

This is submitted by *DIGNITY – Danish Institute Against Torture*
in support of
the Jordanian Youth Alliance for the Prevention of Torture

Submitted to the Office of the High Commissioner for Human Rights under the Universal
Periodic Review of Human Rights

Discussion of the Fourth Report of the Hashemite Kingdom of Jordan

UPR Statement – July 2023

A brief introduction to the Jordanian Youth Alliance for the Prevention of Torture

1. In preparation for the Universal Periodic Review (UPR) of the fourth country report by Jordan, DIGNITY – Danish Institute Against Torture supported the Jordanian Youth Alliance for the Prevention of Torture in submitting its stakeholders' shadow report. DIGNITY's aim is to empower the participation of youth stakeholders in the UPR process. This submission is therefore fully developed by the Jordanian Youth Alliance for the Prevention of Torture under the mentorship of DIGNITY.
2. The alliance team members are young men and women specialized in youth and counter-ing torture who come from different professional and academic backgrounds with expertise on issues relating to human rights, and humanitarian and developmental work locally, nationally and internationally.
3. The youth alliance aims to preserve human dignity and promote fundamental rights to a decent living, freedom and equality. This comes as part of our firm belief that protecting human rights, fundamental freedoms, and human dignity leads to the realization of freedom, justice and peace in the world. The alliance consists of youth who represent their own selves. It endeavors to have community sanctions utilized as an alternative to incarceration within the existing legal frameworks and under the oversight of the competent authorities. Utilization of alternative measures to incarceration helps mitigate concerns relating to over-crowdedness at places of detention, the significant cost of detention borne by the state, and the negative impact of detention on youth.
4. For the purpose of this UPR, the youth alliance undertook training on report writing skills and international human rights mechanisms to enable the group to actively engage in promoting human rights in Jordan, fighting torture and submitting shadow reports to human right treaty-based entities including the United Nations Office of the High Commissioner for Human Rights (OHCHR) as part of the Universal Periodic Review. The UPR process involved consultations and discussions among the youth members, and reviewing relevant literature, the annual reports of the National Center for Human Rights (NCHR), and the manner in which judicial decisions applied the stipulations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The recommendations, the concluding observations of CAT Committee, and the recommendations accepted by Jordan in 2018 HR UPR were analyzed.
5. It is worth noting that this report is based on the alliance members' expertise, close monitoring and diligent data collection. The report is developed by:
 1. Renad Aesa
 2. Asmaa Nabil Al-
 3. Roaa Hjeer
 4. Mohmad
 5. Reem Al-Masri

Shalah		Samer Awad	
6. Lona Edy Shah- er Beno	7. Heba Abd El- gader	8. Tasnem Al- Hmoz	9. Hamzah Ab- dallh Abo-Al heja

6. The report herein is of two main themes:

- Theme I: Provisions against torture in national legislation.
- Theme II: The impact of “alternatives to detention” on youth and the role youth can play in promoting community sanctions to replace liberty-depriving penalties.

Background

7. Subsequent to Jordan’s third cycle UPR the government accepted 149 recommendations. The recommendations Jordan accepted that are relevant to this submission are mainly about the importance of adopting a definition for torture that is consistent with the definition set forth in the Convention against Torture¹. They also call for addressing all instances of torture², constantly pursuing endeavors to fight torture through reviewing and amending the national penal law and forcing penalties that are proportionate to the gravity of the act³. The recommendations also stress that the prohibition of torture is absolute and non-derogable⁴. Moreover, they highlighted the importance of making available to public prosecutors sufficient resources to enable effective investigations in torture allegations⁵. Another area of the recommendations concerns the need to offer specialized trainings on combating torture and promoting human rights⁶; they also emphasized that all torture allegations are to be expediently, thoroughly and independently investigated⁷.
8. The alliance notes that while Jordan accepted some recommendations, it is concerning that there are other equally crucial recommendations that Jordan did not accept. These include one that stresses the importance of referring torture prosecutions to independent civil courts rather than the police courts which are under the ministry of interior⁸. They also call for eliminating ill-treatment during detention⁹, amending article 208 in the penal code so the definition of torture is consistent with CAT¹⁰, and prosecuting civilians in civil courts exclusively¹¹. The recommendations Jordan did not accept also include ones urging

¹ Recommendations 136.1 (Chile) and 136.12 (Mexico)

² Recommendations 135.53 (Italy) and 135.8 (Greece)

³ Recommendation 136.1 (Chile) and 136.8 (Republic of Korea),

⁴ Recommendation 135.52 (Hungary)

⁵ Recommendation 135.63 (Republic of Korea)

⁶ Recommendations 135.62 (Qatar) and 135.8 (Greece)

⁷ Recommendation 135.8 (Greece)

⁸ Recommendations 137.53 (Canada) and 137.58 (United States of America)

⁹ Recommendation 137.23 (Austria)

¹⁰ Recommendations 136.4 (Spain) and 137.53 (Canada)

¹¹ Recommendations 137.53 (Canada) and 137.58 (United States of America)

it to accede into OP CAT¹², formally and publicly criminalize all acts of ill-treatment by public authorities personnel¹³, listing the act of torture as a felony¹⁴, vesting the competence of hearing the said crimes with civil courts¹⁵, and providing protection and compensation for victims¹⁶. The aforementioned recommendations constitute the minimum measures to systemically counter torture.

9. The alliance delivers its report highlighting the challenges to countering torture in Jordan and the recommendations to achieve the same in fulfillment of the obligations Jordan is bound to deliver following to acceding to CAT and other human right conventions and in response to the protection mechanisms approved by the UN through Human Rights Council and other UN mechanisms.

Theme I: Provisions against torture in national legislation

10. Despite the provisions against torture in the Jordanian constitution article 8 which unequivocally states that *“all persons detained, arrested, imprisoned, deprived of their liberty shall be treated in a manner that preserves their dignity. They may not be detained in places other than ones designated by the law. Any statement made by a person under torture, assault, or threat shall be inadmissible,”* policies and legislation still lag behind. An example to this is provisions of article 208 in the Jordanian Penal Code which are not consistent with CAT Art. 1; the former states that the crime of torture prescribes by a defined term and does not set a deterring penalty leaving room for impunity. Moreover, as of the time of writing this instant report, courts have not issued any decision qualifying an act as torture. This, in fact, is indicative of a legislative flaw that restricts torture to very limited cases, and also of a procedural flaw.

11. Article 208 in the Penal Code stipulates:

- 1- Any act of torture inflicted on a person with the intent to obtain a confession or information about a crime is punishable by one to three years in prison.
- 2- For the purposes of this article, torture means any act by which pain or severe suffering, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from him or another person information or a confession or punishing him for an act he or another person has committed or is suspected of having committed, or intimidating or coercing

¹² Recommendations 137.14 (Czechia), 137.16 (Sri Lanka), 137.2 (Denmark, Estonia, Chile, Ukraine, Honduras, Spain), 137.22 (Romania) and 137.23 (Austria)

¹³ Recommendation 137.23 (Austria)

¹⁴ Recommendations 136.4 (Spain) and 137.23 (Austria)

¹⁵ Recommendations 137.53 (Canada) and 137.58 (United States of America)

¹⁶ Recommendation 137.23 (Austria)

that person or another person, or when such pain or suffering is inflicted on him for any reason based on discrimination of any kind whatsoever, or when such pain or suffering is inflicted at the instigation of, with the consent or acquiescence of, an official or any person acting in an official capacity.

- 3- If such torture results in a severe ailment or injury, the penalty shall be a fixed term imprisonment with hard labour.
 - 4- Without prejudice to article (45) bis and article (100) of this law, no court may suspend the execution of a sentence for any of the crimes listed in this article, it also may not mitigate the sentence on any basis whatsoever.
12. The right to compensation is stipulated in article 48 in the Jordanian civil law: *"Anyone who is the victim of an unlawful violation of any of his personal rights is entitled to demand the cessation of such violation, together with compensation for the detriment suffered."*
 13. Article 8 paragraph 2 in the Jordanian constitution ensures the preservation of human dignity and prohibits torture *"all persons detained, arrested, imprisoned, deprived of their liberty shall be treated in a manner that preserves their dignity. They may not be detained in places other than ones designated by the law. Any statement made by a person under torture, assault, or threat shall be deemed inadmissible."*
 14. International standards on fighting torture require that national legislation shall prohibit torture, using clear language and wording that leaves no room for the justification of any act that mounts to torture.
 15. Section 159 of the Criminal Procedure Code states that a statement by a defendant or suspect in which he confesses to a crime in the absence of the public prosecutor is only admissible if the prosecution provides evidence of the circumstances in which it has been made and the court is convinced that the defendant or suspect has done so voluntarily and willingly.
 16. In reference to taking account of mitigating factors in cases of misdemeanors, and the requirement to justify the decision taking account of the same, Article 100 in the penal code stipulates:
 - 1- If the court takes account of the mitigating factors in the interest of the perpetrator, it may decide on the minimum punishment defined in articles 21 and 22.
 - 2- It may replace imprisonment with fine or reduce the misdemeanor penalty to offense penalty unless in the case of repetition.

- 3- The decision applying mitigating factors shall be thoroughly justified be it in felonies or misdemeanors.
17. The general rule is the assumption of innocence until proven guilty through lawful methods without coercing the defendant or torturing them to get a confession and before a just competent court.
18. To analyze how the court of cassation dealt with the crime defined in article 208 pertinent to obtaining confession or information using violence, the Jordanian Youth Alliance for the Prevention of Torture reviewed the respective jurisprudence. In decision 1916 of 2019, the court of cassation deemed that:
- “The acts of violence the investigators committed leading to the death of the victim constitute manslaughter resulting from negligence and failing to fulfil their statutory obligations to protect the deceased from assault and violence while in their custody, and also failing to provide timely emergency medical care despite the injuries he sustained, which according to the forensic physicians, were serious, painful and required immediate medical intervention to save the victim. Therefore, the three defendants committed offenses of negligence and failing to enforce the law, the thing that lead to the death of the victim.”
19. Based on the account above, the Jordanian Youth Alliance for the Prevention of Torture believes that Jordan is not taking the necessary legislative measures and adequate action to prevent acts of torture as prescribed by CAT Art. 2.
20. It is evident that the court qualifies the acts of violence against the victims as negligence not torture, even where the legal elements of torture are met.
21. Another concern is that article 208 does not provide for moral and material compensation for the victims of torture.
22. The competence to hear cases of torture committed by military personnel is vested with special courts comprised of military judges.
23. Article 208 does not address cases when the victim dies as a result if torture, rather it considers it an element of the crime of fatal assault.
24. It should be noted that in its 2021 annual report on the state of human rights¹⁷, the NCHR noted that with respect to torture issues it did not observe any legislative development on the legal system for combatting torture. The NCHR also noted the persistence of the main problems related to the criminalization of torture where it is not criminalized

¹⁷ [18th Annual Report on the State of Human Rights in the Hashemite Kingdom of Jordan, 2023, National Center for Human Rights \(link\)](#)

enough and is viewed as a misdemeanor, as well as the possibility of it being covered under the statute of limitations, amnesty and pardons, in addition to the problem related to the attribution of the subject matter jurisdiction to investigate and prosecute torture cases to the police prosecution service and special courts. The NCHR also noted the shortcomings in the legal framework for compensating torture victims.

25. The NCHR also pointed out in its report that the cases of ill-treatment committed against inmates of the Correction and Rehabilitation Centers for the year 2021 amounted to 55 cases, 32 defendants were prevented from being tried before the Police Prosecutor while 17 cases were referred to the unit commander for trial and 6 cases are still under investigation, compared to 42 cases in 2020: 35 defendants were prevented from being tried before the Police Prosecutor while 7 were referred to the unit commander for trial.
26. As for the complaints received by the NCHR from citizens of allegations of torture and ill-treatment by law-enforcement officials, whether in pre-trial detention centers or correctional centers, and whether during periodic visits to those places or through the number of complaints received by the center, the total number was 61 compared to 37 complaints during 2020.
27. With respect to the recommendations proposed in the 2018 Universal Periodic Review on the amendment of Article 208, it was found, through monitoring, that these recommendations have not been implemented by Jordan.
28. As a result, the inclusion of torture cases under the statute of limitations, amnesty and pardons, as stipulated in Article 208, led to an increase in cases of impunity.

Theme I Recommendations:

29. In light of the analysis, monitoring and development of indicators for dealing with cases of torture, and given the risk related to the lack of stricter punishments for the crime of torture, which will lead to an increase in such cases, and given the importance of strengthening fair trial guarantees, the Jordanian Youth Alliance for the Prevention of Torture suggests the following recommendations:
 - 1- **Amend existing legislation and adopt additional legislation to ensure that Jordanian law is in accordance with CAT Art. 2.**
 - 2- **Amend Article 208 of Jordan's Penal Code to be in accordance with the definition of CAT Art. 1** given that the international convention is more general and comprehensive and supersedes national laws. In addition, amend paragraph 1 of Article 208 to include the punishment and amend paragraph 4 of Article 208 by stipulating that the crime of torture shall not be covered by the statute of limitations and amnesty

(cf. CAT Art. 1, 2 and 4).

- 3- **Establish a national committee for monitoring the implementation of recommendations related to combating torture to ensure the State's commitment to their implementation.** This committee shall be composed of representatives from the government, civil society organizations, the National Center for Human Rights and experts in the field and must focus on building the capacities of law enforcement agencies “security services” to apply fundamental human rights principles through training courses (cf. CAT Art. 17).
- 4- **Have an independent specialized doctor and a psychosocial expert present from the very outset of detention to conduct medical examinations and assess the physical and mental state of the detainee.**
- 5- **Provide material and moral compensation to victims of torture cases** and not referring only to the general rules for compensation in civil law (cf. CAT Art.14).
- 6- **Jordanian law must assign civilian courts as a competent authority for hearing cases of torture as opposed to military courts** (cf. CAT Art.12-13).
- 7- **Amend Article 208 in which the crime of torture is reclassified from a misdemeanor to a felony**, without taking into account mitigating circumstances (cf. CAT Art.1 and 4).
- 8- **Address the legislative shortcoming in not providing for death as a possible consequence of torture by stating this result and thereby determining a specific and severe punishment commensurate with the gravity of the crime** (cf. CAT Art. 4).

Theme II: The impact of “alternatives to detention” on youth and their role in implementing alternative punishments to custodial penalties

Overcrowding in prisons and alternatives to detention

30. The Jordanian Youth Alliance for the Prevention of Torture commends the actions taken by Jordan with regard to community sanctions as the number of persons processed for community sanctions has reached 979 convicts as of mid-August 2022, and the number of government institutions partnering in the implementation of community sanctions has reached 13 institutions. It is also worth noting that at the beginning of 2023, 3 cases of community service as an alternative to detention are being carried out. The alliance also commends the efforts of Jordan in promoting and activating the adoption of alternatives to detention by applying specialized procedures and standards during the pretrial period, including electronic monitoring tools such as electronic ankle monitors, travel bans, bail bonds and other measures that in turn ensure the protection of human freedom and dig-

nity in accordance with universal human rights principles.

31. Despite the progress achieved in the use of alternatives to detention, the limited alternatives to detention measures in Jordan may lead to a restriction of freedom and security, which are fundamental rights. This may also lead to further complications which may result in the violation of many rights. Such complications include prison overcrowding and overincarceration. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment said that the negative impact of the overuse of incarceration on human rights is manifold. Overincarceration is one of the main causes of overcrowding in prisons, resulting in conditions that constitute ill-treatment and possibly even torture. Also, the process of classifying detainees according to the nature of crime, age or any other criteria is hindered by the unregulated and uncontrolled overcrowding. While the actual number of inmates in correctional centers reached 17.708, the capacity of these centers is 13.352. Overcrowding in correctional and rehabilitation centers is therefore over 33% which negatively affects the conditions and rights of inmates¹⁸.
32. According to Article 7 of The Constitution of The Hashemite Kingdom of Jordan: personal freedom shall be guaranteed and any attack on the fundamental rights and freedoms or the privacy of Jordanians is a crime punishable by law. However, some laws and practices contradict these rights where the right to freedom and security is violated. Article 3 of the Crime Prevention Law grants the governor the authority to issue a request for *"Anyone who may pose a danger to others if left free without bail"* to appear before them. And Article 7 of the Crime Prevention Law gives the administrative governor permission to refuse to accept any sponsor for reasons that are recorded without specifying the legal reasons that permit such refusal, which gives authority to administrative governors to detain people based on a personal matter and without evidence or facts that prove the need for detention. Sometimes the bail amount is high and weighs heavily on the detainee¹⁹.
33. According to the National Center for Human Rights, no amendments were made to Art. 7 of the Crime Prevention Law, despite the Center's repeated recommendations that the law be repealed, especially that this law represents a fundamental violation of constitutional principles and norms. The number of administrative detainees during the year 2020 reached about 21.322 detainees, compared to 37.853 detainees during the year 2019.
34. According to the amended Article 114 of the Criminal Procedures Law for the year 2017, detention is considered an exceptional measure to ensure the investigation process. And although the amendment limited the power of the judiciary to issue an arrest warrant against a person under investigation and obliged them to comply with the conditions, justifications or cases of detention contained in this article, detention, however, is still

¹⁸ National Center for Human Rights - 27/2/2023- <https://www.nchr.org.jo>

¹⁹ 11/3/2023 - "الجزيرة نت" في الأردن.. حين تتصارع ضرورة الأمن والتضييق على الحريات على ثوب التوقيف الإداري - www.aljazeera.net

considered a serious measure that deprives individuals of their liberty before their conviction is proven and this is contrary to the principle of 'the person is innocent until proven guilty'.

35. In most cases, overincarceration and prison overcrowding is caused by a number of reasons including criminal justice system-related shortcomings, excessive use of pretrial detention, the lack of alternatives to detention, or poor management of alternatives to detention and some existing policies for the punishment of perpetrators, as well as the limited oversight in detention centers.
36. It should be noted that in the Universal Periodic Review of Human Rights for the year 2018 Jordan was presented with a number of recommendations related to the Crime Prevention Law as well as conditions of arrest and detention. However, through analysis and development of indicators, it was found that some of these recommendations were not implemented yet, especially those related to the legislation governing arrest and administrative detention. The remaining recommendations, on the other hand, were under implementation by adopting community sanctions and amending laws and legislation, but their effect has not yet been measured.

Aggravating circumstances regarding detention of youth

37. The detention of youth at such a critical stage in their life where they are shaping their future leads to a number of consequences which start right from detention and continue well into later stages in the young people's lives. One of the main consequences is the inability to work during detention and the stigma related to being detained which will hinder future employment opportunities (despite the possibility of their innocence). Another consequence is the exclusion of youth from their normal social and living environments, something which may prevent them from reintegrating into society in the future. The detention may also pose economic challenges to the young detainee (and his/her family) in terms of lack of income, paying the bail etc.
38. Detention also affects the mental health of individuals. In an article published on the OHCHR Office page, former UN expert on the right to health, Danius Pūras, noted that "mental health issues and deprivation of liberty are deeply connected. The rates of poor mental health in prisons exceed those of the general population. He also indicates that the suicide rates in the prison system are at least three times higher compared to the general population"²⁰.
39. The potential impacts of detention on youth include Psychological Effects including trauma and emotional distress, Post-Traumatic Stress Disorder (PTSD), and stigmatization and social isolation; Economic Effects including disruption of education, unemployment and reduced earning potential, increased risk of poverty; in addition to the cycle of crim-

²⁰ [What to know about detention and the right to health | OHCHR](#) (link)

inal behavior. Detention, particularly if not accompanied by appropriate rehabilitation and support services, may increase the likelihood of individuals engaging in criminal behavior in the future. This can further perpetuate the cycle of poverty and economic instability.

40. The Euro-Mediterranean Human Rights Monitor stressed that the hostile environment and isolation suffered by delinquent children in juvenile detention centers in Jordan has a long-term negative impact on their learning levels and their psychological and social maturity. The Monitor indicated that the average number of juveniles detained and sentenced was 270 in 2020, a year Jordan witnessed a 31 percent rise in its juvenile suicide rate.²¹
41. The Jordanian Youth Alliance for the Prevention of Torture believes that working on activating and increasing the use of alternatives to detention for youth must be a top priority as it ensures social, economic and cultural security of youth. Such measures also contribute to the reintegration of youth and rids them of criminal mentality more quickly, improves their well-being and ensures stability in society, reduces the risk of repeating offences due to being in prison environments, in addition to eliminating the stigma which may affect the young people's lives.
42. Alternatives to detention include electronic monitoring tools, travel bans, bail bonds, or house arrest and others. Providing an umbrella of alternative punishments to custodial penalties also contributes to the creation of an effective criminal justice system and contributes to enhancing cooperation between all actors including public security, prosecution, judiciary, attorneys and others. This is an established rule for the realization of the rule of law and one of the basic principles for respecting the rules of international human rights law.

Theme II Recommendations:

43. In view of the importance of ensuring respect for human rights and a good upbringing for young people, and to reinforce the concepts of criminal and penal justice, the Jordanian Youth Alliance for the Prevention of Torture proposes the following recommendations:
 - 1- **Amend Articles 3 and 7 of the Crime Prevention Law by including preventive measures in penal laws to reduce the risk of crime and granting these powers exclusively to civil courts.** In addition to setting the amount of bail bond and refraining from setting unrealistic amounts as these weigh heavily on especially young detainees and their parents, and lead to continued detention, which gives the administrative governor the authority to keep this person in custody until the bail is paid.

²¹ <https://euromedmonitor.org/en/article/5314/Jordan:-Rise-in-juvenile-suicide-cases-necessitates-scrutiny-of-juvenile-justice-system> (link)

- 2- **Limit the power to impose house arrests and transferring this power to the judiciary**, provided that there is repeated commission of serious offences particularly homicide, sexual assault, grievous bodily harm, theft (classified as serious crimes).
- 3- **Amend Article 63 of The Criminal Procedural Law by stipulating the need to hire an attorney to represent the young detainees as mandatory** to help reassure them, and to ensure the integrity of the legal process as well as to avoid causing them harm or making arbitrary decisions.
- 4- **Amend inspection procedures that youth go through in detention centers where manual inspection is replaced with electronic inspection**, in addition to preparing an inspection report clarifying the reason for the inspection and its mechanisms to preserve human dignity.
- 5- **Establish/activate a database that documents the number and percentage of young administrative detainees or those detained for investigation purposes and develop an effective referral system for cases requiring protection between public security centers and relevant authorities.**
- 6- **Empower youth and building their capacities with regard to their legal rights and protection mechanisms guaranteed by the law**, in addition to raising awareness among local communities on alternatives to youth detention and their impact on youth, society and the country as a whole.