



Alternative report to the UN Committee against Torture for the review of Jordan

81st session of the UN Committee against Torture

Presented by the World Organisation against Torture (OMCT) and Mizan Law Group for Human Rights

September 2024

About the authors

Mizan Law Group for Human Rights is a Jordanian non-governmental organisation established on 5th August 1998 by a group of lawyers and registered as a non-profit company at the Ministry of Industry and Trade under no.3. It aims at promoting, protecting and monitoring human rights in Jordan to ensure respect for human dignity.

The **World Organisation Against Torture** (OMCT) works together with the 200 organisations that make up the SOS-Torture Network to end torture, fight impunity and protect human rights defenders around the world. Together, we are the largest collective mobilised globally in opposition to the practice of torture in over 90 countries. As a loudspeaker for local voices, we support our allies on the ground and provide direct assistance to victims. Our International Secretariat is based in Geneva and has offices in Brussels and Tunis.

Context

Jordan ratified the UN Convention against Torture in 1991 and was last reviewed by the UN Committee against Torture in 2016.

The OMCT and the Mizan Law Group for Human Rights would like to focus the present report on the situation of children in the administration of justice, and especially on the applicable legislative framework and current gaps that can undermine the respect of the rights of these children and their protection from institutional violence. Children in detention are some of the most vulnerable and invisible children, mainly cut from the outside world and under the authority of state institutions and agents. Detention of children has been recognized as harmful for the development of children and putting them at higher risk of institutional

violence¹. This is why international standards urge states to ensure that detention of children is a last resort and for the shortest time possible.

Jordan's legislative framework includes several instruments regulating juvenile justice and the juvenile justice system, including the Juvenile Law (*Law No. 32 of 2014*) and the Child Rights Act (Act No. 17 of 2022), which came to complement the 2014 Law. While this framework includes some international standards on juvenile justice, some remaining gaps are concerning, and do not align entirely with the UNCRC, the UNCAT and other instruments such as the Beijing Rules and the Riyadh Guidelines.

The main gaps identified include, among others, a minimum age of criminal responsibility lower than international recommendations, the absence of explicit absolute prohibition of the use of force and of solitary confinement, the lack of information on abuse, ill-treatment and torture of children in detention, the lack of oversight and complaint mechanisms for children in detention, the limited free legal aid afforded to children in conflict with the law, the lack of gender-specific protections and non-discriminatory approach to justice, or the problematic lack of distinction between status offenses and criminal offenses.

The government recently published a national strategy on juvenile justice 2024-2028, aimed at addressing several of the gaps identified in the current legislation. This is a very welcomed step, that carries the opportunity to ensure that the rights of children in conflict with the law and in detention are respected and fulfilled. For this to be the case in reality, we recommend that the specific issues identified in this national strategy are concretely implemented in practice, including through the allocation of sufficient human and financial resources. We recommend that the legislative reform planned in the strategy include some key measures to put the Jordanian legislation in line with international standards. Finally, the current national strategy fails to include some specific issues, which we recommend including, to ensure the maximum respect for the rights of children in conflict with the law and in detention and protection from institutional violence.

Aligning the legislation with the international standards and implementing international standards in policies and in practice would allow for the strengthened protection of children in conflict with the law and in detention.

Lack of data

Our organisations faced challenges to access information about children in the justice system and especially in detention. In addition, the law does not mandate the systematic collection of data on juvenile justice, such as data on the number of juveniles in detention, the nature of offenses, recidivism rates, and outcomes of non-custodial measures. General Comment No. 24 of the UNCRC stresses the importance of data collection for evaluating the effectiveness of juvenile justice systems and ensuring accountability.

The law should mandate the creation of a data collection system to track juveniles in the justice system, assess the effectiveness of interventions, and guide policy reforms.

¹ A/HRC/28/68, Special Rapporteur on Torture and other cruel, inhuman and degrading treatment and punishment, para. 16.

Low minimum age of criminal responsibility

The Juvenile Justice law explicitly prohibits criminal prosecution for children under 12 years old (Article 4(b) of the Law).

According to UNCRC General Comment No. 10, the minimum age of criminal responsibility should not be lower than 12, but states are encouraged to progressively increase this age to 14 or 16. In its concluding observations (2023), the CRC recommended that the state party raises the minimum age of criminal responsibility to 14. Thus, Jordan should consider raising the minimum age of criminal responsibility to reflect children's developmental maturity and capacity.

Use of force and restraints

According to article 4(d) of the Juvenile Justice law, the use of force, restraint, or isolation is prohibited unless the juvenile is rebellious or violent, and only when absolutely necessary.

Article 4(d) permits the use of force and isolation if a juvenile is rebellious or violent, without specifying clear limits or alternatives. However, Rule 64 of the Beijing Rules indicate that the use of restraint should be limited to exceptional cases when all other methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation and should be used restrictively and only for the shortest possible period of time.

The law also does not explicitly address the prohibition of solitary confinement or the use of force against children in detention. We recall that isolation can have detrimental effects on a child's mental health, and international standards recommend against its use in juvenile justice settings.

→ The law should establish clear limits on the use of isolation and physical restraint, ensuring that these measures are only used as a last resort, are subject to judicial review, and provide for psychological support during and after the incident.

Corporal punishment, ill-treatment and violence

The Jordanian Civil Service Law prohibits "any form of corporal punishment against any children." Moreover, the Juvenile Justice Law establishes Juvenile Police within the Public Security Directorate, which specializes in juvenile issues (Article 3(a)) and deals with juvenile cases in family and juvenile protection police stations. The same law also mandates the creation of juvenile care centers for rehabilitation (Article 3(b)).

On the other hand, the law does not provide detailed provisions on protecting juveniles from violence or abuse by staff or peers within juvenile detention centres. The UNCRC (Article 19)

emphasizes that children should be protected from all forms of violence, including while in detention.

In practice, there is a clear lack of information about the treatment of children in contact with the justice and penitentiary system. In fact, there are no official reports that we know of that monitor children being subjected to corporal punishment, ill-treatment, or torture during detention or police custody. While we would like to believe this reflects the absence of such practices, it is more likely due to the lack of systematic data collection and dissemination on these issues. Moreover, , human rights activists and the media have allegedly reported cases of assault on juveniles in rehabilitation centres.

Lack of restorative justice approach to children's cases

There is a specialized justice system in Jordan. The Jordanian law provides that the Judicial Council shall allocate members of the Public Prosecution to consider juvenile cases (Article 7 of the 2014 Law). Specialized juvenile courts handle cases involving minors (Article 15(a) of the 2014 Law), and these courts are given expedited treatment. Judges handling juvenile cases are selected based on their expertise in child-related matters (Article 15(b)). The law also mandates the establishment of courts at different levels—Conciliation Courts for minor offenses (Article 15(d)) and First Instance Courts for more serious offenses (Article 15(e)).

In 2021, the Public Security Directorate announced the merger of the Juvenile Police Department with the Family Protection Department to unify efforts to protect children and families. The Public Security Directorate, the judiciary, and the Ministries of Justice, Health, and Social Development jointly developed a formal mediation process for juvenile cases regarding minor offences, including the development of guidelines. A specialized 'settlement/conciliation' judge must oversee the resolution of each case, confirm the consent of both parties, receive recommendations from mental health providers and social workers, and may order community service, dismiss criminal charges, and issue protection orders. This year, the Family Protection Department received 4,738 juvenile cases, referring 2,698 to court and 2,040 to settlement.

However, the law emphasizes detention and punitive measures, with limited focus on restorative justice approaches that involve the victim and community in resolving conflicts.

→ The law should incorporate restorative justice mechanisms that take place outside the formal court system, such as victim-offender mediation and family conferencing, which can provide non-punitive alternatives for resolving conflicts aligning with Article 40(3)(b)) of the UNCRC.

Sentencing guidelines

For serious crimes, the 2014 law outlines in articles 25-26 different levels of sentencing for adolescents (12-15 years) and youths (15-18 years):

- For crimes that would ordinarily carry the death penalty or life imprisonment, juveniles may be sentenced to 8-12 years in juvenile rehabilitation centers for older offenders (Article 25(a)) and 6-10 years for younger ones (Article 26(a)).
- For less serious crimes, the juvenile can be sentenced to shorter detention periods or community-based measures, depending on the nature of the offense (Articles 25(b-e), 26(b-d)).

The law does not make a clear distinction between status offenses (offenses that are only illegal due to the minor's age, such as truancy or running away from home) and criminal offenses. International guidelines recommend that status offenses be handled outside the formal juvenile justice system, using social welfare approaches instead.

→ The law should include provisions that ensure status offenses are addressed through social services or community interventions, rather than through detention or judicial proceedings.

Lack of legal aid

According to article 21 of the Juvenile Justice Law, a juvenile is unable to appoint a lawyer, the state is required to provide one, ensuring the right to legal counsel (Article 21), aligning with Article 40(2)(b)(ii) of the UNCRC.

The juvenile has the right to appoint a lawyer during the investigation and trial stages. The law also allows the juvenile's guardian or lawyer to attend the investigation stages and trial sessions. However, in practice, free legal assistance is only provided to the juvenile in major criminal cases in which the law requires the accused to be represented by a lawyer provided by the Ministry of Justice. There are no civil society institutions specialized in providing such assistance.

Protection, complaints and monitoring mechanisms

The law does not establish a clear system of independent monitoring and oversight for juvenile facilities or juvenile justice processes. Grievance channels are limited to the police prosecutor in the event of abuse of the juvenile during the investigation and to grievances to the committees of the Ministry of Social Development if the violation occurred during detention in one of its centers. It is also possible to file a complaint with the National Center for Human Rights, but it does not have any legal or investigative powers against the perpetrators and can be considered a monitoring center affiliated with the government. We note that no reports have been published to monitor such violations.

Although the national strategy 2024-2028 includes coordination efforts, it does not include any mention of an independent monitoring and oversight mechanism. These mechanisms are key. **An independent body for oversight of detention centers and rehabilitation facilities is needed to ensure that juvenile justice facilities and practices comply with national and international standards.** Without this, children in detention are cut and invisible from the outside world and at the mercy of authorities, without any external control of their treatment and conditions of detention.

→ The law should establish clear mechanisms for protecting juveniles from violence within detention centers, such as independent complaint mechanisms, an independent body to monitor juvenile detention facilities, and investigative procedures, and ensure accountability for violations.

Education and reintegration

In parallel to a punitive and custodial approach to juvenile justice, we also identify a gap in fostering the rehabilitation and reintegration objectives, included in the UN CRC. This is achieved through ensuring education and activities in detention aimed at ensuring the reintegration of the children after their release.

→ The legal framework and policies could benefit from clearer guidelines on how juveniles transition to the adult system, with a focus on ensuring continued rehabilitation and support during the transition.

Post-release and aftercare

Articles 41 of the 2014 Law mandates post-release care (after release from rehabilitation or detention) to help juveniles reintegrate into society. This aligns with the UNCRC's emphasis on rehabilitation and reintegration (Article 40).

However, the law does not emphasize long-term reintegration and psychosocial support for juveniles after release, while the UNCRC (Article 40) and Beijing Rules (Rule 24) highlight the importance of a justice system focused on the child's rehabilitation and reintegration into society, including psychosocial care and education.

→ More emphasis should be placed on comprehensive post-release programs, including psychological support, family counselling, and educational or vocational reintegration programs, to ensure long-term reintegration and prevent recidivism.

Lack of specific legal protection of girls in detention

The Jordanian law does not explicitly address discrimination or ensure equal access to justice for vulnerable groups, including juveniles from marginalized communities. The UNCRC (Article 2) emphasizes non-discrimination in the application of justice, and all children must have equal access to legal protection.

The law should explicitly guarantee non-discrimination and ensure that marginalized or disadvantaged children have equal access to justice, legal representation, and rehabilitation services.

The law does not provide specific measures for addressing the needs of girls in detention, even though they often face different challenges (vulnerability to sexual abuse, gender-specific

health needs, etc.) The Bangkok Rules stress the need for gender-sensitive policies in the juvenile justice system.

The law should include gender-specific provisions that take into account the unique needs of girls in the justice system, including access to appropriate health care, protections from gender-based violence, and family-based rehabilitation options.

This issue is not included in the current national strategy 2024-2028. It does not mention any **gender-specific measures or policies** for handling the needs of girls in detention. We recommend that this be included in the strategy and in the legal reforms, policies and practices that will implement in practice the strategy.

Access to medical and psychological care

The law does not explicitly guarantee psychological support and counseling services for juveniles, especially those who have experienced trauma or abuse.

The law does not specifically address the needs of juveniles with mental health conditions or intellectual disabilities.

- ➔ A clear mandate for the availability of psychological services, trauma-informed care, and counseling for juveniles in detention and post-release is required.
- ➔ The law should include special provisions for juveniles with mental health issues, including screening mechanisms, tailored rehabilitation, and access to mental health care during detention.

The national strategy 2024-2028 does not sufficiently address the needs of **vulnerable groups within the juvenile justice system**, such as juveniles with disabilities or those from marginalized communities. We recommend that this be included and taken into account in the strategy and implementing policies.

Training of professionals in contact with children in conflict with the law

The current legislation does not include specific provisions for the training of police, judges, and social workers on handling juvenile cases. The UNCRC and Beijing Rules advocate for specialized training for all professionals involved in the juvenile justice system. This is key to ensure the treatment of children according to international juvenile justice standards by all professionals in contact with children.

The UN Committee on the Rights of the Child, in its 2023 Concluding Observations to the State of Jordanⁱ, recommended that the State should:

- Ensure that the principle of the best interests of the child is consistently applied in all programs and legislative, administrative and judicial proceedings involving children, in both sharia and juvenile courts, including in relation to parental custody, alternative care, asylum and child justice;

- Provide guidance and training to all relevant persons in authority, including administrative authorities, sharia judges, and traditional and religious leaders, for determining the best interests of the child in every area as a primary consideration.

Mandatory training programs for law enforcement, judiciary, and social workers on child-friendly justice, handling vulnerable juveniles, and understanding child psychology and development are required.

ⁱ CRC/C/JOR/CO/6