the draft and by the authorities concerned with juveniles (Public and private). This approach may have contributed to the bringing of a modern law into existence.

11. The draft amended law contributed to the avoidance of the dispersion of statutes experienced by the child in conflict with the law where the child's best interest is mentioned in every part in the heart of the law. Also some texts were borrowed from other statutes, which is a step in the right direction to reach a unified draft law for all legal texts related to the child in conflict with the law.

12. The draft law introduced some new concepts, such as psychological and educational guidance, the custodian and the un-recognizing child, the age of legal responsibility, and some procedural aspects were incorporated with the substantive aspects. This will be inevitably reflected on the best interests of the child in conflict with the law.

13. The draft reflected some other experiences that have been acquired through many of the projects carried out in the area of juvenile justice.

14. The draft law pointed openly and clearly to the concept of legal aid. This concept, which lacks legal coverage under the currently enforced law, noting that most children who are in conflict with the law are from the poorer classes, and the age group for the majority of them doesn't understand the trial proceedings. Thus, comes the importance of this concept from its proven success which comes from implementing it by civil the society organizations that have experience in this regard.

15. The draft has expanded in including more guarantees of a fair trial, such as:
   - A new conception of the secrecy of the trial.
   - The presence of more than one party with the juvenile during the trial.
   - Hasten the decision in the case without affecting the rules of justice.
   - Raising the age of legal responsibility which makes the juvenile a positive member during the proceedings of the trial.
   - Prosecuting the juvenile before his natural judge.
16. Despite the importance of the bill amending the juveniles' law, there is no less importance than the need for issuing regulations that put the law into effective application such as the mechanism of the behavior observer and the legal aid in order to issue the law and regulations as one package.

17. In order for the draft law to achieve its goal, must be put in place special standards for the detention of juveniles whether in terms of the environment of the place or in terms of the standards of its staff.

18. It should be noted that Jordan has ratified several international and regional conventions on human rights in general and children rights in particular, and this ratification imposes several obligations on Jordan including reviewing and amendment of national legislation in line with what was stated in the international conventions since all these agreements contained an almost identical text stating (... member states shall take all appropriate legislative and administrative to put this agreement into practice ...). Therefore, this draft is mostly consistent with that.

19. The currently enforced law restricts the judge power in many aspects which the draft amended law has sought to avoid as it gives the judge a sort of flexibility in dealing with the juvenile.

20. Finally, we hope that this draft amended law be given the necessary urgency when it is presented to the next parliament.
Conclusion

In conclusion, this study constitutes a summary of our perceptions about the restorative juvenile justice from my standpoint as a judge particularly in the juveniles’ courts, and through my academic interests in the field of human rights and domestic violence, and family protection in particular. These are perceptions that are subject to discussion and amendment, especially by the juvenile relevant authorities.

Knowing that the proposed perceptions and amendments to the legislation are considered as recommendations that can be developed and modified and put in the hands of decision-makers to consider them when proposing any legislative changes in the future, because the introduction of restorative criminal justice for juveniles is a form of achieving common interest for the juvenile, the family where he lives, and the society as a whole, because the juvenile is an indispensable member of the community, even when exposed to delinquency he has to be dealt with by correction and rehabilitation in a practical and scientific methodology. Thus the concept of aftercare for the juvenile is enhanced.

The introduction of the restorative justice for juveniles as we have mentioned previously is in line with the modern philosophy of penalty based on the introduction of alternative correction, hoping that achieving such system, especially in cooperation with the United Nations Development Program, will lead us to reach the best results in a shorter time as the experiences with other countries have shown.

Based on the foregoing we highlight the most important recommendations which the research team believes are necessary to be presented, including:

Mainstream the experience of juvenile police in all governorates of the Kingdom in the same way of the Family Protection Department, and selecting its employees in accordance with specific criteria and disciplines. We will provide at the end of this study and in the annexes a summary of the juvenile police works in one year to demonstrate the importance of the existance of such specialized administration.

Coordination with the Judicial Council, Ministry of Justice and the Jordanian Judicial Institute to develop the concept of public prosecution for juveniles as it requires amending other legislations related to this issue such as the Law of the independence of the Judiciary, the law on the formation of the regular courts.

The specialization in the field of juvenile justice shall include all stages of the criminal case i.e. during the two phases of the investigation and trial (magistrates, public prosecutor, courts of first instance, and courts of appeal). This should be coupled with rehabilitation and training for the administrative staff, support for the work of the judge, as well as development of an appropriate work environment (the courts) as this is reflected positively on the juvenile himself.

The attendance of a probation officer, guardian, defense attorney, or social worker with the juvenile at the first moment of appearance before the official authorities and to prepare reports on the juvenile at every stage and to take recommendations of the probation officer in this regard.
Work continuously in accordance with the participatory approach among the institutions and stakeholders that deal with the juvenile so that the goal will be to reach the center of integrated services or the model court for juveniles' trial to provide all the services provided by the official authorities or civil society organizations in the same place.

Work on the preparation of procedure manuals on how to deal with the juveniles by the concerned authority or upgrade the existing ones according to a restorative justice approach.

Work on a national action plan for community awareness about juvenile justice through the involvement of the media which has taken a greater role recently, and the use of the role of preaching and guidance and focusing on highlighting the goals of corrective justice.

Focus on the themes of restorative justice for the juveniles based on its three elements of remedy, compensation for the community and inflicting pain on the offender. The ultimate goal when inflicting any measure against the juvenile is the child's best interest and his re-integration into society anew.

The measure against the juvenile should not affect the educational and learning programs in case the committed act is proved. His study should be given priority and the same concerning the vocational and professional programs if he works in a profession or craft as his age allows. This should be done in coordination with some institutions, such as vocational training with regard to apprenticeship programs.

Activating the postcare programs and preventive programs (pre care) where the family should be given a role so that the juvenile is not isolated from his natural environment or the educational counselor should participate if the juvenile is seated in school.

The research team also recommends the introduction of modern technologies with respect to juvenile trial in order to respect his privacy and the confidentiality of the proceedings such as the (CCTV), as is the case in some domestic violence cases and in line with the text of article 157 of the Criminal Procedures Law.

Activating judicial mediation programs with respect to certain offenses and minor misdemeanors, and the judge's decision in this respect should be final and binding on the parties so that the juvenile is no longer exposed to a long series of measures during the investigation and trial.

In the case of implementation of some community service programs, the institutions and bodies which are entrusted that should be identified through signing memorandums of understanding with each party separately so that a kind of follow-up will be created.

It is necessary to conduct a social study for the juvenile and his family in some cases and in the light of that to determine the alternative arrangement.

In conclusion, the lesson lies not in the theoretical texts of legislation, but by the practical application of these texts.
Statistics of the juvenile police actions in 2012 (noting that the source of statistics is the Department of the Juvenile Police that deserves appreciation for their cooperation).

The cases that were committed by the juveniles during 2012, and dealt with by the Department of Juvenile Police were as follows:

- Damaging a passport: 1
- Misuse of credit: 1
- Inhaling petroleum: 4
- Arson fires: 5
- Disturbing the peace: 5
- Causing Harm: 219
- Harassment: 8
- Threat: 6
- Harm the properties of others: 16
- Slander and libel: 9
- Ordinary theft: 11
- Impersonate others: 3
- Offending the religious feelings: 3
- Drunkenness: 3
- Carrying and possessing a sharp instrument: 1
- Immoral behavior: 2
- Violation of the sanctity of homes: 2
- Act that contravenes public decency: 1
- Violation of the Communications Law: 2
- Violation of the law of arms and ammunition: 1
- Resisting officials: 3
1. Total crimes committed above were 300 cases, 236 of them were settled and the rest were referred to the judiciary. This demonstrates that most of the acts committed by the juveniles are simple, and the programs of referral and settlement can be applied to them.

2. The number of persons involved in the cases mentioned above was about 500 juveniles and adults, including 33 females and this shows that the largest proportion of juvenile delinquency are among males.

3. The majority of the acts committed were in age group between 12 and 15.

4. The majority of the acts committed were simple and therefore the concept of restorative justice can apply them. The evidence lies in the fact that 219 cases were simple abuse cases resulting from fights.

5. When classifying the acts committed above we find the following:
   - 11 assaults on public safety
   - 4 attacks on the public administration
   - 3 affecting religion and family
   - 10 assaults on morality and public morals
   - 28 attacks on monetary property
   - 241 assaults on the humans

Thus, we find that the bulk of these committed acts can be settled since they fall within the framework of offences or simple misdemeanors that can have alternative measures.

Numbers of cases reported and settled by the courts between January first, 2012 and December 25th, 2012.

- Amman Juvenile court, (791) reported, (740) settled.
- Zarqa Juvenile court, (316) reported, (276) settled.
- Irbid Juvenile court, (256) reported, (223) settled
Jordanian Cassation Court Decisions in Relation to Juveniles

Cassation Court Decision no. 723/2009 (quintet panel) on 28/6/2009

Articles 13 and 15 of the Juveniles law require summoning optionally the parent or the person to whom the juvenile is handed. Since the juvenile's mother is considered his guardian in accordance with article 2 of the Juveniles law being the one who cares for her son Uday, and that the goal of the persons presence mentioned in articles 13 and 15 of the Juveniles law is to ensure proper investigation with the juvenile and not to subject him to any pressure or coercion or intimidation, this can be achieved in the presence of his mother at the investigation, therefore his confession in police custody is recognized as true and fruitful.

Cassation Court Decision no. 402/2009 (quintet panel) on 5/4/2009

In article 10 of the amended Magistrates Courts Law No. 30 of 2008, the legislator specified the jurisdiction of the courts of first instance, as appeal courts, in criminal cases in the provisions that do not exceed imprisonment for three months and no matter the fine amount. Since the rule issued by the Magistrate's Court in Aqaba was to place the defendant juvenile in the juvenile rehabilitation house for twenty four days and a fine of five dinars and confiscation of the tool, so the sentence included a complementary penalty and is considered one of the penalties under provisions of article 30 the Penal Law which disappears when the penalty disappears and remains when it remains according to what has been settled by the Court of Cassation in (19/59 Penalty Appeal). Based upon this, the jurisdiction to consider the appeal case falls within the jurisdiction of the appellate court in Ma'an and it is therefore the competent authority for the consideration of this case and not the Aqaba Court of First Instance in its appellate capacity.

Cassation Court Decision no. 1532/2008 (quintet panel) on 10/11/2009

If the State Security Court depended in forming its conviction and deduction of the of the actual crime on several evidences including the statement of the defendant juvenile before the court investigator and her statements before the prosecutor where she admitted using hashish cigarettes without recognizing that it was a hashish and also admitted that she gave her two statements without the presence of her father, guardian, probation officer or her lawyer, so these statements and confessions are invalid in accordance with articles (13 and 15) of Juveniles law No. 24 of 68) amended by Law No. (11 of 2001), see cassation decision No. (862/2008 dated 26/6/2008, cassation decision no 1438/2007 dated 13/12/2007 and cassation decision 1402/2007 dated 29/11/2007). So the court depended on illegal evidence… and the same applies to the defendant statement before the investigator exhibit M/9 which she didn't sign…It is not considered a legal evidence in spite of investigator's statement that it was given voluntarily. In her response she said she gave two statements; one correct and the other incorrect; the correct one was given before the prosecutor but the documents did not include other than the unsigned one. Based on this the State Security Court based it ruling on illegal evidence which dictates the annulment of the decision at this stage for this reason.
Cassation Court Decision no. 869/2008 (quintet panel) on 9/7/2008

The probation officer may not be called to attend the juvenile's trial, except after the impossibility of the presence of the father, guardian, or the person he is handed to or his lawyer after being notified. The State Security Court must confirm that it was impossible for any of these persons to attend as described in articles (13 and 15) of the Juveniles' Law for investigating with the juvenile before the attendance of a probation officer and this therefore nullify the case ruling for violating the provisions of article (7/1) of the Criminal Procedures Law.

Cassation Court Decision no. 1438/2007 (quintet panel) on 13/12/2007

According to articles (13 and 15/1) of the Juveniles law as amended by Law no. (11) of 2002, the legislator, in giving protection to the juvenile so that to avoid any pressure or coercion during investigation, has obligated the investigator to call the juvenile's parent, guardian, or the person to whom he is handed to by subpoena and that the probation officer is notified. Therefore, these texts imposed this obligation in the sense that it is not permissible to violate them, and violating the appropriate provisions leads to the invalidity of the ruling according to the Criminal Procedures Law Article (7/1). As the State Security Court depended on the statement that was not attended by any of the prescribed persons in article (13) of the Juveniles law during investigation and that probation officer should be called to attend the investigation sessions only when the juvenile's parent, guardian or person the person to whom he is handed or his lawyer after being notified by the prosecutor, so the reasons for the appeal are valid and the decision is therefore nullified.

Cassation Court Decision no. 1402/2007 (quintet panel) on 29/11/2007

According to article 15/1 of the juveniles law, it is obligatory to conduct the investigation with the juvenile in the presence of his parent, guardian, the person to whom he is handed or his lawyer. In case any of them could not attend, the probation officer shall be called to attend the hearings. Since the statement of the juvenile was heard by the prosecutor in the absence of one of the persons specified in the articles (13 and 15) of the Juveniles Law because the brother has no mandate on the minor and his money with the presence of the right guardian, so such statements are not suitable to build the rule of evidence on them, because they violate the provisions of article (15/1) of the juveniles law which came in an imperative language.

Cassation Court Decision no. 870/2007 (quintet panel) on 9/8/2007

If the Criminal Court in its capacity as a juvenile court ignored to bring the birth certificate of the juvenile defendant Zakaria and judged him as a boy and arrested for two years in a juvenile rearing house under article 18 / c of the Juveniles Law, although his testimony taken by the police indicated that he was born on 15/1/1986 i.e. his age at the time of the incident was 14 years, 3 months, and 5 days which meant that he was a teenager. By contesting the decision, the court of appeal upheld the decision of the Criminal Court. Thus the two courts
violated the text of article 14 of the Juveniles Law no. 24 of 68, which requires the necessity of verifying the date of birth of the juvenile through Civil Status records and if that is not possible to refer it to the medical committee to estimate his age, because of the legal implications related to the jurisdiction and the amount of the penalty to be ruled. This requires setting aside the two sentences. As the appeal came in favor of the convicted person... it shall have the effect of the normal contesting.


If the appellant is a juvenile who did not complete eighteen years of age, this must be taken into account in the trial and the investigation period.

The penalty to be imposed on him is the one stipulated in this Law, (See the decision of the Court of Cassation no. 1987). Since the Amman court of appeal ruling and before that the ruling of the criminal court did not verify the birth date of the appellant, their decisions were subject to challenge and therefore the appeal court contested them because they were contrary to the juveniles law and did not observe the interest of the accused.


According to articles (13 and 15/1) of the Juveniles law as amended by Law no. (11) of 2002, it is not allowed to conduct an investigation with the juvenile except only in the presence of his parent, guardian or the person to whom he is handed, or his lawyer. And in case neither of them could attend, the probation officer is called to attend the hearings. These texts imply that the legislature had added more protection to the juvenile to avoid any pressure or coercion during the investigation; it obligated the investigator to call the juvenile's guardian or person to who he is handed by subpoena and to notify the probation officer. Also obligated the prosecutor when investigating with the juvenile to call the guardian, the person to whom he is handed, or his lawyer, and if any one of them can't attend he shall call the probation officer to attend the hearings. Therefore, these texts are imperative and should not be violated. Violating those leads to nullification of the rulings according to article 7/1 of the criminal procedures law. As the Court of appeal based its convention on the statement presented to the police without evidence of the presence of any of the persons described in article 13 of the juveniles' law. It based its convention also on the statement given before the prosecutor on the basis that the probation officer was present. The presence of the probation officer in the investigation sessions with the juvenile should not have been done before trying to call the juvenile's guardian, the person to whom he is handed, or his lawyer after being notified by prosecutor, so the Court of Appeal should have confirmed that it was impossible for any of those described in article 15 to attend the investigation sessions with the juvenile before the attendance of the probation officer (see cassation court decision 106/2006 dated 22/3/2006 and decision 1108/2005 dated 12/10/2005 decision 558/2006 dated 25/7/2006, and decision 275/2006 dated 17/5/2006).
Cassation Court Decision no. 263/2006 (quintet panel) on 20/4/2006

If it is proved according to ruling no. 145/95 dated 7/10/95 that the defendant was a juvenile boy at the date of committing his offence, contesting this conviction was not considered because there was no precedence in accordance with the provisions of article 6 of the juveniles law. The Court of First Instance should have rejected the request because the applicant was recognizing. Our court has ruled that it is impossible to apply the provisions of moral standing in all juvenile cases (cassation decisions no 116/2000 and 166/2000).

Cassation Court Decision no. 106/2006 (quintet panel) on 22/3/2006

According to article 15/1 of the Juveniles Law, the text absolutely doesn't permit investigation with the juvenile except only in the presence of the parent or guardian, and this includes the investigation carried out by the law enforcement officers as well by the Prosecutor. In addition, we believe that this guarantee by the legislator to take into account the juveniles and to ensure they are not subjected to any pressure or coercion during the investigation. If this mandatory is to be followed with the prosecutor who is mandated by law to oversee all law enforcement agencies, it is more obligatory for the law enforcement officers who obey his orders and in accordance with the provisions of law.

Cassation Court Decision no. 1108/2005 (quintet panel) on 12/10/2005

The provisions of article 13 of the Juveniles Law no. 24 of 1968 and its amendments oblige during the investigation with the juvenile and during the trial session the calling of his parent, guardian, or the person to whom he is handed by subpoena and to notify the probation officer. Since the investigation stage in this article came absolute and in the broadest sense to include the initial phase of the investigation by the police and subsequent investigations before judiciary, and article 15 thereof does not authorize investigation with juvenile except only in the presence of the guardian, custodian, the person to whom the juvenile is handed, or his lawyer, and in case they could not attend the probation officer is called to attend the sessions. The legislature intent of the legislation is to give protection to the juvenile so as not to fall under any influence while making his statement, taking into account his age.

The court of merits has dismissed the statement of the defendants Tariq and Hamza in the initial investigations in the absence of the persons mentioned above, and ruled consequently to declare their innocence. Thus by reaching this result, and with its capacity in weighting the evidence and its discretion it has hit the true law.

Cassation Court Decision no. 35/2003 (quintet panel) on 2/2/2003

If the juvenile defendant is eighteen years of age and did not complete it on the incident date, he is considered in the age group of the boy, according to the definition of boy in article 2 of the Juveniles Law no. (24) of 1968, as amended.
The consideration in the felony of murder intervention assigned to the accused (Diaa) and incitement to murder assigned to (Adnan) is beyond the jurisdiction of the higher Criminal Court according to article 4 of its law.

The Criminal Court is not competent to try the accused of a felony murder, as long as it happened at the age of the boy, according to the provisions of paragraph 2 of article 7 of the juveniles law mentioned before, and in light of the decision of the Criminal Court ruling that the case doesn't fall within the jurisdiction in this case and forward it to the competent public prosecutor to be forwarded to the competent authority in line with the law.

Cassation Court Decision no. 1196/2002 (quintet panel) on 5/1/2003

The Juveniles Law doesn't stipulate how to reduce the sentence imposed on the boy in the case of mitigating discretionary reasons based on article (99) of the Penal Law and on the ground that it is possible to apply the provision of this article because the penalties imposed on the boy. In a criminal offense is one of the penalties provided for in this article. Thus, the decision of the Court of Appeal not to take by extenuating reasons, despite the drop of the father of the victim of his personal right against the accused is in contrary to the law.

The provisions of article (108) of the Criminal Procedural Law impose on the president of the court or his deputy judge, when the cases of crimes in the proceedings referred to the Court and punishable by death or hard labor for life, or life imprisonment that the defendant should be asked if he had lawyer to defend him, and if his financial condition does not enable him to hire a lawyer, the president or his deputy, must appoint a lawyer. Since the felony murder assigned to the accused is punishable by temporary arrest for a period ranging between 6 -12 years according to article 18/3/a of the juvenile Law, so not asking the accused to appoint a lawyer for them, does not violate the Law.


If the accused was born on 28/11/ 83, and that the offense attributed to her, namely, the shooting of her brother on 14/7/2001, her age on the incident date was (17) years, (7) months and (16) days i.e. she was withing boy group.

Article 18 of the Juveniles Law no. 24 of 1968 stipulates that the court hearings on the charges assigned to any juvenile, have to observe his rights that arefollowed by the juvenile courts if a juvenile was charged with non-juvenile.

Since the grand criminal court did not observe the juveniles law when it imposed the penalty but applied the provisions of the penal law on the grounds that the accused had exceeded eighteen-years of age when the offense was committed which is contrary to the fact since the accused was a juvenile at the time of committing the crime. This mandates the cancellation of the judgement.

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As article 17 of the juveniles law, which is a private law for the Penal Law, has allowed the juvenile's parent or guardian to act on his behalf by the objection, appeal or cassation, therefore, the application submitted and signed by the juvenile guardian is considered valid and accepted in its form.

Cassation Court Decision no. 166/2000 (quintet panel) on 114/2000

According to article 6 of the Juveniles Law no. (24) of 1968, a general principle was decided that the conviction of the accused juvenile is not considered a precedence, contrary of what is considered for the adults since the legislator has aimed from this principle to allow the juvenile after his maturity to have social life free from any deviation at a time when he was not fully conscious. So rehabilitation is not applicable in all juvenile cases. Since the Criminal Court of Irbid had gone contrary to this and decided to reconsider against the accused who was minor at the time of the Criminal Court decision against him the reasons for the contestation are valid and it is contested.

Cassation Court Decision no. 388/1999 (quintet panel) on 15/8/1999

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The psychological report does not come by examining the accused only once, but he needs to be placed under medical observation for some time.

If the result of the examination and monitoring showed that the defendant is not mentally sound, with an indication of whether that case was a temporary situation or was inherent when he committed the crime to the point of impeding his trial, the court may convict him and consider him criminally not liable in accordance with the provisions of article (233/1) of the Criminal Procedural Law, but not to prosecute him legally as decided by the trial court, which means that this constitutes a reason for appeal.

The standard in the application of the juveniles law is the age as set by article (14 / A) of the Juveniles Law, which stipulates that civil status record is considered an evidence of date of birth unless proved to be forged. As the accused was registered in the register, the introduction of age assessment based on the report of the doctor and the application of the juveniles law based on that, was contrary to the law.

The trial of the juvenile is beyond the jurisdiction of the Criminal Court, and falls within the jurisdiction of the Court of First Instance in its capacity as a juvenile court, and the rulings are subject to appeal under the juveniles law article (17).
Cassation Court Decision no. 256/1999 (quintet panel) on 30/9/1999

1. The one who doesn't reach the age of seven is not legible to exercise his civil rights and not criminally responsible as provided by articles 44 and 45 of the Civil Law and Article 18 of the Juveniles law because of the lack of mental faculties to be able to understand his actions and recognize and understand their implications.

2. The testimony of the insane and boy who doesn't recognize his oath may not be heard as indicated in article 32 of the Evidence Law, so the testimony is not acceptable to form a conviction on it unless it supported by a legal support.

3. The testimony taken as an evidence provided for in Article 158 of the Criminal Procedural Law is not sufficient for conviction unless supported by another evidence, so the witnesses mentioned in paragraph (1) of this article who can be heard without an oath are those who reached 7 but not 15 years of age.

4. If the testimony of the unrecognizing boy is not acceptable to build a conviction on it, then his conveyed testimony is unacceptable because it no more than a repetition of the words of the unrecognizing boy. What is stipulated in article 157 of the Criminal procedural Law is related to the words of the recognizing person who did not reached the age of maturity. Since the testimony of the unrecognizing person is not acceptable for building a conviction. The convection should be based on suspicions, and as the evidence in this case is a testimony by for inference, the innocence of the accused should be declared.

Cassation Court Decision no. 183/1999 (quintet panel) on 19/6/1999

Published on page 416 of the Judicial Magazine no. 6 on 1/1/1999

If the Grand Criminal Court has issued its sentence without obtaining a report from the probation officer and since the accused is a juvenile as per article (11) of the juveniles law, then the reason stands for invalidating the judgment.

As the criminal court did not weight the evidence properly and therefore reached unaccepted results, and it did not discuss the evidence sufficiently to validate the knife used in stabbing the victim, so this made the appeal sound and valid, and therefore contested.

Cassation Court Decision no. 244/1998 (quintet panel) on 10/5/1998

According to article 158/2 of the criminal procedural law, it is not obligatory to consider the testimony of the two victims by inference, but article 158/1 states that the witnesses may be heard without oath if they are less than 15 years. According to legal interpretation, this text can't be considered in absolute terms and in isolation from other texts. It is legally and logically proved that there should be differentiation between the witness who did reach 7 and the witness who completed 7 but not 15 years of age. The first group may not be heard even for inference because the legislature requires two conditions to hear their testimonies; the
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recognition and the freedom of choice. The law has decided the issue of non-recognition in article 44/2 of the civil law (and everyone who did not reach 7 years of age is considered unrecognizing) and as it is not possible to hear the insane for inference, it is not allowed to hear the minor because he lacks recognition, this is not answered by saying the text is stipulated in the civil law but not in the criminal law, because the civil law is the general law that should precede and interpret the ambiguity in the provisions of the criminal law, and all parts of the laws should be in harmony. In addition the juveniles law is part of the criminal law and it confirms the irresponsibility of those under 7 years of age because they lack recognition. As for the second group, they are heard for inference and article 158/2 of the criminal procedure law applies to them. The comparative judicial has nullified every ruling that is based on the testimony of the minor even if it is taken for inference only.

Cassation Court Decision no. 727/1996 (quintet panel) on 14/1/1997

If the date of birth for the accused is 14/5/1981 according to his birth certificate and family book attached with the appeal, and the offence was committed in January 1996, the accused would be juvenile when committing the offence. Irbid Criminal Court should have taken that into account and rule under the penal law supported by the juveniles law. Therefore not observing the juveniles law in trying the accused is a violation that requires to contest the ruling. As this contestation was in favor of the convict Ashraf Kamal it is taken according the provisions of article 291/4 of the criminal procedural law to contest the ruling and return the documents to Irbid criminal court to take the necessary legal action.

Cassation Court Decision no. 118/1992 (quintet panel) on 20/5/1992

According to article 6 of the juveniles law, the crime committed by the minor is not considered a criminal precedence, therefore the decision of the first instance court and then the appeal court in rejecting the suspension of the execution on the ground that the defendant was referred previously to Zarka Prosecutor for theft offence and based on this incident, the ruling is violating the law and requires contestation.

Cassation Court Decision no. 173/1987 (quintet panel) on 29/7/1987

If the accused is a minor at the time of committing his act, the juvenile court proceedings should be followed as per article 18 of the juveniles law no. 24 of 1986, and the ruling of the criminal court which did not observe the procedures is deserving contestation.
We have decided to present the most prominent lawsuits in the area of juvenile justice so that the reader and the interested in legislation recognize that the shortage in legislation was treated in some cases by the judicial jurisprudence of the highest court (Court of Cassation). This demonstrates the significant role played by the judiciary. It is possible to play a more leading role for the child's best interest if applicable legislation contains provisions that give the judiciary a sort of flexibility. This is what we look for in the draft amended law.

It is also noted that many of the guarantees of a fair trial regarding the juveniles were focused on through Jurisprudence referred to above.

The decision making process of the Court of Cassation is followed in this regard due to the fact that its decisions are final and exemplify a kind of legal principle for the lower courts. This is what has been observed by focusing on the necessity of the presence of a guardian and defense lawyer with the juvenile and taking into account the age of the juvenile and the type of action taken against him.

Some of judgments of the lower courts were contested because of the lack of certain safeguards and rules of the juvenile trials.
References

1. Seminar on implementing the penal sentences according to the modern penal policy, Amman, 8-10/12/1998, Jordanian Judicial Institute.


5. Decisions of the Arab conferences of the Heads of Arab penal institutions, the Council of Arab Interior Ministers.


12. Research of Riyadh Symposium; Islamic Sharia Addressing the problems of juvenile delinquency.


14. The Fifth Conference of the Egyptian Society of Criminal Law entitled (New Horizons in criminal justice for Juveniles) it includes more than forty papers in this topic.

15. Juvenile Police Department statistics.
16. Recommendations of the workshops that were carried out within the framework of the juvenile criminal justice project.

17. Reports of the National Center for Human Rights on Juveniles.

18. Jurisprudence of the Jordanian Court of Cassation.


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<th>No</th>
<th>Party</th>
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<td>1.</td>
<td>The National Center For Human Rights</td>
<td>- Buthaina Freihat</td>
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<td>- Mohamad Daghestani</td>
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<td>2.</td>
<td>The Ministry of Justice</td>
<td>- Mona Al-Sabir</td>
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<td>3.</td>
<td>Juvenile Police Department</td>
<td>- Khaldoun Alazamat</td>
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<td>- Bilal Bani Issa</td>
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<td>4.</td>
<td>Family Protection Department</td>
<td>- Awwad Al-Serhan</td>
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<td>- Tamer Shdefat</td>
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<td>5.</td>
<td>Jordanian House of Representatives / Directorate of civil society institutions</td>
<td>- Ahmed Al-Majali</td>
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<td>6.</td>
<td>Ministry of Social Development</td>
<td>- Khalid Albualseh</td>
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<td>Arab Organization for Human Rights</td>
<td>- Sahar Saad</td>
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<td>- Raed Mefleh</td>
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<td>8.</td>
<td>Children's Village Association SOS</td>
<td>- Khadija Shawabka</td>
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<td>- Salwa Kafaween</td>
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<td>Charity Association of Families Development</td>
<td>- Enas Banat</td>
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<td>- Abeer Asha</td>
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<td>Meezan</td>
<td>- Oraib Al-Najjar</td>
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<td>13.</td>
<td>Jordanian Society for the care of juvenile and orphans</td>
<td>- Mufeeda Zawahreh</td>
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<td>14.</td>
<td>Pioneers of the future to enable members of the communities</td>
<td>- Aliya Saeh</td>
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<td>- Alaa' Qatawi</td>
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<td>15.</td>
<td>East-West Center for Human Resources Development</td>
<td>- Randa Jalajel</td>
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