



The National Centre for Human Rights

Juvenile Criminal Justice in Jordan

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Introduction

Throughout its long history, humanity did not agree upon a specific definition of childhood as an age stage requiring care, attention and protection commensurate with its nature until the beginning of the last century. This came as a result of the many transformations witnessed by European societies with the beginnings of the Renaissance (Aries 1960). In the stages preceding the Renaissance, many societies regarded the young as weak beings exposed to the dangers of early death, which made caring for them a waste of time and effort and a distraction of adults from performing their necessary tasks and work.

On the basis of this view, many families in the hunting, herding and agricultural stages delayed naming their newborns for long months, in anticipation of their death as a result of disease and lack of care, and to avoid giving them an identity that would establish their existence as members of the family to whom one might become attached. This view led to a low level of care for the young, especially the frail and those with disabilities, many of whom were left to face health hazards, disease and all forms of neglect, infanticide, torture and abandonment.

Some studies on the history of childhood before the Renaissance (Aries 1960) indicate that most human societies, and especially European ones, lacked institutions specialised in the care and upbringing of children. In many of these societies children were subjected to cruelty, torture, neglect and exploitation in work, roles and occupations unsuited to the level of their abilities and maturity. Societies were mostly devoid of any products and tools specific to the child, such as food, clothing, toys, utensils and the like; these societies integrated the young into adult life as soon as they passed the stage of direct dependence on the mother, and assigned them secondary roles in herding, hunting and farming activities at an early age.

With the transition of human societies to the stages of industrialisation and urbanisation, the level of exploitation of children increased: they were employed as workers in mines, industrial workshops and hazardous work environments for long hours without the necessary protection being provided or the receipt of wages commensurate with the work. In the face of this reality, many voices and movements emerged calling for attention to this category and exposing the forms of torture, exploitation and neglect to which the young were subjected in urban centres. These efforts and calls bore fruit in raising the level of societal awareness of the nature of this stage and of the importance of caring for those passing through it and meeting their needs.

The history of childhood as a modern concept referring to a specific age stage, and examining its nature, needs and the forms of educational and legal responses to it, dates back to the beginning of the twentieth century, when the first legal definition of childhood appeared in the United States of America in 1899, as a result of the protest of the Chicago Women's Club against the forms of treatment and exploitation of children in the city. This campaign constituted a starting point for a global movement whose efforts resulted in changing the societal view of childhood and children and led to the creation of legislation based on psychological, educational and social foundations that take into account the nature of children at risk and those in conflict with the law.

Since that date the world has begun, to varying degrees, to show interest in the rights of children generally and of children in conflict with the law in particular. As a result, special laws

appeared in many countries of the world under the name of the Juveniles Law, and special courts to hear their cases, in addition to involving social workers, probation officers and parents in assessing and reviewing the cases that call for the intervention of the law.

Juvenile laws are based on the psychological and educational foundations which affirm that the child is an immature human being, which limits his responsibility for the acts he commits. Accordingly, the interest of the child and of society requires that the case of delinquency be regarded as an occasion for reviewing the circumstances and environment in which the child lives, and as a call upon all the bodies concerned to shoulder their responsibilities in reshaping this environment and these circumstances in a manner that serves the child's right to survival, protection and development, away from the dangers and threats that may affect the soundness of his growth and the rectitude of his conduct.

The law therefore included many guarantees ensuring justice for children, so that a child is not punished for acts committed if he is not capable of discernment of those acts. Other guarantees were directed at sparing children who commit acts contrary to the law the procedures to which an adult accused is subjected, such as the prohibition on restraining the juvenile, the confidentiality of the trial, his separation from adults in places of detention, the attendance of his guardian or custodian at all trial procedures, the hearing of the case by specialised judges, the holding of sessions on specific days, and the obligation to consider the report of the probation officers.

Notwithstanding the existence of special legislation on juveniles and the participation of many institutions and bodies in enforcing the Juveniles Law, success in achieving the objectives of juvenile justice depends on many interrelated factors, foremost among them the capacity of the system to absorb new knowledge and professional developments in this field, in addition to the level of coordination and integration between the bodies concerned with implementing the criminal justice system, and each body's understanding of the importance of the role it performs and its relationship with the roles of the other bodies. Moreover, any justice system must absorb the culture of human rights and be based on the philosophy and content of the international conventions on these rights, which form part of the legal system of the State as a party to such conventions after ratification.

Hence the importance of this study, entrusted to the research team by the National Centre for Human Rights, since it was prepared according to a participatory methodology through the holding of many workshops for all the bodies concerned with implementing the juvenile justice system, together with other efforts in training and community awareness, which has made this study to a large extent one of the outputs of the project implemented by the National Centre for Human Rights in the field of juvenile justice.

Since the National Centre for Human Rights is a national institution concerned with human rights generally and with children in particular, the research team considered that attention to juveniles falls within the framework of protecting the categories whose rights are most exposed to violation, including juveniles. On this basis the research team built upon previous studies in order to avoid duplication and repetition of work.

The research team met with all partners in the field of dealing with juveniles, as groups or at the level of each institution separately on some occasions, in order to discuss the draft bill amending the Juveniles Law, out of the team's belief in the importance of working according to the participatory approach. The participants and the members of the advisory committee of the study were informed of its main themes and their observations were heard, which had a great effect on the stages of implementation of the study.

The research team endeavoured to focus on everything new in the field of juvenile justice in Jordan, especially in recent years, which have witnessed many positive steps in this field, such as the establishment of some courts specialised in juvenile matters in some major cities, the establishment of a police force specialised in juveniles, the development by some civil society institutions of a preliminary concept for a legal aid system, and the adoption of some programmes of measures alternative to custodial or deprivation-of-liberty measures.

The research team can only extend its thanks to the National Centre for Human Rights for giving the child in conflict with the law the attention he deserves, through its issuance of annual reports on juvenile justice, which formed one of the most important references of this study. The research team also thanks the members of the advisory committee for their valuable observations during the workshops at which the themes of this study were discussed.

The working team wishes to state that this effort will remain inadequate and will not be complete except through the efforts of all, individuals and governmental and official institutions, which have worked and continue to work in the spirit of a single team, which has been reflected positively on this study.

Since the amending draft bill does not concern a particular body, as it relates to a general law that concerns everyone, it requires national dialogue and broad consensus. This, consequently, is one of the most important objectives of this study, through which the research team endeavours to set out a vision of all the opinions put forward and to bring the points of view on them closer, towards national dialogue and broad consensus.

In conclusion:

We say that any State and any society that cares for and safeguards the rights of children generally, and of those in conflict with the law in particular, is a society that looks to its future with steady steps.

The Research Team

Amman - 2013

Preface

Legislation constitutes one of the most important tools for building and organising society, and legislation in any field is based on the philosophy and heritage of society and its view of the individual, the State and society. In view of the dynamic nature of societies and the continuity and depth of civilisational communication among them, the need arises to develop and modernise legislation as a result of the change in philosophy and values and in the view of the individual and society and the relationship between them.

As regards criminal legislation, which represents the response of society to the encroachment by individuals and groups upon what society considers public or individual interests protected by legislation, the responses to encroachments upon interests have varied, taking one or more of the following forms of response:

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

For most stages of human history, revenge, retribution, repression and retaliation dominated society's responses to the crimes and deviations committed by individuals and groups. In the last century, theories of compensation, reform, rehabilitation and reintegration emerged as a result of the development of the psychological and social sciences, which sought to make society bear part of the responsibility for the deviation of its adult members and most of the responsibility for the deviation of the young.

These theories were reflected in the criminal legislation of various societies and in juvenile legislation and the criminal justice systems specific to juveniles.

In the light of these facts, national legislation must be subject to continuous periodic review in a manner that meets the needs of society, keeps pace with changes and is consistent with the obligations of the State under the conventions it has ratified.

Among the various pieces of legislation, the legislation relating to childhood and to children in situations of conflict with the law enjoys particular importance in view of the nature and sensitivity of the age stage through which individuals pass, their needs for survival, protection and development, and the effects of all this on the present and future of society. In Jordan, the segment of children under the age of eighteen constitutes approximately 40% of the population.

What doubles the need to review and develop the legislation and criminal justice systems for juveniles is the speed of the changes the world is witnessing and the effect of these changes on the individual, the family and society.

In view of the foregoing, this study has come to review and analyse the legislation relating to juvenile criminal justice in Jordan with the aim of answering the following questions:

- The extent to which national juvenile legislation is consistent with global legislation and international conventions.
- The existence or absence of sound procedures for dealing with juveniles in accordance with the legislation specific to them.
- The level of integration and harmony among the bodies that implement the legislation and procedures relating to juvenile justice.
- The extent of the capacity of the human resources dealing with juveniles to implement the legislation and procedures in a manner that achieves their philosophy and objectives.
- The problems and challenges facing the juvenile justice system in Jordan and the proposals for addressing them.

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

First: The international frames of reference of the study.

Second: A brief historical overview of the legislation relating to juveniles in Jordan.

Third: The procedures for the trial of juveniles under Jordanian legislation.

Fourth: An overview of restorative criminal justice.

Fifth: Jordanian legislation relating to juveniles and ways of activating it consistently with the principles of restorative criminal justice (recommendations).

Sixth: Obstacles and challenges and ways of overcoming them.

Seventh: A table of the proposed amendments to the Juveniles Law and the proposed alternatives to custodial penalties in accordance with the principles of restorative criminal justice for juveniles.

Eighth: Observations on the draft bill amending the Juveniles Law currently in force.

Ninth: Recommendations, annexes and references.

First: The International Frames of Reference of the Study

Juvenile justice legislation is based on the principles of human rights generally, as contained in the Universal Declaration and the international covenants, conventions and protocols, in addition to the Convention on the Rights of the Child, which represents the new global view of children and calls upon States to guarantee their rights to survival, protection and development. This legislation also represents a natural response to the results of the research, studies and theories put forward by the educational, psychological and social sciences on childhood, its concept and nature, the manner of responding to its needs and ensuring a sound upbringing and preparation for life for those passing through it. The global library abounds with human rights literature in the form of conventions, reports and charters that have shaped the modern values of human society in its view and definition of the concepts of right, freedom, justice, equality and other concepts which the authorities in all societies must guarantee, providing guarantees and taking the measures that prevent their infringement. Among these frames of reference, which formed a framework for the review, are the following:

1. The Universal Declaration of Human Rights.
2. The International Covenant on Civil and Political Rights and the two Optional Protocols thereto.
3. The International Covenant on Economic, Social and Cultural Rights.
4. The Convention on the Rights of the Child of 1989; the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules).
5. The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines).
6. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules).
7. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).
8. The Basic Principles for the Treatment of Prisoners.
9. The Standard Minimum Rules for the Treatment of Prisoners.
10. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
11. The Principles of Medical Ethics relevant to the 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. The Code of Conduct for Law Enforcement Officials.
13. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
14. The Arab Framework for Childhood.
15. The Cairo Declaration of the Childhood Conference of 2001.

16. The Principles on the Independence of the Judiciary and of Members of the Public Prosecution.

Second: A Brief Historical Overview of Jordanian Legislation on Juveniles in Jordan

Attention to juveniles in Jordan began at the start of the 1950s, when the first special law on juveniles was issued in 1951, followed by Law No. 16 of 1954. In 1968 Law No. 24 of 1968 was issued, which was more consistent with the principles and premises that take into account the nature of childhood, since it included definitions and procedures that regard the child as a being passing through developmental stages, in each of which the level of discernment, understanding and awareness of the nature of acts differs. This requires dividing juvenility into stages according to these changes and determining procedures and societal responses consistent with the nature of each stage (pre-discernment, the child, the adolescent, the youth). This law formed the basis for building juvenile legislation in Jordan, notwithstanding the amendments made to it, namely Law 7 of 1983, No. 11 of 2002 and Law No. 52 of 2002.

Many regulations and laws relating to juveniles have also been issued, such as the Juvenile Probation Law No. 51 of 2001, the regulations on the internal by-laws of social defence institutions, the internal by-laws of the Social Education House for Juveniles, and the disciplinary instructions in care and rehabilitation institutions.

Notwithstanding the issuance of these laws and legislation, Jordan still lacks an independent criminal justice system in the sense recognised internationally, owing to the absence of:

1. A police force specific to juveniles.
2. Trained and qualified probation officers.
3. The lack of criteria for a precise characterisation of the dangerous situations and circumstances that require the intervention of the law.
4. The absence of an independent public prosecution concerned with juvenile cases.
5. The absence of special juvenile courts with trained staff, confining the matter to assigning magistrates' court judges to hear juvenile cases on days and at times other than those allocated to adult cases.
6. The lack, in detention, education and reform houses, of programmes capable of reforming juveniles.
7. The continued application of the Penal Code where a juvenile participates with adults in committing criminal acts.

The Most Important Features of Juvenile Legislation in Jordan

1. The definition of a juvenile:

Jordanian legislation defined juvenility legally as the age stage between seven and eighteen years. This definition was based on the concept of responsibility: a child under seven was regarded as not criminally responsible for the acts he commits, while a child between seven and eighteen was regarded as partially responsible for the acts he commits. This responsibility is graduated according to the level of awareness and maturity determined by age; the Jordanian

legislator therefore divided juveniles into three age categories and gave each category a specific description, namely:

The child (al-walad): one who has completed seven years of age and has not completed twelve.

The adolescent (al-murahiḳ): one who has completed twelve years of age and has not completed fifteen.

The youth (al-fata): one who has completed fifteen years of age and has not completed eighteen.

Perhaps the reasons that prompted States to enact special legislation on juveniles lie in the fact that the judicial system dealing with adults cannot in any way be suitable for hearing juvenile offences, owing to the complete difference between the two systems in terms of composition, jurisdiction and bases of treatment, since the aim of distinguishing this category with a special judicial system lies in reforming and rehabilitating them. Moreover, special legislation on juveniles is regarded as one of the most important achievements of legislative policy in taking into account the modern findings of the criminal, human and social sciences.

2. The organisation of juvenile justice:

Addressing the legislation specific to juveniles by way of study and analysis necessarily requires a review of the most prominent main features of juvenile justice, which are as follows:

a- The composition of juvenile courts:

This was addressed by the seventh article of the Jordanian Juveniles Law currently in force, which provides: (..The court hearing the charges attributed to the juvenile shall be deemed a (juvenile court), and shall not be so deemed if the juvenile is accused together with a non-jvenile, provided that the procedures followed before juvenile courts are observed in his respect..). It is apparent from this provision that the juvenile court under Jordanian law is any court before which the juvenile appears; that is, the presence of the juvenile himself is what determines the character of the court.

Under paragraph (b) of the same article, the legislator also granted the magistrates' court, in its capacity as a juvenile court, jurisdiction to hear contraventions and misdemeanours and measures of protection or care, and granted the courts of first instance, under paragraph (c), the power to hear felonies. The last paragraph of the same article provided that if the offence attributed to the juvenile was committed jointly with an adult, he shall be tried with the adult before the court competent to try the adult, provided that the procedures followed before juvenile courts are observed in respect of the juvenile, including the submission of the probation officer's report.

The Jordanian Court of Cassation has upheld this approach in many of its judgments, from which it may be inferred that the Jordanian legislator left the composition of the juvenile court to the general rules contained in the Jordanian Criminal Procedure Law No. 9 of 1961, according to the type of offence committed by the juvenile and the type of penalty prescribed for it.

b- The sittings of the juvenile court:

The eighth article of the Juveniles Law provided that the court may sit on weekly and official holidays and in the evening periods if necessity and the interest of the juvenile so require.

In this we find that the legislator has taken into account the best interests of the child as regards the juvenile court sitting outside the times of ordinary trials, so as to keep the juvenile away from the atmosphere of ordinary trials, which is dominated by awe, routine and the curiosity of others.

c- The legal nature of juvenile courts:

Juvenile courts may be regarded as a type of special judiciary, since they are confined to a specific judicial jurisdiction consisting of the offences committed by juveniles who have not reached eighteen years of age, which is the age of criminal majority. It is therefore a special judiciary that does not differ in essence from the ordinary judiciary, since it is competent to hear specific cases, whether with regard to the person of the offender or the type of offence committed; that is, we find that it has an identity independent of the ordinary judiciary, since it is competent where the juvenile commits conduct contrary to the law or where the juvenile is in one of the situations of exposure to delinquency. Juvenile justice is also distinguished in terms of procedures: the principle is that sessions are closed and not public, in addition to the possibility of conducting the trial in the absence of the juvenile and the necessity of obtaining the probation officer's report before the judgment is pronounced. We thus find that departing from the general principle in force necessarily aims to achieve the interest of the juvenile.

Third: The Procedures for the Trial of Juveniles under Jordanian Legislation

Having reviewed, in the two preceding themes of this study, the international frames of reference and the national (Jordanian) legislation on juveniles, we shall address in this theme the procedures for the trial of juveniles, in order to show whether there is a degree of compatibility and harmony between national legislation and international standards. These procedures may be summarised as follows:

1. The legal guarantees for the trial of the juvenile and the extent of their conformity with fair trial standards under the international conventions:

The first article of the general principles of the Beijing Rules states that (..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 the maintenance of a peaceful order in society..). Paragraph six of the same article also states the following: (..juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes..). Under this provision, juvenile justice must be regarded as part of the comprehensive framework of social justice, and the best interests of the juvenile must be taken into account under it.

Article seven of the Beijing Rules also addressed the guarantees that must be provided to the juvenile on trial, stating (..certain guarantees must be provided to the juvenile during the trial, which may be summarised as follows:

- 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 the judgments rendered.

In order to achieve the necessary protection for the juvenile before the judiciary, the Beijing Rules addressed several conditions that must be satisfied in juvenile justice and urged the States Parties to comply with them, which may be summarised as follows:

- The existence of a competent authority to render judgments.
- That juvenile justice give attention to the best interests of the juvenile.
- The right of the juvenile to obtain legal assistance in terms of the presence of counsel and the guardian.
- Taking the reports of the social worker into consideration before the judgment is rendered.
- Deciding cases concerning juveniles without any unnecessary delay.

On reference to the Jordanian legislation currently in force, we find that it has included certain features of modern criminal policy in dealing with juvenile cases, which may be summarised as follows:

1. The confidentiality of the trial:

This was addressed by the tenth article of the Juveniles Law, which provides (..The trial of the juvenile shall be conducted in camera, and no one shall be permitted to enter the court other than the probation officers, the juvenile's parents or guardian or his lawyer, and persons who have a direct connection with the case..). The aim of the confidentiality of the trial is to safeguard public order and public morals, so that juveniles are not exposed to standing before the public in the appearance of accused criminals, which may affect their souls and their morals.

2. Deciding juvenile cases as a matter of urgency:

The fifth article of the Juveniles Law provides that (..juvenile cases shall be regarded as urgent cases..). The aim of this is to limit the negative effects of prolonging the trial, since a long trial results in the juvenile being unable to connect the act committed with the effect resulting from that act.

3. The attendance of the juvenile's guardian at the investigation and trial sessions:

We find that the thirteenth article of the Juveniles Law provided for the obligatory attendance of the juvenile's guardian, custodian or the person to whom he has been delivered at the investigation and trial stage, provided that the probation officer is notified thereof. The aim of this is to protect the interest of the juvenile and to enable him to defend himself, which was affirmed by the fifteenth article of the same law, which provides:

(a- The juvenile may not be investigated except in the presence of his guardian, custodian, the person to whom he has been delivered, or his lawyer; and if the attendance of any of them is impossible, the probation officer shall be summoned to attend the investigation sessions.

b- If the juvenile does not confess to the offence, the court shall proceed to hear the prosecution witnesses, and it, or his guardian, custodian or lawyer, may examine the witnesses.

c- If it becomes apparent to the court, upon completing the hearing of the prosecution evidence, that there is a case against the accused, it shall hear the testimony of the defence witnesses, and the juvenile shall be permitted to present his defence, and his guardian, custodian or lawyer shall be permitted to assist him in defending himself; and if that is impossible, the probation officer shall be summoned to assist him in doing so).

From this we find that the attendance of the juvenile's guardian, custodian or lawyer is liable to dispel the juvenile's fears, make him feel secure and increase his cooperation with the judge during the investigation and trial procedures.

4. The prohibition on restraining the juvenile:

The third article of the Juveniles Law provided that the juvenile may not be restrained by any restraint except in cases in which he shows such rebelliousness and ferocity as to require it.

5. Obtaining the probation officer's report:

The eleventh article provided that (..before deciding the case, the court shall obtain from the probation officer a written report containing all the information relating to the material and social circumstances of the juvenile's family, his morals, his degree of intelligence, the environment in which he grew up and was raised, his school and educational attainment, his place of work, his state of health, his previous violations of the law, and the proposed measures suitable for his reform..). The emphasis on the importance of the probation officer's report is evident in the fact that it assists the judge in assessing the measures to be imposed on the juvenile in order to achieve the best interests of the juvenile, which aim at his reform and rehabilitation; in addition, the probation officer is better able than the judge to comprehend the social circumstances of the juvenile.

6. Not treating the conviction of the juvenile as a prior record, and prohibiting the publication of the juvenile's photograph or the judgment rendered against him:

This was addressed by the sixth and twelfth articles of the Juveniles Law, the aim of which is to provide further legal guarantees for the juvenile.

7. Not resorting to detention and custody on a wide scale:

Notwithstanding what is contained in the text of the fourth article of the Juveniles Law, detention may not be resorted to except in cases of extreme necessity, and the procedures for release on bail must be expanded, with the aim of reducing the restrictions and negative effects that the detention of the juvenile imposes on his liberty and his future conduct.

8. The guarantees relating to the confession of the juvenile during the trial:

The fifteenth article of the Juveniles Law provided that his confession must be recorded in words as close as possible to the expressions he used in his confession, and that he must be asked about the offence attributed to him in simple language that he understands. The aim of this is to ensure accuracy, so that the measures taken in respect of the juvenile are commensurate with his age and with the circumstances surrounding him.

9. Confining the power of detention to the judiciary:

The aim of this is to avoid the detention of the juvenile by other bodies, such as the administrative governor or the police agencies.

10. The general guarantees contained in the Criminal Procedure Law:

In addition to the guarantees provided for in the Juveniles Law, which have been reviewed above, there is a set of guarantees addressed by the Jordanian Criminal Procedure Law, the most important of which are the presumption of innocence and surrounding the procedures relating to arrest, search and detention with the guarantees addressed by Articles (114, 100

and 147) of the Criminal Procedure Law No. 9 of 1961, as amended by Law No. 16 of 2001.

The aforementioned trend was reinforced by the preparation of a draft bill amending the Juveniles Law currently in force, which was approved by the Legislation and Opinion Bureau and the Legal Committee of the Council of Ministers in preparation for its submission to the next Parliament in 2013. We shall include the draft among the annexes of this study, and we hope that it will be adopted as quickly as possible, since it contains many positive steps that serve the interest of the juvenile and is consistent with international standards in the field of juvenile justice - noting that the amending draft bill was the fruit of national consensus among the bodies concerned with the rights of children generally and of children in conflict with the law in particular.

From all the foregoing, we find that Jordanian legislation relating to juveniles agrees in its broad lines with what is contained in the international conventions and rules on juveniles. We find, however, that this is not sufficient in the light of the increasing international attention to delinquent juveniles or children in conflict with the law, and in the light of the rapid and successive developments witnessed by the whole world in all walks of life - developments that have been reflected negatively in some of their aspects on juveniles. This requires swift legislative intervention to address any shortcomings, provided that such treatment takes into account the aspects of the modern philosophy of punishment, the most prominent features of which are doing everything that ensures the reintegration of the delinquent juvenile into society, ensuring a focus on precautionary and preventive measures, and studying the social, psychological and economic aspects surrounding the delinquent juvenile. These matters constitute one of the most important pillars of restorative criminal justice, which we shall address in the next theme of this study.

Fourth: An Overview of Restorative Criminal Justice

In this theme of the study we shall address restorative criminal justice generally in terms of its definition, its methods and the reasons for resorting to it, in order to show whether it can be adopted in Jordan and what steps and recommendations are proposed for adopting it at the national level in Jordan, whether in terms of legislation or in terms of administrative procedures, while addressing the efforts made to date and the future steps required, as follows:

1. The definition of restorative criminal justice:

Restorative criminal justice may be defined briefly as an organised response to offences that focuses on repairing the harm caused to victims, offenders and the community that the crime has revealed or caused, whereby the harm is identified and the steps capable of repairing it are taken with the participation of all the parties concerned, with the aim of encouraging local communities to participate with their governments in dealing with crime.

This is perhaps more clearly evident when the perpetrator of the offence belongs to the category of juveniles, whereby the theory of restorative justice begins by looking at the reasons that lead society to regard certain behaviours as criminal; governments do so to prevent harm to the public good and to people, while the person who commits any offence causes harm and injury to society and to individuals.

For this reason we find that the criminal justice system focuses mainly on the crime, whereas the restorative justice system focuses on the offender, the victim and the community, since crime causes harm to persons and relationships. In this regard, restorative justice is regarded as a means of repairing that harm as far as possible, with the offender bearing his share of atonement for his wrongdoing.

In short, we find that criminal justice, in the light of the modern philosophy of punishment, has come to adopt a restorative perspective whose aim is to repair the harm resulting from the offence committed without focusing on penalties alone.

2. The justifications for using restorative criminal justice:

Having defined restorative criminal justice, we shall attempt to identify the justifications for resorting to it, in order to show whether it can be adopted at the national level in Jordan - noting that there is a global trend towards adopting it, after it has been proven on the ground that criminal justice in its traditional form, which focuses on custodial penalties, no longer achieves deterrence in both its general and specific forms. These justifications may be summarised as follows:

a- Relieving the overcrowding of courts and prisons:

Almost the majority of the countries of the world suffer from the problem of overcrowding in penal institutions and courts, as indicated by the increasing numbers of cases before the courts and the increase in the numbers of convicts and detainees, so that this problem has come to exceed the capacity of governments to address it successfully and effectively. This prompted many countries to adopt the standards of restorative justice. In this regard we find that the United Nations adopted many resolutions focusing on restorative justice or on

programmes linked to restorative justice, such as the victim-offender mediation programme. In the same direction we find that in 2000 the Governments of Canada and Italy submitted a draft resolution proposing that the United Nations develop international guidelines to help States adopt restorative justice programmes; more than 38 States joined the draft, which was adopted by the Economic and Social Council.

In 2001 the United Nations held an expert meeting, and as a result the Council adopted those principles. Among the matters raised during the discussions was the attempt to relieve overcrowding in prisons and courts if restorative justice programmes were adopted.

b- Increasing access to justice and transparency:

Adopting the methods and means of restorative justice helps governments to address people's lack of confidence in the administration of justice, because it involves more parties in the process of administering justice by involving the victim and the offender in resolving the dispute between them. We also find that restorative practices facilitate reaching higher levels of satisfaction of both parties with the manner in which their case is dealt with, create a greater understanding among members of society of how the process of administering justice works, and build stronger cooperative relations between civil society institutions and governments, which creates a kind of dialogue and accountability between the government and society. In addition, the participation of citizens in the process of administering justice will reduce the likelihood of corruption and injustice resulting from the monopoly of power by one party.

c- Respecting the rights of victims:

We find that among the justifications for resorting to restorative justice is that it helps to recognise the needs and rights of the victims of crime, since the focus within the framework of traditional justice is on the offender and the victim is neglected - although there is a global trend towards the rights of the victims of crime, since the victim is in urgent need of psychological support, counselling and legal assistance to claim compensation, for example through the civil claim.

d- Reducing crime rates:

We find that the means of restorative justice allow a margin of dialogue and discussion wider than that practised during traditional trials, which helps to identify the social circumstances that lead to crime in order to address them.

It should be noted that many countries of the world that adopted this mechanism applied it initially in the field of juvenile justice, since juvenile cases are of little seriousness compared with the offences committed by adults, in addition to the fact that the possibility of reform and reintegration is achieved at higher rates if the perpetrator of the offence belongs to the category of juveniles, by virtue of age and the circumstances that lead to the commission of the offence - if we take into account that the delinquent child, or the child in conflict with the law, is among the victims of society. This society is therefore required to take legislative and administrative measures that focus on reform, and the adoption of restorative criminal justice perhaps comes at the head of those measures.

Fifth: Jordanian Legislation Relating to Juveniles and Ways of Activating It Consistently with the Principles of Restorative Criminal Justice

Having reviewed in the previous themes the international frames of reference for the principles and rules of criminal justice, and the situation currently in force at the national level in Jordan in terms of the legislation currently in force and its practical application, especially as regards juveniles, we shall attempt in this theme to shed light on the national legislation relating to juveniles, in order to show whether it permits the adoption of restorative justice programmes; whether the matter requires some form of legislative review, whether by amending existing legislation or enacting new legislation; what the role of the national judge is; whether various institutions must be involved in implementing those programmes through networking and coordination among the bodies concerned; what the reasons justifying this are; and whether it is necessary to examine the experiences of others in this regard.

These are many questions that come to mind, which we shall attempt to answer in this theme according to a scientific methodology and from practical experience as a judge who genuinely believes in the necessity of adopting restorative criminal justice, if we realise that the delinquent juvenile is one of the members of society. We shall address this as follows:

1. The previous efforts made in Jordan regarding restorative criminal justice:

Thinking in Jordan about adopting restorative criminal justice generally, and in the field of juveniles in particular, began early, owing to the collapse of the theory of deterrence in both its general and specific forms and the success of alternatives to custodial penalties in the countries that adopted them. The beginning came through some scattered and fragmented efforts, since they addressed the subject in passing and without a previously prepared study. Among those efforts, a national seminar was held at the Jordanian Judicial Institute during the period 8-10/12/1998 entitled (..The Execution of Criminal Judgments in Accordance with Modern Penal Policy..), during which some ideas relating to reform in the field of criminal justice were put forward.

Among those ideas was the attempt to create a system of alternatives to custodial penalties, in addition to the recommendation to focus on that policy in the field of juvenile justice as a first stage. Efforts then followed: a national committee was formed of the bodies concerned with juveniles, such as (the judiciary, Public Security and Social Development), and among the matters it recommended was the adoption of restorative justice methods. Many civil society institutions also contributed by holding numerous seminars on juveniles, their efforts flowing in the same direction, and some activities were implemented with international and regional bodies and institutions such as UNICEF, Penal Reform International and the Arab Institute for Human Rights. Those efforts accelerated recently, especially after the increasing global attention to the child generally, and were crowned by the signing of the memorandum of understanding on the Restorative Justice for Juveniles Project with the participation of the Judicial Council, the Ministry of Social Development, the Public Security Directorate and the National Centre for Human Rights, with the support of UNICEF and the Swedish development agency. The memorandum on the Juvenile Criminal Justice Project was also signed between

the United Nations Development Programme and the Ministry of Social Development. Through this we find that the need has become more pressing than ever before to give attention to juveniles, especially after Jordan's ratification of the international Convention on the Rights of the Child and the adoption of the law on childhood.

2. The state of juvenile legislation and the administration of juvenile justice in Jordan:

When addressing the legislation currently in force and the role of juvenile justice in applying it, we find that there is a multiplicity of legislation relating to juveniles: there is the Criminal Procedure Law No. 9 of 1961 and its amendments, which regulates the form of the trial, the jurisdiction of the court and the manner of conducting the trial or investigation; the Jordanian Penal Code No. 16 of 1960 and its amendments, which specifies the offences and the penalties imposed for each offence; and the Juveniles Law No. 24 of 1968 and its amendments. From a general look at that legislation, we find that it generally aims to raise the child's sense of his dignity and worth through a set of procedures, such as the prohibition on restraining him, the confidentiality of the trial and respect for his privacy, and the classification of juveniles into four categories consistently with the Beijing Rules.

We also find that this legislation is consistent with the Convention on the Rights of the Child as regards dealing with juvenile children equally, without discrimination on the basis of sex, colour, race or religion, which was affirmed by the Jordanian Constitution in providing for the equality of Jordanians before the law.

Jordanian legislation also gives attention to measures aimed at rehabilitation and social reintegration, through placement under the supervision of the probation officer, binding over by surety or personal undertaking, permitting family visits through the granting of leave, and following up educational and academic attainment, in addition to the general guarantees ensured by the Criminal Procedure Law, which were reviewed above.

We find, however, that this does not cover all aspects of restorative criminal justice, owing to the absence of an express provision on alternatives to custodial penalties, the failure to give the judge broad and flexible powers authorising him to resort to the bases and rules of restorative justice, and the absence of effective participation by civil society organisations - in addition to the fact that restorative criminal justice programmes require a degree of awareness-raising and education of society as a whole so that it accepts these new ideas, and a degree of participation and networking among the various bodies to reach the desired goal, without overlooking the role of the family, the school, places of worship and the visual, print and audio media. This prompts us to put forward our visions on ways of activating the bases and rules of restorative criminal justice in the light of what we have set out above.

3. Visions on restorative justice for juveniles in Jordan:

When addressing ways of activating the legislation on restorative criminal justice, especially in the field of juvenile justice, the following matters must be taken into consideration, which at the same time constitute (proposals and recommendations) that we place in the hands of decision-makers, the legislator and those concerned, in the hope that they may find their way into practical application, and which may be summarised as follows:

1. It is necessary at the outset to activate juvenile justice by creating the specialised judge and the public prosecution specialised in juvenile cases, and to involve other bodies when the judgment is rendered or when the investigation procedures begin, such as the probation officer, the social worker, the Family Protection Department, the psychologist, the educational counsellor, forensic medicine or civil society institutions, so as to arrive at the conclusion that family courts have become a pressing necessity - that is, the juvenile's case is no longer entrusted to the judge alone, but the aforementioned bodies must be involved according to the nature of the offence committed. This requires legislative intervention that takes into account the referral of all juvenile cases to a single court instead of their dispersal among magistrates' courts, courts of first instance and juvenile courts, and at the same time the separation of cases committed by juveniles from cases committed by adults.
2. There must be an express provision authorising the judge to resort to adopting the bases of restorative criminal justice. We propose in this regard either adding a new paragraph to Article 18 of the Juveniles Law, so that the proposed paragraph reads as follows: (...The court may, if it finds discretionary mitigating circumstances, replace any penalty provided for in this article with one of the following alternatives..), or issuing an independent regulation under Article 37 of the Juveniles Law, setting out in the proposed regulation the bases and rules of restorative criminal justice consistently with international standards, provided that the regulation is prepared with the participation of all the bodies concerned and according to a studied and previously prepared scientific methodology.
3. The proposed legislative amendment should provide for a form of settlement between the juvenile and his family on the one hand and whoever represents society, such as the public prosecution, on the other, in cases of minor importance, in return for certain guarantees and in a manner that achieves a balance between the best interests of the delinquent child and the interests of the society in which the juvenile lives. This entails activating the legal provisions on the suspension of the execution of the penalty, conditional release and placement under judicial probation.
4. Activating methods of prior (preventive) supervision of children in a manner that ensures the reduction of their inclination towards delinquency, provided that this is done through legislative frameworks that give the bodies concerned the power to intervene at the appropriate time.
5. Raising the age of criminal responsibility to twelve years of age, for example, taking into account the measures provided for in Article 21 of the Juveniles Law; this has been adopted under the amending draft bill.
6. Activating methods of aftercare for the juvenile in a manner that ensures the execution of the supervision order.
7. Creating legal provisions that restrict the right of the public prosecution to bring the public right action in respect of certain offences committed by certain juveniles, or adopting the principle of discretionary prosecution in criminal proceedings. The effect of this principle is to give the public prosecution the power not to bring the public right action notwithstanding the existence of grounds for doing so, since the prosecution may consider

under this principle that the interest of the community lies in not bringing the action against the juvenile, because not bringing it serves a greater interest than if the action were brought.

8. Coordinating with certain bodies regarding the execution of custodial measures from a restorative perspective, such as concluding memoranda of understanding and cooperation with those bodies for the delinquent juvenile to perform work beneficial to society as an alternative to the penalty imposed. Among the proposals put forward in this regard is coordination with the Vocational Training Corporation, craft centres, municipalities or certain private-sector institutions such as sports clubs, provided that this is done under the supervision and monitoring of the judge or the probation officer, that the experience is evaluated, and that guarantees are taken from the family of the delinquent juvenile - which aims to achieve a dual interest, consisting of a serious attempt to reform the juvenile while guaranteeing the right of the society that has suffered harm.

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

10. A national database covering the phenomenon of delinquency must be established, containing accurate and documented statistics, so as to be a reference for the decision-maker when making any legislative amendment.

11. The administrative agencies assisting the judge must be qualified and trained in the standards of restorative criminal justice.

12. The proposed legislative amendment must include activating the provisions on the right of defence of the delinquent juvenile and establishing the agencies for legal aid programmes, especially for juveniles who lack financial means, and civil society institutions should be involved in this regard.

13. When the restorative justice system is adopted in future, the system must be evaluated and reviewed according to specific scientific methodological bases after a period of three months, six months or one year at the latest, because the gaps and obstacles cannot be identified except during the practical application of that system.

14. At the same time, work must be done to create a guide to the procedures to be followed, so that a form of institutional framework is achieved for the work to be carried out, provided that the guide includes the judicial and administrative procedures to be carried out by each of the bodies concerned with juveniles, and that the guide is developed at a later stage to become a unified procedural guide.

15. When any legislative amendment is adopted in future, the composition of the juvenile court should take into account the participation of women in its membership (women judges), because practical experience has proven that they are better able to deal with the delinquent juvenile by virtue of maternal feeling, and because delinquent juveniles, especially girls, do not feel embarrassed to talk about everything with the judge if, by gender, she is a woman. This may be done by administrative procedures, but if it is done within a legislative framework it achieves a degree of institutionalisation.

16. All the foregoing efforts cannot be achieved in the best manner except if the means of care for the juvenile are activated from the legislative perspective. In this regard we place before the draft the following vision regarding the care of the juvenile in all its stages:

(a) Prior care (preventive)	(b) Current care (curative)	(c) Aftercare (preventive + curative)
The family. The school. Places of worship. The community. Civil society institutions. Social institutions. The media.	The family. The police agencies. The Family Protection Department. Social institutions. The judiciary. The psychologist. Civil society institutions.	The family. The police agencies. Social institutions. The judiciary. Civil society institutions.
Before the trial	During the trial	After the trial

From this vision the following becomes clear to us:

- Legislative intervention, whether by enacting new legislation or amending existing legislation, is required at every stage of dealing with the delinquent juvenile. In this regard I propose that an independent regulation on the care of juveniles be issued, covering all stages of care.
- The family has a basic and important role in the care of the juvenile, especially aftercare, noting that the role of the family becomes clearer when the system of restorative criminal justice for juveniles is adopted.
- Certain official bodies, such as (the judiciary, Public Security and Social Development), constitute through their efforts the backbone of dealing with juveniles, which requires a form of coordination among them within a legislative framework, since they complement one another and no body can work on its own.

17. Decision-makers must place legislative review at the top of the priorities when dealing with delinquent juveniles, since the legislation on the care of juveniles in any society determines to a large extent the fate of delinquency in that society, given that the problem of delinquent juveniles has become one of the most important criminal and social problems in contemporary societies. This requires attention to the corrective, educational or disciplinary procedures necessary to reform the juvenile; the reform of the juvenile therefore requires the provision of legal protection alongside the other procedures, and this can only come through legislative review.

18. The proposed future legislative amendment should focus on combining two capacities: the first a (judicial) capacity authorising the hearing of offences committed by juveniles and the imposition of appropriate reformatory measures on them, and the second a (preventive) capacity granting juvenile courts the power to take preventive measures in respect of juveniles who have not committed offences but are exposed to committing them, in order to protect them from delinquency.

19. The adoption of the system of restorative criminal justice for juveniles must take into account the following main trends:

a- The humanitarian and ethical trend:

Which aims to achieve the requirement of complete separation between delinquent children and adults at the level of treatment, care, therapy and legitimate rights.

b- The professional and practical trend:

Which is concerned with providing professional services in the fields of the treatment of delinquent juveniles, within the framework of institutional or individual treatment or aftercare aimed at reform, such as judicial supervision, conditional release, vocational, school, religious and moral rehabilitation, social services, psychological and mental therapy, individual and group therapy, the system of police specialised in juveniles, the public prosecution and other institutions.

c- The scientific trend:

Which consists of crystallising the theoretical scientific basis for the various methods of therapy, rehabilitation and institutional and subsequent treatment of delinquent juveniles. When adopting the system of restorative criminal justice for juveniles, this requires a scientific study of the causes of the phenomenon of delinquency, and that the judge and those concerned with juvenile cases be acquainted with the principles of the sciences related to juvenile delinquency, such as criminal psychology and educational counselling.

d- The community trend:

Which is based on achieving the interest of society through the participation of that society in the process of reforming the delinquent juvenile, and the juvenile himself carrying out work of benefit to society.

All the aforementioned trends must be taken into consideration in the legislative review of juvenile laws, and at the same time observed in field dealings with juvenile cases by all the bodies concerned.

Sixth: Obstacles and Challenges and Ways of Overcoming Them

Notwithstanding what we have set out above, I believe that there are certain challenges and obstacles which, if we acknowledge them and deal with them with a clear practical and scientific vision, will enable us to reach the best results by the shortest routes. They may be summarised as follows:

- Legislative amendment regarding juveniles was dealt with at widely spaced intervals, in a piecemeal manner and without the participation of all the bodies concerned. This requires a comprehensive and periodic review of all legislation relating to juveniles, focusing on the restorative aspect, with the effective participation of all the bodies concerned.
- There are no police, public prosecution or judges specialised in dealing with juveniles. This requires the creation of the police specialised in dealing with juveniles, the public prosecution and the specialised judge, with a focus on women.
- Scarce material resources prevent the implementation of many aspects of the reform process, such as establishing specialised courts, qualifying personnel and conducting studies; this can be overcome through support from international institutions, donor countries and civil society institutions.
- Society still regards the juvenile (as a criminal) and juvenile care houses (as prisons). This requires a degree of boldness in legislative amendment aimed at criminal reform, accompanied by a process of awareness-raising of society in all its sectors, focusing on the fact that the juvenile is a member of society whose reintegration into society is required of all of us.
- The legislative provisions currently in force in the field of dealing with juveniles restrict the judge to a great extent. This presupposes that the judge be given broad discretionary powers in choosing the reformatory measures appropriate to the juvenile's situation and to the circumstances surrounding him when he committed the criminal act.
- The conditions for adopting alternative measures aimed at reform must be provided for, namely:
 - The juvenile's acknowledgement of the harm he has caused, since this acknowledgement constitutes a basic element for commencing the alternative measure, as it confirms the juvenile's conviction that he did wrong.
 - The juvenile's consent to perform work for the public benefit or work as compensation to the victim. This condition is regarded as essential, since the juvenile may not be compelled to do something without conviction, as the results would not be satisfactory; the juvenile's consent develops his sense of legal and social responsibility for the wrong he has committed and confirms his intention to reform and make amends.

The challenge we may face is the lack of certainty of the consent of the juvenile or his family, or society's non-acceptance of this.

- When any legislation is amended, whether by the House of Representatives or by the bodies preparing the draft of the legislation intended to be amended, the bodies concerned with children generally and juveniles in particular do not participate in that legislative

review. This is what we hope to remedy through the Restorative Criminal Justice for Juveniles Project, which is based on a form of participation among all the bodies concerned.

- Among the most important challenges is the rapid and successive development in the use of modern technologies such as the internet, satellite channels and means of communication, which have been reflected in some of their aspects on children, and which have not been matched by legislative development at the same pace, so that we sometimes observe a large gap between the development of society and the legislation governing the course of its development.

Seventh: A Table of the Proposed Amendments to the Juveniles Law and the Proposed Alternatives to Custodial Penalties in Accordance with the Principles of Restorative Criminal Justice for Juveniles

a- Proposed amendments to certain provisions of the Juveniles Law:

Current text	Proposed text	Justifying reasons
Art. 2: The following expressions are contained therein: the juvenile, the child, the youth, the adolescent.	: Any person who has not completed eighteen years of age and is delinquent or in need of protection and care. The draft also added the term 'juvenile lacking discernment', being a person who has not completed twelve years of age.	Consistency with international standards. In order to achieve equality among all age groups. Consistency with what is contained in the draft Child Law of (2004).
Art. 3/2: Measures shall be taken to separate delinquent juveniles from accused or convicted persons who have exceeded eighteen years of age.	Measures necessary shall be taken to separate juveniles according to the classification of their cases, or the degree of danger and the measures imposed on them, and to separate detainees among them from convicted persons. - Measures necessary shall be taken to separate juveniles at all stages of evidence-gathering, preliminary investigation and trial from adult persons.	If the word (juveniles) appears in absolute terms, it includes the delinquent juvenile and children in conflict with the law.
Art. 5: Juvenile cases.	a- Juvenile cases shall be regarded as urgent cases. b- The competent court shall commence hearing the case directly after it is referred to it, and sessions may not be adjourned for more than three days. c- The court must decide a misdemeanour case within three months from the date of its receipt by the court registry, and decide a felony case within six months from the date of its receipt by the court registry, except in cases in which the decision of the case depends on the receipt of a final medical report. d- Juvenile cases must be decided within the said time limits on pain of disciplinary liability.	So that urgency in deciding the case is not at the expense of justice and at the expense of the right of defence, since practical reality in the work of the courts does not achieve the character of urgency.
Art. 7: The juvenile court:	a. There shall be formed under the provisions of this Law a judiciary specialised in juveniles, and the juvenile shall not be tried except before juvenile courts, and the following procedures shall be followed: 1. Juvenile judges, dispute-settlement judges and judges for the execution of judgments shall be appointed from among persons experienced in juvenile affairs, provided that they are promoted in their courts on a par with the ordinary courts. 2. A juvenile magistrates' court shall be formed in the centre of each governorate, competent to hear contraventions, misdemeanours and measures of protection or care; it shall be composed of a single judge assisted by an expert in juvenile affairs, whose attendance at the trial procedures shall be obligatory. 3. A juvenile court of first instance shall be formed in the centre of each governorate if need arises, competent to hear felonies; it shall be composed of three judges assisted by two experts in juvenile affairs, at least one of whom shall be a woman; their attendance at the trial procedures shall be obligatory, and the two experts shall submit their	Achieves a degree of specialisation in juvenile justice. Contributes to creating a public prosecution specialised in juveniles. Helps to create a model court for juveniles. Avoids dispersal and the multiplicity of the bodies before which the juvenile is tried. Helps to unify judicial case law regarding dealing with juvenile cases, which makes it possible to study the causes of the phenomenon of juvenile delinquency. Contributes to separating juvenile cases where adults participated in committing the offence.

Current text	Proposed text	Justifying reasons
	recommendation to the court after examining the juvenile's circumstances from all aspects, before the court renders its judgment. 4. The Minister of Social Development shall name the experts in juvenile affairs in the juvenile courts from among holders of at least a first university degree in one of the specialisations of the social sciences. 5. Judicial judgments rendered by the juvenile magistrates' court shall be subject to appeal before the juvenile court of first instance. 6. Judicial judgments rendered by the juvenile court of first instance shall be subject to challenge before the Courts of Appeal and Cassation. 7. If juveniles and adults participate in a single offence or in connected offences, they shall be separated by a decision of the public prosecution, and a special file shall be prepared for the juveniles so that they are tried before the juvenile judiciary. b. Notwithstanding the provisions of items 5 and 6 of paragraph (a) of this article, judgments rendered by the magistrates' and first-instance courts shall be subject to the objection procedures provided for in the Magistrates' Courts Law and the Criminal Procedure Law, as the case may be; the guardian, custodian, fosterer or the lawyer acting as agent may represent the juvenile in these procedures, as the case may be. c. The territorial jurisdiction of the juvenile court shall be for any of the following territorial jurisdictions: 1- The place of residence of the juvenile or the place where he was found, or 2- The place where the house in which he was placed is located. 3- The place where the offence occurred, or Priority in jurisdiction shall be for the place of residence of the juvenile or the place where he was found.	
Art. 9	The educational counsellor.	Because it has been proven through practical reality that the role of educational counselling is very important, since the largest proportion of juveniles, according to statistics, are still at school, and a not insignificant proportion of the causes of juvenile delinquency begin with dropping out of school.
Art. 10: Chapter Five Confidentiality of the trial	I propose naming Chapter Five as follows: Fifth: Guarantees of the trial: (The court must observe the following guarantees on pain of nullity) The trial of the juvenile shall be conducted in camera on pain of nullity, and no one shall be permitted to enter the court except the probation officer, the juvenile's parents, guardian, custodian or fosterer, as the case may be, in addition to his lawyer and whoever has a direct connection with the case.	Since Articles 10-14 of the law currently in force relate to the guarantees of the juvenile's trial, and if the provision states that the omission of any guarantee results in nullity, this prompts the court to exercise care in the procedures it takes in respect of the juvenile. Since this ensures that all judicial and administrative procedures taken in respect of the juvenile are conducted confidentially.

Current text	Proposed text	Justifying reasons
Art. 11: The probation officer's report	a. An office for probation officers shall be established in each court, including specialists in psychological and social counselling. b. Upon arresting any juvenile, the juvenile police shall summon the probation officer according to territorial jurisdiction. c. The probation officer summoned before the juvenile police in accordance with paragraph (b) of this article shall be relied upon for all stages of investigation and trial if he works within the same territorial jurisdiction. d. The probation officer shall be granted the capacity of judicial police as regards the powers granted to him under the provisions of this Law. a- Upon the commencement of the investigation, the probation officer shall submit to the Public Prosecutor a detailed written report containing all the information relating to the circumstances of the juvenile and his family, whether material or social, the environment in which he grew up and was raised, his school and educational attainment, and all the circumstances surrounding the juvenile and his family; and he shall submit subsequent reports to the court. b- The probation officer's report shall be regarded as the basis for assessing the juvenile's situation and interest; if the court is not satisfied with the report after discussing it, it may assign another probation officer to submit a new report, while addressing the Minister to take disciplinary measures against him. c- If the probation officer breaches any of the duties entrusted to him by decision of the court, it may replace him with another, while addressing the Minister to take disciplinary measures against him. d- A probation officer who does not submit a report in conformity with the Minister's instructions, or who breaches any of the duties entrusted to him, shall be fined not less than one hundred dinars and not more than three hundred dinars.	This ensures the activation of the system of alternatives to custodial penalties, and achieves a form of networking between the court rendering the judgment and the other bodies concerned with the juvenile.
Art. 13: Notification of the juvenile's guardian	The juvenile's guardian, custodian or the person to whom he has been delivered must be summoned during all stages of investigation and trial.	Because this ensures the attendance of his custodian, guardian or the person to whom he has been delivered during the evidence-gathering stage, which is the stage preceding the investigation stage, and also ensures his attendance at the security centres when the juvenile is investigated.
Art. 16: Release	I propose adding a third paragraph so that the article becomes: 3- The juvenile may be released on the guarantee of the place of residence of his custodian, guardian or the person to whom he has been delivered.	Because it happens in practice that the juvenile finds no one to come forward to stand bail for him, especially if his financial situation does not permit arranging bail.
Art. 17: Objection	I propose naming this article 'Methods of challenging the judgments rendered against the juvenile'.	Because this ensures referral to the general rules on challenge and regulates the manner of challenge in terms of procedures, duration and time limits, especially since

Current text	Proposed text	Justifying reasons
		some methods of challenge must be made through a lawyer.
Art. 18: Chapter Five	I propose merging all the penalties against the juvenile in the manner we have set out previously in this study.	Because this ensures the achievement of the principle of equality between the parties to the case.
Art. 21: Measures for the protection of the child	A third paragraph may be added as follows: 3- The judge may take such measures as are necessary to ensure the protection of the child.	Because this gives the judge sufficient flexibility to take the necessary measures.
Art. 36: General provisions	I propose amending paragraph 4 to read as follows: The judge of the court shall visit any of the houses provided for in this Law at least once every three months and shall prepare a report thereon to be submitted to the competent authority.	Because this ensures that the judge actually carries out the visit and achieves the concept of periodic visits, since in practice judges are transferred from one court to another.

b- A table of the measures and procedures alternative to custodial penalties by which the judge may be guided:

- Requiring the juvenile to perform work beneficial to society.
- Prohibiting attendance at certain places for specified periods.
- Participation in certain training courses at certain craft or vocational institutes.
- Assisting the sick, the elderly and persons in a similar position for a specified period.
- Participation in relief work during crises and civil defence work.
- Participation in environmental clean-up campaigns.
- Expanding the imposition of fines as an alternative to custodial measures in respect of certain offences.
- Adopting the system of judicial probation.
- Depositing certain sums of money on account of the case.
- Adopting the system of undertaking as an alternative to the custodial penalty.
- Expanding the system of conditional release.
- Deportation in respect of foreigners.
- Adopting the system of judicial settlement and reconciliation between the parties.
- Adopting the system of suspension of the execution of the penalty.
- Referral to addiction treatment centres, especially as regards persons addicted to alcohol or dangerous drugs.
- Adopting the system of electronic monitoring.
- Not associating with certain persons.
- Not carrying weapons and sharp instruments.
- Suspension from practising the profession or social activity.
- Withholding of the driving licence, hunting licence or weapons licence.

- Confiscation of the weapon or instrument with which the offence was committed.

Note: The aforementioned table contains a summary of the most prominent deliberations of the partners over several years on the Juveniles Law and the proposed amendments. The draft of the latest amending bill, however, was more advanced in many respects. We have set out the current text, the proposed text and the justifying reasons in order to ascertain whether the proposed text meets the demands aimed at making the amendment consistent with international standards and leading to the achievement of the rules of restorative justice. We shall set out the draft bill below for reference and for comment by the research team.

Eighth: The Draft Bill Amending the Juveniles Law Currently in Force

Preface:

This draft was one of the fruits of the participatory approach to dealing with juveniles, since the official governmental bodies, civil society organisations and certain donor bodies interested in childhood generally and juveniles in particular participated in its preparation. It goes without saying that this draft enjoys the support of the highest leadership of the Jordanian State, as evidenced by the reference to it in the Royal Letters of Designation to successive governments and in the Speeches from the Throne.

We shall therefore set out the draft as we obtained it from the Ministry of Social Development and the Legislation Bureau, which has completed its study and referred it to the Council of Ministers for the purposes of submitting it to the next Parliament, with a desire and consensus to give this draft the character of urgency in view of its importance.

Accordingly, we shall present the draft and then set out the comments and observations on it.

1- The draft bill amending the Juveniles Law currently in force:

(Draft Juveniles Law of 2011)

Article (1)

This Law shall be called (the Juveniles Law of 2011) and shall come into force three months after the date of its publication in the Official Gazette.

Article (2)

The following expressions and terms, wherever they appear in this Law, shall have the meanings assigned to them below, unless the context indicates otherwise:

The Ministry: the Ministry of Social Development.

The Minister: the Minister of Social Development.

The juvenile: any person who has not completed eighteen years of age and is delinquent or in need of protection and care.

The juvenile lacking discernment: any person who has not completed twelve years of age.

The adolescent: any person who has completed twelve years of age and has not completed fifteen.

The youth: any person who has completed fifteen years of age and has not completed eighteen.

The custodian: any person whom the court regards as having charge of the care or supervision of the juvenile.

The Directorate: the competent directorate in the Ministry concerned with following up juvenile affairs in accordance with this Law.

The juvenile police: the department established in the Public Security Directorate for the purposes of the provisions of this Law.

The probation officer: the employee of the Ministry who supervises the conduct of juveniles in accordance with this Law and the regulations issued thereunder.

The juvenile education house: any house established in the Ministry by decision of the Minister for the education and rehabilitation of detained juveniles.

The juvenile rehabilitation house: any house established in the Ministry by decision of the Minister for the reform, education and rehabilitation of convicted juveniles.

The care house: any house established or accredited by decision of the Minister for the purposes of sheltering those in need of protection or care.

The court: the court competent under this Law.

The dispute-settlement judge: the judge who undertakes the process of attempting to settle the dispute between the parties to the case in accordance with the provisions of this Law, together with the powers he has thereunder.

The judge for the execution of the judgment: the judge who supervises the execution of the final judgment rendered by the competent court.

The fosterer: any person or family entrusted with the care of the juvenile under a decision of the Sharia court, a decision of the court, or on the basis of a decision of the Minister.

The medical committee: the committee formed to assess age in accordance with the Medical Committees Regulation in force or any legislation replacing it.

Article (3)

This Law aims to protect, reform and rehabilitate juveniles in accordance with what the court decides on the basis of their best interests.

Article (4)

- a- No person who has not completed twelve years of age shall be criminally prosecuted.
- b- No sentence of death or hard labour shall be passed on a juvenile.
- c- It is prohibited to restrain the juvenile, use force against him or isolate him, except in cases in which he shows such rebelliousness or ferocity as to require it, provided that this is within the narrowest necessary limits.
- d- Measures necessary shall be taken to separate juveniles according to the classification of their cases, or the degree of danger and the measures imposed on them, and to separate detainees among them from convicted persons.
- e- Measures necessary shall be taken to separate juveniles at all stages of evidence-gathering, preliminary investigation and trial from adult persons.
- f- In all cases, no penalties, measures or procedures shall affect the juvenile's enrolment in education, and the measures necessary to ensure this shall be taken.

g- Any body with which the juvenile is placed must care for him and refer him to the competent medical bodies to receive the treatment he needs, whatever the type of treatment, whether for illness, addiction or otherwise.

h- The conviction of a juvenile for an offence shall not be regarded as a prior record, the provisions on recidivism provided for in the Penal Code or any other laws shall not be applied to him, and the competent bodies shall expunge any record, whatever it may be, against the juvenile upon his reaching eighteen years of age.

Article (5)

a- Civil status records shall be evidence of the juvenile's date of birth unless their forgery is proven.

b- If it is proven that the accused in the case is not registered in the civil status records and claims that he is still a juvenile, or that he is younger than he appears, and this affects the outcome of the case, the court shall refer him to a medical committee to assess his age before commencing the trial; in this case, the period relating to the assessment of age shall not be regarded as part of the period of the trial.

c- The age of the juvenile shall be determined as at the day of the commission of the act or of his need for protection.

Article (6)

In all cases, the juvenile and his guardian, custodian, fosterer or the institution entrusted with his care must be notified of the measure taken at all stages.

Article (7)

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

a- Notwithstanding anything contained in any other law, juveniles shall be detained in the juvenile education house for a period not exceeding five days, and the power to detain them shall be confined to the judiciary.

b- Where the juvenile is detained on a charge of committing a misdemeanour, he must be released in return for a financial guarantee ensuring his attendance at the stages of investigation or trial, unless the interest of the juvenile requires otherwise.

c- Where the juvenile is detained on a charge of committing a felony, the Public Prosecutor and the court may release him if the circumstances of the case or the situation of the juvenile so require, in return for a financial guarantee ensuring his attendance at the stages of investigation or trial.

d- The competent Public Prosecutor may renew the period of detention of the juvenile once after examining the report of the probation officer, and the Public Prosecutor shall notify the juvenile education house of the renewal decision in writing; and if the investigation requires the continued detention of the juvenile, the Public Prosecutor shall request the extension of the detention from the competent court for a period not exceeding ten days.

Article (8)

Any person who holds a juvenile together with adults at the police, at any stage of the proceedings or during the execution of the judgment shall be punished by imprisonment of not less than three months and not more than one year.

Article (9)

- a. Notwithstanding anything contained in any other legislation, it is prohibited to publish the name and photograph of a juvenile who is subject to investigation or trial, and it is prohibited to publish or use the facts of the investigation and trial, or a summary thereof, by any means whatsoever.
- b. Any person who contravenes this shall be punished by imprisonment for a period not exceeding one year or a fine not exceeding five hundred dinars, or both penalties, unless any other legislation provides for a more severe penalty.

Article (10)

A police department specialised in juveniles shall be formed under this Law.

Article (11)

A public prosecution specific to juveniles shall be designated under this Law.

Article (12)

- a. An office for probation officers shall be established in each court, including specialists in psychological and social counselling.
- b. Upon arresting any juvenile, the juvenile police shall summon the probation officer according to territorial jurisdiction.
- c. The probation officer summoned before the juvenile police in accordance with paragraph (b) of this article shall be relied upon for all stages of investigation and trial if he works within the same territorial jurisdiction.
- d. The probation officer shall be granted the capacity of judicial police as regards the powers granted to him under the provisions of this Law.

Article (13)

- a- Upon the commencement of the investigation, the probation officer shall submit to the Public Prosecutor a detailed written report containing all the information relating to the circumstances of the juvenile and his family, whether material or social, the environment in which he grew up and was raised, his school and educational attainment, and all the circumstances surrounding the juvenile and his family; and he shall submit subsequent reports to the court.
- b- The probation officer's report shall be regarded as the basis for assessing the juvenile's situation and interest; if the court is not satisfied with the report after discussing it, it may assign another probation officer to submit a new report, while addressing the Minister to take disciplinary measures against him.

c- If the probation officer breaches any of the duties entrusted to him by decision of the court, it may replace him with another, while addressing the Minister to take disciplinary measures against him.

d- A probation officer who does not submit a report in conformity with the Minister's instructions, or who breaches any of the duties entrusted to him, shall be fined not less than one hundred dinars and not more than three hundred dinars.

Article (14)

a. The juvenile police shall undertake the settlement of disputes in contraventions and in misdemeanours whose penalty does not exceed two years, committed by the juvenile for the first time; it shall address a reprimand to the juvenile if he commits a contravention, and shall require his guardian or the person entrusted with his care to provide a personal undertaking or surety to guarantee that the act is not repeated if he commits a misdemeanour.

b. The police must invite one of the juvenile's parents or his guardian, custodian or fosterer, if this does not conflict with the interest of the juvenile, and shall invite the probation officer and the juvenile's lawyer to attend the procedures conducted before it.

c. If the juvenile police do not succeed in settling the dispute, they shall refer the case to the dispute-settlement judge.

d. Except for the offences provided for in paragraph (a) of this article, the juvenile police shall refer other juvenile cases to the dispute-settlement judge.

e. The dispute-settlement judge shall himself conduct the dispute-settlement process or refer it to civil society institutions or any other body accredited by the Minister for this purpose, so that all juvenile cases are referred to them initially before any judicial measure is taken.

f. The institutions and bodies undertaking the settlement of disputes must follow the procedures provided for in this Law.

g. The foregoing procedures shall not prevent the juvenile prosecution from commencing the investigation in juvenile cases.

h. In all cases, the juvenile may not be detained during the dispute-settlement stage.

Article (15)

a. The bodies referred to in paragraph (e) of Article (14) shall conduct the settlement of disputes in juvenile cases and shall carry out the following functions and powers:

1. Setting a session for the parties to the dispute, namely the juvenile and his guardian, custodian or fosterer, his adversaries, and the probation officer.

2. Meeting the parties to the dispute in a preliminary session held to deliberate with them on the subject of the dispute, urging them to settle it amicably and assisting them in doing so.

3. Commencing serious measures for the purposes of settling the dispute before them and attempting to end and settle the dispute, taking into account the situation and circumstances of the juvenile and achieving his best interests.

4. Documenting the proceedings of the meetings so that the competent bodies may examine them when the case is referred to them, and recording the reconciliation or any other agreement.

5. Recommending the imposition of any of the measures contained in Article (28) of the Law in the event of the settlement of the dispute in misdemeanours whose penalty does not exceed two years, and addressing a reprimand in the event of settlement of contraventions.

b- [Left blank in the original.]

c- The holding of dispute-settlement sessions requires the attendance of the juvenile; if one of the parties to the dispute is a legal person, the attendance of an authorised person is required; and in all cases the case shall be referred to the competent court if the juvenile does not attend.

d- The dispute-settlement judge or the body competent to settle the dispute shall attempt to resolve the dispute between the parties amicably within two weeks from the date of holding the first session, and may extend this period once for a similar period if it finds that the possibility of a solution exists; in all cases, minutes shall be drawn up of all the procedures taken.

e- The dispute-settlement judge or the body competent to settle the dispute to which the case file has been referred may require the parties to submit brief memoranda or evidence if it considers this necessary to resolve the dispute.

f- The dispute-settlement judge or the person responsible at the body competent to settle the dispute may meet separately with each party to the dispute and take whatever he considers appropriate to bring the points of view closer with the aim of reaching reconciliation and settling the dispute.

g- The judge may not, on pain of nullity, hear the subject of a dispute that he has previously considered as a dispute-settlement judge.

Article (16)

If the dispute is referred for settlement to one of the institutions or bodies mentioned in paragraph (e) of Article (14) other than the dispute-settlement judge, it shall observe the procedures contained in Article (15) of this Law, and the following shall be observed:

a- The necessary notifications shall be issued by the dispute-settlement judge, who shall decide on their validity by endorsing them; these notifications and the documents relating to them may be exchanged by any means of communication between the dispute-settlement judge and the institutions and bodies undertaking the settlement, provided that the originals are kept in the file after the end of the settlement stage for any reason whatsoever.

b- After the end of the procedures, whether by reconciliation, by failure of reconciliation or by the expiry of the specified period, the file shall be referred to the dispute-settlement judge for the ratification of the procedures and the referral of the file to the court, provided

that the ratification takes place within twenty-four hours at most from the date of receipt of the file by him.

Article (17)

In all cases, the dispute-settlement judge shall keep the case file and not refer it to the court if the settlement took place before him or before one of the bodies competent to settle, in cases of contraventions or misdemeanours whose penalty does not exceed two years.

Article (18)

1. In the event of reconciliation between the parties and the waiver of the personal right in cases whose penalty exceeds two years, the dispute-settlement judge shall refer the case to the competent court.
2. Immediately upon the expiry of the legal period prescribed for the settlement of the dispute, if reconciliation and the waiver of the personal right have not taken place, the dispute-settlement judge shall refer the case to the competent court.

Article (19)

- a. There shall be formed under the provisions of this Law a judiciary specialised in juveniles, and the juvenile shall not be tried except before juvenile courts, and the following procedures shall be followed:
 1. Juvenile judges, dispute-settlement judges and judges for the execution of judgments shall be appointed from among persons experienced in juvenile affairs, provided that they are promoted in their courts on a par with the ordinary courts.
 2. A juvenile magistrates' court shall be formed in the centre of each governorate, competent to hear contraventions, misdemeanours and measures of protection or care; it shall be composed of a single judge assisted by an expert in juvenile affairs, whose attendance at the trial procedures shall be obligatory.
 3. A juvenile court of first instance shall be formed in the centre of each governorate if need arises, competent to hear felonies; it shall be composed of three judges assisted by two experts in juvenile affairs, at least one of whom shall be a woman; their attendance at the trial procedures shall be obligatory, and the two experts shall submit their recommendation to the court after examining the juvenile's circumstances from all aspects, before the court renders its judgment.
 4. The Minister of Social Development shall name the experts in juvenile affairs in the juvenile courts from among holders of at least a first university degree in one of the specialisations of the social sciences.
 5. Judicial judgments rendered by the juvenile magistrates' court shall be subject to appeal before the juvenile court of first instance.
 6. Judicial judgments rendered by the juvenile court of first instance shall be subject to challenge before the Courts of Appeal and Cassation.

7. If juveniles and adults participate in a single offence or in connected offences, they shall be separated by a decision of the public prosecution, and a special file shall be prepared for the juveniles so that they are tried before the juvenile judiciary.

b. Notwithstanding the provisions of items 5 and 6 of paragraph (a) of this article, judgments rendered by the magistrates' and first-instance courts shall be subject to the objection procedures provided for in the Magistrates' Courts Law and the Criminal Procedure Law, as the case may be; the guardian, custodian, fosterer or the lawyer acting as agent may represent the juvenile in these procedures, as the case may be.

c. The territorial jurisdiction of the juvenile court shall be for any of the following territorial jurisdictions: 1- the place of residence of the juvenile or the place where he was found; or 2- the place where the house in which he was placed is located; 3- the place where the offence occurred; or. Priority in jurisdiction shall be for the place of residence of the juvenile or the place where he was found.

Article (20)

The trial of the juvenile shall be conducted in camera on pain of nullity, and no one shall be permitted to enter the court except the probation officer, the juvenile's parents, guardian, custodian or fosterer, as the case may be, in addition to his lawyer and whoever has a direct connection with the case.

Article (21)

The court shall assess the best interests of the juvenile on the basis of the probation officer's report, the evidence submitted in the case and the opinion of the juvenile, provided that this includes respect for the recognised rights of the juvenile and the means of his reform and integration into society.

Article (22)

The court shall hear the opinion of the juvenile before taking any measure against him, and shall give his views due weight in accordance with his age and maturity.

Article (23)

The court shall hold its sessions on weekly and official holidays and in the evening periods if the interest of the juvenile so requires.

Article (24)

a- Juvenile cases shall be regarded as urgent cases.

b- The competent court shall commence hearing the case directly after it is referred to it, and sessions may not be adjourned for more than three days.

c- The court must decide a misdemeanour case within three months from the date of its receipt by the court registry, and decide a felony case within six months from the date of its receipt by the court registry, except in cases in which the decision of the case depends on the receipt of a final medical report.

d- Juvenile cases must be decided within the said time limits on pain of disciplinary liability.

Article (25)

a- The Public Prosecutor and the competent court shall appoint a lawyer for the juvenile if he has no lawyer, and his fees shall be paid from the State Treasury in accordance with the amount contained in the Criminal Procedure Law.

b- The lawyer appointed on behalf of the juvenile shall attend all stages of investigation and trial with the juvenile.

Article (26)

a- The juvenile may not be tried except in the presence of one of his parents, his guardian, custodian or fosterer, as the case may be, and the probation officer, in addition to the juvenile's lawyer.

b- At the commencement of the trial, the court shall explain to the juvenile the charge against him and question him about it in simple language.

c- If the juvenile confesses to the charge, his confession shall be recorded in words as close as possible to the expressions he used in his confession, and the mere confession of the juvenile shall not be sufficient evidence to convict him unless his confession is convincing and clear.

d- If the juvenile refuses to answer, he shall be regarded as not having confessed to the charge, and the president of the court shall order this to be recorded in the minutes.

e- In all cases, the court shall proceed to hear the prosecution and defence evidence and the probation officer's report, and its examination by the parties to the case, and shall examine all the evidence in the case and then decide the case.

f- If it becomes apparent to the court, upon completing the hearing of the prosecution evidence, that there is a case against the juvenile, it shall hear the juvenile's defence statement and proceed to hear the defence evidence, and the defence of the juvenile shall be conducted through his lawyer; the guardian or custodian of the juvenile shall also be permitted to assist him in defending himself in contraventions.

g- The court shall hear the probation officer's report, and it may, as may the juvenile and his lawyer, examine the probation officer on his report.

h- The court may remove the juvenile from the courtroom at any time, while his representative and the probation officer remain, if the court considers that the interest of the juvenile so requires, provided that he is thereafter entitled to be informed of the procedures conducted in his absence.

i- The Public Prosecutor or the court may, if necessity so requires, use modern technology for the protection of any person who has not completed eighteen years of age in the procedures for hearing witnesses, examination and confrontation, provided that these means enable any adversary to examine the juvenile or the witness during the trial; this modern technology may also be used in the procedures for hearing the juvenile as a witness in any case.

Article (27)

- a. Subject to what is contained in Articles (29/d) and (30/c) of the Law, if mitigating circumstances are found in any case in accordance with the laws in force, the court shall reduce the penalty provided for in this Law by one third as a minimum, and may reduce it to one half as a maximum.
- b. In addition to the reduction of the penalty contained in paragraph (a) of this article and any other reduction of the penalty for any reason whatsoever, and in the event that the dispute has been settled, any judgment that may be rendered against the juvenile must be reduced by one third of the penalty imposed on him.

Eighth: The Draft Bill Amending the Juveniles Law Currently in Force (continued)

Article (28)

Subject to the provisions of Articles (29) and (30) of the Law, the court may take any of the following non-custodial measures when the conditions therefor are satisfied:

1. Reprimand: the court addressing blame and rebuke to the juvenile for what he has done and warning him not to return to such conduct again, without degrading his dignity.
2. Delivery: a. by delivering the juvenile to one of his parents or to whoever has guardianship or custodianship over him. b. If neither of the juvenile's parents nor whoever has guardianship or custodianship over him is fit to undertake his upbringing, he shall be delivered to whoever is qualified for that among the members of his family; and if there is no such person, he shall be delivered to a trustworthy person who undertakes his upbringing, or to a reliable family whose head undertakes to do so, after their consent thereto. c- A judgment delivering the juvenile to a person not obliged to maintain him shall be for a period not exceeding one year.
- 3- The obligation of service for the public benefit: the obligation to provide service in one of the public-benefit facilities, such as public parks, government schools and voluntary civil society institutions of public benefit.
- 4- Placement in vocational training: whereby the court entrusts the juvenile to one of the centres designated for that purpose and accredited by the Minister for this purpose; the court shall specify in its judgment a period for this measure, provided that the period of the juvenile's stay in the said bodies does not exceed one year.
- 5- The obligation to perform certain duties: by regularly attending certain guidance meetings, by a prohibition on frequenting certain types of places or premises, by requiring attendance at specified times before certain persons or bodies, or by other restrictions; a judgment imposing this measure shall be for a period of not less than six months and not more than one year.
- 6- Judicial probation: by placing the juvenile in his natural environment under guidance and supervision and subject to the duties specified by the court; the period of judicial probation may not exceed one year, in accordance with the following procedures:

- a- The court shall deliver a copy of the judicial probation order to the probation officer who will supervise the juvenile and another copy to the juvenile and his guardian, custodian or carer, and shall require the juvenile to submit to the supervision of the probation officer during the period of supervision.
- b- The court issuing the probation order shall appoint the probation officer who will supervise the juvenile during the period of supervision; if the said officer is unable to perform his duties for any reason, the Director of the Directorate may request the judge for the execution of the judgment to appoint another officer to execute the supervision order.
- c- When issuing the probation order, the court shall specify the time period of the order and the number of reports the probation officer is required to provide to it on the juvenile's situation, provided that they do not exceed one report each month.
- d- If it is decided to place a female under the supervision of a probation officer, the probation officer must be female.
- e- The court that issued the probation order may, upon the request of the probation officer, the juvenile or his guardian, cancel or amend the said order after examining the probation officer's report on the matter.
- f- The court may cancel the probation order if the juvenile is convicted of an offence while the order is in force, unless the original penalty for the act is a fine.

Article (29)

- a- If a youth commits a felony that entails the death penalty, he shall be sentenced to placement in the juvenile rehabilitation house for a period of not less than eight years and not more than twelve years.
- b- If a youth commits a felony that entails the penalty of hard labour for life, he shall be sentenced to placement in the juvenile rehabilitation house for a period of not less than five years and not more than seven years.
- c- If a youth commits a felony that entails the penalty of temporary hard labour or detention, he shall be sentenced to placement in the juvenile rehabilitation house for a period of not less than three years and not more than five years.
- d- If a youth commits a misdemeanour that entails imprisonment, he shall be placed in the juvenile rehabilitation house for a period not exceeding one third of the period of the penalty provided for in the Penal Code in force.
- e- If discretionary mitigating circumstances exist, the court shall replace any penalty provided for in paragraph (d) of this article with any of the measures provided for in Article (28) of this Law.
- f- If a youth commits a contravention, the court shall address a reprimand to him.

Article (30)

- a- If an adolescent commits a felony that entails the death penalty, he shall be sentenced to placement in the juvenile rehabilitation house for a period of not less than six years and not more than ten years.

b- If an adolescent commits a felony that entails hard labour for life, he shall be sentenced to placement in the juvenile rehabilitation house for a period of not less than three years and not more than six years.

c- If an adolescent commits a felony that entails the penalty of temporary hard labour or detention, he shall be sentenced to placement in the juvenile rehabilitation house for a period of not less than one year and not more than three years; and if the court finds discretionary mitigating circumstances, it shall replace the penalty with any of the measures provided for in Article (28) of this Law.

d- If an adolescent commits a misdemeanour, the court shall decide the case by any of the measures provided for in Article (28) of this Law.

e- If an adolescent commits a contravention, the court shall address a reprimand to him.

Article (31)

The court may order restitution and confiscation when deciding the case.

Article (32)

A civil claim shall not be admissible before the juvenile court, and the aggrieved party has the right to resort to the competent courts.

Article (33)

After the rendering of the judgment concerning the juvenile, the judge for the execution of the judgment shall undertake the following functions and powers:

1. Monitoring the execution of any penalty or measure imposed on the juvenile in accordance with the legislation in force.
2. The judge for the execution of the judgment, if he considers that the interest of the juvenile so requires, has the right to convert the custodial measure, if it does not exceed one year, so that the period of the custodial measure is executed by obliging the juvenile to perform service for the public benefit with one of the bodies designated by the Minister, with the consent of the juvenile; this shall be obligatory if the juvenile committed the act for the first time.
3. The juvenile shall be at liberty during the period of conversion of the custodial measure to service for the public benefit.
4. Subject to what is contained in paragraph (2) of this article, the judge for the execution of the judgment may specify the appropriate conditions for converting the juvenile's custodial measure to service for the public benefit with the consent of the juvenile.
5. The judge for the execution of the judgment shall verify, on a continuous basis, the juvenile's compliance with the conditions of the conversion of the custodial measure to the service for the public benefit assigned to him, and may assign the probation officer to do so and to submit the necessary reports; if it becomes apparent to the judge for the execution of the judgment that the juvenile is not compliant, he may warn him of the necessity of complying with the conditions of the conversion of the penalty, and

he has the right to cancel the decision converting the penalty and return the juvenile to complete the period of the custodial measure.

6. In the event of the cancellation of the conversion of the measure, the period that the juvenile has spent in service for the public benefit shall be counted towards the period of the custodial measure imposed and deducted from the period of the sentence.

Article (34)

a. A juvenile who completes eighteen years of age before the end of his sentence shall be transferred to a correction and rehabilitation centre to complete that period by decision of the judge for the execution of the judgment.

b. The judge for the execution of the judgment may, upon a written request from the Director of the Directorate, extend the juvenile's stay in the juvenile rehabilitation house until he completes twenty years of age in order to complete his education or vocational training.

Article (35)

a- The Director of the Directorate may, of his own motion or upon the recommendation of the director of the house, transfer the detained or convicted juvenile from one house 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 house may, with the approval of the Director of the Directorate, attach any juvenile placed in the house to any public or private institution to pursue his educational or vocational attainment there, provided that he returns to the house daily after finishing.

c- The Director of the Directorate shall immediately inform the judge for the execution of the judgment of any measure taken in accordance with the provisions of this article and shall follow his instructions in this regard.

Article (36)

a- The judge for the execution of the judgment may, after consulting the opinion of the director of the house, release any juvenile placed in any of the juvenile rehabilitation houses if he finds justification for doing so, according to the following conditions:

1. That the period the juvenile has spent in the house is not less than one third of the period imposed.
2. That the juvenile has been of good conduct during his residence in the house.
3. That the release of the juvenile does not lead to his exposure to bad social influences.
4. That he has not been convicted of an offence whose original penalty under the Penal Code is death or hard labour for fifteen years or more.

b- Subject to the provisions of paragraph (a) of this article, the judge for the execution of the judgment shall review the cases of juveniles sentenced to custodial measures every three months, in order to study the possibility of resorting to conditional release if its conditions are satisfied.

c- The judge for the execution of the judgment shall specify in the release decision the conditions with which the juvenile must comply.

d- If it becomes apparent to the judge for the execution of the judgment that the juvenile is not complying with the conditions of release, he may warn him of the necessity of complying with the conditions of release, and he has the right to cancel the release decision and return the juvenile to complete the period of the custodial measure, from which the period of release during which the juvenile complied with its conditions shall be deducted, in accordance with the procedures provided for in this article.

e- The probation officer in the area in which the juvenile resides shall undertake his guidance and supervision throughout the remaining period of the measure issued against him.

f- The judge for the execution of the judgment may, upon the recommendation of the Director of the Directorate, decide to return the juvenile to the house to complete the period of the measure imposed if he considers this appropriate and in the interest of the juvenile; his decision must be reasoned and justified.

g- The decision of the judge for the execution of the judgment refusing the release of the juvenile, and his decision to return him to the house, shall be subject to challenge before the juvenile court of first instance.

h- The Director of the Directorate may, after consulting the opinion of the director of the house, grant a juvenile of good conduct leave for a period not exceeding one week to visit his family on feast days or in necessary cases.

Article (37)

a. If, after the expiry of the period of the judgment, the Director of the Directorate finds, upon the recommendation of the probation officer, that the situation of the juvenile requires the extension of his stay and his transfer to the juvenile care house because:

1. One of his parents or his custodian is habitually engaged in crime, drunkenness or moral corruption, provided that the procedures of protection and care are observed in his respect in this case;
2. He has not completed the period of education or guidance in the programmes in which he enrolled;

he shall address the judge for the execution of the judgment accordingly, and the judge for the execution of the judgment may, if satisfied of the correctness thereof, issue a decision deeming the juvenile to be in need of care and protection and decide to place him in the care house for a period not exceeding one year.

c. In the aforementioned case, the Director of the Directorate shall take the measures necessary to treat the juvenile as a person in need of protection in accordance with the provisions of this Law.

Article (38)

No juvenile may be placed in any of the juvenile education or rehabilitation houses provided for in this Law except under a decision of the competent judicial authority.

Article (39)

A juvenile to whom any of the following situations applies shall be deemed to be in need of protection or care:

1. One who is in the care of a person unfit to care for him, owing to his habitual criminality, addiction to drink or to narcotic drugs and psychotropic substances, or moral depravity, or who has been convicted of committing an offence against morals with any of his children, whether legitimate or illegitimate, or with any of those entrusted to his care.
2. One who has performed acts relating to prostitution, debauchery, moral corruption or gambling, or served those who perform such acts, or associated with persons known for bad conduct.
3. One who has no settled abode or habitually spends the night in the streets.
4. One who has no lawful means of living or trustworthy breadwinner, and whose parents or one of them are deceased, imprisoned or absent.
5. One who is of bad conduct and beyond the control of his father, guardian, custodian or mother, or whose guardian is deceased, absent or lacking legal capacity.
6. One who begs, even if he conceals this by any means whatsoever.
7. Street vendors and scavengers of refuse.
8. One who has been subjected to intentional harm by one of his parents or his spouse to an extent exceeding the forms of discipline permitted by law and general custom.
9. One who would be exposed to serious danger if he remained in his family.
10. One who has been exploited in begging or mendicancy, in acts connected with prostitution, debauchery or moral corruption, in serving those who perform such acts, or in any unlawful acts.
11. A juvenile lacking discernment who commits a misdemeanour or felony.
12. A juvenile working in contravention of the legislation in force.

Article (40)

a. The probation officer may, with the approval of the Director of the Directorate, bring before the competent juvenile magistrates' court any person in need of protection or care, and may seek the assistance of a member of the judicial police to secure his appearance before the court; the court may issue a decision to keep him in one of the care houses pending the decision of the case if his interest so requires.

b. If the court is satisfied, after verification, that the person brought before it is under eighteen years of age and is in need of protection or care, it may take any of the following measures:

1. Order his parent or custodian to care for him properly and to sign an undertaking guaranteeing the provision of such care.
2. Refer his parent or custodian to one of the rehabilitation programmes to be issued under a special regulation for this purpose.

3. Refer him, for a period not exceeding two years, to the care house or to any similar accredited institution, provided that the institution consents thereto; the probation officer must submit a detailed report to the judge for the execution of the judgment every three months for the review of the decision.

4. Place him in the care of a suitable person or a suitable family, provided that any of them consents thereto, on condition that any of them has the right of supervision over him as his parent, for the period decided by the court.

5. Issue a decision placing the person in need of protection or care under the supervision of the probation officer, in addition to any of the measures contained in this article or without them, for a period of not less than one year and not more than five years.

c. Notwithstanding the provisions of paragraph (b/3) of this article, the judge for the execution of the judgment may, after consulting the opinion of the Director of the Directorate, extend the period of residence of the person in need of protection or care in a house if one of the following situations is established: 1. If there is no alternative family that can care for him and it is found that he would suffer harm if he left the house upon the expiry of the prescribed period, owing to the habitual criminality, drunkenness or moral corruption of the person charged with maintaining him, for the period until the reasons for the extension cease, provided that it does not exceed two years each time until the person in need of protection or care reaches twenty years of age. 2. If he has not completed the period of training in the craft or profession in which he began to be trained in that house.

d. The court may issue decisions under this article in the absence of the person in need of protection or care.

e. Decisions issued under this article shall be subject to challenge before the juvenile court of first instance.

Article (41)

a- The director of the house in which the person in need of care or protection resides shall permit him to enrol in educational or training programmes in a specialised institution, provided that he returns to the house daily.

b- The Director of the Directorate may, after consulting the opinion of the director of the house in which the person in need of care or protection resides, grant him leave to visit his family on feasts and occasions for days that he specifies, provided that he returns thereafter to the house.

Article (42)

a- Subject to what is contained in paragraph (b) of this article, the care house to which the care of the person in need of protection or care has been entrusted shall have the right of supervision over him and shall be responsible for his maintenance; the person in need of protection or care shall remain in the care of that house even if his parent or any other person requests his return.

b- If it appears that the person responsible for the maintenance of the person in need of protection or care is able to provide his maintenance, wholly or partly, the Minister, or whoever he authorises in writing, may on behalf of the person in need of protection or care take the measures necessary to commence judicial proceedings before the competent bodies to oblige that person to pay maintenance as determined by the competent judicial bodies.

Article (43)

The judge for the execution of the judgment may release any person in need of protection or care entrusted to any care house, on the conditions he considers appropriate, if he considers that the interest of the person in need of protection or care so requires.

Article (44)

1- The following shall be punished by a fine of not less than one hundred dinars and by imprisonment for a period not exceeding three months: a- any person who assists or incites any person in need of protection or care to escape from the care house; b- any person who shelters or conceals a person who has escaped in the aforementioned manner, or prevents him from returning to that house or assists him in doing so, knowing this.

2- The following shall be punished by a fine of not less than three hundred dinars and by imprisonment for a period of not less than three months and not more than one year: a- any person who assists or incites any juvenile to escape from the juvenile education house or the juvenile rehabilitation house, if the juvenile was placed in the house for committing a misdemeanour; b- any person who shelters or conceals a person who has escaped in the aforementioned manner, or prevents him from returning to that house or assists him in doing so, knowing this.

3- The penalty contained in paragraph (2) of this article shall be doubled if the juvenile was placed in the house for committing a felony.

Article (45)

The competent judge for the execution of the judgment shall visit the juvenile and care houses provided for in this Law within his jurisdiction periodically, at least once every three months, provided that each person carrying out the visit submits a report thereon to the President of the Judicial Council and to the Minister.

Article (46)

The provisions contained in the Criminal Procedure Law in force shall apply in cases not provided for in this Law, in so far as they do not conflict with its provisions.

Article (47)

The Minister shall issue the instructions necessary for the implementation of the provisions of this Law, including the following instructions:

1. The instructions necessary to determine the bases that must apply to civil society institutions or other bodies for the purposes of their accreditation for the settlement of disputes.

2. The instructions necessary to determine the bases that must apply to civil society institutions or other bodies for the purposes of their accreditation as care houses.
3. The instructions necessary to determine the requirements and information that must be contained in the reports of probation officers.

Article (48)

The Council of Ministers shall issue the regulations necessary for the implementation of the provisions of this Law.

Article (49)

The Prime Minister and the Ministers are charged with the implementation of the provisions of this Law.

2- Observations on the draft bill amending the Juveniles Law currently in force:

1. In its first article the draft introduced certain new terms and expressions, such as the juvenile lacking discernment, the fosterer, the juvenile police, the dispute-settlement judge and the judge for the execution of the penalty. This strengthens the role of the judiciary in terms of adopting alternative measures through the dispute-settlement judge and the judge for the execution of the penalty, and adopting the concepts of restorative justice.
2. In its third article the draft referred to the standard of the best interests of the child, consistently with the Convention on the Rights of the Child; this reinforces the concept that the spirit of the law takes precedence over its letter as regards the juvenile.
3. The age of criminal responsibility was raised to twelve, which enhances attention to the juvenile in a better manner by conferring greater protection.
4. The draft focused on the concepts of restorative justice based on preventive programmes and aftercare aimed at reintegrating the juvenile into society, rehabilitating him, compensating society and repairing the harm; this is clearly evident from certain provisions proposed in the draft aimed at creating alternative programmes, such as community service.
5. The proposal of an auxiliary judicial police (specialised police), a public prosecution and a judiciary specialised in juveniles is consistent with the international standards aimed at creating a model juvenile judiciary, since a specialised judge qualified in juvenile cases, who is willing to work as a juvenile judge and is assisted by auxiliary agencies such as the specialised police and the specialised public prosecution, is reflected positively in the manner of dealing with the juvenile when he is in conflict with the law.
6. The draft created the system of the judge for the execution of the penalty, since the juvenile suffers from many problems owing to the absence of the concept of a judge for the execution of the penalty, particularly as the relationship of the judge with the juvenile under the law currently in force ends as soon as the judgment is rendered against the juvenile, which does not fully achieve the concept of aftercare for the juvenile. The creation of this system also helps to decide many problems of execution, such as replacing measures

with a fine, calculating periods and time limits, separating convicted adults from juveniles, and the juvenile reaching eighteen years of age during the execution of the measure.

7. The draft addressed the dispute-settlement judge. This indicates that among the components of restorative justice is the existence of a system of mediation, reconciliation and conciliation between the parties to the case in which the juvenile is a party; certain procedures relating to reconciliation and mediation therefore require that they be given a legal character, which can only be done through a judicial decision binding on the parties.

8. The draft constituted a form of comprehensive review of the legislation relating to juveniles, since in the past work was done by amending scattered provisions at widely spaced intervals and without in-depth study.

9. During the preparation of the draft, work was carried out according to the participatory approach (the multi-agency approach) and by the bodies concerned with juveniles (official and non-governmental); this approach may contribute to bringing a modern law into existence.

10. The amending draft bill contributed to avoiding the state of legislative dispersal from which the child in conflict with the law suffers, since the best interests of the child were included in every procedure in the body of the law, and certain provisions were transferred from other legislation to the draft, which constitutes a step in the right direction towards a unified draft law covering all the legal provisions relating to the juvenile in conflict with the law.

11. The draft introduced certain new concepts, such as psychological and educational counselling, the fosterer, the juvenile lacking discernment and the age of criminal responsibility, and certain procedural aspects were merged with substantive ones, which will certainly be reflected on the interest of the child in conflict with the law.

12. The draft reflected certain other experiences gained through the many projects implemented in the field of juvenile justice.

13. The draft referred expressly and clearly to the concept of legal aid, a concept that lacks legal cover under the provisions currently in force - noting that most juveniles in conflict with the law are from poor classes, and that the age group of the majority of them does not comprehend the course of the trial. Hence the importance of this concept, which has proven its success when implemented by civil society organisations with experience in this regard.

14. The draft expanded by introducing further fair trial guarantees, such as:

- A new conception of the confidentiality of the trial.
- The attendance of more than one body with the juvenile during the trial.
- Speed in deciding the case without affecting the rules of justice.
- Raising the age of criminal responsibility, making the juvenile a positive element during the course of the trial.
- The trial of the juvenile before his natural judge.

15. Notwithstanding the importance of the draft bill amending the Juveniles Law, there is another matter of no less importance, namely the necessity of issuing the regulations that

put the law into effective application, such as the Probation Officers Regulation and the Legal Aid Regulation, so that the law and the regulations are issued as a single package.

16. In order for the draft law to achieve its desired objective, specific standards must be set for places of detention of juveniles, both in terms of the environment of the place itself and in terms of the standards for the personnel working in them.

17. It must be noted that Jordan has ratified many international and regional conventions concerned with human rights generally and children in particular, and this ratification imposes several obligations on Jordan, including reviewing and amending national legislation consistently with what is contained in the international conventions, since most of these conventions contain in their introduction an almost identical provision to the effect that (...the States Parties shall take all appropriate legislative and administrative measures to put the convention into practical application..). Accordingly, this draft is for the most part consistent with that.

18. The law currently in force restricts the power of the judge in many matters, which the amending draft bill has sought to avoid, since it gives the judge a degree of flexibility in dealing with the juvenile.

19. In conclusion, we hope that the amending draft bill will be given the character of urgency when it is submitted to the next Parliament.

Conclusion

In conclusion, this study constitutes a summary of our visions on restorative justice for juveniles, drawn from practical experience as a judge, especially in juvenile courts, and from my academic interests in the field of human rights, family violence and family protection in particular. These are visions open to discussion and amendment, especially by the bodies concerned with juveniles.

It should be noted that the proposed visions and amendments to legislation are in the nature of recommendations which, after being developed and amended, may be placed in the hands of decision-makers to be adopted when proposing any future legislative amendments, because adopting the system of restorative criminal justice for juveniles serves the common interest of the juvenile himself, of the family in whose care he lives, and of society in general, since the juvenile is a member of society whom society cannot do without, and from whom society has no escape, if he is exposed to delinquency, except through reform, rehabilitation and correction according to a scientific and practical methodology. It also deepens the concept of aftercare for the juvenile.

Moreover, adopting the system of restorative justice for juveniles is consistent, as we have stated above, with the modern philosophy of punishment based on adopting alternative reform. We hope that such a system will be achieved, especially since cooperation with the United Nations Development Programme enables us to reach better results in a shorter time by virtue of the experiences of other countries in this regard.

On the basis of the foregoing, we shall set out the most important recommendations that the research team considers it necessary to include, among them:

- Generalising the experience of the juvenile police to all governorates of the Kingdom, along the lines of the experience of the Family Protection Department, and selecting its personnel according to specific and disciplined criteria. At the end of this study and in the annexes we shall set out a summary of the work of the juvenile police during one year, to demonstrate the importance of the existence of such a specialised department.
- Coordinating with the Judicial Council, the Ministry of Justice and the Jordanian Judicial Institute to develop the concept of a public prosecution for juveniles, since the matter requires the amendment of other related legislation, such as the Law on the Independence of the Judiciary and the Law on the Formation of Regular Courts.
- Specialisation in the field of juvenile justice should cover all stages of the criminal proceedings, that is, during the investigation and trial stages (magistrates, public prosecution, courts of first instance, courts of appeal), accompanied by the qualification and training of the administrative agencies supporting the work of the judge and the development of a suitable working environment (the courts), since this is reflected positively on the juvenile himself.
- The attendance of the probation officer, the guardian, defence counsel or the social worker with the juvenile from the first moment of his appearance before the official bodies; reports on the juvenile should be prepared at each stage, and the recommendations of the probation officer in this regard should be adopted.

- Continuing to work according to the participatory approach among the institutions and bodies concerned with dealing with the juvenile, the aim being to reach an integrated services centre or model court for the trial of juveniles, so that all the services provided by official bodies or civil society organisations are in the same place.
- Working to prepare procedural guides on the manner in which the bodies concerned deal with juveniles, or developing existing ones according to the restorative justice approach.
- Working on a national action plan for community awareness of juvenile justice through the involvement of the media, whose role has grown recently, and drawing on the role of preaching and guidance, with a focus on highlighting the objectives of restorative justice.
- Focusing on the pillars of restorative justice for the juvenile, based on its three elements, namely repairing the harm, compensating society and bringing home the consequences to the offender, with the ultimate aim when imposing any measure on the juvenile being the best interests of the child and his reintegration into society.
- The measure taken against the juvenile, where the act committed is proven, must not affect the juvenile's education and learning programmes; that is, his studies should be given priority, as should craft and vocational programmes if he works in a profession or craft as permitted by his age, in coordination with certain institutions such as vocational training as regards craft apprenticeship programmes.
- Activating aftercare programmes and preventive programmes (prior care), with the family having a role in them so that the juvenile is not removed from his natural environment, or with the participation of the educational supervisor if the juvenile is at school.
- The research team also recommends introducing modern technologies in the trial of the juvenile in order to respect his privacy and the confidentiality of the procedures relating to him, such as closed-circuit television (CCTV), as is the case in certain family violence cases and by analogy with the text of Article 157 of the Criminal Procedure Law.
- Activating judicial mediation programmes as regards certain contraventions and minor misdemeanours, with the judge's decision in this regard being final and binding on the parties, so that the juvenile does not remain exposed to a long series of procedures during investigation and trial.
- When implementing certain community service programmes, the institutions and bodies to be entrusted with them must be identified through the signing of memoranda of understanding with each body separately, so that there is a form of follow-up.
- It is necessary to organise a social study of the juvenile and his family in certain cases, in the light of which the alternative measure is determined.

In conclusion, what matters is not the theoretical texts of legislation but the practical application of those texts.

Annexes

Statistics on the work of the juvenile police during 2012 (noting that the source of the statistics is the Juvenile Police Department, which deserves thanks for its cooperation).

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

Offence	Number of cases
Damaging a passport	1
Breach of trust	1
Inhaling petroleum substances	4
Arson	5
Disturbing public peace	5
Assault (causing harm)	219
Harassment and annoyance	8
Threats	6
Damaging the property of others	16
Defamation and insult	9
Ordinary theft	11
Impersonation	3
Insulting religious feeling	3
Drunkenness	3
Carrying and possessing a sharp instrument	1
Outraging public decency	2
Violating the sanctity of homes	2
Act contrary to public decency	1
Violation of the Telecommunications Law	2
Violation of the Weapons and Ammunition Law	1
Resisting public officials	3

Observations

1. The total of the offences committed above amounted to 300 cases, of which 236 were settled and the remainder referred to the judiciary. This demonstrates that most of the acts committed by juveniles are minor and that diversion and settlement programmes can be applied to them.
2. The number of persons party to the above cases amounted to around 500 persons, juveniles and adults, of whom 33 were female. This indicates that the largest proportion of juvenile delinquency is among males.
3. The majority of the acts committed were concentrated in the age group 12-15.

4. The majority of the acts committed are minor, and the concept of restorative justice can therefore be applied to them, as evidenced by the fact that 219 cases are simple assault resulting from quarrels.

5. When classifying the acts committed above, we find the following:

- 11 cases of offences against public safety.
- 4 cases of offences against the public administration.
- 3 cases affecting religion and the family.
- 10 cases of offences against morals and public decency.
- 28 cases of offences against property.
- 241 cases of offences against the person.

From this we find that the largest proportion of the acts committed are amenable to settlement, since they fall within the framework of contraventions or minor misdemeanours in respect of which alternative measures may be taken.

Statistics on cases received and decided by the courts from 1/1/2012 to 25/12/2012:

Court	Received	Decided
Amman Juvenile Court	791	740
Zarqa Juvenile Court	316	276
Irbid Juvenile Court	256	223

Decisions of the Jordanian Court of Cassation Relating to Juveniles

Court of Cassation Decision No. 2009/723 (Five-Member Panel), dated 28/6/2009

It may be inferred from the text of Articles 13 and 15 of the Juveniles Law that they required the summoning of the juvenile's guardian, custodian or the person to whom he has been delivered, on an alternative basis. Since the juvenile's mother is regarded as his custodian in accordance with the text of the second article of the Juveniles Law, as she has charge of the care of her juvenile son Uday, and since the aim of the attendance of the persons mentioned in Articles 13 and 15 of the Juveniles Law is to ensure the soundness of the investigation with the juvenile and that he is not subjected to any pressure, coercion or intimidation, and this is achieved by the attendance of his mother with him at the investigation, his confession before the police is consequently regarded as a valid confession producing its effects.

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Court of Cassation Decision No. 2009/402 (Five-Member Panel), dated 5/4/2009

It may be inferred from the tenth article of the amended Magistrates' Courts Law No. 30 of 2008 that the legislator determined the jurisdiction of the courts of first instance in their appellate capacity in criminal cases in respect of judgments not exceeding imprisonment for three months, whatever the amount of the fine. Since the judgment rendered by the Aqaba Magistrates' Court, the subject of this case, ordered the placement of the accused juvenile in the juvenile education house for twenty-four days, a fine of five dinars and the confiscation of the instrument, the judgment rendered included a supplementary accessory penalty which is regarded as a penalty under the provisions of Article 30 of the Penal Code and which lapses with the lapse of the penalty and remains with its survival, in accordance with the settled case law of the Court of Cassation (Criminal Cassation 59/19). It follows that jurisdiction to hear the appellate case falls within the jurisdiction of the Ma'an Court of Appeal, which is the authority competent to hear this case, and not the Aqaba Court of First Instance in its appellate capacity.

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Jordanian Court of Cassation Decision (Criminal) No. 2008/1532 (Five-Member Panel), dated 10/11/2008

If the State Security Court, in forming its conviction and in deducing the criminal facts, relied on numerous items of evidence, including the statements of the juvenile suspect before the investigator at the court and her statements before the Public Prosecutor, in which she confesses to consuming hashish twice through a cigarette without knowing that it was hashish, and she also confesses that these two statements were taken from the appellant juvenile suspect in the absence of her mother, her guardian, the probation officer or her lawyer, then these statements and confessions are regarded as null in accordance with Articles (13 and 15) of the Juveniles Law No. (24) of 68, as amended by Law No. (11) of 2001 - see Cassation Decision No. (2008/862) dated 26/6/2008, Cassation Decision No. (2007/1438) dated 13/12/2007 and Cassation Decision No. (2007/1402) dated 29/11/2007. It will thus have relied, in forming its conviction regarding the two accused and the two suspects, on unlawful evidence. Likewise the statements of the accused before the investigator, exhibit P/9, which the accused ... did

not sign, are not regarded as lawful evidence notwithstanding the testimony of the investigator that she gave them of her own free will, since the accused, in her statement and in her reply to the charges against her, said that she gave two statements, one of which is correct and the other incorrect and of which she knows nothing, and that her statement before the Public Prosecutor is the correct one, whereas the investigation papers contain only the unsigned statement. Accordingly, in the light of the foregoing, the State Security Court based its conviction and relied in forming it on unlawful evidence, which requires the quashing of the contested decision at this stage for this reason.

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Jordanian Court of Cassation Decision (Criminal) No. 2008/869 (Five-Member Panel), dated 9/7/2008

The probation officer may not be brought to attend the juvenile's trial except after the attendance of the juvenile's guardian, custodian, the person to whom he has been delivered or his lawyer has proved impossible after they have been notified. The State Security Court must verify that the attendance of any of the persons described in Articles (13 and 15) of the Juveniles Law for the investigation with the juvenile was impossible before bringing the probation officer, the contravention of which entails nullity under the provisions of Article (7/1) of the Criminal Procedure Law.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2007/1438 (Five-Member Panel), dated 13/12/2007

It may be inferred from Articles ((13 and 15/1)) of the Juveniles Law, as amended by Law No. ((11)) of 2002, that the legislator, in extending protection to the juvenile so that no influential pressure or coercion is exerted on him during his investigation and the giving of his statement, required the police investigator at the outset to summon his guardian, custodian or the person to whom he has been delivered by a summons, and to notify the probation officer. These provisions are therefore mandatory, meaning that they may not be contravened, and their contravention entails nullity under the provisions of Article ((7/1)) of the Criminal Procedure Law. Since the State Security Court relied in forming its conviction on the police statements of the appellants, and the evidence does not show the attendance of any of the persons described in Article ((13)) of the Juveniles Law with the appellants during their investigation, and the probation officer is brought to attend the investigation sessions with the juvenile before the Public Prosecutor only when the attendance of the juvenile's guardian, custodian, the person to whom he has been delivered or his lawyer is impossible after they have been summoned by the Public Prosecutor, the grounds of appeal are well founded against the contested decision and require its quashing.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2007/1402 (Five-Member Panel), dated 29/11/2007

It is apparent from Article 15/1 of the Juveniles Law that it required the investigation with the juvenile to be conducted in the presence of his guardian, custodian, the person to whom he has

been delivered or his lawyer, and that if the attendance of any of them is impossible the probation officer shall be summoned to attend the investigation sessions. Since the statements of the appellant before the Public Prosecutor were made in the absence of any of the persons provided for in Articles ((13 and 15)) of the Juveniles Law - because a brother has no guardianship over the person and property of a minor where the lawful guardian exists - those statements are not valid evidence on which to base a judgment and may not be relied upon in the judgment, since they contravene the provisions of Article ((15/1)) of the Juveniles Law, which is a mandatory provision.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2007/870 (Five-Member Panel), dated 9/8/2007

If the Criminal Court, in its capacity as a juvenile court, omitted to obtain the birth certificate of the accused juvenile Zakariya, and he was sentenced as a youth and his detention for a period of two years in the juvenile education house was decided under the text of Article 18/c of the Juveniles Law, notwithstanding that the particulars of the accused's statement taken by the police indicate that he was born on 15/1/1986 - that is, his age on the date of the incident on 20/4/2000 was 14 years, 3 months and 5 days, meaning that he belongs to the category of adolescent - and upon appeal the Court of Appeal upheld by its decision the conclusion reached by the Criminal Court in its criminal part, then the two courts will have contravened the text of Article 14 of the Juveniles Law No. 24 of 68, which requires verifying the juvenile's date of birth through the civil status records and, if that is impossible, referring him to the medical committee to assess his age, in view of the legal effects thereof as relating to jurisdiction and the amount of the penalty to be imposed. The two judgments must therefore be quashed. Since the quashing was in favour of the convicted person ..., it has the effect of ordinary quashing.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2007/352 (Five-Member Panel), dated 8/4/2007

If the appellant was a juvenile who had not completed eighteen years of age, the procedures followed in the trial of juveniles must be observed during the investigation and trial, and the penalty to be imposed on him is the penalty contained in that law ((see Court of Cassation Decision No. 1987/173 dated 29/7/1987)). Since the judgment of the Amman Court of Appeal, and before it the Criminal Court, did not verify the appellant's birth registration and observe the application of the provisions of the Juveniles Law if it became apparent to them that the appellant was a juvenile at the time the offence occurred, their decision deserves to be quashed. It makes no difference that the accused appellant did not appeal the two judgments rendered against him which were annulled by the Court of Appeal, because these judgments were rendered in contravention of the law, since the Juveniles Law was not observed in respect of the accused appellant, and the argument that these judgments have become settled and acquired the force of res judicata as regards the penalty imposed shall not be heard.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2007/145 (Five-Member Panel), dated 8/4/2007

It may be inferred from Articles 13 and 15/1 of the Juveniles Law No. 24 of 68, as amended by Law No. 11 of 2002, that the investigation with the juvenile may not be conducted except in the presence of his guardian, custodian, the person to whom he has been delivered or his lawyer, and that if the attendance of any of them is impossible the probation officer shall be summoned to attend the investigation sessions. It may be inferred from these two provisions that the legislator, in extending protection to the juvenile so that no influential pressure or coercion is exerted on him during his investigation and the giving of his statement, required the police investigator at the outset to summon his guardian, custodian or the person to whom he has been delivered by a summons and to notify the probation officer. He also required the Public Prosecutor, when investigating the juvenile, to summon his guardian, custodian, the person to whom he has been delivered or his lawyer, and if the attendance of any of these is impossible, the probation officer is summoned to attend the investigation sessions. These provisions are therefore mandatory, meaning that they may not be contravened, and their contravention entails nullity under Article 7/1 of the Criminal Procedure Law. Since the Court of Appeal relied in forming its conviction on the police statements of the accused, and the evidence does not show the attendance of any of the persons described in Article 13 of the Juveniles Law with the juvenile during his investigation, and the Court of Appeal also relied in forming its conviction on the statements of the accused before the Public Prosecutor on the basis that the probation officer attended with him - whereas the probation officer is not brought to attend the investigation sessions with the juvenile before the Public Prosecutor except after the attendance of the juvenile's guardian, custodian, the person to whom he has been delivered or his lawyer has proved impossible after they have been summoned by the Public Prosecutor - the Court of Appeal should therefore have verified that the attendance of any of the persons described in Article 15 of the Juveniles Law at the investigation with the juvenile was impossible before bringing the probation officer to the investigation sessions (see Cassation Decision No. 2006/106 dated 22/3/2006, Cassation Decision No. 2005/1108 dated 12/10/2005, Cassation Decision No. 2006/558 dated 25/7/2006, and Cassation Decision No. 2006/275 dated 17/5/2006).

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2006/263 (Five-Member Panel), dated 20/4/2006

If it is established from judgment No. 95/145 dated 7/10/95 that the respondent was a juvenile of the category of youths on the date of committing the offence of which he was convicted, the judgment on his rehabilitation is, in this case, not applicable, since he has no prior record in accordance with the text of Article 6 of the aforementioned Juveniles Law. The court of first instance should have rejected the application because the applicant has not been deprived of his civil standing, and the case law of our Court has settled that there is no room for applying the provisions on rehabilitation in any juvenile cases (Criminal Cassation Decisions 2000/116 and 2000/166).

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2006/106 (Five-Member Panel), dated 22/3/2006

It may be inferred from Article 15/1 of the Juveniles Law that its text came in absolute terms prohibiting the investigation of the juvenile except in the presence of his guardian or custodian; it therefore applies in its absolute terms and thus covers the investigation carried out by the officers of the judicial police as well as the investigation conducted by the Public Prosecutor. In addition, we consider that this guarantee was introduced by the legislator out of regard for juveniles and to ensure that they are not subjected to any pressure or coercion when being investigated; if it is obligatory before the Public Prosecutor, to whom the law has entrusted the supervision of all the agencies of the judicial police, it is all the more binding on the officers of the judicial police, who act on his orders in accordance with the provisions of the law.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2005/1108 (Five-Member Panel), dated 12/10/2005

It may be inferred from the provisions of Article 13 of the Juveniles Law No. 24 of 1968 and its amendments that it requires the summoning of the juvenile's guardian, custodian or the person to whom he has been delivered from the investigation stage with the juvenile and at the trial session by means of a summons, provided that the probation officer is notified thereof. Since the investigation stage referred to in this article is absolute and in its broad sense covers the first stage of investigation before the police and the subsequent investigation before the judicial authorities until the end of the trial, and Article 15 thereof does not permit the investigation of the juvenile except in the presence of his guardian, custodian, the person to whom he has been delivered or his lawyer, and if the attendance of any of them is impossible the probation officer shall be summoned to attend the investigation sessions - the intention of the legislator being to extend protection to the juvenile so that he does not fall under any influence while giving his statements, in view of his age.

Since the trial court excluded the statements of the respondents Tareq and Hamzeh in the preliminary investigations because they were taken in isolation from the persons mentioned in the two aforementioned articles, and their statements cannot be relied upon owing to the absence of any other evidence supporting them, and it consequently declared the respondents innocent of what was attributed to them, in reaching this conclusion, and by virtue of its power to weigh and assess the evidence, it has correctly applied the law.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2003/35 (Five-Member Panel), dated 2/2/2003

* If the respondent was eighteen years of age but had not completed it on the date of the incident, he is regarded as being of the age of a youth in accordance with the definition of the youth contained in the second article of the Juveniles Law No. (24) of 1968 and its amendments.

* The hearing of the felony of complicity in murder attributed to the accused (respondent) Dia' and the felony of incitement to murder attributed to the accused (respondent) Adnan

falls outside the jurisdiction of the Grand Criminal Court in accordance with the provisions of the fourth article of its law.

* The Grand Criminal Court is not competent to try the accused for the felony of murder so long as he is a juvenile of the age of a youth, in accordance with the provisions of the second paragraph of the seventh article of the aforementioned Juveniles Law; in the light of this, the contested decision of the Grand Criminal Court declining jurisdiction to hear the case and referring it to the competent Public Prosecutor for referral to the competent body is in accordance with the law.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2002/1196 (Five-Member Panel), dated 5/1/2003

* The Juveniles Law did not provide for the manner of reducing the penalty imposed on a youth where discretionary mitigating circumstances exist, relying in this on Article (99) of the Penal Code, on the basis that the provision of this article can be applied because the penalties imposed on a youth for a felony are of the kind of penalties provided for in this article. Accordingly, the failure of the Court of Appeal to adopt discretionary mitigating circumstances, notwithstanding the waiver by the victim's father of his personal right against the appellant, is contrary to the law.

* The provisions of Article (108) of the Criminal Procedure Law require the president of the court, or whoever of the judges he delegates, where the offences in the cases pending and referred to the court are punishable by death, hard labour for life or life detention, to ask the accused whether he has appointed a lawyer to defend him, and if he has not done so and his financial situation does not enable him to appoint a lawyer, the president or his deputy shall appoint a lawyer for him. Since the felony of premeditated murder attributed to the accused, who is a youth, is punishable by temporary detention for a period ranging between (6-12) years in accordance with the provisions of Article (18/3/a) of the Juveniles Law, the failure to ask the two accused about appointing a lawyer for them is not contrary to the law.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2002/594 (Five-Member Panel), dated 7/8/2002

* If the appellant was born on 28/11/83, and the offence attributed to her, namely the incident of shooting her brother, took place on 14/7/2001, the appellant's age on the date of the incident is therefore (17) years, (7) months and (16) days, meaning that she belongs to the juvenile category of youths.

* The eighth article of the Juveniles Law No. 24 of 1968 provides that the court hearing the charges attributed to any juvenile must observe in his respect the procedures followed before juvenile courts if the juvenile is accused jointly with a non-juvenile.

Since the Grand Criminal Court did not observe the Juveniles Law in this regard when imposing the penalty on the appellant, but applied the provisions of the Penal Code in this respect on the basis that the appellant had exceeded eighteen years of age when committing

the offence attributed to her, contrary to reality and fact - since the appellant was a juvenile on the date of committing the offence attributed to her - it has thereby contravened the law, which requires the quashing of its contested judgment.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2000/407 (Five-Member Panel), dated 22/4/2000

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Since Article 17 of the Juveniles Law, which is a special law in relation to the Penal Code, permitted the juvenile's guardian or custodian to act on behalf of the juvenile by way of objection, appeal or cassation, the cassation appeal submitted and signed by the juvenile's guardian is therefore submitted by a person with standing and is admissible as to form.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 2000/166 (Five-Member Panel), dated 11/4/2000

It may be inferred from the sixth article of the Juveniles Law No. (24) of 1968 that it established a general principle, the gist of which is that the conviction of an accused juvenile for any offence is not regarded as a prior record for him, contrary to the position in respect of adults. Since the legislator intended by this principle that the juvenile, after reaching majority, should begin a social life free of any reference to his delinquency at a time when his awareness was not complete, the institution of rehabilitation has no room for application in any juvenile cases. Since the Irbid Criminal Court took the contrary view and decided to rehabilitate the applicant (respondent), who was a juvenile when the decision of the Criminal Court was rendered against him, the grounds of appeal are well founded against its decision, which must therefore be quashed.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 1999/388 (Five-Member Panel), dated 15/8/1999

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- * A report on the psychological condition cannot be obtained by a single examination of the accused; rather, it requires placing him under medical observation for a period of time.
- * If it appears as a result of the examination and observation that the accused is not of sound mind, with a statement of whether this condition is temporary or was concomitant with the commission of the offence to a degree preventing his trial, the court shall decide his conviction and his lack of criminal responsibility in accordance with the text of Article (233/1) of the Criminal Procedure Law, and not the discontinuation of proceedings against him as the trial court held in its contested decision, which means that this ground of cassation is well founded.
- * The criterion in applying the Juveniles Law is the chronological age determined by Article (14/a) of the Juveniles Law, which provides that the civil registry is evidence of the date of birth until its forgery is proven; since the respondent is registered in the civil

registry, relying on the assessment of his age on the basis of the doctor's report and applying the Juveniles Law on that basis is contrary to the law.

* The trial of the juvenile falls outside the jurisdiction of the Grand Criminal Court and within the jurisdiction of the court of first instance in its capacity as a juvenile court, and the judgments rendered under the Juveniles Law are subject to objection, appeal and cassation under Article (17) of the Juveniles Law.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 1999/256 (Five-Member Panel), dated 30/9/1999

1. A person who has not reached seven years of age is not regarded as competent to exercise his civil rights nor as criminally responsible, as may be inferred from Articles 44 and 45 of the Civil Code and Article 18 of the Juveniles Law, owing to the absence of the mental faculties by which he can understand his acts and comprehend their effects.

2. The testimony of an insane person and of a child who does not understand the nature of the oath may not be heard, as may be inferred from Article 32 of the Evidence Law; the testimony of a person lacking discernment is not admissible as a basis for a judgment of conviction if it is not supported by lawful evidence.

3. The testimony taken by way of inference provided for in Article 158 of the Criminal Procedure Law is not sufficient for conviction unless supported by other evidence; the witnesses referred to in paragraph (1) of this article whose testimony may be heard without taking an oath are those who have reached seven years of age and have not reached fifteen years of age.

4. If the testimony of a person lacking discernment is not admissible as a basis for a judgment of conviction, the hearsay testimony derived from it is likewise not admissible, because the branch follows the root and it is no more than a repetition of the testimony and statements of the person lacking discernment; as for what is provided for in Article 157 of the Criminal Procedure Law, it relates to the statement of a person with discernment who has not reached the age of majority. Since the testimony of a person lacking discernment is not admissible as a basis for a judgment, and the hearsay testimony derived from it is likewise inadmissible, and a judgment of conviction is not based on doubt, and the prosecution evidence in this case consisted of the testimony of a person lacking discernment taken by way of inference and the hearsay testimony derived from it, the respondent must be declared innocent of what was attributed to him.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 1999/183 (Five-Member Panel), dated 19/6/1999

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* If the Grand Criminal Court rendered its contested judgment without obtaining a report from the probation officer, although the respondent was a juvenile when the offence occurred, in application of the text of Article (11) of the Juveniles Law, the ground of cassation is well founded against the judgment, which must therefore be quashed.

* Since the Grand Criminal Court did not weigh the evidence submitted in the case correctly, reached implausible conclusions, and did not discuss the technical evidence sufficiently as regards ascertaining the suitability of the seized knife for inflicting the fatal stab wound that led to the death of the victim, this makes the grounds of cassation well founded against the contested judgment, which must be quashed.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 1998/244 (Five-Member Panel), dated 10/5/1998

It may be inferred from the second paragraph of Article 158 of the Criminal Procedure Law that there is nothing in it indicating the obligation to take the testimony of the two victims by way of inference; rather, by reference to the first paragraph of Article 158 of the Criminal Procedure Law, we find that it provides that witnesses who have not reached fifteen years of age may be heard without taking an oath by way of inference if it becomes apparent that they do not understand the nature of the oath. According to the principled methods of interpretation, this provision may not be applied in its absolute terms and in isolation from the other legal provisions, since it is established in law, doctrine and case law that a distinction must be made between witnesses who have not completed seven years of age and those who have completed seven but have not completed fifteen years. The members of the first category of witnesses may not have their testimony heard even by way of inference, because the legislator presupposes or requires in testimony, even by way of inference, the satisfaction of two conditions, namely discernment and freedom of choice. The Civil Code settled the question of the absence of discernment in these persons in Article 44/2 of the Civil Code, stating (and every person who has not reached seven years of age is regarded as lacking discernment). Just as the testimony of an insane person may not be heard by way of inference owing to the absence of discernment, the testimony of a young child lacking discernment may not be heard owing to the absence of discernment as well, for identity of cause requires identity of ruling. It cannot be objected to this view that this provision is contained in the civil law and not the criminal law, since the civil law is the general law to be referred to in order to fill every gap and clarify every ambiguity affecting the provisions of criminal law, and the single legal system in a single State must be consistent in its parts. In addition, the Juveniles Law is a special branch of criminal law that confirmed the absence of criminal responsibility of those under seven years of age owing to their lack of discernment. The members of the second category are those who are heard by way of inference, and they are those to whom the text of Article 158/2 of the Criminal Procedure Law applies. Comparative case law has settled on adopting this and has agreed to annul every judicial judgment relying on the testimony of a person lacking discernment, even if by way of inference.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 1996/727 (Five-Member Panel), dated 14/1/1997

If the date of birth of the accused is 14/5/1981 according to his birth certificate and the family register attached to the cassation memorandum, and the date of commission of the offence attributed to him is the first month of 1996, the accused was a juvenile when he committed the

offence attributed to him, and the Irbid Criminal Court should have taken this into account and sentenced him under the Penal Code read with the Juveniles Law. Accordingly, the failure to observe the Juveniles Law in respect of the said convicted juvenile involves a legal contravention requiring the quashing of the contested judgment; and since this quashing was in favour of the said convicted person Ashraf Kamal, it takes the ruling of ordinary quashing. Accordingly, pursuant to the provisions of Article 291/4 of the Criminal Procedure Law, the contested judgment is quashed and the papers are returned to the Irbid Criminal Court to take the legally required action.

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Jordanian Court of Cassation Decision (Criminal) No. 1992/118 (Five-Member Panel), dated 20/5/1992

It may be inferred from the text of the sixth article of the Juveniles Law that an offence committed by a juvenile is not regarded as a criminal record; accordingly, the decision of the court of first instance, and thereafter the decision of the Court of Appeal, rejecting the suspension of execution on the ground that the defendant had previously been handed over to the Zarqa Public Prosecutor for the offence of theft, on the basis of this fact, renders the judgment tainted by a contravention of the law and requires its quashing.

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Jordanian Court of Cassation Decision in its Criminal Capacity No. 1987/173 (Five-Member Panel), dated 29/7/1987

If the accused was a juvenile at the time of committing the offence, the procedures followed before juvenile courts must be observed in his respect pursuant to Article 18 of the Juveniles Law No. 24 of 1986, and the judgment of the Criminal Court which did not observe the said procedures deserves to be quashed.

Observations

We have thought it appropriate to set out the most prominent judicial decisions in the field of juvenile justice so that the esteemed reader and those concerned may see that the legislative deficiency has in some cases been remedied by the case law of the highest court (the Court of Cassation). This demonstrates the great role played by the judiciary, which could play an even greater role serving the best interests of the child if the legislation in force contained provisions giving the judiciary a degree of flexibility - which is what we hope for from the amending draft bill.

It is also observed that many fair trial guarantees relating to juveniles have been emphasised through the aforementioned decisions.

The importance of the decisions of the Court of Cassation in this regard stems from the fact that its decisions are final and establish a kind of legal principles for the lower courts, as has been observed through the emphasis on the obligatory attendance of the guardian and defence counsel with the juvenile, and on taking into account the juvenile's age and the type of measure taken against him.

Some judgments rendered by the lower courts were quashed because certain guarantees and rules of the trial of juveniles were not observed.

References of the Study

1. Seminar on the Execution of Criminal Judgments in Accordance with Modern Penal Policy, Amman, 8-10/12/1998, Jordanian Judicial Institute.
2. Criminal Justice and Prison Reforms, Arab Institute for Human Rights, Tunis, 24/11-2/12/1991.
3. Criminal Justice and Crime Prevention, Naif Academy for Security Sciences, Centre for Studies and Research, Riyadh, 1997.
4. Seminar, Modern Systems in the Administration of Penal and Correctional Institutions, Riyadh, 19-21/4/1999. Regional seminar for the Arab States.
5. Resolutions of the Arab Conferences of Heads of Penal Institutions, Council of Arab Interior Ministers.
6. Seminar on Family Protection between Reality and Aspirations, Jordanian Judicial Institute, Amman, 2002.
7. The Social Study Prepared by the Probation Officer between Theory and Practice, Amman, 1998.
8. How to Deal with the Provisions of the Juveniles Law and the Procedures Relating to Juvenile Offences, Amman, practical workshop, 11-16/7/1998.
9. Workshop on Restorative Justice for Juveniles, Amman, 22/11/2004.
10. Seminar on the Prospects for Criminal and Prison Reform in the Arab Region, Amman, 10-11/2/2002.
11. Ahmad Abu Samra, Encyclopaedia of Juveniles (in Theory and Practice).
12. Research papers of the Riyadh Seminar, The Islamic Sharia's Treatment of the Problems of Juvenile Delinquency.
13. The Arab Journal of Social Defence.
14. The Fifth Conference of the Egyptian Society of Criminal Law entitled (New Horizons of Criminal Justice in the Field of Juveniles), which includes more than forty research papers on this subject.
15. Statistics of the Juvenile Police Department.
16. Recommendations of the workshops implemented within the framework of the Juvenile Criminal Justice Project.
17. Reports of the National Centre for Human Rights on juveniles.
18. Decisions of the Jordanian Court of Cassation.
19. The Juveniles Law of 1968 and its amendments, and the regulations and instructions annexed thereto.
20. The Jordanian Penal Code of 1960.
21. The Criminal Procedure Law of 1961.

22. L'Enfant et la vie familiale sous l'Ancien Régime, 1960. Plon. Translated into English by Robert Baldick as Centuries of Childhood. A Social History of Family Life. New York, 1962.
23. Lamar Empey, American Delinquency: Its Meaning and Construction, 1999, Edition no. 4.

The Advisory Committee

No.	Name	Body
1	Buthaina Freihat Mohammad Al-Daghestani	National Centre for Human Rights
2	Muna Al-Saber	Ministry of Justice
3	Khaldoun Al-Adhamat Bilal Bani Issa	Juvenile Police Department
4	Awwad Al-Sarhan Tamer Al-Shdeifat	Family Protection Department
5	Ahmad Al-Majali	Jordanian House of Representatives / Directorate of Civil Society Institutions
6	Khaled Al-Bawalsa	Ministry of Social Development
7	Sahar Saad Jalal Al-Bashabsheh Fadi Al-Bawa'neh Raed Al-Mefleh	Arab Organisation for Human Rights
8	Khadija Al-Shawabkeh	SOS Children's Villages Jordan
9	Salwa Al-Kafaween	Jordanian National Forum of Women's Committees
10	Inas Banat	Family Development Charitable Association
11	Abeer Al-Asha	Women's Solidarity Association (Tadamun)
12	Areeb Al-Najjar	Mizan
13	Mufida Al-Zawahreh	Jordanian Society for the Care of Juveniles and Orphans
14	Alia Al-Sayeh Alaa Al-Qatawi	Future Pioneers for the Empowerment of Community Members
15	Randa Jalajel	East and West Centre for Human Resource Development