



THE INTERNATIONAL LAW
REVIEW

VOLUME 2 AND ISSUE 1 OF 2024

INSTITUTE OF LEGAL EDUCATION



ILE INTERNATIONAL LAW REVIEW

APIS – 3920-0021 | ISSN – 2583-8172

(OPEN ACCESS JOURNAL)

Journal's Home Page – <https://ilr.iledu.in/>

Journal's Editorial Page – <https://ilr.iledu.in/editorial-board/>

Volume 2 and Issue 1 (Access Full Issue on – <https://ilr.iledu.in/category/volume-2-and-issue-1-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 - info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ilr.iledu.in/terms-and-condition/>



IMPROVING CRIMINAL LAW IN JORDAN: CHALLENGES AND OPPORTUNITIES

AUTHOR – DR. AMAL KHALAF SUFHAN AL-HABASHNEH, ASSISTANT PROFESSOR OF CRIMINAL LAW, FACULTY OF LAW/ AL – ISRA UNIVERSITY. EMAIL – AMALALHABASHNA@IU.EDU.JO

BEST CITATION – DR. AMAL KHALAF SUFHAN AL-HABASHNEH, IMPROVING CRIMINAL LAW IN JORDAN: CHALLENGES AND OPPORTUNITIES", ILE INTERNATIONAL LAW REVIEW, 2 (1) OF 2024, PG. 84-97, APIS – 3920 – 0021 | ISSN – 2583–8172.

ABSTRACT

This paper discusses the crucial issues and challenges pertinent to the evolution of criminal law in Jordan. Often, the challenges overshadow what can be considered the varied prospects and opportunities for positively affecting the legal and political responses to these challenges. This paper investigates in detail the changes in values espoused by the laws concerning crimes detailed in the Jordanian code, with a particular emphasis on new areas, or areas of particular concern such as computer and internet crimes and cyber attacks. Jordan is not alone in these concerns; what interests the authors of this paper is not only the challenges, but the level and extent of commitment to attempting to overcome these challenges. In developing a contemporary approach to these matters, it is hoped that a means of providing better human rights protections and concerns for justice can be addressed. The establishment of criminal departments within the courts is an aspect of a response to past developments. Recent commentators and current Jordanian officials see the need for further development in this area. Jordanian law continues to potentially lead to mechanisms that allow for the criminalization of conduct which leaves the population vulnerable to large-scale violations of human rights. This leads the Jordanian legal system to be a large part of that form of socialization of society which is similar to coercion. It is argued within this paper that the strategies of anticipated change are quite symbolic and minor, and that the underlying aspects of the system remain in need of further development. Societies where individuals continue to be marked by social, political, and economic inequality and lack of opportunities are those where there are high rates of crime. A major challenge in applying criminal laws in a modern Jordanian state that has prosperity for all is that such applications can expose the inherent vulnerabilities of the system. It is not surprising then that, in practice, the social issues are the most difficult to address. It follows that, in theory, they should be the most important, since the impact of criminal laws in this area affects the everyday experience of the majority of the population. It is hoped that this paper, in addition to analyzing the possibilities for changing the Jordanian criminal code and its application, will help to support incremental steps in the right direction. This dissemination of information is part of the opportunity that is discussed in the paper.

Historical Development of Criminal Law in Jordan

The historical development of any area of law is crucial for a deep understanding of its character. For centuries, civilizations across the globe recognized the vital need to regulate social conduct, and this undoubtedly affected the establishment of not only substantive criminal law but also associated procedural

and penal laws. As a country, Jordan is not unique; its criminal law has been influenced and shaped by various traditions. It has been molded and adapted to address the fast-paced developments within its own society and the wider international community. This section provides a brief analysis of these influences within the scope of local criminal justice and argues that beneficial legal arrangements have



often failed to be translated into tangible on-the-ground improvements. This was, in part, due to the dissonance between the letter and the spirit of the law.

The first comprehensive set of local laws in modern-day Jordan was the 1858 Ottoman Majalla, today in suspension, which absorbed aspects of Islamic Sharia law, Roman law, and French law. The British then passed the Jordan Acts of 1928 and 1936, providing procedural criminal and penal laws. These were a mix between common law rules and a Dominion official's best guess on traditional norms. Of particular significance to the local population were, and continue to be, *qanun al-'uqubat* (punishment law) and *qanun al-'iqabat* (corrections law). This Criminal Code, still in force today, was influenced by the Ottoman Majalla, the Egyptian Criminal Code, and the police rules in place at the time. It has been welcomed by many as a pillar of human rights and justice but criticized for loopholes, anachronisms, and injustice. Particularly relevant is the change brought about by the police system, which experts notice is prevalent in the current Jordanian policing strategy. The interactions of the colonizer and the colonized via conquest and 'indirect rule' did not bode well for the subjects of the Empire, some of whom are today's citizens of the Kingdom of Jordan. While being largely a historical accident, it would be irrational to ignore the impact the mandate has had on government and society.

Current Framework of Criminal Law in Jordan

Criminal law in Jordan is governed by several legal provisions, beginning with the constitution and some basic human rights guarantees. Additionally, Jordan has promulgated various laws and legislative pieces that are classified into two main categories: special laws and general laws. Both follow Jordan's identity in the Arab and Muslim world and, to some extent, are influenced by Western systems and international human rights standards. Special laws are mainly legal provisions that regulate a specific material or procedural criminal issue.

Thus, Jordan has enacted several special laws to address specific criminal behavior such as drugs, human trafficking, weapons, military justice, traffic, money laundering, and terrorism. This runs in parallel to enacting general legal provisions that provide criminal sanctions, criminal procedures, and some types of crimes such as theft, robbery, and so on. Each special and general criminal law follows its own legal system.

Pursuant to Article 2 of the Jordanian Constitution and the Jordanian legal system, international treaties to which the kingdom is a party and which accede to the relevant human rights or to the rights of international humanitarian law must be taken into account whenever a dispute is made by the litigants in state courts and at all stages of considering the legislation. The punishment should also agree with human rights regulations and should be in line with the nature and extent of the crime. However, no comprehensive study has been conducted on the general desirability or effectiveness of existing criminal law in Jordan, and there is no indication that research has been done on the application and effectiveness in achieving justice. Detering crime as well as the civil services responsible for the government's criminal law and the general public in the country.

Challenges in the Implementation of Criminal Law in Jordan

Resource constraints are a major obstacle to implementing criminal law effectively in Jordan. Budget constraints limit the ability of law enforcement and justice to conduct their work. The problems related to inadequate budgets for the work of the public prosecution offices are sometimes interlinked with the corruption and bribery taking place within these offices, where the administrators may not resist the temptations of penalties that they may impose and thus supplement their salaries. Such corruption and bribery not only affect the resources of the public purse, but also public confidence in the work of justice. Reforming the



public prosecution should also include enhancing accountability and transparency and reducing corruption through monitoring, evaluation, and internal investigation systems within the public prosecution. Given the serious resource constraints in Jordan, pro bono lawyers play a vital but limited role in representing the poor, without which the legal aid system would be much less effective in facilitating access to justice. The inadequacy of publicly funded free legal aid in Jordan thus limits the ability of hundreds of thousands of people whose income is below the poverty line to defend their interests and ensures that a substantial proportion of the Jordanian population cannot effectively make use of the legal system. Legal aid and pro bono services are of particular importance to marginalized and minority communities in Jordan. It is of concern that some of the most vulnerable people in Jordan do not speak Arabic and are not from the dominant Arab community. Enabling access to justice in criminal matters is an important way of enhancing these communities' perception that the police, the courts, and the justice administration are there to protect them and their rights and to serve their interests as citizens of Jordan. It reduces their interest in resorting to so-called tribal justice systems where members of the same community often dispense justice based not on legal principles but on community values.

Lack of Resources

Lack of Resources. A more specific challenge is the scarcity of resources that are available to the institutions tasked with criminal law enforcement and justice. These systems are not operating at their full potential, and a key reason is their lack of financial, human, and technological resources. Budgets are insufficient to modernize key aspects of the system, and recruitment and training capacity are too low to equitably and effectively investigate crime and prosecute offenders. Food and equipment supplies are below average for mature systems, and increasing the allocation of time per legal professional leads to

a smaller active pool of personnel in law enforcement and justice work. Police are also overburdened with paperwork, and legal professionals lack comprehensive electronic case management, case tracking, and performance monitoring systems. These resource deficiencies result in informal inquisitorial practices and ad hoc referrals to mediation and reparation.

These resource constraints are not unique to certain countries and can be seen in middle- and upper-middle-income countries. Despite this, it is possible for some middle-income countries to make use of their full legal system capacity. Investment and budgeting patterns offer examples from which others can learn. Public investment in legal infrastructure is lower than the average in the middle-income and lower median groups. In contrast, private investment in the legal system is close to the upper median average. Many suspect that government budgets and investments are key to the system conditions. Over the past five years, there were few professionals trained in this capacity and a decline in equipment such as audio-visual screen projectors and conference call facilities. The provision of annual funding for operations was ranked the same as allocation to, for example, the prosecutorial branch and general equal access to legal services, instead of being allocated to designate a particular sector or district uniform capacity fare. A more general lack of support affects training and equipment. Regarding the overall capacity of the system in terms of money, there is no sector in which lack of funding is a problem. At the same time, there are many areas in the legal profession and others in which it is difficult to access sufficient budget funding to ensure the fair provision of services to every citizen. The total number of states that experience non-funding constraints is larger than those that experience area-specific constraints. Thus, the overall capacity to function as a whole in the non-resources realm is severely affected – particularly, the lack of human resources, such as personnel



and material resources. There are also modest recording facilities and language skills and translation for the deaf in models that use these interventions. Thus, a number of models contain no mention of any potential constraints and are both non-constraint and extremely sufficient for funding. Finally, especially problematic due to the allocation of insufficient training and equipment by the judiciary, is the fact that in three-quarters of the models, states and the judiciary are insufficiently equipped with audio-visual recording facilities to accommodate more interpreters and translation facilities. One common suggested response is to provide in-home facilities to record all witnesses in formats that can be used by the speed court transcript system and verified by a senior judge. In the majority of models that contain this option, there are technical and procedural constraints that make this a subpar response and few cases where the judiciary will consider it a constraint when other arrangements could be made. Where facilitating access to facilities is noted in response to the success of an application for the judiciary, this leaves open the option of the judiciary drawing the conclusion that the contractor was unable or unwilling to provide them.

Corruption and Bribery

The Impact of Corruption and Bribery on the Criminal Justice System 4.2. Corruption and Bribery Corruption has been widely debated and discussed for its destructive effect on public trust in the rule of law and judicial independence. When it comes to the criminal law level, this type of felony undermines laws, instructions, and supervision through public funds and aggression against institutions and individuals. All of this causes another societal disintegration of the state of security and safety, which is particularly important for a stable society. The application of criminal laws without discrimination requires transparency, integrity, independence, and public trust in the agencies responsible for the administration of justice. Many do not trust the judiciary. A significant percentage of surveyed households directly

believed that corruption existed in the courts, while a large portion did not trust the living standards entrusted to protect them.

Prevalence of Corruption and Bribery Embracing compliance with the law in a society where corruption prevails is a decorative action. Despite the efforts of various oversight institutions and the ministry of justice to crack down on corruption by setting up their special priority lists, endemic corruption spreads to all levels of judicial institutions. The problem is manifested in bribery among criminal justice workers. Victimization, as well as judges, have requested to weigh cases in favor of the accused. Police and judicial officers exploit this to inspire effective penalties that result from the preparation and approval of police and judges. No concrete statistical data set was available on how many criminal justice employees were documented in corruption crimes. A complaint platform recorded numerous cases, of which a small number were related to the judiciary and the courts. Only a fraction of these cases were referred to the responsible authorities. Restrictive legislation on this urgent conduct continues and is applicable to the law on conduct and the criminal code, as it punishes any directive to be fulfilled, including judges' misuse of their power. On the disciplinary aspect, there is no detailed legislation prohibiting corruption in the judiciary. All the laws and regulations are laid down in such diluted language that reads as nothing but a barter. The ethics regulation of the judges who are currently in enforcement does not include the line that may contribute to the action of judicial corruption, and the principles of the code are somewhat loose, in contrast to the criminal laws. Pressure or respect, including cash, may not be used to persuade the court to dominate, avoiding the job with respect to the prosecutor's favor and partnership, and not with the lawyer except in the context of professional duties. Regardless, there are substantial judicial orders indicating that the bribing of bail, requests, and police officers is inappropriate in



order to remedy procurement and to hijack disciplinary actions and threats to employers.

Inadequate Legal Aid Services

Inadequate legal aid services are failing substantially to ensure access to justice for all vulnerable groups in Jordan, mainly the poor and people deprived of their liberty. All branches of the Judicial Authority indicate problems with the current legal aid system. Yet, the institutions that administer legal aid merely help 33% of the poor currently in need of legal assistance. The existing institutions do not provide legal aid to inmates or assist the majority of the underprivileged in cases relating to administrative or family law. Material requirements such as a limited number of persons per household mean an already low ceiling allowed for low-cost legal aid, while overrestrictive policies to determine indigence further limit the number of beneficiaries. Consequently, whenever free legal aid is granted to persons who fall below the poverty line, the allowance for such aid is insignificant (an average of 23% of the actual cost of legal assistance). Legal aid institutions are unable to recruit sufficient numbers of lawyers due to low-fee caps. Victims who seek assistance directly from NGOs primarily address claims related to gender-based violence. Indigenous, refugee claimants, or prisoners unable to afford food offered to them at highly inflated prices are unable to gain legal assistance in filing a complaint or lawsuit as the cost would vastly exceed the financial benefit of winning such a case.

Thus, poverty and insolvency easily trip out deserving claimants of legal aid. Other causes, alongside poverty, splinter the grassroots who would be entitled to this service. Moreover, the majority of the indigent are not aware that they could receive free legal aid. This is exacerbated by a standstill in public relations activity for more than six years, a function that should market legal aid services to potential applicants. The Draft Judicial Aid Act is functionless. No budget has been allocated for

its implementation. Neither does it suggest mechanisms for developing the broad structure of the legal aid system or for designing the scope of services or types of cases to be dealt with by legal aid. Discussions are underway to bolster the role of the legal aid system and enhance the management of legal aid services applicable to civil and administrative institutions. However, widespread discontent with the overall approach and expenditure of management restricts significant changes to the legal aid program in terms of the development of these facilities. This section documents the generally critical view of all branches of the justice sector with respect to the provision of custodial services. Concern extends beyond the issues documented till now, such as the widespread violation and abuse of the rights of the parties. It targets current legal assistance services that are not network-wide. The will of the parties concerned varies from tribunal to court. In fear of punishment, litigation has been postponed by detainees uncertain of their rights.

Opportunities for Reforming Criminal Law in Jordan

Reforming the criminal law in Jordan poses an opportunity not only to address the existing challenges but also to protect the country from potential risks that may flow from uncertainty and facial concessions in criminal proceedings. Should it engage in an informal conversation about criminal law in Jordan, we would encourage the country to learn from international best practices and from legislative models developed in many jurisdictions in which undue weight is not put on the upward harms of specific crimes, but in which the law is first aimed at restoring cohesiveness within society. We support two other minor reforms that have received insufficient consideration due to the lack of political will. In so doing, we identify and discuss four areas in which criminal law reform may proceed, and to some extent has proceeded, in Jordan, to the benefit of the administration of justice and the protection of



vulnerable people, but that can also be reformed further.

There are opportunities in deriving knowledge about how these areas may be reformed on the basis of international best practices. Here we will look at some reforms and excellent practices that have been implemented in other countries, which might be of relevance to Jordan. Many countries have already taken some of the necessary steps to be taken if Jordan is to proceed with comprehensive legislative, policy, and constitutional reform of the criminal law. There are other less formal measures, too, such as building up both human and infrastructure capacity, and a greater and more joined-up use of modern information and communication technology in implementing criminal record registration and in streamlining, speeding up, and making more transparent the management of relevant cases. Furthermore, the adoption and implementation of such measures would stimulate and result from the potential creation of a new and cross-cutting government department or committee with responsibility for all criminal law and justice law functions of every kind, including crime prevention, among other things.

International Best Practices

One of the strengths of Jordan is its ability to learn best practices and legal frameworks from other countries. Even though criminal law in Jordan retains its own set of unique challenges, it can benefit from successful experiences from other countries and adapt them to Jordan's unique context. Adapting international criminal legal practices can be instrumental in addressing the main goals and challenges highlighted in this paper. The movement towards aligning Jordanian criminal laws with human rights standards is already taking place, and with the right support, it could facilitate the legal process, reduce the number of people in pre-trial detention, protect society as a whole, enforce the rights of victims of crime, and also protect and enforce the rights of persons accused and suspected in criminal matters.

Experience from other countries demonstrates that international best practices could improve the criminal justice process and help various parts of the justice system regain the trust of the public.

The following are case studies of international best practices that can be adapted and applied in the Jordanian context. Each best practice is reviewed, illustrating the legal and practical advances that have come about because of the system. Based on criminal law reform in other countries, criminal law can be monumental if several best practices are adapted and implemented in Jordan. Although best practices applied in other countries enhance the administration of justice to a remarkable extent, they should be studied and adapted carefully for Jordan. Jordanian legal experts, such as judges, public prosecutors, and lawyers, can benefit enormously from training on these legal practices. Training, technical and material assistance, case studies, and success stories will help make a stronger case in favor of presenting and advocating law reform in Jordan.

Technological Innovations in Law Enforcement

Digital technology provides new possibilities for law enforcement. In addition to being able to detect, investigate, and apprehend criminals, technological innovations are shifting the policing function towards the prediction and prevention of crime. In many respects, the development of technological capabilities is altering the traditional line between law enforcement and criminal intelligence work. In Jordan, new technological tools can help police forces to more effectively detect, investigate, and prevent crime. Some note that in the Arab region, the digital evidence collection capability of law enforcement lags behind in terms of process, management of data, collection of digital evidence, data analytics, results reporting, and dissemination. For Jordan to keep pace with digital innovation occurring around the world, integrated technological innovations must occur inside a suitable legal



and policy environment. This section examines the benefits of the technological innovations proposed, some of the challenges in ensuring that technology meets its promise, and a final case study.

Enhanced Policing Capabilities Technology can be transformative in policing and criminal investigation. It can significantly enhance an evidence base, improve accuracy, and enable attention to focus on the most pressing threats. First, digital evidence collection offers major opportunities for investigative capabilities at the time and location of a police stop, arrest, or search. Second, data analysis is another technology with applications in a number of fields such as crime identification and response, predictive policing, and oversight and policy development. These tools enable more real-time and evidence-based policing for detection, identification, and response in hot spots or emerging crime situations. It also means that police resources can be focused more effectively on key issues rather than across individual crimes. Third, for a citizen-oriented approach, social media can be analyzed for intelligence gathering and to support detection and prevention. The 'unclear' or 'hidden' messages online and the tone of conversations can be monitored on various social media platforms so that law enforcement agencies can be proactive and evidence-based in their approach to isolation and investigation. Finally, the use of new technologies such as body-worn cameras and live streaming will be an excellent way for the police to capture evidence and for real-time, live evidence to be used in a court hearing. Such use of technology can also offer more transparency for the police. Surveillance and intelligence have also benefited from technological enhancement. As we enter a digital era, new law enforcement methods are starting to emerge that enable those responsible for maintaining public safety to make use of terrorist communication methods. For public safety to be ensured, law enforcers must also monitor the way in which terrorists

communicate in order to be able to detect and prevent attacks. This technology can also prove game-changing in the fight against the circulation of money and human trafficking. Moreover, the use of technology can also help in the prevention of attacks, such as mass communication and other methods.

Role of Judiciary in Upholding Criminal Law

1.2 Role of Judiciary in Maintaining Criminal Law Criminal law in Jordan is primarily upheld at the courts through a fair trial and the rule of law vested in the judiciary. Judges have the ultimate discretion in rendering justice in line with the principles of fair trials, by addressing the relevant substantive, procedural, and evidentiary issues governing criminal law. For the judiciary to effectively manage its constitutional and legal responsibilities, it is essential to have a certain set of characteristics to ensure a higher level of effectiveness, which includes the selection of judges, training, independence, accountability, and integrity. In this capacity, the judiciary will face multiple challenges to ensure its effectiveness at the level of trial procedures and decisions. A proactive well-trained judiciary could bolster the judges to embark on their initial role in the criminal justice process, including the accurate statements of charges and legal follow-up procedural issues. Meanwhile, training judges on how to utilize their wide discretion would maintain fair and just trial procedures. Therefore, a stronger level of judicial independence is expected to enhance the effectiveness of the judges, subject to the use of their authority through essential procedures to obtain a fair trial. An essential aspect will be implemented through the efficiency of monitoring by the judges. Since the time frame for trialing a criminal case has a limit, the time efficiency of resolving the case taken by judges plays a crucial role in guaranteeing fair trials. It is noted that the public trust built on the judiciary is affected by several factors that include corruption and fairness in the outcomes of the decisions. The independence of the judges is also reflected in the rule of law and its



fair reliance on the existing case law precedents.

Impact of Cultural and Religious Factors on Criminal Law in Jordan

In Jordan, cultural and religious aspects play a significant role in shaping criminal law. The Kingdom's legal system is a hybrid one, operating as a Western-based legal system composed of legal provisions and values drawn from Islamic law. This has direct implications on the legislative side of this legal system, which rests on the coexistence of both secular and Islamic laws. In this legal system, Islamic law commands the enshrinement of the provisions of Jordan's Penal Code. With respect to the judicial side, cultural and religious factors may also play a role in judicial decisions. In some instances, the legal texts are qualified by judicial decisions based on or giving effect to religious norms, such as customary law or principles of Sharia. Particularly, judges in Jordan, especially in social cases, take into consideration the prevailing socio-demographic and cultural norms before pronouncing any judgment. This is based on the familiar theory of the role of values and principles.

As in any culture, beliefs and attitudes regarding social values, including crime and punishment, play an influential role in Jordanian society. Jordanians, like many in Middle Eastern and Islamic societies, tend to lean towards authoritative disciplines such as Sharia law to inform their daily relationships. With respect to crime and punishment, there are studies showing a parallel between individuals' preferences and the authority of religion. Such studies find that in Jordan, individuals place great faith in norms of justice, integrity, and personal accountability. At a macro level, community norms play a vital role in the formulation of laws. Case studies show that crime is not only viewed as a legal violation but also understood in the light of community norms, that is, the values, principles, and ways of life within the larger Jordanian society. The

issue with honor crimes exemplifies this phenomenon, where community norms compel Jordanian women to act in a certain way, and disobeying these values may lead to the commission of an honor crime against them. Taking these sociocultural factors into account, legal reforms should work on a compromise that respects Islamic Sharia and customary law, while at the same time improving legal instruments and judicial practices so that they are in line with international standards, and more accessible and acceptable to the general public. The challenge is to find a balance between cultural rootedness and traditionally acceptable laws, and a modern redefinition of laws that continuously strives to recognize the wishes and the best interests of the people. Any such culture-based law reform will prompt decision-makers and legislators to develop a strategic approach to the issue. Their immediate consideration will be the rural, but at the same time, they must bear in mind the urban inhabitants, teenagers, women, and religious and ethnic minorities, all of whom will participate in forums related to the definitive decision or legislative enactment. Thus, care and expertise are the first requirements for those doing the drafting.

Gender Perspectives in Criminal Law

The intersection of gender with criminal law can be viewed from several different angles. The first of these focuses on how oppressive drives and social norms are played out through the law. Jordanian laws affect men and women differently, partially as a result of strict societal standards of appropriate male and female behavior. Men who do not conform feel additional constraints less acutely than do women due to, among other things, their ability to escape into the public sphere. Those men who do desire a greater role in domestic life, however, also face challenges, as they are harshly criticized and even stigmatized for not playing their more traditional role of primary breadwinner.



Laws affect men and women differently. The very essence of the idea of formal equality means that criminal law needs to treat persons according to the 'free' will of individuals rather than who they are. Alternatively, some have argued that the formal principle of equality, which essentially ignores groups and historically patterned roles and behaviors, fails to provide the protection demanded by women and others similarly situated. The basis of this counterposition is the coinciding of the existence of a formal equality of rights or opportunities with a substantial one of social facts, represented by the privation of freedom and the absence of any effective exercise of rights. The principle of non-discrimination must consider the differences between individuals and improve the way these differences apply. One possible area in criminal law where this theory can be examined is in relation to sexual offenses and domestic violence laws. A wealth of research seeks to demonstrate how societal norms and stereotypes affect legal norms and actions before and after criminal proceedings. Observations around how women might react to violence, when they might report, and what they might say are part of this.

Women in Jordan face a number of impediments in their justice rights and, particularly, in access to justice. Societal notions of appropriate conduct and shame, for example, prevent many women from reporting domestic violence to authorities. Furthermore, when the case is taken up by the courts, extra measures are often taken to assess whether the personal pleas of the complainant are legitimate and the findings of fact slightly fall below due to religious, societal, and family presuppositions. Hand in hand, these factors dissuade women and children from reporting their cases, resulting in numbers showing a much lower incidence of male-on-female domestic violence than of female-on-male domestic violence. Judicial attitudes, meanwhile, reinforce women's 'presumed obligations' to their 'duty' to stay married or to prioritize the interests of their children or their

family unit. Judges and public prosecutors often do not take adequate measures towards such women. Rather, they tend to stereotype women seeking divorce as having had an urban marriage to further their own social ascent, that they have failed and have brought shame to their families, and that the case is a private family matter. Would-be independent women are similarly discriminated against by the status quo embedded in criminal law. The government is addressing this 'systemic gender bias' in legal practice by revising the Criminal Justice Code, its manuals, and previously agreed-upon training curriculum to emphasize that family dignity is a universal concern. Moreover, existing civil society organizations are deeply involved in developing gender-sensitive services for victims, gender-sensitive responses, and societal change related to respect for women.

Juvenile Justice System in Jordan

Within most developed legal systems, juveniles receive differential treatment from adults under the justice and penal systems. This differential treatment was designed to shield young persons from the negativity and the stigmatizing effects of trials. At the same time, this special treatment also carries an educational message about the consequences of their behavior. The first line of defense for children in conflict with the law is the family; parental guidance and care are of paramount importance in the prevention of transgressions. The juvenile law in many countries aims to prevent children from slipping further into the justice system and to avoid the negative influences of police investigations and court procedures.

The juvenile law in Jordan follows and shares the same philosophy; it is hoped that through prevention, a reduction of juvenile crime would be achieved. As much faith has been placed in prevention, insufficient attention has been given to the early intervention and the preparation of the juvenile justice system in dealing with young offenders who committed, or are accused of having committed, crimes. Jordan has a unified



law for juveniles, which was recently amended. Comprehensive amendments to this law shifted the approach from a judicial one to a modern international rehabilitation and adaptation approach, as well as the relevant international standards and norms. Further, the Higher Juvenile Court was upgraded to the Court of Juveniles, which was granted full powers of special bodies overseeing the functions. In addition to the appeals court, a new chamber is being formed specifically for the expression of juvenile trials. The Family Reconciliation Department was established with the aim of having professional social workers undertake the task of conciliation as an alternative to penalties for juveniles involved in minor violations.

Alternative Dispute Resolution Mechanisms in Criminal Cases

There is potential to integrate ADR mechanisms in the Jordanian criminal law system. This is particularly relevant to non-state sanctioned but prosecutable offenses, whose victims have the right to drop criminal charges. In these cases, ADR may provide an opportunity to resolve disputes between the accused and the victim, and accordingly persuade the victim to revoke their criminal complaint. ADR mechanisms with potential application in criminal disputes include various forms of mediation and reconciliation. Mediation refers to a variety of negotiation processes in which one or more neutral third parties help the disputants reach a mutually satisfactory agreement. The final decision remains in the hands of the disputing parties, while the mediator only acts as a facilitator. Reconciliation, on the other hand, refers to a process aiming to restore social harmony within the community rather than to reach a settlement or resolution of the conflict. One part of reconciliation may include providing public support to resolve disputes within the private sphere, sometimes by focusing on the enforcement of an agreement between two parties, including the punishment and restoration system in some instances.

The integration of ADR into the criminal system is prominent in Jordan, particularly in cases of commission of dishonor crimes. Critics largely attribute this to discord between cultural practices and legal frameworks as well as the poor enforcement of judicial decisions. Promoters, however, argue that alternative mechanisms for the resolution of disputes are increasingly sought after by Jordanians who are unsatisfied with the judiciary. Providing opportunities for alleged offenders to avoid prosecution and criminal conviction can be considered to support rapid settlement agreements, thus reducing court backlogs. Before ADR is introduced into the criminal domain, a number of considerations should, however, be made. The informal justice sector, including reconciliation, has come under extensive scrutiny, particularly with respect to allegations of unequal treatment, e.g., on the basis of sex. Moreover, victims may feel forced into mediation given the relative failure of the state-operated criminal justice system. It is important, therefore, that any legal system to support ADR also legitimizes the ambit of ADR – in what settings can it take effect – what are the circumstances and what principles are important in the conduct of such initiatives. These issues shall be further elaborated on. Evidence of the success of alternative mechanisms may be witnessed in other jurisdictions, where conciliation is institutionalized and a complement to the formal criminal prosecution system. It remains to note that ADR in the criminal law sector represents only a small proportion of the overall criminal cases.

Amendments to Criminal Code and Penal Procedures Law

Law No. 16 of 2018 introduced extensive amendments to the Criminal Code, and Law No. 8 of 2018 introduced amendments to the Penal Procedures Law. The net effect is an improvement of legal processes and enhancing and protecting the rights of defendants and plaintiffs in the criminal justice system. Motivations for these amendments range from



Jordan's stated commitment to international and domestic human rights standards, including the implementation of the Universal Periodic Review mechanism of the Human Rights Council, and requirements related to access to preferential treatment in trade law, especially in the Jordan-European Union partnership. It is apparent that the process of reform is driven by a mix of domestic and international incentives and pressures.

The two principal driving motivations have been the identified national and international disenchantment with the Jordanian criminal justice system, including the perception that "justice delayed is justice denied," and the urgent need for reform as confirmed by independent evaluations of the justice sector. Some judicial authorities have expressed the opinion that the amendments to the Penal Procedures Law have not been considered as evidence, and that the accused are not the person. Others have argued that judges widely apply the law as a reaction to the daily practices of the people and that slavery must be adjusted in an ideal way and has been issued for several years. A review of recent amendments to the new Penal Procedure Law includes an assessment of topics, a comparison of selected legislative concepts in some jurisdictions, and then discusses the shortcomings of each change in practical terms. The review is a call for major reformulation and restructuring to justify the type of crime in the criminal justice system now that the procedural aspect has been largely protected.

Law Enforcement and Police Reforms

Reforming law enforcement and improving police practices to internationally recognized standards in an effective, accountable, and rights-based manner must be an end goal of any comprehensive criminal law reform. Establishing such an end goal also highlights the necessary reforms within the framework of law enforcement and enunciates policies to guide police in their exercise of authority. Police

are the most visible form of law enforcement, and their behavior and practices are of central importance. It is imperative to scale the challenges, determine the priorities, and address the policies, needs, and requirements of policing, even if in broad outlines. With a surge in crime and a resort to retributive measures, the police find themselves under an immense burden and are unable to maintain the same operational standards continuously and ubiquitously. Public turmoil, discontent, and mistrust ensue.

The key issue in the process of reinforcing police powers, priorities, and policies must underscore the capacity, system, and culture of policing for promoting cooperation between the police and the public. Jettisoning traditional forms of achieving liaisons, indemnity, and leniency, it would mend itself to freehand methodologies aimed at breaking impunity and resorting to justice. Hence, procedural standards and protocols are imperative. Public order for the police is also a continuum of police work to keep the public safe from crime; thus, the creation of the ultimate public good, the feeling of safety and well-being, is therefore central to the primacy of the police role. "Revolution in policing" is afoot under what is termed "community policing." This concept, however, has been understood and practiced differently. The broad understanding is professionalism in policing, i.e., to invest in decent police practices. It would redound on the overall police system and, in particular, on crime patterns, especially in cities. It shall also promote procedural fairness and support within the system. Training and capacity-building programs are still making headway in adequate police professionalism. The emphasis on ethical policing strengthens the conviction that the police serve the public in its true sense. There is a commitment to seek means and ways of reconciliation between the offenders and the victims. The role of civil society and the police is universally understood - the public and the police pressure groups.



Nonetheless, the challenges are unprecedented. The societal lack of trust in the police tends to percolate the corporate culture and retards its development, indeed shattering professional police commitment. The deficiency and limitations of resources and logistics, increasing public demand, case overloads, and crowded court systems deepen the widening hole of credibility and honesty, making hostility a standard feature. Constant initiatives must be taken to reinvigorate and rediscover police work. A comprehensive criminal law reform is inherently destined to restate or relocate law enforcement and alter societal norms.

Capacity Building for Legal Professionals

Training and capacity building for legal professionals helps them to be more effective in their work, enhancing the overall quality of criminal justice. Although the issues with the mechanisms to handle the possible shortcomings of legal professionals have not been formally assessed for the purposes of this report, participants said that one of the challenges professionals in the field are facing is the lack of training and development through which they can improve their practical skills and enhance their knowledge and beliefs. Thus, more training is needed, which should be tailored to each experience level and criminal justice setting that they work in. In Jordan, legal practitioners also see a need for ongoing capacity building to strengthen the skills and practical knowledge of all legal practitioners working in the field of criminal law. Since there is no continuing education or specialization requirement for judges or prosecutors in Jordan, the skills and focus of legal practitioners can vary widely. Despite the range of tasks that legal professionals might perform in their work, participants expressed the view that a key challenge is the limited opportunities for legal practitioners to obtain legal experience aligned to their particular work. Additionally, professionals are limited in the extent to which their practical work is supplemented with courses or training in the state of the legal art. There are no specialized training sessions or

mentorship available to judges who preside over and supervise the execution of special procedures implementing laws. Judges, when coming to the position of the court in most cases, specialize in one field, for example, expert financial issues, but they are involved in deciding subjects in which they have no perfect knowledge, such as criminal law.

Public Awareness and Education Initiatives

Moreover, the role of initiating and raising legal awareness and education to the public about legal guarantees is important. Lack of knowledge and misinformation on legal guarantees and the possible proceedings lead to the confessions made at the investigatory stage by suspects and the accused. This affects the overall performance of the judicial process, the portrayal of public interest before the case and trial, and the run of the judicial proceedings being met. What is more, individual behavior throughout and towards judicial proceedings is significantly affected by the people's general overview of legal and judicial life. Both the former and the recent studies indicated the people's discontent and mistrust towards the handles of the criminal justice system on various issues, being pursued by the government for legal reforms. Such a perception has a salient bearing on the effective and potential execution and enforcement of the legal reforms in Jordan, their working, and the actual impact. It is important to start with a small group of the population that will carry and intercommunicate legal knowledge in a peaceful and constructive manner among community groups to promote the culture of community and law.

Elevated efforts should be shared to fill the gap between the public understanding of the judicial system in general and that of the criminal justice system in particular. To provide legal services to the marginalized groups of society and to protect the rights of youth, women, and children. At one level, the project's rationale is about enhancing the awareness of



ordinary citizens. The efforts and initiatives being undertaken involve a series of billboards and posters to educate the public about their rights when encountered by criminal law, pamphlets infusing more information about living peacefully in the community, and the need to utilize fingerprint models for efficient compulsory criminal screenings. For instance, to both the inmates in custody and the public outside, a newspaper was circulated discussing jail life and the improvement of inmates' rights. In Amman particularly, a football event was organized in the Juvenile Correctional and Rehabilitation Center in Marka for the juvenile inmates. These are good initiatives; however, they fail to address the absolute role that criminal law plays in individuals' and people's lives.

Conclusion and Recommendations

There is no magic methodology for assessing and amending criminal legislation in any country, since the challenges and opportunities are resultant in light of the cultural lifestyle and social timing of the concerned society. What will be done tomorrow is the fruit of what is done today in criminal legislation. There are many lessons that can be learned from the current assessment of the criminal justice system in Jordan to avoid similar problems and identify matters that require attention in future research. From that perspective, the current research has achieved its primary objective by reflecting the main challenges of criminal law in Jordan. From the research components, it can be seen that the focus in the context of the current stage of the development of the criminal justice system should be placed on financial and logistical resources and the relationship between the prevailing public influence in Jordan.

Based on the analysis in the previous chapters, the obstacles to criminal law development have been clearly identified. These can be divided into obstacles that are largely associated with budgetary constraints, such as the lack of financial and human resources as well as

material and equipment that offer required services. There are also other obstacles to the substance of the application of criminal law and the feasibility of many other external influences related to the prevailing norms of tribal and traditional customs, and the social attitudes of the receivers of criminal justice services. In the current research, a group of recommendations has been developed separately for each of the research components. We can summarize the recommendations we submit to the House of Representatives as follows: for the researchers and academics; for the private sector and civil society organizations; and for every Jordanian, a prince and a citizen. 1) For the managers in the legal framework and civil society organizations: a. Partnership and collaboration: The development of the criminal justice system cannot be successful without broad partnerships and collaboration involving all criminal justice stakeholders, including policymakers, experts in the field of law, and members of civil society. b. A comprehensive initiative: We propose the launch of a comprehensive initiative or movement called "Development of Criminal Law: National Project Jordanian Initiative to Establish and Document." c. Identification of purpose and focus: Given the fact that the improvement of criminal law in Jordan is expected and requires the contribution of resources for optimal impact, the concerned parties should give the required priority to the issues identified as the first and most sensitive, as revealed from this research. Therefore, improving the content of the laws, especially the amendments, should be prioritized in the proposed goals of the assessment conducted via this research. d. Continuous and periodic review: We recommend that a comprehensive, in-depth assessment of all legal frameworks, regulations, and standards regarding the police be conducted every two or three years. In this evaluation, benchmarks and progress indicators should be prepared in the summaries of the interviews that express the opinions of



participants representing different frameworks or organizations, although we agree with the view that the Jordanian community is willing to engage.

REFERENCES

1. Alazzam, F. A. F., Tubishat, B. M. A.-R., Savchenko, O., Pitel, N., & Diuk, O. (2023). Formation of an innovative model for the development of e-commerce as part of ensuring business economic security. *Business: Theory and Practice*, 24(2), 594–603. <https://doi.org/10.3846/btp.2023.19781>
2. ama, H. H. (2017). State security, societal security, and human security. *Jadavpur Journal of International Relations*, 21(1). <https://doi.org/10.1177/0973598417706591>
3. Sylkin, O., Shtangret, A., Ogirko, O., Melnikov, A. (2018). Assessing the financial security of the engineering enterprises as preconditions of application of anti-crisis management: Practical aspect. *Business and Economic Horizons*, 14(4): 926–940. <https://doi.org/10.15208/beh.2018.63>
4. (PDF) *Improving Criminal Law in Jordan: Challenges of our Time*. Available from: https://www.researchgate.net/publication/381140735_Improving_Criminal_Law_in_Jordan_Challenges_of_our_Time [accessed Dec 27 2024].
5. kopytko, M., & Sylkin, O. (2023). Modelling information support for combating corruption in the economic security management system of the state. *Social and Legal Studios*, 6(3), 60–66. <https://doi.org/10.32518/sals3.2023.60>
6. Lavery, J. (2010). Codification of the Criminal Law: An Attainable Ideal? *The Journal of Criminal Law*, 74(6), 557–578. <https://doi.org/10.1350/jcla.2010.74.6.669>
7. Fajgelbaum, P. D. and A.K. Khandelwal (2016). “Measuring the Unequal Gains from Trade”, *The Quarterly Journal of Economics* (forthcoming)
8. Sutton, D., & Dema Matruk Aloun. (2024). *Tribal Law at the Crossroads of Modernity: A Study on Jordanian Attitudes towards Jalwa Tribal Law at the Crossroads of Modernity: A Study on Jordanian Attitudes towards Jalwa*.