



Shadow Report to the list of issues (CAT/C/JOR/QPR/4) dated 13 June 2018 to be considered by the United Nations Committee Against Torture during the examination of the 4<sup>th</sup> periodic report of Jordan, 6-7 November 2024

**The report provides detailed information on the implementation of Articles 1 to 16 of the Convention Against Torture – with a specific focus on judicial reform and legal aid,**

**including an assessment of Jordan’s adherence to the previous recommendations issued by the UN Committee Against Torture**

**A joint report prepared by the Justice Center for Legal Aid and Tamkeen Center for Legal Aid in Jordan**

**Report submitted to the UN Committee against Torture on 30 September 2024**



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## Introduction:

Jordan acceded to the **UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)** in 1991. Since then, civil society and human rights organizations have been actively advocating for legal reforms and policy changes to ensure that the convention's provisions are fully incorporated into Jordan's domestic legal framework. The National Center for Human Rights in Jordan considers that torture is not systematic in Jordan, yet they reported multiple areas of weakness that need to be improved in order for Jordan to comply with the legal obligations pursuant to CAT.<sup>1</sup> Since 2017, Jordan's national criminal justice system has witnessed significant improvements after the Royal Commission for the Development of the Judiciary and the Rule of Law issued its recommendations. These reforms aimed to strengthen the system, focusing on fair trial guarantees and expanding the right to legal aid. Two key recommendations by the Royal Commission should be highlighted: 1) providing legal aid at an early stage, including in police stations, and 2) enacting a law to regulate legal aid. Although the recommendations in the commission's report have led to several legislative amendments that improved Jordan's justice system, there are still recommendations not implemented fully as explained below.

This report focuses specifically on the application of the measures outlined in **Article 2 of the Convention, in line with the Committee's previous concluding observations (para. 18), which** request reporting on the procedures that ensure, both in law and in practice, that all detainees, including those held in facilities of the General Intelligence Directorate and the Public Security Directorate, are provided with all fundamental legal safeguards from the moment of their deprivation of liberty, as follows:

- (a) Ensuring that detainees are informed, both verbally and in writing, of the charges against them and are made aware of their rights in a language they understand.
- (b) Guaranteeing immediate access to a lawyer or providing free legal aid.
- (c) Ensuring the conduct of an independent medical examination.
- (d) Informing a family member or any other person chosen by the detainee immediately following their arrest.
- (e) Ensuring that the suspect is brought before a judge without delay.

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<sup>1</sup> National Center for Human Rights. *Annual report on the state of human rights in Jordan*. Retrieved from <http://www.nchr.org.jo>



## Access to justice and Criminalization and Investigation of Torture

Despite the constitutional prohibition of torture under Article 8, and criminalization of torture under Article 208 of the Penal Code, and although the multiple amendments to the Jordanian Penal Code which made it more aligned with the definition of torture under the UN Convention Against Torture (Article 1), the crime of torture is still classified as a misdemeanor in Jordan. It is punishable by imprisonment for one to three years and is only considered a felony if it leads death, illness, or serious injury<sup>2</sup>.

Although the amendments to Article 208 of the Penal Code explicitly state that mitigating circumstances or suspension of punishment do not apply to crimes of torture, they do not exclude such crimes from amnesty or the provisions of the statute of limitations.

National legislation still lacks an explicit provision for redress and compensation for victims of torture. Rather, compensation claims in such cases are addressed by the courts through reference to the general rules on compensation outlined in the Civil Code, which do not encompass the concept of comprehensive reparation. Comprehensive reparation includes, in addition to compensation, restitution, rehabilitation, satisfaction, the right to truth, and guarantees of non-repetition.

Mechanisms for receiving complaints still lack the necessary confidentiality and independence, in addition to being insufficient in providing protection for whistleblowers and witnesses.

Mechanisms for investigation and prosecution still lack the institutional independence necessary to prevent conflicts of interest in cases where one of their agencies or personnel is the subject of accusations. Investigations are conducted by the Police Public Prosecution, rather than the civil Public Prosecution, and jurisdiction in cases of torture remains with the Police Court rather than the civil courts. As a result, civilians are compelled to appear and be tried before a military judge in order to seek justice.

The Ministry of Justice has established a special register to record complaints about torture and ill-treatment in which the defendant is a public security officer. This register is used for tracking cases, including torture cases, and for statistical purposes. This

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<sup>2</sup> MIZAN: Towards-a-Law-Against-Torture-and-Other-Cruel-Inhuman-or-Degrading-Treatment-or-Punishment. Available at; <https://dignity.dk/wp-content/uploads/Towards-a-Law-Against-Torture-and-Other-Cruel-Inhuman-or-Degrading-Treatment-or-Punishment.pdf>

process does not construe a sufficient mechanism to guarantee independence of investigation and protection against impunity.

Proving the crime of torture is often dependent on the testimony of the victim, in several cases, defendants in criminal cases have reported being subjected to torture or mistreatment, yet their allegations are ignored, no further investigations are conducted. They are not ordered to be examined by forensic specialists, which in fact makes the burden of proof of torture falls on the person alleging torture. In certain cases, the testimony of a police officer that no ill treatment was inflicted would be sufficient to deny the allegation of torture. The law does not require that investigations be videotaped recent cassation court decisions disqualified testimony of complainants based on lack due to failure to follow the legal requirements stated in article 100 of the Criminal Procedures Law, but did not dismiss the case on that basis.<sup>34</sup>

### **Suggested recommendations:**

The Committee recommends Jordan to:

1. Amend the Penal Code to improve the definition of the crime of torture, and to make it a felony, and ensure that it cannot be included in public pardon laws.
2. Legislate the right to reparation for victims of torture.
3. Amend the legislations to stipulate that crimes of torture are investigated by independent prosecution and tried before regular courts not police courts.
4. Amend the Criminal Procedures Law to require that defendants alleging torture undergo examination by forensic medical specialists. Additionally, specify that any failure to adhere to due process will result in the nullification of the entire procedure and all subsequent proceedings based on it.

### **The Right to Legal Aid:**

The 2017 amendment to the Criminal Procedure Law article 208, expanded access to legal aid and legal representation, but the amendments only mandated compulsory representation by lawyer in felonies punishable by ten years and above. Prior to 2017, right to legal representation

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<sup>3</sup> Cassation Court Decision 274/2022, March 2023, Public Rights vs Abdullah Rawashdeh

<sup>4</sup> Cassation Court Decision 5053/2023, May 2024, Public Rights vs Abdullah Rawashdeh



was only guaranteed in felonies punishable by life sentence or execution. The right to compulsory representation in felonies over 10 years were also granted at the prosecution stage as per article 63 of Criminal Procedures law, but and did not include the police investigation stage. Article 208/3 establishes the right of the defendant to request legal aid in felony cases where the penalty is less than 10 years. This request can be submitted to either the Public Prosecutor or the court. If sufficient grounds for granting legal aid are identified, the request may then be referred to the Minister of Justice, who will provide legal aid in accordance with Legal Aid Bylaw No. 119 of 2018, in coordination with the Bar Association.

The Bar Association referred the draft legal aid bill to the Law and Opinion Bureau for the purpose of organizing the legal aid provided by the Ministry of Justice. The National Committee for Women's Affairs, through its Legal Committee, submitted a legal memorandum containing observations on the bill, and the JCLA also prepared a memorandum with comments. However, the regulatory frameworks still require further review, particularly regarding quality control, the criteria for selecting lawyers, and the organization of volunteering under Article 100 of the Bar Law. Additionally, there remains a significant gap in the provision of services to police stations and to victims, including those affected by the justice system and the most vulnerable groups, especially women victims.

The legal aid bylaw lacks clear safeguards and criteria for selecting lawyers, which would ensure both competency and specialization. It also lacks standardized procedures for monitoring the quality of legal services, mechanisms for accountability, and formal processes for filing complaints or grievances related to the provision of legal aid.

The legal Aid bylaw also excludes cases before the State Security Court in violation of the requirements of the criminal Procedural Law. This exclusion did not stop the state security court from appointing lawyers in felonies punishable over 10 years directly, but they deprive the defendants in such cases the right to request lawyer under the optional mandate regulated by the bylaw.

The Criminal Procedures law does not clearly state the right of a detained or accused person to be represented by an attorney during the police investigation stage.

Many defendants continue to appear before law enforcement agencies during the preliminary investigation without the presence of legal counsel due to the absence of an explicit provision in the criminal Procedural Law. Although the Jordan Bar Association Law grants lawyers the right to accompany their clients before law enforcement, the application of this right is inconsistent and varies based on the gravity of the charges against the defendant. The decision is often left to the discretion of law enforcement, with the argument that the lack of specific provisions in the Penal Procedural Law implies that a lawyer's presence is not mandated.

Lawyers are often denied the right to meet with their clients during initial investigations stage, particularly in cases involving terrorism, which fall under the jurisdiction of the General Intelligence Department, and drug-related offenses, handled by the Drug Control Department of the Public Security Directorate. Numerous instances have been recorded where defendants were completely denied communication with the outside world. Furthermore, several cases managed by the Justice Legal Aid Center, through its hotline for legal aid requests regarding arrests in police stations, required extensive efforts to locate detained individuals and determine their whereabouts and the authority conducting the investigation. The majority of these cases were within the jurisdiction of these two law enforcement agencies.

In practice, many cases of torture and ill-treatment have occurred during the preliminary investigation. The lack of guaranteed access to a lawyer and their absence during the defendant's statement before law enforcement has greatly undermined the integrity of legal procedures.

Many cases have occurred where lawyers were prevented from communicating with defendants in police stations, particularly in drug-related cases. Lawyers were also obstructed from obtaining the necessary power of attorney and were not informed of the defendant's referral to the Public Prosecutor. As a result, lawyers were unable to attend the first interrogation session or inquire about the charges.<sup>5</sup>

The Justice Center for Legal Aid provides on-duty lawyer services to represent individuals during the preliminary investigation. In an evaluation of 200 detention cases, the Center identified various challenges faced by lawyers,<sup>6</sup> including 18 cases involving the Anti-Narcotics Department. The following has been noted:

- Lawyers encountered numerous challenges while providing services to detainees in the Anti-Narcotics Department. They were often not permitted to meet with their clients under various pretexts, such as the need to expand the investigation, the absence of a power of attorney, or claims that the detainee would be transferred to another department or to the Public Prosecution. In one instance, lawyers were asked to cease filing complaints, as the authorities did not consider the procedure a violation.
- When a complaint is filed by lawyers to the Public Prosecutor for Transparency and Human Rights, who has the jurisdiction to receive complaints of violations within the Public Security Directorate, the complaints are often not handled with the seriousness they warrant.

<sup>5</sup> Adaleh Center for Human Rights Studies. (2022). *Fourth annual report for torture indicators: 2020-2021*.

<sup>6</sup> Justice Centr for Legal Aid, 2024, Assessment of the duty lawyer hotline cases.



- Lawyers are sometimes given misinformation regarding the whereabouts of detainees or the course of the case.
- In most cases where a lawyer is permitted to meet with their client, they are prohibited from conferring confidentially in a suitable setting that ensures privacy.

A number of civil society organizations are addressing the current shortfall in ensuring the right to legal aid, particularly in cases where the mandatory appointment of a lawyer is not required. However, these organizations face numerous challenges, including limited financial resources due to insufficient funding, delays and complexities in the procedures for securing funds, and the fact that legal aid is neither a national priority nor a priority for donors. As a result, their interventions remain limited and fall short of meeting the growing demand for services.

At the first interrogation session, in practice, the defendant is not informed of their right to optional legal aid as outlined in Article 63 of the Penal Procedural Law. They are only advised of their right to remain silent except in the presence of a lawyer and are asked whether they wish to appoint a lawyer, without being informed of their right to request free legal aid under Article 208.

In practice, the counsel appointed to provide legal aid in cases of mandatory representation is typically precluded from establishing prior communication with the defendant before the interrogation conducted by the Public Prosecutor. The hearing is effectuated immediately, without affording the defense counsel the opportunity to review the case file. Consequently, the lawyer's participation is rendered a formality, serving primarily to ensure procedural compliance and safeguard the investigation from potential grounds for appeal or annulment.

The Penal Procedural Law grants the defendant or their legal counsel the right to file a motion for disclosure of the investigation file prior to the commencement of interrogation. Should this motion be denied, the interrogation may be rendered procedurally void. However, legal aid counsel appointed under mandatory representation provisions often fail to formally file such motions prior to the interrogation session. When the motion is presented, it is typically done orally, which precludes the ability to document the denial, thus rendering it ineffective as a basis for procedural annulment.

Article 100 of the Criminal Procedure Law<sup>7</sup> does not explicitly provide for the defendant's right to be informed of the grounds for their arrest. It also lacks provisions ensuring the right to external communication or the obligation to inform individuals of their legal rights, including

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<sup>7</sup> The Criminal Procedure Law available at:

<https://www.moj.gov.jo/EchoBusV3.0/SystemAssets/d0d76f5c-8ad9-4a55-b065-d4748339db40.pdf>

the right to communicate with legal counsel. Defendants are still frequently arrested without being informed of the reasons for their arrest. In some instances, they are also prohibited from communicating with the outside world, particularly during investigations conducted by certain security authorities, most notably the Anti Narcotics Department and the General Intelligence Department.

### **Suggested recommendations:**

The Committee recommends Jordan to:

1. There is an urgent need to expedite the adoption of a legal aid law that guarantees legal representation across all court types and litigation procedures. This law should promote collaborative efforts in providing legal advice among the Ministry of Justice, the Bar Association, and civil society organizations specializing in legal aid.
2. Amend article 100 of the criminal procedures law to regulate the right to counsel, and to mandate informing the persons who are arrested of their rights.
3. Amend the Criminal Procedures Law and to mandate the right to legal aid in All criminal cases, if not feasible, then the right to legal aid must be guaranteed as compulsory in all felonies, and made optional in misdemeanors.
4. The law must mandate right to victims of torture and victims of abuse to legal aid and not restrict this right to defendants.
5. Amend article 63 of the Criminal Procedures Law to ensure the right of lawyers to meet with their clients prior to the interrogation hearing before the prosecutor, and to delete the option that the prosecutors can in cases of urgency proceed without granting right to lawyer representation to the defendants.

### **Juvenile and Child Rights Law:**

The protection offered by the Juvenile Law for this group is more comprehensive than that provided under the Criminal Procedural Law, particularly in relation to ensuring the right to free legal aid. The safeguards introduced by the Juvenile Law set a precedent for the protections later addressed in the Criminal Procedural Law. The Juvenile Law was enacted on 2 October 2014 and came into effect on 1 January 2015.

The Child Rights Law was issued on 12 October 2022 and entered into force on 1 January 2023. Article 24 of the law explicitly guarantees the child's right to obtain legal aid in accordance with the applicable legislation. It further stipulates that legal aid encompasses both legal advice and representation before police stations, prosecution departments, and courts,

including before the judge responsible for enforcing judgments. However, in practice, this article is not being implemented at police stations, particularly in departments dealing with drug-related offenses and terrorism crimes.

Article 21 of the Juvenile Law mandates the appointment of a lawyer for a juvenile in all felony cases if the juvenile does not have legal representation or is unable to appoint a lawyer, and mandates that a lawyer be present with the juvenile during all investigation and trial procedures. However, in many cases, juveniles are still not allowed to communicate with a lawyer while in police stations. Additionally, it is not consistently mandatory to appoint a lawyer for juveniles at the investigation stage before the Public Prosecutor in all felony cases. Rather, the practice is that lawyers are only appointed in felonies with a minimum penalty of 10 years or more

Juveniles continue to be tried before the State Security Court for drug-related offenses as a result of the amendment to the Narcotic Drugs and Psychotropic Substances Law No. 23 of 2016, which conferred jurisdiction to the State Security Court under Article 33/B for drug crimes involving juveniles. This amendment has led to the exclusion of juveniles from the protections provided by the Juvenile Law, including the legal guarantees it offers. Notably, juveniles accused of such crimes are not tried before specialized juvenile judges appointed by the Judicial Council, nor are they handled by the competent Juvenile Police. This shift has also weakened the application of rehabilitative measures and alternatives to custodial penalties, contributing to an increase in the number of juveniles detained for drug offenses.

Due to the failure to apply the Juvenile Law, juveniles are being detained for offenses under the jurisdiction of the State Security Court, including drug and terrorism-related crimes, for a period of 7 days during the preliminary investigation conducted by the law enforcement agencies. This presents a clear conflict with the juveniles Law.

The General Intelligence Department has the competence to investigate terrorism offenses allegedly committed by juveniles, even while these individuals are being tried in the specialized juvenile court under the Juvenile Law. This practice contravenes the Juvenile Law, which clearly designates the Juvenile Police as the competent authority for managing cases involving minors.

### **Suggested recommendations:**

The Committee recommends Jordan to:

1. Amend Juveniles Law to clarify the right to representation starting from moment of arrest regardless of the charge.
2. limit the investigation of cases involving children to the pertinent juveniles authorities.

3. Repeal the exception in Article 33/b of the Narcotic Drugs and Psychotropic Substances Law to restore jurisdiction over drug offenses committed by juveniles to the Juvenile Court. This amendment should ensure the full application of the Juvenile Law in such cases, including the provision that these juveniles are managed by the competent authority, specifically the Juvenile Police.

### Administrative Detention:

The Crime Prevention Law adopted in 1954 grants extensive powers to the administrative governors. Those powers continue to be used to administrative detention, often resulting in the detention periods exceeding those stipulated in the Penal Procedural Law.

In 2023, 37,395 persons were administratively detained according to the national center for human rights.<sup>8</sup>

Administrative Detention is often used against activists who are involved in demonstrations, and also administrative detention has been used to detain persons for periods the 24-hour limit set for law enforcement agencies particularly in cases where the defendant has been subjected to torture or ill-treatment, allowing time for the physical effects to fade. Additionally, during this time, defendants are often denied the right to contact a lawyer or the outside world and are not afforded the opportunity to be examined by a forensic doctor to obtain a medical report before being presented to the Public Prosecutor. Consequently, the defendant is unable to provide evidence that they were subjected to torture.

Administrative detention is also used against persons who were released by prosecutors or found not guilty in courts, if the governors feels that they may have been guilty or that they may construe a threat of public order.

Although the crime prevention law mandates that rights of detainees guaranteed under criminal procedures law are observed, in reality, due process is not guaranteed, and lawyers are often forbidden from accompanying their clients during governors proceedings.

In many cases where person that prevent a lawyer from accompanying individuals before the administrative governor continue to persist.

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<sup>8</sup> National Center for Human Rights. (2023). *2023 Annual report*. National Center for Human Rights.

The practice of expanding administrative arrests under the Residence and Foreigners Affairs Law, particularly concerning migrant workers and refugees, continues without providing the reasons for the decisions. Additionally, the oversight of the administrative court regarding the legality of such decisions remains weak, focusing solely on the procedural formality under which the decision was issued, rather than on the substantive legitimacy of the decision itself.

The Crime Prevention Law continues to be applied to administratively detain women under the pretext of protection and safeguarding their lives, despite the administrative governor's lack of jurisdiction in such matters. Additionally, the practice of detaining women in correctional and rehabilitation centers persists. without allowing them to communicate with a lawyer during the proceedings.

The Shelters for Women at Risk Law No. 171 of 2016 stipulates that women may be referred to shelters by a written decision of the administrative governor, as outlined in Article 9 of the law. If a woman refuses the services offered by the shelters, she is transferred to administrative detention in correctional and rehabilitation centers under the Crime Prevention Law.

#### **Suggested recommendations:**

The Committee recommends Jordan to:

- 1: Repeal the Crime Prevention Law No 7 for the year 1954.
2. If the law is not repealed then it should be amended to ensure that detention orders can be only issued by judges not be administrative officials.
3. Until the law is amended or repealed, the governors must be prohibited from using the administrative detention in cases being reviewed by judiciary, or against persons who have been released by order of prosecutors or judges.
- 4: Administrative Detention should be prohibited to be used against women under the pretext of their protection.
- 5: Penalties must be mandated against governors who misuse their authorities of detention orders.

#### **Providing Legal Aid to Victims of Trafficking:**

The Prevention of Human Trafficking Law establishes the right of victims to free legal aid. However, the provision of legal aid for human trafficking victims is not under the purview of the Legal Aid Directorate within the Ministry of Justice. Consequently, victims do not receive legal aid services throughout the justice process, limiting their access to necessary legal support.

Article 5 of the Trafficking Victims aid Fund Law No. 6 of 2023 outlines that the Fund's expenses for victims and potential victims include provisions for translation and legal advice. However, the legal aid services offered by the Fund are restricted to consultation and do not extend to legal representation, which is expected under the law. This limitation contradicts the law's stipulation that victims are entitled to comprehensive legal aid, encompassing both advice and representation.

The Law on Protection from Domestic Violence does not grant victims the right to legal aid. In practice, this results in ongoing barriers for victims, as their lawyers are often prohibited from attending investigative proceedings within family protection departments. Legal aid is not afforded to victims of torture, as claims initiated by these individuals are categorized as civil actions. As a result, legal aid provisions are restricted to criminal cases, precluding claimants from accessing essential legal representation.

### **Suggested recommendation:**

The Committee recommends Jordan to:

1: Ensuring the provision of free legal aid to victims, particularly women, girls, and victims of human trafficking, in accordance with applicable laws. This includes offering comprehensive support services and legal advice throughout all legal proceedings, including settlement procedures and felony cases, without making access to such aid contingent upon civil claims

### **Safeguards when Arrested during Demonstrations:<sup>9</sup>**

Arbitrary detention has been marked by harsh treatment, characterized by prolonged confinement in uncomfortable positions, painful handcuffing, and harsh conditions during

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<sup>9</sup> T The protest of the Teachers' Union on 5 September 2019 provided an example of lack of safeguards.





transport to mobile cells. Detainees often face inadequate care within these cells, coupled with significant delays in receiving essential medical assistance.

The rigorous and humiliating physical inspection compelled four teachers to fully disrobe at the police station. The management of the facility did not regard this inspection as a last resort; they neglected to review surveillance footage to identify those responsible for capturing the photographs and failed to consult the technical PSD to determine who posted the images.

Poor conditions of initial detention at the security centre where this group was held;

The Public Security Directorate does not adhere to established standards based on the legislation governing the search of detainees. Although there are general orders and instructions mandating the preservation of the dignity of detained individuals, current practices lack legislative regulation that allows for assessments based on necessity. As a result, the implications of a detainee contesting a search order remain ambiguous and unaddressed due to the absence of clear legal texts issued by the competent authorities.

#### **Suggested recommendations:**

1. Amend the legislation to regulate the inspection process and establish oversight mechanisms at temporary detention facilities. This should ensure that inspection procedures and protocols are defined based on established standards, principles, and best practices in the field.
2. Clear protocols should be established to address instances of resistance by security personnel during arrest, searches, or other procedures. These protocols must prioritize the safety of both security personnel and individuals being arrested or detained, outlining processes for response, escalation, documentation, and accountability. Controlled and proportionate use of force should be explicitly and unequivocally defined.

### **Rights of Migrant Workers**

Tamkeen Legal Aid Center conducted a series of interviews with 409 detained migrant workers, many of whom reported being unaware of the reasons for their arrest or their right to legal representation. Additionally, translation services were not provided during detainee interviews. While no incidents of inhuman treatment or torture were reported within detention facilities, some migrant women stated that they were forced to clean security centers during their detention.

Migrant workers often encounter delays or a lack of clarity regarding the reasons for their arrest, particularly when language barriers are present. Under Jordanian legislation, authorities are required to inform any arrested or detained individual of the charges against them. The Criminal Procedural Law (Article 100) mandates that detainees be informed of the charges they face within 24 hours of their arrest. Furthermore,

In summary, defining the offense attributed to the defendant and the obligation to inform them is essential for issuing an arrest decision. This ensures that the detainee is aware of the reasons for their arrest, allowing them to assess the permissibility of their actions. The defendant has the right to contact individuals of their choosing to inform them of the situation, seek legal assistance, and appeal the arrest order.

#### **The right to legal representation for migrant workers:**

Every individual residing in Jordan, including migrant workers, is entitled to request the assistance of counsel of their choice to safeguard their rights and provide representation throughout all phases of criminal proceedings. This entitlement is enshrined in the applicable legal framework governing criminal trials (see above)..

The right to legal counsel is recognized as a fundamental guarantee of a fair trial; however, many migrant workers encounter difficulties in accessing legal representation or securing effective legal advocacy due to financial constraints and language barriers.

#### **Challenges faced by migrant workers:**

Language barriers: significantly hinder migrant workers' understanding of Arabic and English, impairing their ability to comprehend their rights and the legal procedures pertinent to them. Furthermore, when translation services are available, they are often inadequate and minimal in scope.

Administrative Detention: Migrant workers may be subject to arrest for administrative reasons, including violations of residency conditions or employment without appropriate documentation. In these instances, migrant workers may be subjected to prolonged detention without trial. The application of the Crime Prevention Law occurs without adherence to the procedural safeguards mandated by the Jordanian Code of Criminal Procedure concerning the issuance of arrest warrants. Consequently, a migrant worker may remain in administrative detention without judicial review for extended periods, potentially lasting months or even years, without any legitimate grounds for their arrest or deprivation of liberty.



Abuse of authority: In several cases examined by Tamkeen, migrant workers have reported being subjected to unlawful practices. This includes arbitrary arrests without sufficient justification and the denial of access to legal counsel or translation services.

Other issues: Jordanian law acknowledges several fundamental rights for migrant workers, including the right to be informed of the reasons for arrest and the right to legal counsel. However, the practical application of these rights is often hindered by the economic, social, and linguistic challenges faced by migrant workers.

Regarding communication for migrant workers in detention, they are permitted to contact their families once a week, provided the phone number is Jordanian. However, they are prohibited from making international calls, effectively barring the majority of migrant workers from reaching their families, as these are typically located outside Jordan.

Migrant workers may remain in detention even after being acquitted of the charges against them. They are not permitted to return to their home countries until the court's decision is final, resulting in an additional administrative detention period of 30 days.

The figures underscore the critical need for legal aid for migrant workers. A study conducted by Tamkeen revealed that in 2019, there were approximately 39 theft cases involving domestic workers, which were monitored through the Tamkeen Center for Legal Aid and Human Rights. The judicial outcomes of these cases were as follows:

Number of Convictions	15 cases
Number of acquittal decisions.	17 cases
Number of acquittals on appeal	7 Cases

Thus, there are 24 acquittals out of 39 cases pursued with legal representation. Furthermore, migrant workers cannot independently appeal these decisions due to the lack of legal translation and their unfamiliarity with the legal appeal deadlines.

In this context, Tamkeen highlighted the case of a domestic worker who arrived in Jordan in 2019. The worker did not receive her wages for one year and two months of employment. When she repeatedly requested her due wages, her employer stalled and ultimately refused to pay. This situation compelled the worker to leave the employer's residence and seek assistance from the recruitment office. Consequently, the employer reported the incident of the migrant worker's flight and alleged theft, claiming that money and gold jewelry had been stolen, at the police station. The recruitment office accompanied the worker to file a

complaint against the employer, only to discover that a theft complaint had already been lodged against her. The worker was subsequently judicially arrested and placed in the Juweidah Correction and Rehabilitation Center, where she remained pending the case for one month. On 5/7/2021, her arrest transitioned to administrative detention, and she remained incarcerated until 17/8/2023. On that date, a decision was issued to acquit the worker of the theft charge, which was subsequently approved and became final..The worker in the aforementioned case was detained administratively for over two years and judicially for one month before a decision was issued to acquit her.

### **The right to defence:**

Although the law provides for the right to defense, potentially reducing financial burdens for workers who do not need to hire a lawyer, many migrant workers remain reluctant to represent themselves. This reluctance is evident in cases handled by Tamkeen and stems from several factors. Workers often fear self-representation in court and may neglect or be preoccupied with following case procedures. They may also consider claims for small amounts of money to be futile. Additionally, they struggle to pay litigation fees and transportation costs, and face unemployment. Language barriers further complicate matters, as most migrant workers do not speak Arabic.

### **Suggested recommendations:**

The Committee recommends Jordan to:

1. Ensuring that migrant workers are informed of the reasons for their arrest, while providing access to an interpreter or utilizing modern translation technologies.
2. Giving foreign detainees the opportunity to contact their families.
3. Providing the right to defense for individuals who are arrested on the premises.

