



النهضة العربية للديمقراطية والتنمية
Arab Renaissance for Democracy & Development

Justice

Children's Access to Justice During COVID-19:

Challenges Facing Children and Children
in Conflict with the Law in Jordan



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ARDD

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June 2021

Executive Summary

Jordan has made progress over the past years, yet, there remain significant challenges in ensuring the rights of children and children in conflict with the law in the country. Over the past year, ARDD Legal Aid Department witnessed a significant and concerning, increase in the number of children that are either victims or perpetrators of crimes. Some of the most concerning trends observed by ARDD follow:

- The number of theft cases that ARDD has dealt with has doubled in the last two years.
- The number of children begging, which is an offense, has also increased since the start of the pandemic.
- There has been a noticeable increase in the number of cases of sexual abuse and exploitation involving children.
- The number of children involved in drug-related offenses has been increasing each year.
- ARDD has received numerous inquiries from families asking for legal advice and advice to deal with cybercrimes involving their children, with slightly higher numbers of boys than of girls.
- The economic impact of COVID-19 has contributed to an increase in the number of child labor cases and related problems; unpaid wages, work-related injuries and employer-employee disputes are more prevalent.

In addition to exploring these trends, the report looks into the challenges facing children and children in conflict with the law with regard to the justice system in Jordan, from legal practitioners' point of view. Following established categories in the field, the report looks into three challenges that hinder the creation of a child-friendly justice system:

- Challenges during judicial proceedings
- Challenges after judicial proceedings
- Challenges to the overall dignity and well-being of children

The report concludes with a set of three main recommendations as follows:

1. Legal empowerment of children and children in conflict with the law

Children need to be informed about their rights. They should be educated about their rights, empowered through legal awareness to avoid conflict with the law and be equipped to seek out reliable legal advice when they face legal challenges. Peer-to-peer work and street law methodologies are among the most important tools to empower children and children in conflict with the law.

2. Provision of legal aid and related services

Continued provision of free legal services to children and their families is essential. This is especially important given the vulnerable economic situation that many families currently face due to the COVID-19 pandemic. Such services should be effectively integrated within the provision of psychosocial support services in order to prevent future offending and help children reintegrate. It is also vital that the capacity of drug and alcohol rehabilitation services be expanded in order to meet the growing number of cases of children in conflict with the law.

3. Legislative reform

Continued legislative reform is required in order to ensure the rights of children in conflict with the law. There must be efforts to comprehensively review all laws, regulations and instructions that directly or indirectly affect children in order to ensure that the rights of children are respected. In particular, regardless of the type of offense, all offenses committed by children should be dealt with by specialized juvenile courts.

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1. Children's Access to Justice in Jordan

What is Access to Justice?

The Convention on the Rights of the Child (CRC) defines “child” as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (article 1). Access to justice, in the context of children’s rights, refers to “the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards, including the Convention on the Rights of the Child.” (OCHR, 2013) Access to justice is not only a fundamental right in itself, but also “an essential prerequisite for the protection and promotion of all other human rights” (OCHR, 2013). Access to justice includes “children alleged as, accused of, or recognized as having infringed the penal law, victims and witnesses or children coming into contact with the justice system for other reasons, such as regarding their care, custody or protection” (OCHR, 2013). According to the Department of Statistics, 40% of Jordan’s population is under the age of 18 (Government of Jordan, 2019) Thus, ensuring access to justice for children means ensuring access to justice for 40% of the population of Jordan.

Legal Framework

The CRC was ratified by Jordan in 1991, placing Jordan among the first signatory countries in the Middle East. In 2006, Jordan passed a law directly implementing the CRC, except for reservations to Article 14 (relating to freedom of thought, conscience and religion) and articles 20 and 21 (relating to the system of adoption and alternative care for children) (Law Ratifying the Convention on the Rights of the Child Law No. 50 of 2006) All these reservations were made due to concerns about maintaining the precedence of Islamic law with respect to the issues covered by the articles (Government of Jordan, 2019). Therefore, with the exception of these reservations, the Jordanian government has committed itself to implementing the CRC.

The key piece of legislation concerning children in conflict with the law in Jordan is the Juvenile Law No. 32 of 2014, which replaced the Juvenile Law No. 24 of 1968. The law formally established the Juvenile Police Department (JPD), which had existed without formal statutory status since 2011. Early in 2021, the JPD was merged with the Family Protection Department (FPD). The Juvenile Law includes various safeguards for children in conflict with the law, such as the requirement that juveniles be tried before specialized juvenile courts, describes situations when a child should be considered in need of protection, and lowers the penalties for crimes committed by juveniles. The laws also increase the minimum age of criminal responsibility from 7 years to 12 years. For an overview of the penalties for juvenile offenders, refer to Annex 1.

The Family and Juvenile Protection Department

The main departments responsible for ensuring children access to justice in Jordan were previously the JPD and the FPD; were recently merged into a single department called the Family and Juvenile Protection Department. Previously, the FPD specialized in domestic violence and sexual assault, and would coordinate with the JPD on issues involving children (Government of Jordan, 2019) ,The JPD used to deal with all other issues relating to children in conflict with the law. Since the merge, it can be assumed that a single department now manages all issues relating to children in conflict with the law.

The JPD, prior to being merged with the FPD, was limited by a lack of geographical reach across Jordan. With 10 departments across six governorates, the head of the JPD admitted that the lack of geographical coverage was a barrier to children's access to justice (UNICEF, 2018). On the other hand, there are 18 FPD offices in all 12 governorates, as well as in two refugee camps (Zaatari and Azraq) (UNICEF, 2018). According to legal expert Abdallah Abu Zaid, the inability of the JPD to reach across the entire country was one of the reasons the departments merged (Ammon News, 2020). Given that the merge is very recent, further information needs to be obtained regarding the new department's reach, office locations and operation protocols.

Children in Conflict with the Law

Despite the progress made over past years with the establishment of the JPD and the passing of the new Juvenile Law in 2014, there are still significant challenges to upholding the rights of children in conflict with the law in Jordan. For example, according to the organization Terres des Hommes (Tdh), 90% of children and youth in conflict with the law in Jordan face pretrial detention (Tdh, 2018) in spite of the fact that the CRC requires that any imprisonment or detention "be used only as a measure of last resort and for the shortest appropriate period of time" (Article 37). Furthermore, the juvenile justice system in Jordan is split among different governmental bodies and different courts, depending on the nature of the offence. This limits the ability of the government to establish a cohesive and comprehensive approach to juvenile justice. As noted in a study conducted by UNICEF, in partnership with the National Council for Family Affairs, there is need for a more holistic approach to restorative juvenile justice in Jordan (UNICEF, 2018)

Violence Against Children

In Jordan, there continues to be widespread violence, abuse and neglect of children, especially girls (CRC Committee, 2014). In research conducted by Save the Children, about one in ten child respondents indicated that they never feel safe when using different types of public transportation and only 57% of the girl respondents reported that they "often" feel safe using different types of public transportation, with the number rising to 64% among boys (Save the Children, 2018). In the same study, only 52% of respondents reported "often" feeling safe online. The 2017-18 Jordan Population and Family Health Survey found that 81% of children aged 14 years or younger had been subjected to some type of violent discipline in the month preceding the survey and that 13% of children had previously experienced "severe physical punishment" (Department of Statistics, 2018). According to UNICEF, nine out of ten children experience violent physical or psychological discipline (UNICEF, undated) Although the law prohibit corporal punishment in institutions, the use of violence in homes, schools, alternative care and penal institutions is still widely accepted (UNICEF, undated). Furthermore, under Article 62 of the Penal Code No. 16 of 1960, parents are permitted to physically "discipline" a child if it is done in accordance with general custom and physical harm is not inflicted.

Many children in Jordan experience violence, and existing child protection and justice systems have not been effective in adequately reducing this violence or ensuring children's access to justice where violence does occur. Unfortunately, there has been a significant increase in domestic violence since the start of the COVID-19 pandemic; Amnesty International reported that the Family Protection Unit was overwhelmed by the number of cases (Amnesty International, 2021). Thus, violence, particularly at home but also in public spaces, continues to present a significant challenge to children's rights in Jordan.

2. Children’s Access to Justice: Concerning Trends

There is limited available up-to-date data regarding juvenile justice in Jordan (UNICEF, 2018). However, based on ARDD’s Legal Aid Department work with children in conflict with the law and children who are victims of crimes, there appears to have been a significant and concerning increase in the number of children that became victims or perpetrators of crimes.

Criminal Cases

- The number of theft cases that ARDD has dealt with has doubled in the last two years.
- The number of children begging, which is an offense, has also increased since the start of the pandemic.
- There has been a noticeable increase in sexual abuse and exploitation cases involving children.
- The number of children involved in drug-related offenses has been increasing each year.
- ARDD has received numerous inquiries from families asking for legal advice on how to deal with cybercrimes involving their children; the number of boys affected by this is slightly higher than that of girls.
- The economic impact of COVID-19 has contributed to an increase in the number of child labor cases and related problems; unpaid wages, work-related injuries and employer-employee disputes are most prevalent.

Theft and related offences

One key challenge to upholding the rights of children in Jordan is the high rate of poverty. According to the World Bank, 15.7% of the Jordanian population was living below the poverty line in 2018 (World Bank, 2018), up from 14.4% in 2010 (Department of Statistics, 2010). While there are no studies regarding the impact of poverty on children, according to statistics, theft is the most common offense committed by children in Jordan. According to Public Security Directorate (PSD) statistics, offenses involving money (theft, fraud, etc.) made up 71% of offenses committed by children, as reported to the police in 2015 (UNICEF, 2018).

In 2020 and 2021, ARDD recorded a significant increase in the number of theft cases involving children, compared to previous years (theft, aggravated theft, joint theft, and attempted theft). The number of theft cases that ARDD has been dealing with over the last two years has doubled.

Similarly, the number of children begging has increased since the start of the pandemic. While there is no exhaustive research linking higher poverty rates to the increase in the number of child beggars, the case below, dealt with by ARDD lawyers, illustrates the fine line that exists between structural poverty, child abuse (child labor, trafficking...) and a judicial system unprepared to cope with these new trends.

Begging children: Children’s rights must be upheld

This is the case of a 13-year-old child whose parents are divorced and who lives with his mother and stepfather, who is a street vendor. The child’s stepfather prevents him from going to school and forces him to work with him in the streets, selling car accessories. One day, at one of the traffic lights, the child was arrested by an employee from the Ministry of Social Development. He was charged with begging and referred to the Juvenile Court.

According to the ARDD legal advisors, the increase in the number of offenses committed by children is due to deteriorating economic conditions due to the COVID-19 pandemic, the fear associated with the pandemic and the need to secure basic needs in the absence of an effective social protection system that guarantees basic needs.

Sexual exploitation and abuse

According to Public Security Directorate (PSD) statistics, 6.6% of offenses committed by children in 2015 were “offenses against public morals”, of which 83% were sexual assault cases (UNICEF, 2018). ARDD’s Legal Aid Department has experienced a noticeable increase in the sexual abuse and exploitation of children. Most disturbing, ARDD has recorded an increase in cases where children perpetrate sexual offences on other children. The aggressors are most often members of the victim’s family or people from the neighborhood, the market or the workplace. The number of these types of cases raised with ARDD during 2020 and the first quarter of 2021 increased by 36% compared to 2019.

There is a lack of reliable data on the level of sexual abuse and exploitation of children across the MENA region (ECPAT, 2020). According to ECPAT International, child labor and poverty are two factors that increase the vulnerability of a child to sexual abuse (ECPAT, 2020). One factor possibly contributing to the increased sexual exploitation of children in Jordan is the higher number of children working since the start of the pandemic; these children work with adults that are not known to them, sometimes without adequate supervision.

Drug-related offences

In ARDD’s experience, the number of children involved in drug-related offenses appears to be increasing each year. ARDD’s Legal Aid Department noticed an increase in the number of cases involving children charged with possession of a prohibited substance, either with the intention to deal or for the purpose of trafficking. Other professionals who work with children in conflict with the law share the perception that juvenile offending is increasing, especially drug-related offenses (UNICEF, 2018). One study found, for example, that the use of synthetic cannabis (colloquially known as “joker”) has been increasing in Jordan over the last years (Yasin et al, 2020). The amphetamine Captagon is also widely used across the region (Katselou et al, 2016). In the view of the ARDD Legal Aid Department, factors that contribute to this increase include children’s curiosity about things that are forbidden, lack of adequate child supervision, a desire to “prove” oneself to peers, as well as a lack of knowledge about narcotic substances.

Cybercrimes

Prior to the onset of the pandemic, cybercrimes involving children were already a growing concern in Jordan and, as a result, in 2016, a special cybercrimes unit was set up within the FPD; in 2017, the Unit to Combat Sexual Violence Against Children through the Internet was also established at the FPD (ECPAT, 2020). The unit dealt with 21 cases of cyber-related sexual exploitation and abuse in 2017 (ECPAT, 2020).

Since the start of the pandemic, ARDD has received a growing number of cybercrime cases involving children, likely attributed to the increased reliance on social networking sites and the internet during the pandemic. The longer periods spent online increase the risk of a child being subject to various kinds of “digital” exploitation.

The ARDD Legal Aid Department received numerous inquiries from families asking for legal advice on how to deal with cybercrime issues involving their children. A slightly higher number of boys (53% of cases) than of girls (47% of cases) faced complaints, threats, slander, defamation, and sexual advance and/or exploitation through electronic means.

Through cooperation with the Cybercrime Unit and the referral of cases (with the consent of clients), ARDD facilitated the resolution of such cases. Many of these cases were resolved without resort to the judiciary, thus sparing the children the ordeal of going through legal and judicial procedures.

Child Labor

Even prior the pandemic, there was concern about the high number of child labor cases in Jordan. According to research conducted by the ILO in collaboration with Department of Statistics, the total number of working children in Jordan before the pandemic was 75,982, distributed as follows: Jordanian nationals: 60,787; Syrians: 11,098; other Arab nationalities: 4,096 (Government of Jordan, 2019). Although Jordan's Labor Law of 1996 and its amendments clearly prohibit children younger than 16 from working (and 18 years old in case of potentially harmful work), this law has been reportedly regularly violated (National Centre for Human Rights, 2017).

COVID-19 has contributed to an increase in child labor (Amnesty International, 2021) due to deteriorating economic conditions, which drove parents to push their children to work in order to ameliorate their living situations. In parallel, as mentioned earlier, there has been an increase in the number of begging children, also a reflection of the financial insecurity experienced by families as a result of the pandemic. The absence of face-to-face education has also contributed to children dropping out of school.

The ARDD Legal Aid Department has dealt with many cases related to the labor sector generally, including claims for compensation for workplace injuries and claims for labor rights. In these cases, ARDD assisted both Jordanian and non-Jordanian beneficiaries (asylum seekers and refugees, as well as expatriate workers). Assistance includes the provision of legal advice, relevant follow-up work, as well as attempts to resolve matters through legal mediation, which is a faster and easier solution for both employers and employees. When mediation is unsuccessful, legal cases may be brought before the competent courts. Assistance has also been provided in begging cases.

During 2020 and until the end of March 2021, ARDD has provided legal services related to labor rights and child issues as follows:

- 76 instances of legal advice on claims of child labor rights, be they unpaid wages or compensation for work injuries (91% refugees, 9% Jordanians)
- 49 legal mediation cases to resolve disputes between employers and children's families to claim children's labor rights

Child injured in the workplace

A Syrian child who was working in construction fell from a height of 21 meters, receiving severe injuries. The child's father sought assistance from the ARDD Legal Aid Department and a lawsuit was filed for compensation for material and moral damages resulting from the injury and employer negligence. The court ordered compensation of JD3,583.

A case of forced child labor

The father of a Syrian child who worked on a farm told the employer, after a period of time, that his son did not want to continue working and that the employer should allow the child to return to his father, but the employer insisted that the child would continue to work for him and that he would not be allowed to return. After several unsuccessful attempts to free his son, he sought assistance from the ARDD Legal Aid Department, which submitted a complaint to the anti-trafficking unit. The unit immediately responded and returned the child to his father that same day; it also collected the child's wages and took the appropriate legal measures against the employer.

Personal Status Law

The COVID-19 pandemic has contributed to an increase in all forms of violence against women in Jordan; verbal, psychological, physical and economic (ARDD, 2020). Accompanying this is a general increase in problems between spouses and an increase in the number of divorce cases. This brings various issues before the religious courts, such as claims for alimony and other payments and custody issues. ARDD provided legal services in 2,879 cases relating to children's rights, including alimony, custody and visitation rights, during 2020 and until the end of March 2021. Of these cases, 35% concerned Jordanians and 65% refugees.

3. Challenges Preventing the Creation of a Child-Friendly Justice System in Jordan

According to the Council of Europe, a child-friendly justice system "means creating a justice system which guarantees the respect and the effective implementation of all children's rights, giving due consideration to the child's level of maturity and understanding and to the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity." (COE, 2010)

Challenges During Judicial Proceedings

Prosecution of victims of sexual crimes

As sexual intercourse outside marriage is prohibited by law, a child victim of sexual assault may be at risk of prosecution if the crime is reported. If there is not enough evidence to reach a criminal conviction of the offender, the victim may also be at risk of being charged with giving false testimony. This represents a significant challenge to securing the rights of victims of sexual assault and other sexual crimes, as demonstrated by the cases below.

Child with an intellectual disability sexually assaulted

A 15-year-old child with an intellectual disability was repeatedly sexually abused by another child from the neighborhood. The child's father discovered the abuse and reported the situation to the police. Legal representation was provided to assist the child with the disability. An assessment was completed by a special medical committee, which found that the child had the mental age of a 3-year-old. As such, a ruling was issued to halt the prosecution of the child with the disability and to direct the prosecution to the child accused of repeated sexual assault.

Sexual assault of a young girl

A 16-year-old Syrian girl was a victim of indecent assault. During the trial, out of fear, she changed her statement before the court. As a consequence, there was a fundamental difference between the testimony she gave to the public prosecutor and the one before the court. This resulted in a referral of the case to the Juvenile Court, with the young girl charged with giving false testimony. The girl then said that she had indeed been the victim of assault. Based on that confession, which matched her initial statement, the Juvenile Court halted the prosecution against her and proceeded with the case of indecent assault by the aggressor.

These two cases demonstrate the risks that a children face if they report sexual abuse. Not only have the children had their rights violated through the sexual abuse itself, they could also be charged with a possible crime. Such laws thus fail to protect children from sexual crimes.

Children tried as adults

When children commit drug-related offenses, they will generally be tried before the State Security Court, rather than the Juvenile Court. The Human Rights Council has expressed concern that the State Security Court still exists at all (HRC, 2014), so it is especially concerning that children are being tried before such a court.

This situation occurs because of a conflict between the Juvenile Law No. 32 of 2014, which states that it has jurisdiction over all offences committed by children, and the State Security Court Law No. 17 of 1959, which states that it has jurisdiction over all drug-related crimes, notwithstanding what is written in any other law.

During this past year ARDD came in contact with a case that clearly exposed the current conflict between these two laws. ARDD legal department decided to proceed with the case for strategic litigation purposes in order to set a precedent that would enhance a child friendly justice system. As part of the

litigation, ARDD envisioned to appeal the State Security Court jurisdiction so that verdict could be issued stating that only the Juvenile Court is the one with the jurisdiction to litigate drug-related cases for children under 18 years of age.

Even where the law stipulates that a child should be dealt with through the juvenile courts, this may not always be the case in practice, as demonstrated by the cases below.

Conflict in Jurisdiction: Its Negative Impact on Child Friendly Justice Systems

A 16 years old Syrian child was accused of repeated drug-use offenses. His lawsuit was automatically sent to be litigated under the State Security Court (SSC) and not under the Juvenile Court, as it should be the case. Despite ARDD's efforts to change the course of litigation, the father decided not to go further with the strategic litigation process. His father argued that pursuing the litigation strategy offered by ARDD would have taken a longer time compared to his son admitting the charges against him. Out of respect for his father's wishes, ARDD did not pursue its legal strategy.

The child received a verdict from the (SSC) of 3 months imprisonment time replaced with a fine financial penalty of 220JD. The father paid the fine to avoid jail time for his son. He also assured ARDD lawyers that he would take care of his child and help him to stop using drugs.

Defense law violation by a child

A 14-year-old Syrian child violated the Defense Laws by playing outside during curfew hours. When discovered by the authorities, the boy was brought before the public prosecutor. An ARDD lawyer represented the child and advocated on behalf of the child in order to have the usual financial fine waived and have the boy returned to his mother's custody without any further legal procedures. The lawyer's advocacy in framing the child's actions as falling under the Juvenile Law rather than the Defense Law was critical in this case.

Challenges after Judicial Proceedings

Lack of alternatives to detention

The Juvenile Law provides for alternative measures to detention when dealing with juveniles who come into conflict with the law, but only in cases where they have committed misdemeanors, and not if they have committed felonies (Articles 24-26). The JPD may also settle matters provided that:

- The offence was a misdemeanor for which possible penalties do not exceed a two-year imprisonment term.
- The offence depends on a complaint by an injured party.
- The parties to the dispute consent to settling the matter.

Furthermore, under the Narcotics Drugs and Psychotropic Substances Law No. 23 of 2016, if anyone commits the offense of possessing drugs with the intent of consuming them, the court may order that the offender be placed in a drug-rehabilitation clinic or in a clinic specialised in psychological and social

rehabilitation as an alternative to detention (Article 9). However, in practice, there is an absence of organizations that are able to provide such care, which often makes this option unfeasible. Moreover, there are no specialized centers for juvenile addiction treatment.

In addition to the lack of services to treat addiction, there is also a general lack of appropriate social and psychological care. For example, a study of adolescents who had been detained in Jordan found that 84% of them experienced emotional or behavioral problems (Schwalbe et al, 2013). Therefore, there is need for better and more mental health and rehabilitation services.

Financial impact on families

When a child comes into conflict with the law, there are associated financial costs which might be considered high, especially for families with lower incomes. For example, in the event of the arrest of a juvenile, the family is required to provide a financial guarantee, a personal pledge bond or cash insurance, in order to secure the release of the juvenile. If the alleged crime constitutes a felony, then the release of the juvenile must be secured through a legal or financial surety bond. Given that the remand period might be months or even a year, juveniles need to be released on bail, but the financial burden on families can often be significant. If a juvenile reoffends, the legal fees can accrue to large amounts. For example, if a juvenile commits repeated theft offenses, in each case there will be need of a lawyer, and so the costs may reach hundreds of dinars.

There is a particularly harsh financial impact when juveniles are involved in drug-related offenses. For example, the most common drug-related juvenile cases involve the use of hashish; such cases are tried before the State Security Court. If it is a juvenile's first offense, he will generally be sentenced to three months imprisonment and a fine of up to JD200, with the possibility of replacing the imprisonment with a fine. There is, therefore, a significant financial burden on families when children commit such offenses, which may need to pay JD500 to have the case resolved.

As noted earlier, theft is the most common type of offense committed by children. In cases of theft when a child steals more than one item in a series of thefts, the potential charges brought against the child, and the associated legal costs, can rapidly escalate even if the series of thefts took place within a short period of time or can be understood as a single continuous act of offending, as the below case demonstrates.

Theft of gas cylinders

In one case, in which ARDD offered assistance, a child stole six gas cylinders from his neighborhood. Six separate complaints were recorded from each house from which the child stole a cylinder. He was therefore accused of six counts of theft, which resulted in higher legal costs for his parents, including the payment for the child's bail.

Challenges to Upholding the Overall Dignity and Well-Being of Children

Personal Status Law: Custody rights and economic vulnerability

In a patriarchal system, women, particularly divorcees and widows, are generally more economically vulnerable than men, which creates an incentive for women to (re)marry in order to attain financial security. However, due to the nature of legislation on custody, a divorced woman who remarries risks losing custody of her children, which puts her in a situation where she may have to choose between living with her children in poverty and losing custody of her children, as the case below shows.

Remarriage and child custody

A Jordanian woman from a poor family was married and had three children with her husband. An accident left her with a permanent disability (paraplegia), and she began to suffer in her relationship with her husband who mistreated her and then left her. ARDD provided her legal assistance to help her secure her rights, custody of her children and the right of her children to get alimony. Five years later, the woman returned to ARDD for assistance. She had decided to remarry and wanted to transfer custody of her children to her mother, in order to ensure continued payment of alimony to support them. She said that her inability to provide for her children from the small alimony she received pushed her to find a man who could secure a better living for her. Due to COVID-19 and her deteriorating economic condition, the woman feared that she might lose custody of her children to her husband if she did not improve their situation. ARDD assisted her by ensuring that the custody of her children and the continued alimony payment went to the mother.

Risk of Statelessness: Birth registration

Many refugees lose identity documents during the flight from their home countries. This weakens their legal status in the host country and also affects an individual's ability to pursue marriage, issuance of birth or death certificates and other important legal procedures.

Since 2015, ARDD, in partnership with the UNHCR, has been working to address documentation issues amongst refugee populations in Jordan. In particular, ARDD assisted Syrian refugee children obtain birth certificates. This is a vital service as these certificates confirm a child's identity and provide protection against running the risk of statelessness due to a lack of necessary documentation. In the period 2017-2020, ARDD provided legal and financial assistance in order to obtain 11,275 birth certificates; of these, 95% were for Syrian refugee children and 5% for Jordanian children. The services included providing advice about the process and cash assistance when the child is older than one, as there are fines and fees involved in obtaining a birth certificate after this age. In addition to birth certificates, ARDD also assisted in documenting 230 marriage contracts through marriage and proof-of-lineage proof cases, and provided legal advice in more than 3,500 cases involving marriage contracts.

The closure of official departments due to the COVID-19 pandemic contributed to delays in birth registrations. As a result, the Jordanian government extended the period during which a birth could be registered without incurring a fine. Despite this, the difficult economic situation many refugees live in prevented a large percentage of them from following up on birth registration, even with the extension period. This resulted in an increase in cases that needed legal and financial assistance that would help them obtain birth certificates for their children.

In Zaatari camp there were 450 children aged one month to less than one year who lacked birth certificates. ARDD, in cooperation with the UNHCR inside the camp and the representative of the Civil Status Department, took steps in November 2020 to address this issue. The same did not happen in Azraq camp, likely because the COVID-19 situation was more stable there and thus registration was less disrupted by the pandemic. ARDD continues to provide these important services to children in 2021.

4. Recommendations

Legal empowerment of children and children in conflict with the law

Children need to be informed about their rights. They should be educated about their rights, empowered through legal awareness to avoid conflict with the law and be equipped to seek out reliable legal advice when they face legal challenges. Peer-to-peer work and street law methodologies are two of the most important tools to empower children and children in conflict with the law.

Provision of legal aid and related services

The continued provision of free legal services to children and their families is essential. This is especially important given the vulnerable economic situation that many families currently suffer from due to the COVID-19 pandemic. Such services should be effectively complemented by the provision of psychosocial support services in order to prevent future criminal offending and help children re-integrate. It is also vital to expand drug and alcohol rehabilitation services to meet the growing needs of children in conflict with the law.

Legislative reform

Continued legislative reform is required to ensure the rights of children in conflict with the law. There must be efforts to comprehensively review all laws, regulations and instructions that affect children, in order to ensure that the rights of children are respected. In particular, all offenses committed by children should be managed by courts specialized in juvenile cases, regardless of the type of offence.

Child Rights Draft Bill

On January 14, 2020, Jordan published a draft bill for children’s rights, to be promulgated after the approval of the legislature. This is the most relevant piece of legislation regarding children’s rights after Law 50/2006, which ratified the Convention on the Rights of the Child. The draft bill is an important step toward the advancement of the care, protection and rights of all children in Jordan. ARDD’s Legal Aid Department has analyzed in detail the full draft of the law, and the extent to which the bill could improve child protection in the country.

The current draft should be presented to the Parliament in order to have the legislative process finalized.

Decriminalizing begging by children in conflict with the law

The criminalization of begging by children fails to address the underlying circumstances which drive a child to beg. Moreover, criminalizing the act of begging may result in at-risk children coming into conflict with the law. This situation violates the principles of the CRC. The CRC Committee in *General comment No. 24 (2019) on children’s rights in the child justice system* noted that “a systemic approach to prevention also includes closing pathways into the child justice system through the decriminalization of minor offences such as school absence, running away, begging or trespassing, which often are the result of poverty, homelessness or family violence’ (CRC Committee, 2019). The criminalization of begging by children should therefore be replaced with a comprehensive social protection policy whereby child begging is viewed as a social protection issue, rather than a juvenile justice issue.

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Annexes

Annex 1: Sentencing of Children in Conflict with the Law

Reduced penalties for children in conflict with the law

The Juvenile Law provides for lower maximum penalties where a crime is committed by a juvenile, although as mentioned later in this paper, there are some cases (primarily drug-related offenses) where juveniles are being treated as adults.

The exact reduction in the penalty depends on the type of offense (misdemeanor or felony) and the age of the child. The law establishes that children in conflict with the law are those who have not yet reached 18 years of age. It furthermore distinguishes between:

- **A boy** – A person who reached 12 years but has not yet turned 15 (in other words, children aged 12, 13 or 14)
- **A teenager:** A person who reached 15 years of age but did not turn 18 years old.

	Offence/Penalty for adults	Reduced penalty
Young man/boy or 17,16,15 years old (Article 25)	Felony that usually requires the death penalty	Juvenile rehabilitation for a period of no less than eight years and not exceeding twelve years
	Felony that usually requires permanent hard labor	Juvenile rehabilitation for a period of no less than five years and not exceeding ten years
	A felony that requires a penalty of temporary hard labor or detention	Juvenile rehabilitation center for a period of not less than three years and not exceeding five years
	A misdemeanor that requires imprisonment	Juvenile rehabilitation for a period not exceeding one-third of the penalty period stipulated in the Penal Code If there are mitigating reasons, the court may substitute this with any of the measures stipulated in Article 24 as a substitute penalty (e.g., issue a warning, require community service, etc
Adolescent or 14 years 13,12 old (Article 26)	Felony that usually requires the death penalty	Juvenile rehabilitation for a period of no less than six years and not more than ten years
	Felony that usually requires permanent hard labor	Juvenile rehabilitation for a period of no less than three years and not more than eight years
	A felony that requires a penalty of temporary hard labor or detention	Juvenile rehabilitation for a period of no less than one year and not more than three years
	A misdemeanor that requires imprisonment	Court must determine the case by any of the provisions of Article 24 (e.g., issue a warning, require community service, etc

Felonies and misdemeanors

A crime will be classified as either a felony or a misdemeanor depending on the seriousness of the offense:





- **Felony:** Any crime for which the punishment is execution, life imprisonment, life detention, temporary work, and temporary arrest shall be considered a felony.
- **Misdemeanor:** Any crime for which the penalty for imprisonment for a period not exceeding three years is considered a misdemeanor

In relation to drug-related offenses, whether the offense is characterized as a felony, or a misdemeanor depends on the nature of the narcotic substance and the amount seized.



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