



Share-Net
Jordan

The Knowledge Platform on
Sexual and Reproductive Health
and Reproductive Rights



Legal Analysis of the Cybercrime Law of 2023 and the Penal Code of 1960 and its Amendments Regarding Information on Sexual and Reproductive Health and Rights



2024



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**Legal Analysis of the Cybercrime Law of 2023
and the Penal Code of 1960 and its Amendments**

Regarding Information on Sexual and Reproductive Health and Rights

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This report demonstrated a deep understanding and familiarity with the complex legal topics of reproductive health and reproductive and sexual rights in Jordan and provided a thorough analysis of the legal challenges faced by different groups working in this area, In particular, the preparation team's efforts to clarify, explain and analyse the articles of the Cybercrime Act, the Penal Code and its amendments relating to the activities of the Share-net Jordan in the area of reproductive health and sexual and reproductive rights. A comprehensive and in-depth study was done on these two laws, along with the relevant legislation, and its legal implications for the activities on the Share-net of Jordan. This will greatly contribute to the clarification of the legal and legislative frameworks relevant to Share-Net Jordan's activities, and makes Jordan's laws more explicit to facilitate work on reproductive health and sexual and reproductive rights. The present report also promotes legal awareness with a view to contributing to the legal protection of individuals and institutions from being involved in Legal Prosecutions and helping Share-Net Jordan and technical teams to avoid potential legal problems arising from their activities.

Once again, I commend the efforts of the outstanding preparation team and appreciate their valuable contribution to the preparation of this report in high-quality and documented terms. I hope that it will contribute significantly to enhancing legal knowledge and understanding in the area of reproductive health and reproductive and sexual rights in Jordan. And helps to protect individuals' rights and improve their quality of life.

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3 Executive Summary

Share-Net Jordan is one of Share-Net International's country hubs, which focus on producing knowledge in the field of Sexual and Reproductive Health and Rights (SRHR). This international network includes non-governmental organizations, researchers, policymakers, implementers, activists, students, media, and SRHR-related corporations. Bearing in mind that reproductive health and sexual and reproductive rights are essential elements of everyone's right to the highest attainable standard of physical and mental health. However, many hindrances can prevent individuals from fully enjoying these rights. These obstacles appear to be somewhat complex and deeply entrenched, most important of which relate to social, economic and legal conditions and factors. These factors have a significant impact on the policy approach to reproductive health and sexual and reproductive rights issues.

This report seeks to elucidate the legal and legislative frameworks relevant to the activities of Share-Net Jordan, making the applicable laws clearer to facilitate their work in reproductive health and sexual and reproductive rights. Additionally, it contributes to the provision of legal awareness with a view to contributing to the legal protection of individuals and institutions from falling into the Legal Prosecution Accountability and helping Share-Net Jordan managers and technical teams avoid potential legal issues that could arise from their activities. Furthermore, this report could be advantageous for healthcare providers in the field by helping them recognize the potential challenges they may encounter while delivering sexual and reproductive health services. Furthermore, it presents valuable information about the legal safeguards available to them in their professional practice.

The primary objective of this analysis report is to thoroughly clarify, explain, and analyse the articles of the Jordanian Cybercrime Law, and the Penal code and its amendments relevant to Share-Net Jordan's activities in reproductive health and sexual and reproductive rights. This involves a comprehensive and in-depth examination of these laws and other relative legislations, and their legal implications for Share-Net Jordan's activities. In this consultation report, the legal approach used was descriptive and analytical, based on the principle of "solving legal issues." This method involves gathering legal information pertinent to each topic, including the constitution, relevant laws and regulations and judicial jurisprudence, the collected legal information's are then accurately and objectively analysed, identifying issues related to Share-Net Jordan's activities, determining potential and necessary legal solutions, and selecting the most appropriate solution for each topic using clear and concise legal language. The methodology included: conducting a desk review, analysis and revision of the cybercrime law, the penal code and its amendments, and other relevant legislations and regulations, instructions, reviewing previous judicial rulings related to reproductive health and sexual and reproductive rights, and conducting a legal analysis of Share-Net Jordan's activities, in addition to conducting key informant interviews with those responsible for Share-Net Jordan, and consultative meetings with the technical committee formed by the Higher Population Council for this purpose and facilitating a general discussion on legal consultation and analysis. The legal analysis of the cybercrime and penalties laws, along with their amendments, concentrated on the key topics and issues related to the components of reproductive and sexual health and rights, as outlined in the National Strategy for Reproductive Health 2020-2030, which adopts a life cycle approach. The following are the topics:

- 1) Inclusion of sex education in children's educational curricula and coverage of subjects that can be integrated into education services.
- 2) Promoting milk substitutes for infants in any publication in service provision sites and on social media.
- 3) Promoting the child's right to freedom of thought, conscience, religion, sexual health, adoption, and alternative care for a child deprived of his family environment (permanently or temporarily).
- 4) Child marriage and forced marriage.
- 5) Informed consent procedure when exposing children to operations.
- 6) Premarital medical examination and virginity examination.
- 7) Promotion of abortion.
- 8) Maternity and family planning services for unmarried women and adolescents.
- 9) Promoting performing caesarean sections, and gender of the service provider.
- 10) Offspring cutting off and Sterilization.
- 11) Emergency contraception;
- 12) Sexually Transmitted Diseases, especially HIV/AIDS optional reporting and determinants of treatment.
- 13) Assisted reproductive technology and its restrictions (insemination/in vitro fertilization), Surrogacy and use of donor eggs.
- 14) Surrogacy and use of donor eggs.
- 15) Sterilizing people with disabilities (such as hysterectomy).
- 16) Female Genital Mutilation and Male Circumcision.
- 17) Promotion of homosexuality and the lesbian, gay, bisexual, queer, transgender, intersex and others (LGBTQIA+).
- 18) Marital rape.
- 19) Mandatory reporting of SGBV and the legal impact regarding GBV and SAE.
- 20) Defamation and invasion of privacy.
- 21) Circumvention of the Internet Protocol Address (IP ADDRESS).

The recommendations provided in the report were derived from the previous analysis and are summarized as follows:

- Raising awareness of the legal risks related to reproductive and sexual health, providing information on how individuals and institutions can protect themselves from prosecution. The goal is to avoid legal issues and ensure workflow.
- Building support networks to enhance solidarity and cooperation among those involved in producing and disseminating reproductive and sexual health information. This involves identifying and sharing information that is not criminalized, within the boundaries of existing legal and legislative frameworks.
- The legality of digital and non-digital correspondence, sometimes involves matters related national security, public safety, morals, or individual rights and reputations. It is recommended to use respectful and comprehensive

language when providing accurate and reliable information regarding reproductive and sexual health topics. And focus on the experiences of individuals and create a welcoming environment for discussion. To ensure Share-Net Jordan's production and distribution of reproductive and sexual health information, it is recommended to adhere to the following legal restrictions and controls:

- **Ensure Information Veracity:** Information provided must be accurate, obtained from legitimate and reliable sources, and transmitted with integrity.
- **Avoid Misleading Content:** It includes not spreading false news, rumors, or propaganda that can harm societal interests or contradict Islamic principles.
- **Respect Others' Freedoms:** It is important to avoid content that incites harm to society's religious and social values, as opinions cannot infringe on others' freedoms or expose them to harm.
- **Moderate Expression:** Keep a balanced attitude towards freedom of expression on social media platforms, allowing for constructive criticism without resorting to falsehoods or divisiveness.
- **Protecting public interest and privacy:** Avoid disclosing information that could harm the public interest, respect individual privacy, and strive for honesty and integrity in all communication.
- Respecting the expression on social media in accordance with the cybercrime law and other related legal, social, and religious Frameworks for the country and monitor the publishing of any materials that violate the provisions of the law or legislation in force in the Kingdom (restricted or prohibited topics).

4 Introduction

In 2015, The Higher Population Council (HPC) and the Information and Research Center at the King Hussein Foundation prepared a report on “reviewing studies related to reproductive health and identifying gaps and research priorities”, in coordination with the Dutch International Share-Net Foundation. The report recommended that The Higher Population Council (HPC) to be the point of contact with Share-Net International Foundation to implement its activities in Jordan through local partners, as well as conduct more qualitative studies regarding the reproductive health component, in addition to developing the population research base in The Higher Population Council, to be linked directly with research centers in academic and research institutions, and reproductive health service providers. Approval has been granted by the Jordanian government to the Higher Population Council to implement the Share-Net project in Jordan.

The concept of sexual and reproductive health has been defined by the United Nations as "a state of complete physical, mental and social well-being in all aspects of the reproductive system, its functions and processes, and is not merely safe the absence of disease and or infirmity." UNFPA has defined good sexual and reproductive health as a state of complete physical, psychological and social integrity in all matters relating to the reproductive system. This means the ability to have a satisfying and safe reproductive life, the ability to have children, and the freedom to decide when and how many children to have. In this sense, sexual and reproductive health expresses the ability to enjoy a satisfying and safe sex life, the ability to reproduce, the freedom to decide, when to have children, and the affirmation of the right of men and women to know and use appropriate and non-contrary family planning methods.

The activities planned in Share-Net Jordan are consistent with the outcomes of the International Conference on Population and Development in Cairo 1994, the 2030 Sustainable Development Goals, the Nairobi Summit commitments to the International Conference on Population and Development (ICPD)+25 Program of Action, and national development priorities, and also take into account a number of strategic priorities to enhance the focus on linking sexual and reproductive health, gender equality, and women's empowerment.

Reproductive health, and sexual and reproductive rights constitute an integral part of every human being's right to enjoy the highest possible level of physical and mental health. However, many barriers may impede all individuals' enjoyment of their right to reproductive health and sexual and reproductive rights. These obstacles are interconnected and deep-rooted and operate at different levels, such as social, economic, legal, and other factors, which affect the policy approach envisaged in dealing with the components of reproductive health and sexual and reproductive rights.

In the light of the foregoing, it is necessary to describe the legal and legislative frameworks that intersect with the activities and practices of Share-Net Jordan and to clarify these legislations and laws in a way that facilitates Share-Net to carry out its activities and practices in the field of reproductive health and sexual and reproductive rights. At the same time, it contributes to legal protection against falling within the Legal Prosecution Accountability, which may result from the exercise of the activity envisaged by Share-Net Jordan.

5 Legal texts and frameworks related to reproductive and sexual health rights and components

5.1 Reproductive and sexual health within the framework of international law (and human rights)

The right to sexual and reproductive health is an integral part of the right to health stipulated in Article 12 of the International Covenant on Economic, Social and Cultural Rights.⁽¹⁾ This right is also contained in other international and regional human rights instruments.⁽²⁾ The adoption of the Program of Action of the International Conference on Population and Development in 1994 shed more light on sexual and reproductive health issues within the framework of human rights.⁽³⁾ Since then, there has been significant development in international and regional human rights standards and jurisprudence regarding the right to sexual and reproductive health. Recently, the 2030 Agenda for Sustainable Development included goals and targets to be achieved in the field of sexual and reproductive health.⁽⁴⁾

The Committee on Economic, Social and Cultural Rights, in General Comment No. 22 (2016) on the right to sexual and reproductive health, recognized that there are many legal, procedural, practical and social obstacles that restrict full access to sexual and reproductive health facilities, services, goods and information. Indeed, the full enjoyment of the right to sexual and reproductive health remains an elusive goal for millions of people, especially women and girls, around the world. Some individuals and population groups, including lesbian, gay, bisexual, transgender and intersex persons and persons with disabilities, experience multiple forms of discrimination in law and practice that exacerbate exclusion, which imposes further restrictions on the full enjoyment of the right to sexual and reproductive health.⁽⁵⁾

General Comment No. 14 of 2000 issued by the Committee on Economic, Social and Cultural Rights is considered one of the most important international documents that address the right to the enjoyment of the highest standard of health through its interpretation of the text of Article 12 of the International Covenant on Economic, Social

(1) The International Covenant on Economic, Social and Cultural Rights of 1966, published in the Jordanian Official Gazette No. 4764 dated 6/15/2006. See General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights, regarding the right to the enjoyment of the highest attainable standard of health, articles. 2, 8, 11, 16, 21, 23, 34 and 36.

(2) The Convention on the Elimination of All Forms of Discrimination against Women of 1979, was published in the Jordanian Official gazette No. 4839 dated August 1, 2007. See Article 12 of the Convention. The Convention on the Rights of the Child of 1989, published in the Jordanian Official Gazette No. 4787 dated 10/16/2006, Articles 17, 23-25 and 27; The Convention on the Rights of Persons with Disabilities of 2008 was published in the Jordanian Official Gazette No. 4895, dated 3/25/2008, Articles 23 and 25. See also General Recommendation No. 24 (1999) of the Committee on the Elimination of Discrimination against Women, on women and health, paras. 11, 14, 18, 23, 26, 29 and 31 (b); General Comment No. 15 (2013) of the Committee on the Rights of the Child, on the right of the child to the enjoyment of the highest attainable standard of health

(3) Report of the International Conference on Population and Development, Cairo, 5-13 September 1994 (United Nations publication, Sales No. A.95.XIII.18), chapter I, resolution 1, annex. The work program is based on the fifteen principles. The first principle states: "All human beings are born free and equal in dignity and rights."

(4) United Nations, transforming our world: the 2030 Agenda for Sustainable Development adopted by the General Assembly in September 2015. Goal 3 of the 2030 Agenda "Ensure healthy lives and promote well-being for all at all ages" and Goal 5 "Achieve gender equality and empower all women and girls".

(5) United Nations (Committee on Economic, Social and Cultural Rights, General Comment No. 22 (2016) on the right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), 2016.

and Cultural Rights. This commentary has become the basic reference. to explain the elements of the right to health and the mechanism of its implementation.⁽⁶⁾ The General Comment emphasizes the link between the right to health and many other human rights, and thus respecting and activating these rights directly affects the individual's right to enjoy the highest attainable level of health. Examples of these rights include the rights to food, housing, work, education, and human dignity, life, non-discrimination, equality, prohibition of torture, privacy, access to information, freedom of association, assembly, and movement. These and other rights and freedoms address integral components of the right to health.

The Committee on the Elimination of Discrimination against Women, through its general recommendation No. 24 of 1999, affirms that access to health care, including reproductive health, is a fundamental right under the Convention on the Elimination of All Forms of Discrimination against Women.⁽⁷⁾

The Special Rapporteur on the right of every human being to the highest possible standard of physical and mental health also affirmed that the right to health grants women the right to obtain services related to pregnancy and the postpartum period and other services and information related to sexual and reproductive health, provided that these services, tools, and facilities related to this type of care are ⁽⁸⁾:

- Available in sufficient numbers, especially with regard to the numbers of service providers.
- The possibility of actual and economic benefit. The cost of the services provided affects the decision to benefit from them.
- The possibility of benefiting from services without discrimination, so that the services take into account the privacy of the recipient of the services, that is, addressing the social, cultural, political and legal factors that affect a woman's decision to request this type of services.
- The services must be of good quality, as the quality of the service may affect the woman's decision to seek or not seek the services.

Based on the above, human rights obligations apply to the right to sexual and reproductive health. These obligations under international human rights law are:

- The duty of respect, i.e., states refraining from interfering directly or indirectly in the enjoyment of reproductive rights.
- The duty to protect, which requires states to prevent other parties from violating protected rights and to take steps to investigate and punish such violations when they occur.

(6) United Nations (Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000) on the right to the enjoyment of the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2000 /4.

(7) General Recommendation No. 24: Article 12 of the Convention (Women and Health), adopted at the twentieth session of the Committee on the Elimination of Discrimination against Women, A/54/38/Rev.1, 1999, para. 1.

(8) Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, General Assembly, A/61/338, 2006, paras. 13-17.

- Duty to fulfil: Here, states are obligated to take any necessary measures, whether legislative, budgetary, judicial, and/or administrative, to achieve the full realization of reproductive rights.⁽⁹⁾

Although it is not possible to limit the international agreements and treaties that overlap with reproductive and sexual rights due to their broad content, the most important legal articles that deal with reproductive and sexual health in the international framework can be summarized as follows:

I: International human rights law

Universal Declaration of Human Rights (UNUDHR) of 1948⁽¹⁰⁾

■ Article 25: It states:

- 1- Every person has the right to a standard of living sufficient to ensure the health and well-being of himself and his family, especially in terms of food, clothing, housing, medical care, and necessary social services. He has the right to be protected from harm in cases of unemployment, illness, disability, widowhood, old age, or other circumstances. That is beyond his control and causes him to lose his livelihood.
- 2- Mothers and children have the right to special care and assistance. All children have the right to enjoy the same social protection whether they are born within or outside of marriage.

● International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966⁽¹¹⁾

■ Article 12: The right to health. It states:

- 1- The States Parties to the present Covenant recognize the right of every human being to the enjoyment of the highest attainable standard of physical and mental health.
- 2-The measures that States Parties to the present Covenant must take to secure the full practice of this right include those necessary to:
 - a. Working to reduce the stillbirth rate and infant mortality rate and ensure the healthy growth of the child.
 - B. Improving all aspects of environmental and industrial health.
 - C. Prevention, treatment and control of epidemic, endemic, occupational, and other diseases.
 - D. Creating conditions that would ensure medical services and medical care for everyone in the event of illness.

■ Article 10: Protection of the Family and Maternity, and childhood. Which states: The States Parties to this Covenant acknowledge the following:

- 1- The family, which constitutes the natural and basic collective unit of society, must be granted the greatest possible amount of protection and assistance, especially for the formation of this family and as long as it assumes

(9) CEDAW, General Recommendation No. 24, paragraph 15. and 40-48.

(10) Adopted and made public in accordance with the United Nations General Assembly resolution dated 12/10/1948.

(11) It was signed by the government of the Hashemite Kingdom of Jordan on 6/30/1972, and ratified on 5/28/1975. It was published in the Official Gazette No. 4764 dated 15/6/2006 on page 2239, without the endorsement of the National Assembly.

the responsibility of caring for and raising the children it supports. The marriage must be concluded with the consent of the two parties to be married, without coercion.

2- Special protection must be provided to mothers during a reasonable period before and after childbirth. Working mothers should be granted during this period paid leave or leave accompanied by adequate social security benefits.

3- Special measures of protection and assistance must be taken for the benefit of all children and adolescents, without any discrimination on grounds of parentage or otherwise Circumstances. Children and adolescents must be protected from economic and social exploitation. The law must also punish their employment in any work that would corrupt their morals, harm their health, threaten their lives, or harm their natural development. States must also impose minimum age limits. The law prohibits and punishes the employment of children who have not reached that age in paid work.

● **International Covenant on Civil and Political Rights (ICCPR) of 1966 ⁽¹²⁾:**

■ **Article 19: The right to freedom of opinion and expression. It states:**

1- Every human being has the right to hold opinions without harassment.

2- Every human being has the right of freedom of expression. This right includes freedom to seek, receive and impart various types of information and ideas from to others, regardless of borders, whether in written or printed form, in artistic form, or by any other means he chooses.

3- Exercising the rights stated in Paragraph (2) of this Article entails special duties and responsibilities. Accordingly, it may be subjected to some restrictions, but provided that they are specified by the law and are necessary:

a. To respect the rights or reputations of others.

B. To protect national security, public order, public health, or public morals.

● **Convention on the Elimination of All Forms of Discrimination against Women of 1979:**

■ **Article 12: The right to equal access to health care. It states that:**

1- States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to guarantee to them, on the basis of equality for men and women, access to health care services, including services related to family planning.

2- Notwithstanding the provisions of Paragraph (1) of this Article, States Parties shall guarantee women appropriate services with regard to pregnancy, childbirth, and the postpartum period, and shall provide them with free services, when necessary, as well as adequate nutrition during pregnancy and breastfeeding.

(12) It was signed by the government of the Hashemite Kingdom of Jordan on 30/6/1972, and ratified on 5/28/1975. It was published in the Official Gazette No. 4764 dated 15/6/2006 on page 2227, without the endorsement of the National Assembly.

■ **Article 16: The right to make free decisions regarding reproduction. It states that:**

1- States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations, and in particular shall ensure, on the basis of equality of men and women:

- The same right to contract marriage.
- The same right to freely choose a spouse, and not to contract marriage except with her free and complete consent.
- The same rights and responsibilities during marriage and upon its dissolution.
- The same rights and responsibilities as a parent, regardless of her marital status, in matters relating to her children, and in all cases, the interests of the children shall prevail.
- The same rights to decide freely and responsibly on the number and spacing of their children, and to have access to information, education and the means to enable them to exercise these rights.
- The same rights and responsibilities with regard to guardianship, Custodianship, and the supervision of the management of the minor's financial affairs and affairs with the authorization of the guardian or judge.
- The same personal rights as husband and wife, including the right to choose a family name, profession, and occupation.
- The same rights for both spouses with regard to ownership and possession of property, supervision, management, enjoyment and disposal of property, whether free of charge or in exchange for valuable compensation.
- The child's engagement or marriage shall have no legal effect, and all necessary measures shall be taken, including legislation, to set a minimum age for marriage and to make the registration of marriage in an official registry mandatory.

It should be noted that the agreement was ratified by Jordan. However, Jordan expressed reservations about the following articles:

- Paragraph (2) of Article (9) related to granting women equal rights with men with regard to the nationality of their children.
- Paragraphs (c), (d), and (g) of Clause (1) of Article (16):
- Paragraph (c) relating to the same rights and responsibilities during marriage and divorce (dissolution), Paragraph (d) relating to the same rights in matters relating to their children, and Paragraph (g) relating to the same right to choose a family name, profession and type of work.⁽¹³⁾

(13) It was signed by the government of the Hashemite Kingdom of Jordan on 12/3/1980, and ratified with the above-mentioned reservations on 7/1/1992, and published in the Official Gazette, Issue No. 4839, dated 8/1/2007, on page No. 4943, without the endorsement of the National Assembly. It is noteworthy that Jordan has withdrawn its reservation to Article (15/4) of the Convention, which relates to states parties granting men and women the same rights related to the movement of persons and the freedom to choose their place of residence and domicile. This is in accordance with the government's decision issued in Official Gazette No. 4960 dated 4/30/2009, on page 2098.

Convention on the Rights of the Child of 1989:⁽¹⁴⁾

■ Article 24: The right to the highest attainable standard of health for children. It states:

1- States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and health rehabilitation. States Parties shall make every effort to ensure that no child is deprived of his or her right to obtain these health care services.

2- States Parties shall endeavour to fully implement this right and shall take appropriate measures to:

- a. Reducing infant and child mortality.
- b. Ensure the provision of necessary medical assistance and health care to all children, with emphasis on the development of primary health care.
- c. Combating disease and malnutrition, even in the context of primary health care, through ways from which the application of readily available technology and through the provision of adequate nutritious food and safe drinking water, taking into account the dangers and risks of environmental pollution.
- d. Ensure appropriate pre- and post-natal health care for mothers.
- e. Ensure that all sectors of society, especially parents and children, are provided with basic information relating to child health and nutrition, the advantages of breastfeeding, the principles of health preservation and environmental sanitation, and accident prevention, and that these sectors receive education in these areas and are assisted in benefiting from this information.
- f. Developing preventive health care, guidance for parents, education and services related to family planning.

3 - States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices that are harmful to the health of children.

4 - States Parties undertake to strengthen and encourage international cooperation in order to progressively achieve the full realization of the right recognized in this article. And take into account the particular needs of developing countries in this regard.

■ Article 37: Protecting children from sexual exploitation. It states that “States Parties shall ensure the following:

- a. No child shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment. The death penalty or life imprisonment without parole may not be imposed for crimes committed by persons under eighteen years of age.
- b. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child must be consistent with the law and may only be used as a last resort and for the shortest appropriate period of time.

(14) It was signed by the government of the Hashemite Kingdom of Jordan on 8/29/1990 AD and ratified on 5/24/1991 AD, with a reservation on Articles 14, 20, and 21 of the Convention, which grant the child the right to freedom of choice of religion and relate to the issue of adoption, because they conflict with the provisions Tolerant Islamic law. It was published in the Official Gazette No. 4787 dated 10/16/2006. on page 3993. It was endorsed by the National Assembly

c. Every child deprived of his or her liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner that takes into account the needs of persons of his or her age. In particular, every child deprived of his or her liberty shall be separated from adults unless it is in the child's best interests not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, except in exceptional circumstances.

d. Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of his or her deprivation of liberty before a court or other competent and independent body. A neutral authority will take a prompt decision on any such action.

Convention on the Rights of Persons with Disabilities of 2006:⁽¹⁵⁾

- Article (5): Equality and non-discrimination.
- Article (9): Access to facilities and services available to the general public.
- Article (16): Freedom from exploitation, violence and assault.
- Article (17): Protection of personal safety.
- Article (19): Independent living and integration into society.
- Article (22): Respect privacy.
- Article (23): Respect for the home and family.

II: International humanitarian law:

the four Geneva Conventions:⁽¹⁶⁾

- Articles that provide for the protection of women and children from sexual violence in situations of war or armed conflict. It should be noted that these articles aim to provide protection for women and children in situations of war or armed conflict and reflect the international community's commitment to humane treatment and the preservation of human dignity in all circumstances.

III: Regional agreements:

Arab Charter on Human Rights of 2004:⁽¹⁷⁾

Article (38) stipulates:

1 - States Parties recognize the right of every individual in society to enjoy the highest attainable standard of physical and mental health, and to free access by citizens to basic health care services and facilities for the treatment of diseases without any kind of discrimination.

(15) It was signed by the government of the Hashemite Kingdom of Jordan on 3/30/2007, and ratified on 8/31/2008 AD. It was published in the Official Gazette No. 4895 dated 3/25/2008, on page 1058. It was endorsed by the National Assembly.

(16) The government of the Hashemite Kingdom of Jordan ratified the four conventions, and they were published in the Official Gazette No. 4817, dated 4/1/2007, and No. 4815, dated 15/3/2007, without the endorsement of the National Assembly.

(17) Adopted by the Sixteenth Arab Summit in Tunisia on 23/4/2004. It was published in the Official Gazette No. 4658 dated 5/16/2004, on page 2374.

2- The steps taken by States Parties include the following measures:

- a. Developing primary health care and ensuring free and easy access to centers that provide these services, regardless of geographical location or economic situation.
- B. Working to combat diseases preventively and therapeutically to reduce deaths.
- C. Spreading health awareness and education.
- D. Combating traditional practices that are harmful to individual health.
- e. Providing basic food and clean drinking water for every individual.
- f. Combating environmental pollution factors and providing sanitation.
- g. Combating drugs, psychotropic substances, smoking and substances harmful to health.

■ Article: (32)

1- This Charter guarantees the right to information and freedom of opinion and expression, as well as the right to seek, receive and transmit information and ideas to others by any means, and without regard to geographical borders.

2- These rights and freedoms are exercised within the framework of the basic components of society and are only subject to restrictions imposed by respect for the rights or reputation of others or the protection of national security, public order, public health, or public morals.

5.2 Reproductive and sexual health and national legislation

Jordanian Constitution of 1952

According to the Jordanian Constitution, Islam is the state religion and Arabic is the official language, the constitution stipulates that “Islam is the religion of the country, and the Arabic language is its official language.”⁽¹⁸⁾ Although the Jordanian Constitution does not mention the right to reproductive and sexual health, a set of basic rights closely related to them has been emphasized. The Jordanian Constitution took care of the family and recognized its importance, stipulating that “the family is the foundation of society, and its foundation is religion, morals, and love of the homeland. The law preserves its legal entity and strengthens its bonds and values.”⁽¹⁹⁾ It also stipulates that “the law protects the rights of persons with disabilities and promotes their participation and integration in various aspects of life. It also protects motherhood, childhood, and old age, cares for young people, and prevents abuse and exploitation.”⁽²⁰⁾ The Constitution also guaranteed the personal freedoms of Jordanians when it stipulated those personal freedoms are protected, and that every attack on public rights and freedoms or the sanctity of the private life of Jordanians is a crime punishable by law.⁽²¹⁾

The Jordanian Constitution also guarantees the freedom to perform religious rituals and beliefs in accordance with

(18) The Jordanian Constitution issued in the Official Gazette No. 1093 dated January 8, 1952. Article (2) thereof.

(19) Article (6/4) of the Jordanian Constitution.

(20) Article (6/5) of the Jordanian Constitution

(21) Article (7) of the Jordanian Constitution.

the customs observed in the Kingdom, unless they are disruptive to public order or contrary to morals.⁽²²⁾ and that the state guarantees freedom of opinion, and every Jordanian has the right to freely express his opinion through speech, writing, photography, and other means of expression, provided that it does not exceed the limits of the law. As well as the freedom of scientific research and literary, artistic, cultural and sporting creativity in a manner that does not violate the provisions of the law or public order and public morals.⁽²³⁾

As for international treaties and agreements, they were approved by the Jordanian constitution when it stipulated that “treaties and agreements that result in burdening the state treasury with any expenses or affecting the public or private rights of Jordanians shall not be effective unless endorsed by the National Assembly.”⁽²⁴⁾ (We will devote another section to this topic in this legal analysis report).

Public Health Law, No. 47 of 2008

Article No. (4\d) of the Public Health Law⁽²⁵⁾ stipulates that the Ministry of Health, in coordination with the relevant authorities, works to ensure the health care of women and children by providing the necessary services to them, including care for pregnant women during pregnancy, during childbirth, and during the postpartum period. Monitoring the child’s growth and providing vaccinations in accordance with the necessary reproductive health requirements and other health matters related to family planning.

The instructions for maternity, childhood and family planning services also regulate family planning services and the Ministry of Health’s commitment to offering free maternity and childhood services in its maternity and childhood centres to Jordanians. The Ministry should provide family planning services in its maternity and childhood centres and mother and childcare clinics located in the Ministry’s hospitals free of charge to Jordanians as well. However, free maternity, childhood, and family planning services are limited to the medical and therapeutic procedures mentioned in the instructions. In accordance with the instructions, the Ministry also provides free laboratory and diagnostic examinations within maternity and childhood services for both the mother and child and family planning services as follows: -

- Clinical examination.
- Examination of blood groups to determine the type.
- Rh factor test and antibody test if necessary.
- Haemoglobin examination.
- Antenatal Care.
- Syphilis and syphilis examination.
- Diabetes and glucose tolerance test.

(22) Article (14) of the Jordanian Constitution.

(23) Article (15\1+2) of the Jordanian Constitution.

(24) Article (33) of the Jordanian Constitution.

(25) Public Health Law No. (47) of 2008, issued in Official gazette No. 4924 dated 17/8/2008, on page 3450.

- General and routine urine analysis as per the protocol developed for this purpose.
- Stool analysis testing after the child turns one year old and when noticing any symptoms or illness complaints.
- Ultrasound examination.⁽²⁶⁾

What is meant by maternity and childhood services in the legal sense are those health services that are provided to the mother from the date of confirmation of pregnancy until birth and during the postpartum period, and health services that are provided to the child from the date of his birth until he reaches five years. Family planning services mean the plan that the spouses follow to help them make the appropriate decision at the appropriate time in which they want to have children, their number, and the duration between each of them. Family planning allows couples to make decisions about the methods they use based on accurate information and the family planning goals they have decided for themselves.⁽²⁷⁾ The Ministry of Health also provides free temporary contraception and tubal ligation within maternity and childhood services for both mother and child and family planning services for the mother.⁽²⁸⁾

Penal Code, No. 16 of 1960

The Penal code prohibited the conduct of marriage ceremonies in violation of the law when it dealt with crimes that affected the family, as the Jordanian legislator stipulated crimes related to marriage in Article (279) and punishes anyone who conducts marriage ceremonies or is a party to conduct those ceremonies in a manner inconsistent with the provisions of the Personal Status Law or Any other applicable legislation.

The Jordanian legislature considers the crime of adultery to be a crime against family morals, and punishes the adulterer and the adulteress, with their consent, with imprisonment from one to three years, and for a period of two years for the married adulterer or the married adulteress.⁽²⁹⁾ The same applies to incest, as the Jordanian legislator criminalized this act between ascendants and descendants, whether they were legitimate or illegitimate, and between brothers and sisters, paternal or maternal brothers and sisters, or those of their status among in-laws and relatives.⁽³⁰⁾ It also criminalized the act of abandoning and exposing a child under two years of age to danger, neglecting to support the child, placing a child in a foundling shelter, and concealing his identity.⁽³¹⁾

The Jordanian legislator devoted Chapter Seven of the Penal Code to crimes against ethics and public morals, and considered rape, sexual intercourse with a minor, indecent assault, kidnapping by deceit and coercion, deceiving a virgin with the promise of marriage, foreplay that is indecent, offering/committing an indecent act, and entering places designated for women from a man as crimes of assault on Honour. It also considered incitement to immorality and offering Obscene materials and acts contrary to public modesty (public indecency or obscenity) as crimes against morals and public morals.⁽³²⁾

(26) Instructions for maternity, childhood, and family planning services and their amendments No. (5) of 2004. Issued in Official Gazette No. 4673 dated September 1, 2004, on page 4258, Articles (3) and (5) thereof.

(27) Article (2) of the Instructions for Maternal, Childhood and Family Planning Services.

(28) Article (4) of the Instructions for Maternal, Childhood and Family Planning Services.

(29) Penal Code No. (16) of 1960. and its amendments. Issued in the Official Gazette No. 1487 dated 05/01/1960 on page 374, Article (282).

(30) Article (285) of the Jordanian Penal Code.

(31) Articles (288-290) of the Jordanian Penal Code.

(32) See the provisions of Chapter Seven, Chapters One and Two of the Jordanian Penal Code. It will be discussed later in this report.

The Jordanian Penal Code also criminalizes the abortion of women themselves by stipulating that any woman who aborted herself by any means or who consents to the use of such means shall be punished under article 321 of the Code. The same applies to abortion with the consent of the pregnant woman who offers any means to abort a woman with or without her consent.⁽³³⁾ The penalty is aggravated if the perpetrator of the crime is a doctor, surgeon, pharmacist, or midwife.⁽³⁴⁾

The law criminalizes anyone who incites a woman, whether she has a husband or not, to leave her home to join a strange man, or who alienate her from her husband, to sever the bond of marriage.⁽³⁵⁾

The Jordanian legislature criminalizes any person who publishes an object in print, manuscript, photograph, drawing or symbol that has the effect of insulting the religious feeling of other persons or of insulting their religious belief, or who utters in a public place and within earshot of another person a word or sound that might lead to Insulting the feeling or religious beliefs of that other person.⁽³⁶⁾

The Jordanian legislator also devoted a chapter in the Penal Code about the crimes against morals, public comfort, and public trust, criminalized anyone who prints, sells, or displays inscriptions, pictures, or drawings that portray Jordanians in an incorrect way that would undermine their dignity and prestige.⁽³⁷⁾ Anyone who commits an indecent act or expresses an indecent gesture in a public place or in a public community or in a way that anyone in a public place can see is a criminalized.⁽³⁸⁾ Anyone who acts in a public place in a manner that is immoral or disrupts public tranquillity is criminalized as well.⁽³⁹⁾ **(Share-Net Jordan's activities in this regard will be analysed in more detail later in this legal analysis report).**

Protection from Domestic Violence Law, No. 15 of 2017

The Family Protection Department officers are required to respond promptly to any complaint, information, or request for assistance or protection related to domestic violence pursuant to the law, and all parties that receive any complaint or information about any case of domestic violence must refer it to the Family Protection Department to take the necessary measures regarding it. All procedures and information related to domestic violence cases heard before any party, including the courts, shall be strictly confidential.

And the law obliges health, educational, or social service providers in the public and private sectors to report any case of domestic violence It happens to a person who is completely or partially incapacitated as soon as he/she becomes aware of it or is notified of it. Notification shall be made with the consent of the affected party if he has full capacity and the act committed against him constitutes a misdemeanour in accordance with the provisions of the law. The law also does not permit the disclosure of the identity of the complainants in domestic violence cases unless judicial procedures require otherwise.⁽⁴⁰⁾

(33) Articles (322 and 323) of the Jordanian Penal Code.

(34) Article (325) of the Jordanian Penal Code, whereby an amount of one third of the specified penalty is increased if it is committed by the aforementioned.

(35) Article (304/3) of the Jordanian Penal Code.

(36) Article (278) of the Jordanian Penal Code.

(37) Article (468) of the Jordanian Penal Code.

(38) Article (320/1) of the Jordanian Penal Code.

(39) Article (390/1) of the Jordanian Penal Code.

(40) Protection from Domestic Violence Law No. (15) of 2017. Issued in Official Gazette No. 5460 dated 5/16/2017, on page 3345, Articles (4 and 6).

Medical and Health Liability Law, No. 25 of 2018

The Medical and Health Liability Law defines Sex change in Article (2) of it as "Change in the sex of a person whose sexual affiliation is clearly masculine or feminine and whose sexual features are identical to their physiological, biological and genetic characteristics and whose sexual affiliation is not suspected of male or female. It also means deviation in the process of correcting sex contrary to the sexual character of the medical examinations". The same article defines Sex correction as "Medical intervention aimed at correcting the sex of a person whose affiliation is so vague that he is suspected of being male or female, such as having sexual physical features contrary to a person's physiological, biological and genetic characteristics, such as his features indicating that he is male while in fact he is female and vice versa ".

The law criminalizes sex change operations (sex affirming surgeries) and stipulates a felonious penalty of no less than three years and no more than ten years for this act.⁽⁴¹⁾ The law authorized the procedure of assisted reproduction of a woman or the implantation of an embryo in her uterus only by the husband and upon their consent thereto.⁽⁴²⁾ It is also not permissible to carry out any action or intervene with the intention of terminating a woman's birth, except with her written consent and based on an opinion issued by a specialized medical committee consisting of at least three specialized doctors, this excludes emergency cases.⁽⁴³⁾

Education Law, No. 3 of 1994

The Education Law stipulates that the philosophy of education in Jordan emerges from the Jordanian Constitution, the Arab Islamic civilization, the principles of the Great Arab Revolt, and the Jordanian national experience. This philosophy is represented in the following foundations:

a. Intellectual foundations:

1. Faith in God Almighty.
2. Belief in the ideals of the Arab nation.
3. Islam is an intellectual and behavioural system that respects humans, elevates the status of reason, and encourages knowledge, work, and creation.
4. Islam is an integrated value system that provides good values and principles that form the conscience of the individual and the group.
5. The relationship between Islam and Arabism is an organic relationship.⁽⁴⁴⁾

The law also stipulates that the general goals of education in the Kingdom emerge from the philosophy of education and are represented in the formation of a citizen who believes in God Almighty and belongs to his homeland and nation, who is endowed with human virtues and perfections and who develops in various aspects of the physical, mental, spiritual, emotional and social personality so that at the end of the stages of education the student becomes a citizen capable of understanding the rules. Health, practicing related habits, and sport activity to achieve balanced

(41) Medical and Health Liability Law No. (25) of 2018, issued in Official Gazette No. 5517 dated 5/31/2018 , on page 3420, Article (22) thereof.

(42) Article (13) of the law.

(43) Article (14) of the law.

(44) Education Law No. (3) of 1994, issued in Official Gazette No.3958 dated 4/2/1994. on page 608, Article (3) thereof.

physical growth.⁽⁴⁵⁾ The Ministry of Education provides appropriate counselling and preventive health care in government educational institutions and supervises its availability at the appropriate level in private educational institutions.⁽⁴⁶⁾

As for the instructions for describing and classifying jobs for government schools and their amendments, they stipulate that one of the duties of school nursing is to educate students about various health topics, such as chronic or infectious diseases, prevention and treatment, and others, such as adolescence and reproductive health.⁽⁴⁷⁾

Child Rights Law No. 17 of 2022

The Child Rights Law guarantees the right to free primary health services for children, and requires the Ministry of Health to take, in coordination with the competent authorities, all necessary measures to ensure that the child enjoys the highest level of health with regard to providing the child and his/her parents or the person entrusted with his/her care with basic information related to his/her health and nutrition, including benefits of breastfeeding. As well as preventing practices harmful to children's health. In addition to preventing infectious, dangerous and chronic diseases with the approval of his/her parents and creating specialized centres to treat and rehabilitate the child in cases of addiction to drugs, psychotropic substances, or volatile substances, according to the available capabilities.⁽⁴⁸⁾

The law also mandated the Ministry of Education to coordinate with the competent authorities to take measures to ensure the provision of awareness programs related to the child's growth, health, and physical and psychological development, and to ensure his/her education and the provision of health education to him at all educational levels in a way that is appropriate to his/her age and awareness and consistent with religious and social values.⁽⁴⁹⁾

The Jordanian legislator recognized in the law the necessity of taking into account the rights and duties of the child's parents or those who take their place in education and guidance in accordance with religious and social values, and obligated the competent authorities, in accordance with the legislation in force, to adopt policies and take all measures that prevent the child from being exposed to or accessing any content that involves pornography, abuse, or exploitation, and for this purpose it may seize, stop, confiscate or destroy publications, books, recordings, photos, films, correspondence or other means and prevent their circulation.⁽⁵⁰⁾

The law obligates educational, health and social service providers, labor inspectors, and anyone who knows about exposing a child to violence, mistreatment and exploitation, or exposing the child to any form of human trafficking, prostitution, exploitation in pornography, or any other form of sexual abuse, or exposing the child to economic exploitation, including forced labor, or forced the child to work, beg, or neglect the child, whether by abandoning him unjustifiably by his/her parents or the person entrusted with his/her care, or leaving him unaccompanied,

(45) Article (4)e) of the Education Law.

(46) Article (6)e) of the Education Law.

(47) Instructions for job descriptions and classification for government schools and their amendments No. (46) of 2001, issued in Official Gazette No. 4852 dated 9/16/2007. on page 5710, article (55)

(48) Child Rights Law No. (17) of 2022, issued in Official gazette No. 5820 dated 10/12/2022. on page 7039, Article (10) thereof.

(49) Article (16\c) of the Child Rights Law.

(50) Article (8, Paragraphs A+B) of the Child Rights Law.

or refusing to accept him/her from his/her parents or the person entrusted to care for him/her when a custody decision is issued, or refraining from treating him/her, or habitually withholding food from him, by informing the competent authorities.⁽⁵¹⁾

Juvenile law, No. 32 of 2014

The Juvenile Law stipulates that the best interest, protection, reform, rehabilitation, and care of the juvenile be taken into account.⁽⁵²⁾ It is necessary to prevent the mixing of detained or convicted juveniles with accused or convicted adults at all stages of investigation, trial, and during implementation.⁽⁵³⁾ The law specifies the cases that require protection or care for the juvenile as follows ⁽⁵⁴⁾: -

A juvenile who meets any of the following conditions is considered to be in need of protection or care:

- A. If he is under the care of a person who is not qualified to care for him/her, due to his/her habitual crime, his/her addiction to alcohol, narcotic substances, or psychotropic substances, his/her moral decay, or he/she has been convicted of committing an immoral crime with any of his/her children or any of those entrusted to his/her care.
- B. If he/she engages in acts related to prostitution, debauchery, corruption of morals, gambling, or any other illegal acts, or serves those who do these acts, or associates with those who are known to be disreputable, or takes advantage of any of them, including acts of begging or ask for giving.
- C. If he/she does not have a stable place, or he/she usually stayed on the roads.
- D. If he/she does not have a legitimate means of living or does not have a reliable breadwinner and his father or one of them is dead, imprisoned, or absent.
- e. If he/she has bad behaviour and is outside the authority of his father, guardian, custodian, or mother, or if the guardian is dead, absent, or incapacitated.
- F. If he/she is begging, even if he hides it up by any means.
- g. If he/she is a street vendor or a waste dealer.
- H. If he/she is subjected to intentional harm by his parents or any of them in a way that exceeds the forms of discipline permitted by law and general custom.
- I. If he/she is exposed to danger while remaining with his family.
- Y. If he/she is under twelve years of age and commits a misdemeanour or felony.
- K. If it is a juvenile operating in contravention of the applicable legislation.

The law obliges the probation officer and any person working in the health, educational, and social fields who denies a juvenile while exercising his job, in any of the circumstances in which the juvenile is deemed to be in need

(51) Article (21) of the Child Rights Law.

(52) Juvenile Law No. (32) of 2014, issued in Official Gazette No. 5310 dated 11/2/2014. on page 6371, Article (4/A).

(53) Article (5) of the Juvenile Law.

(54) Article (33) of the Juvenile Law.

of care and protection (mentioned above), to inform the juvenile police or the nearest security centre of this.⁽⁵⁵⁾

Personal Status Law, No. 15 of 2019

The Jordanian Personal Status Law is closely linked to reproductive and sexual health. It includes many rights related to reproductive and sexual health, particularly the provisions concerning marriage and family. Some of the provisions of the law include the following: -

- **Marriage age:** The law sets the age of marriage for males and females.
- **Consent to marriage:** Imposing a condition of consent from both spouses on marriage.
- **Family responsibility:** The law imposes joint responsibility on spouses to take care of the family and defines the rules of guardianship and custodianship.
- **Women's marital rights:** The law guarantees women's rights in marriage, dowry, divorce, inheritance, alimony, and other matters Associated with marriage, divorce, and family ties.

One of the most important provisions of the law regarding marriage is that it is a contract between a man and a woman who is legally entitled to form a family and to establish a progeny (offspring).⁽⁵⁶⁾ It is a condition of eligibility for marriage that the suitor and fiancée be of sound mind and that each of them has reached eighteen "solar" years of age. Nevertheless, the law allows the judge, with the approval of the Chief Justice and after verifying the availability of consent and choice, to authorize, in special cases, the marriage of someone who has reached sixteen "solar" years of his age in accordance with specific instructions issued for this purpose⁽⁵⁷⁾ if there is a necessity in his/her marriage required by the interest, and whoever marries in accordance with this acquires full capacity in everything related to marriage, divorce, and their effects.⁽⁵⁸⁾ Each of the spouses has a financial liability independent of the other.⁽⁵⁹⁾ It is worth mentioning that the texts, interpretation, clarification and significance of the articles of this Law are due to the origins of Islamic jurisprudence.⁽⁶⁰⁾

Personal Data Protection law, No. 24 of 2023

The Jordanian Personal Data Protection Law defines personal data as: "any data or information related to an individual that could identify him directly or indirectly, regardless of its source or form, including data related to his person, family situation, or whereabouts." The law also defined sensitive personal data as: "Any data or information related to an individual person that indicates, directly or indirectly, his origin or race, or indicates his opinions, political affiliations, or religious beliefs, or any data related to his financial situation or his health, physical, mental, or genetic condition, or his biometric fingerprints, or his criminal record, or any information or data that the Council decides to consider sensitive if their disclosure or misuse would cause harm to the person concerned." He defined databases as: "electronic or non-electronic files or records that contain data."

(55) Article (36) of the Juvenile Law.

(56) Personal Status Law No. (15) of 2019, issued in Official gazette No. 5578 dated 6/2/2019. on page 3181, Article (5) thereof.

(57) Instructions for granting marriage permission to those who have completed fifteen solar years of age but not eighteen years of age No. (1) of 2017, issued in Official gazette No. 5472 dated 7/16/2017. on page 4500. See also the instructions for courses for those about to marry for the year 2023 AD, Published in Official gazette No. 5849 dated 4/2/2023. on page 1664.

(58) Article (10) of the Personal Status Law.

(59) Article (320) of the Personal Status Law.

(60) Article (323) of the Personal Status Law.

The law defined processing as: "one or more operations performed in any form or means with the aim of collecting, recording, copying, preserving, storing, organizing, revising, exploiting, using, transmitting, distributing, publishing, linking to other data, making available, transmitting, displaying, or concealing its identity, encoding, destroying, restricting, erasing, modifying, describing, or disclosing it by any means."⁽⁶¹⁾

Article (4) of the law stipulates that: "Every individual has the right to protect his data, and it may not be processed except after obtaining the informed consent of the person concerned or in cases authorized by law." And Article (6) stipulates that: "Processing is considered legal and legitimate and may be performed without obtaining prior consent or informing the person concerned in the following cases: A--.....2-If it is necessary for preventive medical purposes, medical diagnosis, or providing Health care by someone licensed to practice any of the medical professions... B- It is not permissible to retain the data that has been processed after the end of the purpose of processing unless legislation stipulates otherwise. "

Securing the right to access information Law, No. 47 of 2007

The law stipulates that every Jordanian has the right to obtain the information he requests in accordance with the provisions of this law if he has a legitimate interest or a legitimate reason. It is not permissible to request information that bears the nature of religious, racial or ethnic discrimination, or discrimination based on sex or colour. The officials must also refrain from disclosing information related to personal files related to people's educational or medical records, job records, accounts, bank transfers, or professional secrets, as well as correspondence of a personal and confidential nature, whether by mail, telegram, telephone, or via any other technical means. With government departments and answers to them. The law also requires each department to index and organize the information and documents available to it according to established professional and technical principles, and to classify what must be considered confidential and protected according to the applicable legislation.⁽⁶²⁾

Communications law, No. 13 of 1995

The law defines a telecommunications service as: "a service that consists, in whole or in part, of sending, receiving, and passing information over telecommunications networks using any telecommunications process."⁽⁶³⁾ This law criminalizes anyone who provides or contributes to providing telecommunications services that violate public order or public morals.⁽⁶⁴⁾ It also arranges the cancellation of the license completely, for a specific service, or in a specific area, if the licensee commits that violation.⁽⁶⁵⁾ Article (56) of the law also stipulates that telephone calls and private communications are considered confidential matters that may not be violated, subject to legal liability.

The law criminalizes in Article (75/A): "Anyone who submits, by any means of communication, threatening or insulting messages, immoral messages, or transmits fabricated news with the intention of causing panic."

(61) Personal Data Protection Law No. (24) of 2023, issued in Official Gazette No. 5881 dated 9/17/2023. on page 4338, Article (2) thereof.

(62) Securing the right to access information Law No. (47) of 2007, issued in Official Gazette No. 4831 dated 6/17/2007, on page 4142, Articles (7+10+13).

(63) Telecommunications Law No. (13) 1995, issued in Official Gazette No. 4072 dated 10/1/1995. on page 2939, Article (2) thereof.

(64) Article (75\b) of the Telecommunications Law.

(65) Article (40) of the Communications Law.

Publications and Publishing Law, No. 8 of 1998

This law defines the printed matter as: “Every means of publication in which meanings, words, or ideas are recorded in any way, including electronic, digital, or technical means.”⁽⁶⁶⁾ The law obliges the publication to “seek the truth, adhere to accuracy, impartiality, and objectivity in presenting journalistic material, and refrain from publishing anything that conflicts with the principles of freedom, national responsibility, human rights, and the values of the Arab and Islamic nation.”⁽⁶⁷⁾ The law stipulates that it is not permissible to publish incorrect information. If a press publication publishes incorrect news or an article that contains incorrect information related to the public interest, the editor-in-chief must publish, free of charge, the written response or correction that he receives from the concerned authority or from the director in the issue that follows the date of its receipt. The response or correction must be made in the same place and in the same letters in which the news or article appeared in the press publication. The editor-in-chief of the press publication may refuse to publish the response or correction he receives if the content of the response or correction violates the law or public order or is contrary to public morals⁽⁶⁸⁾

The law also prohibits publishing any of the following:

- A. Anything that includes contempt, slander, or disparagement of one of the religions whose freedom is guaranteed by the Constitution, or abuse of it.
- B. Anything includes attacking or insulting the Lords of the laws, such as the prophets, through writing, drawing, pictures, symbols, or any other means.
- C. Anything constitutes insulting religious feelings or belief, or inciting sectarian or racist strife.
- D. Anything includes contempt, disparagement, or slander of individuals, or affects their personal freedoms, or what includes false information or rumours against them.⁽⁶⁹⁾

Military Penal Act No. 58 of 2006

The Military Penal Code - which applies to all officers or members of the Armed Forces, Public Security, and General Intelligence-, criminalizes whether they are perpetrators, instigators, or accomplices, even if they lose their military status after committing that crime - those who have consensual sexual relationships with people of the same sexual orientation. And stipulates: "Anyone who has consensual sexual intercourse with another person of the same sex shall be punished by imprisonment for a period not exceeding two years."⁽⁷⁰⁾

Cybercrime law, No. 17 of 2023

In this law, the Jordanian legislator criminalized anyone who uses the information network, information technology, information system, or creates an electronic website to facilitate, promote, incite, assist, or incite prostitution

(66) Publications and Publishing Law No. (8) of 1998, issued in Official Gazette No. 4300 dated September 1, 1998. on page 3162, Article (2).

(67) Article (5) of the Publications and Publishing Law

(68) Articles (27 and 28) of the Press and Publications Law.

(69) Article (38) of the Press and Publications Law.

(70) Military Penal Code No. (58) of 2006, issued in Official gazette No. 4790 dated 11/1/2006 on page 4274. Article (53) thereof.

and immorality, seduce another person, or violate public morals.⁽⁷¹⁾ The law also criminalizes anyone who possesses, without permission, a device, program, or any prepared electronic data, password, or access codes, or provides, produces, distributes, imports, exports, or promotes it, for the purpose of committing any crime stipulated in the law.⁽⁷²⁾ The same applies to anyone who circumvents the protocol address by using a fake address, an address belonging to a third party, or by any other means, with the intention of committing a crime or preventing its discovery.⁽⁷³⁾

The law punishes anyone who sends, publishes, prepares, produces, saves, processes, displays, prints, buys, sells, transfers, or promotes pornographic activities or works using the information network, information technology, information system, or website, or if this content is images, or recordings, drawings, or other sexually stimulating sexual organs or real, virtual, or simulated sexual acts of a juvenile under the age of eighteen, or designed to entice him/her, or whose purpose was to direct or incite him/her to commit a crime, or with the intention of exploiting him/her, or if this content related to a person suffering from a mental illness, or with a mental disability, and anyone who possesses within the information system or data storage support images, recordings, drawings, or other sexually provocative images of sexual organs, or real, virtual, or simulated sexual acts of a juvenile under the age of eighteen, or if the content relates to a person suffering from a mental illness or with a mental disability.⁽⁷⁴⁾

The law also criminalizes anyone who intentionally uses the information network, information technology, information system, website, or social media platform to publish anything that might incite discord or strife, target community peace, incite hatred, call for or justify violence, or contempt of religions⁽⁷⁵⁾ **(Share-Net Jordan's activities in this regard will be analysed in more detail later within this legal analysis report).**

(71) Cybercrime Law No. (17) of 2023, issued in Official gazette No. 5874 dated 8/13/2023, on page 3579, Article (14/A) thereof.

(72) Article (11) of the Cybercrime Law.

(73) Article (12) of the Cybercrime Law.

(74) Article (13) of the Cybercrime Law.

(75) Article (17) of the Cybercrime Law

6 Legal analysis of cybercrime and penal code with the most important elements of reproductive and sexual health

Firstly, it must be noted that the elements of reproductive and sexual health are broad, comprehensive and complex, and therefore it is difficult to enumerate them and what is specifically related to them. However, this legal analysis of the most important elements of reproductive and sexual health will include a study of the laws related to human rights and reproductive and sexual health that Share-Net Jordan is working on, including laws related to abortion, women rights to natural breastfeeding, natural childbirth, rights of access to reproductive health care services, and others. Given that this analysis necessitates an understanding of the articles in the Cybercrime Law and the Penal Code related to protecting reproductive health and ensuring human rights in this context, or those articles that could affect the reproductive and sexual health activities practiced by Share-Net Jordan. It should be noted that the aim of this consultation and legal analysis of reproductive and sexual health is to provide a comprehensive assessment of the current legal situation and potential recommendations to enhance and protect individuals and Share-Net Jordan and its activities in the field of reproductive and sexual health, and any other legal dimensions linked to Share-Net Jordan practices, while addressing more general aspects when the need arises in terms of facilitation and analysis.

Sexual health and reproductive health are distinct from each other, although they are closely related. Sexual health, as defined by the World Health Organization, is “the state of physical, emotional, mental and social well-being in relation to sexuality.”⁽⁷⁶⁾ Reproductive health, as set out in the Program of Action of the International Conference on Population and Development, is about the ability to reproduce and the freedom to make informed, free and responsible decisions. It also includes access to a range of reproductive health information, goods, facilities and services to enable individuals to make informed, free and responsible decisions about reproductive behaviour.⁽⁷⁷⁾

As for sexual rights, the legal analysis of those rights in national laws such as Jordan is considered an important and sensitive topic. It is important to ensure that laws do not discriminate against people on the basis of their sexual rights, protect the sexual rights of individuals, and address what women and girls in particular and other vulnerable groups in general face. Issues related to sexual rights, such as sexual violence, premature/forced marriage, female genital mutilation, etc. Also ensure that national laws address these issues effectively, and that they are compatible with the prevailing social, cultural and religious norms and social heritage (and all of this is linked to the system of public order and public morals). This area covers many reproductive and sexual health issues, such as the right of women to a healthy childbirth and the necessary medical services, the right of couples to determine the number of children and the appropriate period of pregnancy for them, in addition to the rights of young people to sexual education and access to reproductive health services, among others. Linking all this with related legal texts.

(76) Please review, World Health Organization, Sexual Health, Human Rights and the Law (2015), Working Definition on Sexual Health, Section 1-1.

(77) Please review, Program of Action of the International Conference on Population and Development, paragraph 7.

It should also be noted that the rights of recipients of sexual and reproductive health services have not been limited to a specific document or policy, but general comments issued by international convention committees have referred to these rights by explaining the mechanism for enjoying these services, and many national legislations and medical accreditation standards It referred to the rights of recipients of health services in various locations, and by reviewing these documents, these rights can be deduced, and this is what will be explained with regard to Share-Net Jordan. Taking into account the aforementioned definitions of reproductive and sexual health, the rights associated with it include some human rights recognized in international and regional human rights documents and other consensus in international and national documents and laws.⁽⁷⁸⁾ This is what we find at the national level. It is noted that the Jordanian legislator has established multiple texts in several laws that arrange legal provisions that protect the reproductive and sexual health of individuals and organizations.

In order to achieve the purpose and objectives of this legal consultation and analysis, the legal texts related to reproductive and sexual health will be limited to the Jordanian cybercrime and penal Code laws, or those texts of other laws that may affect them and intersect with the work of Share-Net Jordan, according to the topic or element of reproductive and sexual health, so that the element and the legal text related to it or that may affect it, along with an explanation of the nature of that influence. The legal analysis will be done in a way that achieves the answer to the purpose and objectives and ensures the achievement of all the desired outcomes from the legal consultation and analysis, especially with regard to prohibitions and the limits of the legal prosecutions and accountability of individuals, organizations and legal entities.

6.1 Health, reproductive and sexual health rights topics for Share-Net Jordan and the legal impact of cybercrime law and penal code

6.1.1 Inclusion of sex education in children's educational curricula and coverage of subjects that can be integrated into education services:

At the outset, we mention the decision of the Fatwa Council in the Jordanian General Fatwa Department regarding sexual education in Islamic culture and the Islamic Sharia's opinion on it. It was stated in the Fatwa Committee's decision regarding this matter: "Sexual education means educating children and making them aware of some issues of puberty, sexual desire, and marriage. It is an education derived - for us Muslims - from the provisions of Islamic Sharia. Its goal is to protect Muslim children from behaviors that are far from our Islamic culture, and to instill correct perceptions in them." The minds of our children when they are young, even when they grow up, they know what is permissible and what is forbidden for them, and they become armed with virtuous Islamic morals in their daily lives. Sexual education does not mean teaching sex, but rather raising children and guiding them in these matters from a religious and moral perspective that is consistent with the provisions of Islamic Sharia, and this protects children from the company of bad friends or the wrong experiences that our children fall into. We want to remind parents of their duty to their children under these circumstances, when there is an abundance of media broadcasting that could have undesirable consequences for them."⁽⁷⁹⁾

(78) Rights of Recipients of Sexual and Reproductive Health Services and People Most Vulnerable to Marginalization in Jordan: Gaps in Practice - Information and Research Center, 2023. Page 38.

(79) General Fatwa Department, Fatwa Committee Resolution No. (792) on sexual education in Islamic culture, dated 6/22/2010. Available at the following link: <https://aliftaa.jo/fatwa/792/%D8%A7%D9%84%D8%AA%D8%B1%D8%A8%D9%8A%D8%A9-%D8%A7%D9%84%D8%AC%D9%86%D8%B3%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%AB%D9%82%D8%A7%D9%81%D8%A9-%D8%A7%D9%84%D8%A5%D8%B3%D9%84%D8%A7%D9%85%D9%8A%D8%A9>

The Cybercrimes and Penal code did not address this topic directly, nevertheless, understanding the impact of the two laws on this topic requires studying the legislation regulating it or those that define its frameworks and the foundations on which it is based. For example, the Education Law stipulates in Article (6/e) that the Ministry of Education shall provide appropriate indicative and preventive health care in Government educational institutions and supervising their availability at the appropriate level in private educational institutions. The implication of this is that the duty of educating school students about the concepts of reproductive and sexual health falls on the state, specifically the Ministry of Education. Accordingly, it has become among the goals of the school curricula to provide awareness of the concept of reproductive and sexual health for students.⁽⁸⁰⁾ The law set the most important determinants and controls for this activity (representing raising school students' awareness of the concepts of reproductive and sexual health) in Articles (3 and 4) when it required that the foundations of the philosophy of education in the Kingdom emerge from the Jordanian Constitution, the Arab-Islamic civilization, the principles of the Great Arab Revolt, and the Jordanian national experience. This philosophy is represented in:

a. Intellectual foundations:

1. Faith in God Almighty.
2. Belief in the ideals of the Arab nation.
3. Islam is an intellectual and behavioural system that respects humans, elevates the status of reason, and encourages knowledge, work, and creation.
4. Islam is an integrated value system that provides good values and principles that form the conscience of the individual and the group.
5. The relationship between Islam and Arabism is an organic relationship.

Accordingly, the goals of any educational activity, whether awareness-raising or educational, must emerge from the philosophy of education, which is to form a citizen who believes in God Almighty, belongs to his homeland and nation, is endowed with human virtues and perfections, and develops in various aspects of the physical, mental, spiritual, emotional, and social personality, so that at the end of the stages of education, the student becomes A citizen capable of understanding health rules, practicing related habits, and sporting activity to achieve balanced physical growth.

The Jordanian legislator also reiterated this in Article (8) of the Child Rights Law when it stipulated the necessity of taking into account the rights and duties of the child's parents or those who take their place in education and guidance in accordance with religious and social values. In the same article, Paragraph (B), it obligated the competent authorities in accordance with the legislation in force to adopt Policies and taking all measures to prevent the child from being exposed to or accessing any content that involves pornography, abuse, or exploitation. For this purpose, it may seize, stop, confiscate, or destroy publications, books, recordings, photos, films, correspondence, or other means, and prevent their circulation. This was emphasized in Article (16\c) when it stipulated that the Ministry of Education was mandated to coordinate with the competent authorities to take measures to ensure the

(80) 80. Legal protection of reproductive and sexual health in Jordanian legislation. Abeer Dababneh, Areej Othman, Joel Gusman, Maysoon Al-Atoum, Studies and Research, Arab Journal in the Humanities and Social Sciences, 2020. Page 688.

provision of awareness programs related to the child's growth, health, and physical and psychological development, and to ensure his education and the provision of health education to him at all educational levels in a manner consistent with His age and perception are compatible with religious and social values.

This shows that the acceptability of the inclusion of sex education in children's educational curricula or comprehensive sex education is legislated within religious and social values and that the intellectual foundations must be based on the constitutional principle that Islam is the religion of the State. and the legal principle that Islam is an integrated value system that provides good values and principles, it is also a behavioural intellectual system that respects human beings, elevates the status of the mind and stimulates science, action and creation. According to this, it applies to all age groups at the educational levels prescribed in the Education Law.⁽⁸¹⁾

Bearing in mind that sex education is a sensitive subject in Arab culture and it's hard to think about it and talk about it publicly, and it's a disadvantage to people. The problem lies, and if we do not provide correct information about this type of education to students in a systematic and meaningful way, that they'll get the information the way they want and they'll go into the porn space through social media, they infer a negative sexual culture that affects their upbringing and behaviour in a negative way.⁽⁸²⁾

And the Jordanian legislator regarding the issue of awareness-raising did not restrict the concerned parties to conduct awareness-raising through a specific means. Since the goal of awareness-raising is to protect the reproductive and sexual health of individuals, any methodology that leads to delivering information to them is considered acceptable and can be used to raise awareness of that concept, such as the media and social media. Strategies concerned with family planning emphasize the importance of raising awareness of the concept of reproductive health through various means⁽⁸³⁾ with emphasizing that the intellectual foundations and methods must be consistent with the religious and social values prevailing in Jordanian society. And that it does not deviate from the foundations of the philosophy of education in the Kingdom, which were determined by law and we explained previously.

6.1.2 Promoting milk substitutes for infants in any publication on service provision sites and on social media platforms.

The Cybercrimes and Penal code did not address this issue directly, and to understand the legal position on promoting milk substitutes for infants, we must refer to the provisions of Article (4) of the Public Health Law, which stipulates that the Ministry of Health, in coordination with the relevant authorities, works to encourage breastfeeding. To this end, it has the right to prevent any means of advertising, whether visual, audio, or read, or any means of displaying notes, instructions, identification cards, display sheets, pictures, films, or merchandise in any form to advertise breast milk substitutes and complementary foods, and to monitor production and design.

(81) Article (7/A) of the Education Law, which classifies educational institutions in terms of their stages into the following types: 1. The kindergarten stage, which lasts for two years at most. 2. The basic education stage lasts ten years. 3. The secondary education stage lasts for two years.

(82) A proposed model of sexual education concepts for science textbooks at the basic stage in Jordan, Heba Obaidat, Journal of Human Science Studies - University of Jordan, Volume 45, Issue 4, Supplement 5, 2018.

(83) Legal protection of reproductive and sexual health in Jordanian legislation. Abeer Dababneh, Areej Othman, Joel Gusman, Maysoon Al-Atoum, previous reference, page 688.

And disseminate information and educational materials related to it. The Child Rights Law stipulates in Article (9) the child's right to breastfeeding.⁽⁸⁴⁾ This is in accordance with what is stipulated in the Personal Status Law, which regulates the issue of breastfeeding within the family. It mandates breastfeeding, obliges the mother to breastfeed her child in some cases, and obligates the father to hire someone to breastfeed his child in some other cases.⁽⁸⁵⁾ The issue of providing breastfeeding to the child as described above is consistent with the principle of the best interest of the child.⁽⁸⁶⁾ The Jordanian legislator also stipulated in Article (71) of the Labor Law that the working woman, after the end of maternity leave, has the right to take, within one year from the date of birth, a paid period or periods for the purpose of breastfeeding her new-born, the total of which does not exceed one hour per day⁽⁸⁷⁾.

The text prohibits the circulation of infant formula, special formula, and complementary foods for them unless they are duly approved by the Food and Drug Administration. Any quantities imported or produced locally or cleared from customs centers will be confiscated before they are approved by the specialized committee.⁽⁸⁸⁾

The Jordanian legislator defined breast-milk substitutes in Article (2) of the regulation controlling the marketing of breast-milk substitutes⁽⁸⁹⁾ as “milk or food product that is marketed or presented in any way as a partial or complete substitute for breast milk for an infant under one year old, and includes the products stipulated in Article (3) From the regulation.” Marketing for milk substitutes is defined in the same article of the regulation as “the use of any visual, audio or read advertising means, or any model or any means of displaying notes, instructions, identification cards, display sheets, pictures, films or goods in any form to advertise breast milk substitutes.” Or promoting, distributing or selling them, directly or indirectly, to encourage a person to buy or use these alternatives.” The Jordanian legislator confirmed the prohibition of marketing any breast milk substitutes in any place, including those concerned with or working directly or indirectly in health care for mothers, infants, and pregnant women, organizations, associations, nurseries, child care institutions, pharmaceutical institutions, commercial stores, hospitals, and health centres.⁽⁹⁰⁾ The regulation also gave the Minister of Health, based on the recommendation of the technical committee, the right to ban any advertising or marketing method that was not stipulated in the regulations.

In the instructions for implementing the regulations controlling the marketing of breast-milk substitutes,⁽⁹¹⁾

(84) Child Rights Law, Article 9, which states: “The child has the right to custody, breastfeeding, maintenance, and communication with his parents in accordance with personal status legislation.”

(85) Jordanian Personal Status Law, Articles (166) to (169).

(86) Legal protection of children in Jordanian legislation and international conventions, Abeer Dababneh, Journal of Studies and Research, Arab Journal of Humanities and Social Sciences, Volume 12, Issue 3, 2020.

(87) Jordanian Labor Code No. 8 of 1996, promulgated in the Official Gazette No. 4113 of 16/4/1996. On page 1173.

(88) The foundations for approving the circulation of infant formula, special formula, and complementary foods for them, and canceling the circulation of any of them, issued by the Board of Directors of the General Food and Drug Administration, based on Article (5) of the Drug and Pharmacy Law, and Article (7k) of the Food and Drug General Corporation Law, published in Official Gazette No. 5444 dated 2/16/2017. On page 1213. Article 3 thereof.

(89) Regulations for controlling the marketing of milk substitutes No. (62) of 2015, issued in Official Gazette No. 5349 dated 7/16/2015, on page 6796.

(90) Article (4\A\1) of the regulations controlling the marketing of milk substitutes.

(91) Instructions for implementing the regulations controlling the marketing of breast milk substitutes, issued pursuant to Article (16) of the regulation controlling the marketing of milk substitutes, in Official Gazette No. 5524 dated 7/16/2018, on page 4509.

the Jordanian legislator emphasized that it is prohibited to do any of the following actions:

- Marketing any of the following breast milk substitutes for use up to the age of one year for the child:
 1. Infant milk formula.
 2. Infant foods.
 3. Follow-up milk for infants.
 4. Special formula for infant feeding.
 5. Complementary foods for infants.
 6. Any other product approved by the Minister based on the request of the Technical Committee.
- Giving samples of breast milk substitutes (until the first year of the child's life).
- Using signs related to breast milk substitutes up to the first year of the child's life in any place.
- Marketing any breast milk substitutes through seminars, scientific workshops, conferences, and other similar events, which are funded by companies that produce artificial milk, or their agents or distributors.⁽⁹²⁾

Anyone who violates the provisions of this regulation shall be punished with the penalties stipulated in the Public Health Law. Article (66) of the Public Health Law⁽⁹³⁾ stipulates that "taking into account any more severe penalty stipulated in any other legislation, anyone who violates any of the following shall be punished by imprisonment from two months to one year or by a fine of not less than five hundred dinars and not more than one thousand dinars, or by both of these penalties." The provisions of this law or the regulations issued pursuant to it, and there is no penalty for it in this law."

According to the foregoing, article (26) of the Cybercrime Act stipulates that "Anyone who commits, participates in, interferes in or incites to commit any offence not provided for in this Act and is punishable by any legislation using the information network, information technology, information system or website shall be punished by the penalty provided for in that legislation."

6.1.3 Promoting the child's right to freedom of thought, conscience, religion, sexual health, adoption, and alternative care for a child deprived of his family environment (permanently or temporarily):

In 1991, Jordan ratified the International Convention on the Rights of the Child, but it expressed its reservations on several articles in the convention, especially Article (14) related to the right to freedom of thought, conscience, and religion, as well as Articles (20) and (21) related to the regulation of adoption and alternative care for deprived children.

(92) Article (3) of the instructions for implementing the regulations controlling the marketing of milk substitutes.

(93) Article (14) of the regulations controlling the marketing of milk substitutes.

Permanently or temporarily from his family environment. Jordan justified its reservations about these articles because they conflict with the tolerant teachings of Islamic law.⁽⁹⁴⁾ However, at the same time, we note that the Jordanian legislator has worked to preserve the basic rights of the child within the society in which he lives, and in this context, many articles have been enacted to ensure that the child lives a decent life in his society, and these texts include, but are not limited to:

The right to a name and lineage: The right for a child to have a suitable name and to be attributed to his parents is considered an inherent right for the child to live, and this is what the law approved, as Article number (6) of the Child Rights Law stipulates that:

A - The child has the right to a name that distinguishes him, and this name is registered at birth in birth records in accordance with the Civil Status Law.

B- The child's name may not be contemptuous or insulting to his dignity, contrary to religious beliefs or social values, or offensive to public order or likely to cause harm.

C - The child has the right to be attributed to his parents, to enjoy their care, and to prove his lineage to them in accordance with personal status legislation.

The right to representation and freedom of opinion and expression: The Child Rights Law also recognizes the right of the child to represent himself in front of judicial and administrative authorities, in person if possible, or through his legal representative. It also recognizes the child's right to express opinion and expression in a manner consistent with public order and public morals. Article (7) of the Child Rights Law stipulates that: Taking into account the legislation in force, the child has the right to:

A- Freedom of opinion and expression in accordance with public order and public morals, provided that the child's opinions are taken into account with the appropriate consideration in accordance with his age and degree of maturity.

B- Hearing him in any judicial or administrative procedures that may affect him, either directly or through his representative, in accordance with the applicable procedural rules.

The right to a proper upbringing and the prohibition of pornographic materials: The Jordanian legislator was keen for the child to receive a proper upbringing that suits Jordanian society religiously and socially, and was also keen to spare the child from being exposed to pornographic materials by giving a license to the competent authorities to monitor any content that might harm the child and prevent it from accessing it. For the child, Article (8) of the Child Rights Law stipulates that:

A - Taking into account the rights and duties of the child's parents or those who take their place in education and guidance in accordance with religious and social values and relevant legislation, the child has the right to respect

(94) This is evident according to what the United Nations states: "The Hashemite Kingdom of Jordan expresses its reservations and does not consider itself bound by Articles 14, 20, and 21 of the Convention, which grant the child the right to freedom of choice of religion and relate to the issue of adoption, because they conflict with the provisions of tolerant Islamic Sharia." Available at the following link: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-11&chapter=4&clang=_en#EndDec

his private life and is prohibited from being subjected to any arbitrary interference or illegal procedure in his life, family or home. It is also prohibited to harm his honour or reputation.

B- The competent authorities are obligated, in accordance with the legislation in force, to adopt policies and take all measures to prevent the child from being exposed to or accessing any content that involves pornography, abuse, or exploitation. To do so, they may seize, stop, confiscate, or destroy publications, books, recordings, photos, or films. Or correspondence or other means and preventing their circulation.

The right to alternative family care: The Jordanian legislator guaranteed alternative care for a child deprived of his family environment, as Article (13) of the Child Rights Law stipulates that: “A child who is temporarily or permanently deprived of his family environment has the right to alternative care by decision of the competent judicial authority, and it shall be taken.” The Ministry of Social Development, in coordination with the competent authorities, shall take the necessary measures for this in accordance with the relevant legislation, taking into account the best interest of the child.”

Child health rights: The Jordanian legislature is also concerned with all matters relating to the child's health from birth until the legal age. Several articles affirm the concern of the Jordanian legislature and in this there were several articles confirming the Jordanian legislator's concern for the child's health during the stages of his life, and among these articles from the Child Rights Law were:

Article (9):

The child's has the right to custody, feeding, financial support, and communication with their parents according to personal status.

Article (10):

A- The child has the right to obtain free primary health services.

B- Health services are provided free of charge to a child who does not benefit from any health insurance in emergency situations that threaten his life.

C- The Ministry of Health works to develop and implement comprehensive policies and programs to improve children's health services and allocates sufficient resources to children's health care services.

D- The Ministry of Health shall take the necessary measures to implement the provisions of Paragraph (A) of this Article, provided that it begins implementing them within a period not exceeding two years from the effective date of the provisions of this law and completes their implementation within a period not exceeding (10) years.

E- All affairs related to the implementation of the tasks and duties assigned to the Ministry of Health shall be organized in accordance with the provisions of this article, the stages of implementation, and the target groups and ages in accordance with a regulation issued for this purpose.⁽⁹⁵⁾

(95) It is worth noting here the regulation for licensing and managing children's residential care homes (shelters) No. (49) of 2009, which regulates the work of children's residential care homes that aim to provide the appropriate environment for the child's growth in a safe family atmosphere in which he enjoys good physical and mental health, so that he becomes socially and emotionally qualified and able to Learning in the event that he is not provided with the possibility of living under the care of any member of his original family, or any suitable alternative family.

Article (11):

The Ministry of Health, in coordination with the competent authorities, takes all necessary measures to ensure that the child enjoys the highest level of health, including the following: –

- A- Developing preventive health care, health guidance and information.
- B- Providing the child and his parents or the person entrusted with his care with basic information related to his health and nutrition, including the advantages of breastfeeding.
- C- Prevention of infectious, dangerous, and chronic diseases with the approval of his parents.
- D- The child's right to a safe, healthy, clean and safe environment.
- E- Developing programs and policies in the field of awareness and guidance on health aspects related to children and their surrounding environment.
- F- Developing special programs to train workers in the child health sector.
- G- Preventing practices harmful to children's health.
- H- Finding specialized centres to treat and rehabilitate children in cases of addiction to drugs, psychotropic substances, or volatile substances, according to available capabilities.

Article (14):

The child has the right to enjoy nursery services in accordance with applicable legislation.

What is meant by the concept of adoption in Islamic law according to personal status is: a person takes the son of another person whose lineage is known as his son or adopts someone whose lineage is unknown and adopts him as his child⁽⁹⁶⁾. The Jordanian legislator translated the opinion of Islamic jurisprudence on this matter when he dealt with adoption in Article (162) of the Personal Status Law and decided that: "Lineage is not proven by adoption, even if the adopted child's parentage is unknown."

With regard to lineage, the Personal Status Law stipulates that:

- A- The lineage of the newborn to his mother is proven by birth.
- B- The lineage of the newborn to his father is proven: -
 - 1- In the "marital bed". or
 - 2- By acknowledgment. or
 - 3- With clear evidence.
- C - The court must prove the paternity of the newborn to his father by definitive scientific means, taking into account the provisions of proving paternity in the "marital bed".⁽⁹⁷⁾

Here we mention what Article (287) of the Penal code stipulates that anyone who commits an act that leads to the lineage of a minor to a woman who did not give birth to him or to someone other than his father shall be punished with temporary labor.

(96) Provisions of the Islamic Shariah in Personal Status, Omar Abdullah, edition 6, Dar al-Ma'arif, Alexandria, 1968, p. 591.

(97) Article (157) of the Personal Status Law

The childcare regulation from birth until the age of eighteen stipulates the requirement of religion in Article (5), where it stipulates that: "It is required that the alternative family be of the same religion as the person in whom he is placed. In the event that the religion and sect of the child in need of care or custody is not confirmed, he is considered a Muslim."⁽⁹⁸⁾

6.1.4 Marriage of children and those under the age of eighteen (premature marriage), forced marriage, and lineage issues:

In addition to what was mentioned in the previous paragraph regarding matters related to the Jordanian legislator's view of the family institution and the marriage contract, in accordance with the Jordanian Personal Status Law, marriage is only between a man and a woman. and accordingly, the law does not recognize any marriage that is not in this form, and that is not surprising, whereas in understanding the texts of the articles of the Jordanian Personal Status Law, their interpretation, clarification and significance, the principles of Islamic jurisprudence are referred to as stipulated in Article (323) of the law.

It's worth to mention here that the Jordanian legislator decided that the age of majority is the age considered for concluding a marriage contract. However, as an exception to that, it made those who have not reached the age of adulthood able to conclude a marriage contract. The Jordanian legislator stipulated in Article No. (10) of the Personal Status Law that "a - In order to be eligible for marriage, the suitor and the fiancée must be of sound mind and each of them must have reached eighteen solar years of age. B - Despite what is stated in Paragraph (A) of this article, the judge may, with the approval of the Chief Justice and after verifying the availability of consent and choice, give permission in certain cases. Especially for the marriage of a person who has reached sixteen solar years of age in accordance with instructions issued for this purpose if there is a necessity in his marriage required by the interest...."⁽⁹⁹⁾

It is noted that the Jordanian legislator stipulates several conditions to allow someone who is sixteen solar years old to conclude a marriage contract, and the first of these conditions is the existence of a necessity required by the interest of both parties to the contract or one of them in the manner through which the marriage procedures are completed. This approach is considered compatible with what was stated in the CEDAW regarding determining the age of marriage, which stipulates that "unless the competent authority decides to exempt from the age requirement for serious reasons in the interest of the two parties to be married." The Jordanian legislature also obliged the parties to the marriage contract, who are under 18 years of age, to undergo a "qualifying course" on marriage.⁽¹⁰⁰⁾ The Personal Status Law also requires both parties to the marriage contract to undergo the necessary medical

(98) Child Welfare Regulation from birth until the age of eighteen, issued in Official Gazette No. 2360 dated 1/5/1972, on page 1004.

(99) Legal protection of children in Jordanian legislation and international conventions, Abeer Dababneh, Journal of Studies and Research, Arab Journal of Humanities and Social Sciences, Volume 12, Issue 3, 2020. Page 663.

(100) Instructions for granting permission to marry to those who have completed fifteen solar years of age but not eighteen years of age, Article (8\A) which stipulates: "A. The suitors must present a certificate proving that they have passed the course for those preparing to marry organized by the department or any body approved by the chief judge for this purpose." "

examination with the aim of detecting thalassemia in order to conclude the marriage contract in accordance with the instructions of the pre-marital medical examination.

The legislator prohibited a woman from marrying someone who is older than her in specific number of years except after ensuring her affirmed consent in the marriage contract. The legislator stipulated in Article (11) of the Personal Status Law that: "It is forbidden to perform a contract on a woman if her suitor is more than twenty years older than her except after the judge must verify her consent and choice."

As for forced marriage, it is not permitted by Jordanian law. This is evident from what is stated in Article (6) of the Personal Status Law, which states: "Marriage is concluded with an offer from one of the suitors or his representative and an acceptance from the other or his representative in the contract council." Likewise, what was stated in Article (7) of the law: "Both the offer and acceptance shall be made in explicit words (such as marriage and/or matrimony), and for the incapable of them, in writing or with a known sign." It is clear from the apparent meaning of these texts that consent by both parties to the marriage contract is considered a legal condition for its completion.

The Jordanian legislator has criminalized in the Penal code anyone who conducted marriage ceremonies or was a party to conducting those ceremonies in a manner inconsistent with the provisions of the Personal Status Law or any other applicable legislation.⁽¹⁰¹⁾ The same applies to the Electronic Crimes Law. We find that Article (26) of the Electronic Crimes Law criminalizes anyone who commits any crime that is not stipulated in the Electronic Crimes Law and is punishable under any legislation by using the information network, information technology, information system, website, subscription, or Whoever intervenes or incites to commit it shall be punished by the penalty stipulated in that legislation.

6.1.5 Obtaining informed consent for minors' procedures:

A minor is a legal term used to refer to a young child who has not reached the age of adulthood, which is eighteen years of age. The year in law is the Gregorian year. In order for a person to be an adult, he must have completed eighteen full years of age, so we do not call him an adult unless he has completed the eighth year till its end and not in its beginning.

The Jordanian Penal Code (art. 62/2/c) stipulates that: "The law permits: surgical procedures and medical treatments applicable to the origins of art provided that they are carried out with the consent of the husband or of one of his parents or legal representatives or in cases of urgent necessity." This provision, which gives the child's parents informed consent to surgical procedures and medical treatments, is consistent with the best interests of the child, guaranteeing the child's right to the necessary medical care and guaranteeing the right to life.

Article (2) of the Medical Constitution, Doctor's Duties, and Professional Ethics⁽¹⁰²⁾ stipulates that: "Every medical procedure must be aimed at the patient's absolute interest, must have a necessity that justifies it, and be carried

(101) Article (279) of the Penal code, chapter on crimes that occur against the family.

(102) The Medical Constitution, the Doctor's Duties, and Professional Ethics, issued in Official Gazette No. 3607, dated 2/16/1989, on page 381.

out with his consent or with the consent of his guardian, if he is a minor or unconscious". As Article (18) stipulates.” However: “If a doctor is called upon in an emergency to provide assistance to an incapacitated patient or who has lost his ability to act and he is unable to obtain legal approval in a timely manner and confirm this at the time, he must carry out the necessary treatment without regard to any other consideration.”

The Personal Status Law stipulates that the guardian of a minor is his father, then his father’s guardian. This may be his wife or any other person who believes he is qualified to bear responsibility for his children, then his rightful grandfather, then the grandfather’s guardian, then the court or the guardian appointed by the court. The guardian or custodian has the authority to manage the affairs of minors, starting from conducting their government transactions and registering them in schools to opening accounts for them in the bank, etc. The law also requires, in the event of the father’s death, that the deceased’s family spend on his minor children, and the mother is the custodian of the children, and is responsible for taking care of them and raising them.

Then, in the event of her absence, she is followed by her mother, then the father’s mother, then the father, then the court may decide who will take care of them. The mother does not have the right to appoint a guardian for her minor children in the event of her marriage. In this case, guardianship passes to those appointed by the law (her mother, then the father’s mother, then to whomever the court decides), but the mother may monitor the actions of the guardian and resort to the court demanding the removal of the guardian if she deems him unfit to care for the children. The court may decide to remove the guardianship after verifying the truth of the mother’s statements.⁽¹⁰³⁾ This applies to the provision of reproductive health services to children and adolescents as well, and the provision of counseling and services related to the reproductive and sexual health of children.

6.1.6 Premarital medical examination, and virginity examination:

Article (4\c) of the health Law stipulates: “The Ministry of Health, in coordination with the relevant authorities, works to achieve the following: Conducting the necessary medical examination for those wishing to get married. The provisions and conditions related to this examination shall be determined in accordance with the regulation issued in accordance with the provisions of this law. It is not permissible to Conduct a marriage contract before conducting this examination. Article (72) of the same law stipulates that the Council of Ministers shall issue the necessary regulations to implement the provisions of the health Law, including the pre-marital medical examination. We have previously stated the provisions for the necessity of carrying out the pre-marital medical examination by both parties to the marriage contract as a condition for its legal completion, which were regulated by the regulation Premarital medical examination and premarital medical examination instructions.

Thus, protective forms of protection of reproductive and sexual health are evident, such as the legislator's requirement for a medical examination prior to the conclusion of the marriage contract showing the extent to which the parties to the contract are free of certain sexually transmitted diseases or affecting the health of their children.⁽¹⁰⁴⁾

(103) Articles (170), (171), (173) and (223) of the Personal Status Law.

(104) Legal protection of reproductive and sexual health in Jordanian legislation, op. cit., p. 689.

Regarding virginity testing, we refer here to decision of the Council for Fatwa, Research and Islamic Studies No. (131) of 2009 regarding virginity examination, where it was stated: “We asked the director of the National Center for Forensic Medicine about that in an official letter, and he replied that what was attributed to him is inaccurate, and that The examinations that are conducted are only at the request of the judicial authorities when they have a case requiring that, and the judge needs to know the truth, so he requests a forensic medical certificate. It has never happened that a suitor asked his fiancée for this examination and based on what the director of the National Center for Forensic Medicine said, the Fatwa Council deems it permissible to conduct such an examination if requested by the judicial authorities. This is not considered slander against chaste women, but it must be carried out by a specialized female doctor. As for performing this examination at the request of the suitor - even if it did not happen, as the Director of the National Center for Forensic Medicine stated - then requesting it is forbidden (haram) and doing it is forbidden (haram), as the private parts of men and women are not permissible to be revealed except for necessity or need, as in the cases mentioned by the Director of the National Center for Forensic Medicine. The Council affirms that our society is too honorable, clean, changeable, and noble for girls and sisters to be treated with this humiliating treatment, and they are too dear, honorable, and too shameful to accept this humiliation, and we warn against publishing what harms the reputation of the nation.”⁽¹⁰⁵⁾

There is no legal text in Jordanian legislation requiring this type of examination to be carried out, but the Jordanian Penal code stipulates that the penalty for crimes of rape and indecent assault be aggravated if the victim of the assault will be infected with a sexual disease, or if the victim was a virgin and her virginity was removed by the assailant.⁽¹⁰⁶⁾ Article (304/1) of the Penal Code also stipulates the crime of seduction and indecent assault and stipulates: “Anyone who deceives a virgin over the age of eighteen with the promise of marriage and then breaks her virginity or causes her to become pregnant shall be punished - if his action does not require a more severe punishment - with imprisonment for a period of six months.” Up to three years, and he must guarantee her virginity.” Accordingly, courts may resort to conducting this examination as a means of proving evidence of aggravating the punishment for crimes related to defloration and stipulated in the Penal Code.⁽¹⁰⁷⁾

6.1.7 Promoting abortion (based on the mother’s request or without a medical reason or in cases of rape):

The Jordanian penal legislation places “The right of the fetus to live inside the uterus.” the subject of protection, and not just “the right to protect the life of the fetus,” on an equal footing with “the mother’s right to health and life.” However, we find a number of legal articles in more than one law that dealt with the subject of abortion, clarified its legal limits, and regulated Its professional and ethical dimensions. We will inventory and analyze those materials in relation to abortion at the mother’s request, abortion without medical reason, or in cases of rape. But before that, we point out the position of the Jordanian Fatwa Council on abortion, as the Council believes that if it is proven

(105) General Fatwa Department, Fatwa Council Resolution No. (131) (9/2009) dated 7/23/2009. It is available at the following link:

(106) Article (301\1\ b) of the Jordanian Penal Code.

(107) Please see the decisions of the Jordanian Court of Cassation, Penal Cassation No. 1818/2020. Date 8/12/2020. The decision is cassation penalty No. 2278/2019. Date 10/7/2019.

that the pregnancy affects and threatens the mother's life, then it is permissible to abort the fetus even if the fetus in its mother's uterus reaches four months or more. As for the occurrence of deformities in the fetus, if the fetus does not complete four months in his mother's uterus, and it has been proven that his deformities would make his life unstable, it is permissible to abort him with the consent of the spouses. However, if he reaches or exceeds four months, it is not permissible to abort him, no matter how great the deformities are.⁽¹⁰⁸⁾

In another fatwa concerning a pregnant woman, doctors unanimously agreed that pregnancy harms her health, poses a great danger to her life, and may lead to her death. The Fatwa Department issued a fatwa that abortion is permissible if it is proven according to Islamic law that the fetus remaining in its mother's uterus constitutes a definite danger to her life.⁽¹⁰⁹⁾ In another decision of the Fatwa Council, No. (204) in 2014, regarding the ruling on aborting a fetus resulting from rape in the event of incest, the Council considered the crime of rape one of the gravest crimes. Because of its aggression against human dignity and harm to the human soul, Since the pregnancy resulting from this crime increases her harm and provokes strife and hostility in society, the Fatwa Council decided to advise the victim to review the Fatwa Department to look into the circumstances of the case, and to learn about the circumstances of the pregnancy and what affects the Sharia ruling, so that each case can be considered separately, and a fatwa can be issued. Concerning it in a way that achieves the interest and avoids harm.⁽¹¹⁰⁾

The Jordanian Penal code stipulates the subject of abortion and considers it a punishable crime whether the abortion occurs by the pregnant woman herself or someone else performs it. The law does not address the distinction as to whether there are punishable abortion cases and other cases that are considered an exception and are not punishable. Thus, the Abortion by law is generally a crime and is punishable (this is contrary to the opinion of the Jordanian General Fatwa Department, which made abortion permissible ^{في} in specific cases, such as if continuing the pregnancy would affect the mother's life, as we mentioned), but abortion may acquire legal status if the abortion is for two reasons: the first is that there is a danger to the mother's life, and the second is that there is a danger to the life of the fetus, and this must be supported by documented medical reports (We will explain this later).

- Criminalizing a pregnant woman's abortion on her own or by others and with her consent. The text of Article (321) of the Penal code states the following: "Every woman who has an abortion using the methods she used or who consents to having someone else use these methods for her shall be punished by imprisonment from six months to three years." Based on the previous text, the crime is committed by the woman against herself, and by someone else with the woman's consent, and her penalty is imprisonment from six months to three years.

- Criminalizing those who perform an abortion on a pregnant woman with her consent. Article (322) of the Penal code stipulates that: "Whoever, by any means whatsoever, causes a woman to have an abortion with her consent,

(108) Jordanian General Fatwa Department, Fatwa No. (791) dated 6/21/2010 , available at the following link: <https://aliftaa.jo/Question.aspx?QuestionId=791>

(109) Jordanian General Fatwa Department, Fatwa No. (402) dated 12/13/2009, available at the following link: <https://aliftaa.jo/Question.aspx?QuestionId=402>

(110) The Higher Population Council, Position Paper on Abortion in Jordan, available at the following link: <https://aliftaa.jo/Files/72c597e4-c2b7-4f0a-a6f2-b0a32df27de8.pdf>, page 2.

shall be punished by imprisonment for a period of one to three years. If the abortion or the means used to achieve it led to the death of the woman, the perpetrator shall be punished with temporary labor for a period not less than About five years." The previous article stipulates the punishment for someone who performs an abortion on a pregnant woman with her consent. This means that the woman's consent to the abortion is not taken into account, so the perpetrator is not exempt from punishment, even if it was done with the pregnant woman's consent. His punishment ranges from one to three years, and the penalty aggravated to temporary labor for a period Not less than five years, if the abortion or the means used to achieve it led to the death of the woman.

- Criminalizing those who abort a pregnant woman without her consent or through violence and coercion.

Article (323) of the same law stipulates that: "Whoever intentionally causes a woman to miscarry without her consent, shall be punished with hard labor for a period not exceeding ten years, and the penalty shall not be less than ten years if the abortion or the means lead to the death of the woman." The maximum penalty is ten years and the minimum penalty shall be ten years if the abortion or methods lead to the death of the pregnant woman. Article (336) also stipulates that: Whoever causes, by any means of violence or assault mentioned in Article (333), a pregnant woman to miscarry while he is aware of her pregnancy, he shall be punished with temporary labor for a period not exceeding ten years.⁽¹¹¹⁾

A mitigating factor for abortion. Article (324) stipulates that: If a pregnant woman aborts herself to preserve her "honor", and the third party who aborts the woman with or without her consent benefits from this excuse, to preserve the "honor" of one of his descendants or relatives up to the third degree. It is noted that crimes against humans that fall under what are called honor crimes are characterized by a violation of women's rights. Especially the right to life like honor killing. Or the right to bodily integrity, such as the crime of abortion. For this reason, many demands have emerged to abolish the mitigating excuse for these crimes.⁽¹¹²⁾

- An aggravating reason for the penalty for abortion up to one third. This is derived from the text of Article (325) that if the perpetrator of the abortion crime is a doctor, surgeon, pharmacist, or midwife, the specified penalty shall be aggravated by an amount of one third.

- Article (12) of the Public Health Law regarding permissible abortion:

A - It is prohibited for any doctor to prescribe anything with the intention of aborting a pregnant woman or performing an abortion on her, unless the abortion is necessary to protect her from a danger that threatens her health or exposes her to death, and this must be done in a hospital provided that the following is available: -

- 1- A prior written consent from the pregnant woman to perform the operation. In the event that she is unable to write or unable to speak, this consent is taken from her husband or guardian.

(111) As for the means of violence or assault mentioned in Article (333) of the Penal Code, they are "anyone who intentionally strikes, wounds, or harms a person by any effective act of violence or assault that results in illness or disruption from work for a period exceeding twenty days."

(112) Legal protection of reproductive and sexual health in Jordanian legislation, Abeer Dababneh, Areej Othman, Joel Gusman, Maysoon Al-Atoum, previous reference, page 698.

2- A certificate from two licensed, specialized, and experienced doctors confirming the necessity of performing the operation to preserve the life or health of the pregnant woman.

3- The hospital records must include the name of the pregnant woman, the date and type of the operation, and retain the written consent and certificates of the two doctors for a period of ten years, provided that the pregnant woman is provided with a certificate certified by the hospital director that this operation was performed on her.

B - Despite what is stated in the Penal code, the pregnant woman and the person or persons who performed or participated in performing the abortion on her in accordance with the provisions of Paragraph (A) of this article shall not be prosecuted on charges of committing the crime of abortion.

Article (21) of the Jordanian Medical Constitution and medical ethics:

A - Taking into account applicable laws, a doctor is prohibited from performing an elective abortion by any means unless the continuation of the pregnancy poses a threat to the pregnant woman's life, in which case it is stipulated that:

1- The abortion must be performed by a specialist doctor and with the approval of another specialist doctor in a licensed hospital.

2- A report must be prepared stating the urgent need for abortion before the procedure is performed.

3- Make four or more copies of it as necessary, signed by the doctors, the patient, and her husband or guardian, and keep a copy in the patient's file.

B- If the pregnant woman refuses to undergo the operation despite the doctor explaining to her the seriousness of her condition, he must comply with her will after confirming her opposition.

Although the Personal Status Law proves the lineage of a new-born to his mother by birth, it is not possible to prove the lineage of a child of unknown parentage to his father without his marriage to the assaulted woman, in accordance with Article (157) of the law, which states:

A- The lineage of the newborn to his mother is proven by birth.

B - The lineage of a newborn to his father is not proven except.

1- by the marital bed or.

2- by acknowledgment or.

3- by evidence or.

4- by conclusive scientific means in conjunction with the marital bed.

The current text does not enable the victim of the crime of rape to prove the child's lineage to his perpetrator father, even if his lineage to him is scientifically proven, because scientific methods, including DNA testing, are not combined with the marital bed.

From the above, we find that abortion at the mother's request or without a medical reason or in cases of rape are all

considered a crime punishable under the Jordanian Penal code, and that law does not address any exceptions. However, some other Jordanian national legislation contains an exception that stipulates therapeutic abortion for a documented medical reason is one that endangers the life of the pregnant woman or may lead to her death, and there is fear for the life, safety, and health of the fetus or the mother, as we mentioned above. These exceptions are consistent with the legal fatwas issued by the Jordanian General Fatwa Department, which permitted abortion under certain conditions, including:

- **Threat to the mother's life:** If the pregnancy poses a real threat to the mother's life, abortion is permissible in this case and the mother's life takes the highest priority according to the provisions of Islamic Sharia.
- **The presence of serious deformities in the fetus:** If serious physical deformities are diagnosed in the fetus that make it unable to live normally after birth, abortion may be permitted.
- **The risk of hereditary diseases:** This case is not far from the previous one. If there is a high risk of serious hereditary diseases in the fetus, abortion may be permissible.

Incitement, interference, or association with speech transmitted by automated means regarding abortion is also criminalized in Jordanian national laws and legislation, as we mentioned above. The same applies to the cyber-crimes Law, Article (26) of which criminalizes anyone who commits any crime not stipulated in the Electronic Crimes Law and is punishable under any legislation by using the information network, information technology, information system, or website, or participating, interfering, or inciting. If committed, he shall be punished with the penalty stipulated in that legislation.

6.1.8 Promoting maternity and family planning services for unmarried women and adolescents:

As we stated previously, the Jordanian legislative system does not recognize any relationship between a man and a woman, outside the family institution (marriage), the same applies between either of them and a partner of the same sex. However, we find that the legislation that stipulates the provision of reproductive and sexual health services does not differentiate between married and unmarried men or women. We find that Article (4) The Public Health Law obliges the Ministry of Health to work and coordinate with relevant authorities to achieve health care for women and children by providing the necessary services to them, including caring for pregnant women during pregnancy, childbirth, and postpartum, monitoring the child's growth, and providing vaccinations, in accordance with the necessary reproductive health requirements and other related health matters by family planning.

It is worth noting here that the Jordanian legislator issued a regulation for child care when it addressed the authority of the Ministry of Social Affairs to establish regulations related to the implementation of its duties and in specific cases⁽¹¹³⁾, such as supervising juveniles, monitoring the behaviour of delinquent juveniles, taking care of them, caring for convicted juveniles after their release, finding work for them, and establishing (sleep places) for them. Childcare, maternity and family affairs. Under the regulation, the legislator specified the care of children up to the

(113) Social Affairs Law No. (14) of 1956, was abolished pursuant to Social Development Law No. (4) of 2024, provided that the regulations and instructions issued pursuant to it will continue to be implemented until they are repealed, amended, or replaced by others in accordance with the provisions of this law.

age of eighteen years in alternative (foster) families or institutions, and defined the alternative family and the foster family as: any suitable family other than the original family to which the Minister of Social Development or the court entrusts for a limited or unlimited period an order to support and care for any child without He is eighteen years old and needs care and protection, whether temporary or permanent. He defined the institution as: any institution entrusted by the minister or court with the social, psychological, health, vocational and educational care and educational care and care of children under eighteen years of age because of their needs for such services.⁽¹¹⁴⁾ The Jordanian legislator also issued special instructions for fostering based on the regulation of caring for children up to the age of eighteen.⁽¹¹⁵⁾ In it, he defined the foster family as: the family entrusted by the Minister to embrace a child of unknown parentage, or the competent court to care for the child as an alternative family in accordance with the provisions of the fostering instructions, or the family that has been a Muslim for at least three years, proven by a duly issued proof of Islam. Article (4) of the instructions specifies the conditions that must be met by the applicant for fostering as follows:

1. The applicant for fostering must be an existing family consisting of a married couple.
2. He must profess the Islamic religion or have been a Muslim for at least three years with a documented proof of Islam.
3. Inability of one or both spouses to conceive.
4. The husband's age must not be less than (35) and not more than (55) years, and the wife's age must not be less than (30) years and not more than (50) years.
5. The spouses must reside in a shared residence.
6. The family wishing to embrace must have been married for a period of no less than five years.
7. The family's monthly income should not be less than 500 dinars.
8. The age of the child to be fostered must not be less than five years for the wife who is over (45) years old and the husband who is over (50) years old.
9. The custodial family must provide the child with all required forms of care (educational, health, psychological, material, social), and the spouses must enjoy healthy, physical and psychological conditions that enable them to be able to raise the child in a sound manner.
10. The person requesting the embrace must not have been convicted of a felony or misdemeanour against morals or public morals and have precedence.
11. The family relationship between the spouses should be characterized by affection, interdependence, and harmony.
12. The request for embrace must be submitted, signed by both spouses.

(114) Child Welfare Regulation from birth until the age of eighteen, Article (2) thereof.

(115) Custody instructions issued pursuant to Article (3) of the Law for the Care of Children up to the Age of Eighteen Years, published in Official Gazette No. 5216 dated April 1, 2013, on page 1454.

13. The foster family must ensure the legal sanctity of the child, such that if the fostered child is a male, he will be breastfed by a woman on the part of the wife, but if the fostered child is a female, she will be breastfed by a woman on the part of the husband.

Taking into account the relevant legislation, the Social Development Law prohibits any individual or legal entity from providing protection and care services to the following categories without obtaining a license to do so from the Ministry: -

- A- Children in need of protection and care.
- B- The elderly and the wanderers.
- C- Juveniles.
- D- Victims of domestic violence and women at risk.
- E - Victims of human trafficking crimes.
- F- People with disabilities.
- G- Beggars.
- H- Children of nursery age.
- I- Any other category determined by the Minister.

In this regard, it must be noted that the Jordanian National Plan for Sexual and Reproductive Health 2020-2030 and the strategic communication plan in the field of family planning 2019-2023, with regard to family planning, directed towards the category of married women of reproductive age and the category of married men with the aim of organizing childbirth in their current families and the category of suitors and young people. Of both sexes at the higher school and university levels, with the aim of adopting the concept of future planning for their future families, including reproductive planning (family planning).⁽¹¹⁶⁾

The Social Development Law punishes anyone who provides protection and social care services to the categories mentioned above in this law, whether the service provider is an individual or legal entity.⁽¹¹⁷⁾ The law criminalizes anyone who commits any violation of its provisions, or the regulations issued pursuant to it for which no penalty is stipulated.⁽¹¹⁸⁾ The same applies to the Cybercrimes Law, Article (26) of which criminalizes anyone who commits any crime not stipulated in the Electronic Crimes Law and is punishable under any legislation by using the information network, information technology, information system, or website, or participating, interfering, or inciting. If committed, he shall be punished with the penalty stipulated in that legislation.

(116) The Ministry of Health's strategic communication plan in the field of family planning, 2019-2023, available at the following link: [https://www.moh.gov.jo/ebv4.0/root_storage/ar/eb_list_page/%D8%A7%D9%84%D8%AE%D8%B7%D8%A9_%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D8%B1%D8%A7%D8%AA%D9%8A%D8%AC%D9%8A%D8%A9_%D8%A7%D9%84%D8%A7%D8%AA%D8%B5%D8%A7%D9%84%D9%8A%D8%A9_%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D8%A9_%D8%A7%D9%84%D8%B5%D8%AD%D8%A9_%D9%81%D9%8A_%D9%85%D8%AC%D8%A7%D9%84_%D8%AA%D9%86%D8%B8%D9%8A%D9%85_%D8%A7%D9%84%D8%A7%D8%B3%D8%B1%D8%A9_\(2019_-_2023\).pdf](https://www.moh.gov.jo/ebv4.0/root_storage/ar/eb_list_page/%D8%A7%D9%84%D8%AE%D8%B7%D8%A9_%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D8%B1%D8%A7%D8%AA%D9%8A%D8%AC%D9%8A%D8%A9_%D8%A7%D9%84%D8%A7%D8%AA%D8%B5%D8%A7%D9%84%D9%8A%D8%A9_%D9%84%D9%88%D8%B2%D8%A7%D8%B1%D8%A9_%D8%A7%D9%84%D8%B5%D8%AD%D8%A9_%D9%81%D9%8A_%D9%85%D8%AC%D8%A7%D9%84_%D8%AA%D9%86%D8%B8%D9%8A%D9%85_%D8%A7%D9%84%D8%A7%D8%B3%D8%B1%D8%A9_(2019_-_2023).pdf)

(117) Article (16) of Social Development Law No. (4) of 2024.

(118) Article (20) of the previous law.

6.1.9 Promoting performing caesarean sections without a medical reason and based on the mother's desire, and choosing the gender of the service provider:

Caesarean section can be defined as: a birth that does not occur spontaneously, but rather requires a surgical operation performed by a specialized doctor in the hospital by cutting the pregnant woman's abdomen and uterus to extract the child after anesthetizing the mother, then applying surgical sutures to work on healing the wound. In principle, the doctor should not resort to this procedure. Caesarean section, except in medical cases that require it, due to the negative aspects that it may cause.⁽¹¹⁹⁾

Article (62\c) of the Penal code specified the actions permitted by law, including surgical operations and medical treatments that apply to the principles of technicality, provided that they are performed with the consent of the patient or the consent of one of his parents or legal representatives, or in cases of necessity. This is consistent with what was approved by Article (8/K) of the Medical and Health Liability Law, which stipulates that the service provider is prohibited from performing unnecessary medical procedures or surgical operations for the service recipient without his informed consent. Article (5) of the same law stipulates that the service provider must perform his procedures in accordance with what is required by the ethics of the profession, its accuracy and honesty, and in accordance with recognized scientific principles, in a way that achieves the necessary care for the patient and not exploits his need for the purpose of achieving an unlawful benefit for himself or others, without discrimination between Patients and compliance with applicable legislation. Likewise, Article (2) of the Medical Constitution, the Doctor's Duties, and Professional Ethics, which requires every medical action to aim at the patient's absolute interest, to have a justifiable necessity, and to be carried out with his consent or with the consent of his guardian, if he is a minor or unconscious.

As for the gender of the service providers, we refer here to several legal texts related to this principle, including what is stated in Article (8/M) of the Medical Liability Law that: "The service provider is prohibited from clinically examining a service recipient of a different gender than the service provider without the presence of a Third party, except in emergency cases". What the Juvenile Law stipulates in Article (24\G\4) is that if it is decided to impose a judicial supervision order on a female, the probation supervisor must be a female, and also what Article (10\A) of the Correction and Rehabilitation Centers Management Law stipulates is that it is not permissible Searching the female inmate except by a female police officer.

Likewise, Article (179\b) of the Customs Law stipulates that if the person to be searched is a female, then it is not permissible to search her except by a female. In the same meaning and content is what the Criminal Procedure Code stipulated in Article (86\2) that if the inspected Female: The inspection must be carried out by a female assigned to do so.

6.1.10 Promotion of Offspring cut off or Sterilization.:

There is no doubt that permanent sterilization is clearly contrary to the purposes of Islamic Sharia, and thus it is

(119) The Civil Liability of the Doctor, Talal Ajaj, a comparative study, unpublished doctoral thesis, Lebanese University, Faculty of Law and Political and Administrative Sciences 2003, p. 116.

prohibited.⁽¹²⁰⁾ However, the Jordanian General Ifta' Department has issued numerous fatwas related to this topic. One of the most important of these fatwas states that "there is no legal objection to birth control if a trusted medical committee reports a confirmed danger to the mother's life due to pregnancy or childbirth, the death of the newborn, or the presence of physically or mentally ill offspring due to genetic or other reasons. However, if the danger is expected but not certain, it is not permissible to cut off reproduction."⁽¹²¹⁾

In another fatwa, it is stated: "Islam prohibits anything that leads to the cessation or reduction of offspring. Therefore, scholars unanimously agree on the prohibition of birth control and any actions that cut off progeny. However, while Islamic Sharia aims to increase progeny, it does not seek weak offspring but rather strong ones in faith, body, and constitution, without disabilities or illnesses. Therefore, Islamic Sharia mandates, in cases where there is a confirmed danger to the wife's life or the fetus is exposed to a serious disease that could spread, or is at risk of deformity or disability, to follow one of the methods that prevent such pregnancy, in order to preserve the strength of the Islamic nation's progeny and safeguard its interests, provided this is supported by a decision from a trusted medical committee."⁽¹²²⁾

Article (14) of the Medical and Health Liability Law states that it is not permissible to perform any act or intervention with the intent to cut off a woman's reproduction, except with her written consent and based on an opinion from a specialized medical committee composed of at least three specialists, with the exception of emergency cases. It is noted that this text does not include men and excludes emergency cases without specifying them in particular.

Article (21) of the Medical and Health Liability Law imposes a penalty on anyone who violates the provisions of Article (14) mentioned above. Similarly, the Cybercrime Law in Article (26) criminalizes anyone who commits any crime not specified in the Cybercrime Law but is punishable under any legislation using information networks, information technology, or an information system, or participates in, intervenes, or incites its commission, and they are punished with the penalty specified in that legislation.

6.1.11 Promotion of Emergency Contraceptive Pills:

Article (19) of the Health Insurance Regulations⁽¹²³⁾ stipulates that the Ministry of Health provides free maternity, childhood, and family planning services in accordance with instructions issued by the Minister for this purpose. Article (4) of the instructions for maternity, childhood, and family planning services stipulates that: The Ministry of Health provides the following medications free of charge within maternity and childhood services to any mother

(120) Abortion in Man-made law (a comparative study), Kamel Qazzaz, Master's thesis, Al Al-Bayt University, 1999. Page 16.

(121) Jordanian General Fatwa Department, Fatwa No. (2052) dated 5/30/2012, available at the following link:

<https://www.aliftaa.jo/Question.aspx?QuestionId=2052>

(122) Jordanian General Fatwa Department, Fatwa No. (65) dated 7/9/2003, available at the following link:

<https://www.aliftaa.jo/Decision.aspx?DecisionId=66#.Yz6nhddBy00>

(123) Civil Health Insurance Law No. (83) of 2004, issued in Official Gazette No. 4666 dated 7/1/2004, on page 3257.

and child, and family planning services to the mother as follows: - Vitamins and minerals of all kinds - Gastric antacids - Antipyretics for children.” - Oral rehydration powder - temporary contraception and tubal ligation.

It is clear from this that emergency contraception is not included in the family planning services provided by the Ministry of Health.

Article (3/b) of the Drug and Pharmacy Law also stipulates: “It is prohibited to circulate infant formula, special formula, complementary foods for infants, medicinal plants, natural products, sterile materials, disinfectants, medical devices and supplies, pharmaceutical preparations that contain vitamins and minerals, cosmetics, and any materials related to treatment.” A person or his recovery from diseases except after they have been approved in accordance with the instructions issued by the Director General and in coordination with the relevant official authorities.

From the previous texts, it is clear to us that it is prohibited to trade or prescribe any medicine or drug that has a therapeutic quality in Jordan unless it is registered⁽¹²⁴⁾ and the appropriate decision is taken regarding its pricing and issuing a registration number for it. Therefore, the issue of Determining the legality of circulating any medicine or therapeutic drug in Jordan depends on its approval by the Food and Drug Administration, and this does not happen according to Jordanian legislation except after the medicine or drug has gone through a series of procedures, research and steps specified by Jordanian legislation.

6.1.12 Sexually transmitted disease especially HIV/AIDS, Promoting the freedom to choose whether or not to report sexually transmitted diseases, and determinants of providing treatment for people infected with HIV/AIDS)

Article (17) of the Public Health Law defines an infectious disease as: a disease resulting from microorganisms such as bacteria, viruses, fungi, parasites, and the like, or from their toxins. The agent causing the infection can be transmitted to humans from a reservoir or source of infection, directly or indirectly. Article (19/A) stipulates that: A person infected with a contagious disease shall be isolated, and the isolation shall be in the manner determined by the doctor in such a way as to prevent the exposure of others to infection with the disease. Article (20/A) of the law requires every doctor who supervises or participates in the treatment of any person infected with a contagious disease to inform the director in his area about the infection or death of this disease within twenty-four hours of its occurrence. However, if the disease is serious or spreading in the form of an epidemic, then notification shall be immediate. The provisions of this paragraph also apply to the medical laboratory official who discovered this disease.

As for Article (22/B) of the Health Law, it stipulates the punishment of anyone who intentionally conceals an infected person, exposes a person to infection with an epidemic disease, intentionally causes the infection to be transmitted to others, or refrains from implementing any measure requested of him to prevent the spread of infection. The penalty is stated in Article (66) of the Public Health Law, which states: “Taking into consideration any

(124) Fundamentals of drug registration, issued by the Board of Directors of the Food and Drug General Corporation, based on Article (5) of the Drug and Pharmacy Law, and Article (7) of the Food and Drug General Corporation Law, published in the Official Gazette, Issue No. 5378 dated 2/1/2016, on page 591. Article (4) thereof.

more severe penalty stipulated in any other legislation, the penalty shall be imprisonment from two months to one year or a fine of not less than five hundred dinars and not more than one thousand dinars, or both of these.” The two penalties shall be imposed on anyone who violates any of the provisions of this law or the regulations issued pursuant to it and for whom no penalty is mentioned in this law.” We refer here to the decision issued by the Minister of Health to approve the list of chronic diseases⁽¹²⁵⁾, Among them is the speaker's immunodeficiency disease, as well as the list of occupational diseases,⁽¹²⁶⁾ as well as the table of the list of occupational diseases, including the acquired immunodeficiency virus (AIDS).

Under article 17 of the Civil Health Insurance Regulations⁽¹²⁷⁾, treatment fees and medicines are not met if the patient is afflicted with a contagious disease that requires quarantine. a patient with a communicable disease receives the fees for examination, treatment, food allowance in government clinics and hospitals, and bed rest in hospitals. Health insurance instructions are exempted.

We also refer to the instructions for epidemiological control and the application of international health regulations ⁽¹²⁸⁾ The purpose of which was stated in Article (3), which is to combat infectious diseases, prevent the spread of the disease at the national and international levels, protect against it, combat it, and confront it by taking measures in the field of public health in a manner commensurate with the potential risks to public health. Article (4) specifies the mechanism for implementing the instructions in a way that ensures the protection of the dignity of citizens and residents of the Kingdom and the rights and freedoms of individuals, and that the implementation of the instructions is guided by the International Health Regulations. As for Article 15, it stipulates that a person infected with a contagious disease shall be isolated, and the isolation shall be in the manner decided by the Health Regulations Committee in the Ministry of Health, so as to prevent others from being exposed to infection with the disease, and that the Committee shall determine the methods of taking samples and the persons concerned with taking them, so that they have the right to take laboratory samples from patients, contacts, or suspects. By becoming infected with them or from any food, water, or other substances in the event of a suspected infectious disease.

The table of diseases that prevent appointment or scholarship also includes acquired immunodeficiency virus (AIDS) “among limited job tasks and duties” as one of the diseases that prevent appointment or scholarship.⁽¹²⁹⁾

We point out here that Article (116) of the Personal Status Law stipulates that: “If it appears to the wife before or after consummation that the husband is afflicted with an illness or disease that cannot be resided with without harm, such as leprosy, leprosy, tuberculosis, syphilis, or AIDS, or such illnesses occur.” Diseases may refer

(125) Decision of the Minister of Health to adopt a list of chronic diseases, issued in Official Gazette No. 4608 dated 7/1/2003, on page 3492.

(126) Table of the list of occupational diseases No. (1) of 2010, issued in Official Gazette No. 5267 dated 1/29/2014, on page 556.

(127) Health Insurance Instructions No. (1) of 1970, issued in Official Gazette No. 2242 dated 6/1/1970, on page 826. Article (9).

(128) Instructions for Epidemiological Control and Implementation of the International Health Regulations, issued in Official Gazette No. 5851 dated 4/16/2023, on page 1832.

(129) Table of diseases that prevent appointment or scholarship No. (1) of 2015, issued in Official Gazette No. 5322 dated 1/15/2015. on page 51.

to the judge and request separation.⁽¹³⁰⁾ From this text, we notice that the legislator has expanded the umbrella of reproductive and sexual health. It did not stipulate for separation between spouses that only one of them be afflicted with a sexual disease. Rather, infection with any disease that affects sexual health or hinders sexual freedom is considered a sufficient disease to require separation.

Article (301) of the Penal Code aggravates the penalty for felonies (rape and indecent assault) if the assaulted person becomes infected with a sexual disease, Or the victim was a virgin, so her virginity was violated or if a criminal offence results in the victim's infection with acquired immunodeficiency syndrome and the perpetrator is aware of his/her illness, the penalty shall be life imprisonment. We note here that the law penalizes those who cause sickness as a result of sexual acts, failing to address cases of sickness as a result of the concealment of information from the doctor or medical staff, leaving it to the jurisprudence that considered this an offence of assault (harmfulness) and punishable according to the sickness that was transmitted and the harm suffered by the victim.⁽¹³¹⁾

We point here to what is stipulated in the Medical Constitution, the Doctor's Duties, and Professional Ethics in Article (24/G) that it is permissible to disclose professional secrets in cases determined by law, such as cases of infection, reporting deaths and births, and some industrial diseases that affect public health.

The legal dimension means any unusual symptom that affects the victim, requiring treatment, precaution or care, and thereafter equates to being curable, incurable or dangerous, or not serious, and thus AIDS, like other health-affecting diseases, is prescribed by law. The fact that HIV is considered an infectious disease entails the imposition of reporting obligations for each detected case. Jordan's laws specify who has a duty to report, who must report and the impact of the failure to report⁽¹³²⁾, as previously explained.

6.1.13 Using assisted reproductive technology and its restrictions (insemination/invitro fertilization):

At the outset, we refer to the decision of the Fatwa Council in the General Fatwa Department regarding artificial insemination, where the Council decided “that if the insemination was with the husband's water (Semen) and his wife was inseminated with it, then it is permissible out of necessity if marital circumstances require resorting to it under conditions and rules that guarantee the integrity of the lineages, as extreme caution must be taken in preserving this eggs, Whoever carries out these operations so that they do not mix with other pollinating eggs because complacency in their preservation and error results in extremely serious effects on humans, wombs and symptoms. . If IVF with water other than the husband's water, it is categorically forbidden and no suspicion of such prohibition, such as disguised zona, by which genealogy is mixed, the grace of the melting and the lineage where the good fruit

(130) Legal protection of reproductive and sexual health in Jordanian legislation, previous reference, page 689.

(131) A study on the legal barriers facing people living with HIV and those most at risk of infection, Issa Al-Marazeeq, Sawaed Al-Tagyeer Center for Community Empowerment, 2019, page 19.

(132) Criminal liability for transmitting the HIV virus (a comparative study between Jordan, Egypt, Libya, and France), Faisal Al-Fawaz, doctoral dissertation in public law, Amman Arab University, 2011.

of legitimate marriage is lost.”⁽¹³³⁾ This is somewhat consistent with the provisions of Article (13) of the Medical and Health Liability Law, which stipulates: “It is not permissible to perform assisted reproductive technology on a woman or implant an embryo in her uterus except by the husband and based on their written approval.”

Accordingly, it becomes clear that there are several controls for the permissibility of performing artificial insemination or using assisted reproductive technology, which can be concluded, and they are as follows:

- 1- Artificial insemination must be between spouses:** The provisions of Islamic Sharia do not approve of any relationship between a man and a woman within the framework of forming a family except through the marital bond.
- 2- Artificial insemination takes place once the marital relationship is established.**
- 3- The couple’s consent with the artificial insemination procedure.**
- 4- The purpose of artificial insemination is to treat non-fertilization or infertility.**
- 5- The practice of artificial insemination by specialized and licensed centres.**⁽¹³⁴⁾

It should be noted that artificial insemination or assisted reproductive technology has not been regulated by the Jordanian legislator through legislation dealing with this important and sensitive topic for many people. Perhaps this becomes a reason for what is noted in the text of Article (13) of the Medical and Health Liability Law that it does not stipulate Any penalty for the case mentioned in Article (13) thereof.

6.1.14 Surrogacy and use of donor eggs:

The General Jordanian Fatwa Department did not permit renting surrogates. This was stated in Fatwa No. (553) dated 3/18/2010, regarding the ruling on taking an egg from a wife and implanting it in the uterus of her co-wife. This fatwa stated: “IVF is permitted only when needed, and it is then required that the egg and sperm be from the spouses, that the pollinated egg be implanted in the uterus of the wife with the egg, and in no case may it be implanted in the uterus of another spouse of the same husband, as such action entails many human and moral corruptions”. It was also stated in Fatwa Council Resolution No. (211) dated 12/28/2014 that: “It is not permissible to implant a fertilized egg from one wife into the uterus of the other wife, due to the Sharia and legal problems it entails in determining the real mother as to whether she is the owner of the egg or Donor Mother”.

We mention here that the position of the Christian and Jewish religions is consistent with the position of Islamic law in this regard. Renting a uterus and using donor eggs permits what is forbidden, insults women’s dignity, puts the foetus at risk, and even threatens family lineages and creates difficult problems in societies. This type of work must

(133) General Fatwa Department, Fatwa Council Resolution No. (5) Sharia ruling on artificial insemination, dated 7/24/1984, available at the following link: <https://www.aliftaa.jo/Decision.aspx?DecisionId=6>

(134) Criminal adaptation of Artificial Insemination without the consent of one of the spouses (a comparative study), Saif Al-Masarwa, Studies, Sharia and Law Sciences, Volume 42, Issue 2, 2015. Page 505.

be confronted by all legal, religious, and social laws in order to fight it and remove it from our societies, because it will inevitably lead to the collapse of societal values and it will increase vice, spread corruption, and turn what is forbidden into what is permissible. Even countries that take this type of work Its courts are full of cases related to this procedure, such as adoption, lineage, and inheritance issues. If this contract was correct in its foundations and noble in its purpose, as is said, then why were these issues raised.⁽¹³⁵⁾

The Jordanian legislature has not mentioned the provision of the means of surrogacy and the use of donor eggs, but in this regard, it may be pointed out that the Jordanian legislature has stated in article (13) of the Law on Medical and Health Liability that: "The technique of assisting a woman's reproduction or implanting an embryo in her uterus may be performed only by her husband and upon their written consent." It is clear from this provision that the Jordanian legislature has prohibited assisted procreation if the inseminated egg will be placed in the uterus of a foreign woman, but has authorized it if the inseminated egg will be placed in the uterus of the woman who has the egg and is vaccinated with a sperm from her husband, provided that she agrees to do so with her written consent. It should be noted, however, that the contravention of the above-mentioned text does not constitute an offence, and it cannot be said that article (287) of the Penal Code applies to that case: "Whoever engages in an act which attributes a minor to a woman who has not given birth or to his father shall be liable to temporary labour." This text speaks of the ratio of a child to a mother who did not give birth, as if he were acknowledging the proven attribution of a son to his mother, who was born without his biological mother.⁽¹³⁶⁾

It is also noteworthy that the Jordanian Ministry of Health prepared a draft law for the use of modern medical techniques to assist in reproduction in 2009. This draft included Article 11/c, which prohibits the use of another woman's uterus for embryo implantation. Anyone who violates this provision is subject to imprisonment for no more than two years and a fine of not less than two thousand dinars and not more than five thousand dinars. However, this law has not been approved yet and has not come into effect. Therefore, legal matters related to this subject remain governed by relevant existing legislation.

6.1.15 The freedom of caregivers to choose to sterilize people with disabilities:

The Fatwa Council of the General Fatwa Department decided in its Resolution No. (194) (2/2014 AD) that: "It is not permissible to undertake the removal of an organ created by God Almighty in human except in pathological cases that can be treated by this operation. As for As for those with disabilities or mental illness, we do not see, this type of operation is permissible for them, because of the violation of God's creation, the health risk of surgery and wounds, and the negative effects that facilitate assault and harm to these girls. It is the duty of parents and guardians to protect their daughters with disabilities, and to spare them from what harms them, just as it is the duty

(135) The legal and religious perspective of the surrogacy contract, Dr. Nadia Qazmar, Al-Zarqa Journal of Humanitarian Research and Studies - Volume 15 - First Issue 510. 2015. Page 52.

(136) Criminal protection of human dignity in the face of the means of surrogacy in Jordanian and comparative legislation, Nasser Al-Sairah and Al-Hamam Al-Bayda ', University of Moutah, Journal of Legal and Economic Studies. Volume 6, number 1 2020m. Page 23.

of societies to provide protecting them from all bad exploitation, and enacting the necessary measures to ensure this, as the weak person has the right to maintain his health, so that the sin is not doubled by assaulting them. This requires everyone to be patient with people with disabilities, and to seek reward from God by protecting them. The same content was stated in Fatwa No. (390) dated 12/13/2009 AD, (Ruling on removing the uterus of a mentally disabled girl), where the General Fatwa Department issued a fatwa stating "that it is not permissible to remove an organ created by God Almighty in a human being except in pathological cases that can be treated by this operation".

The Law on the Rights of Persons with Disabilities⁽¹³⁷⁾ affirms the right of people with disabilities to health, and includes it among a group of basic rights for people with disabilities so it was stated in Article (5/A) of this law, which states: "Persons with disabilities may not be deprived of their rights or freedoms, nor may their enjoyment or exercise of any of them be restricted, nor may their freedom to make their decisions be restricted on the basis of or because of disability." Article (30/a) of the law also states: "Any act or omission that deprives a person with a disability of a right or freedom, or restricts his exercise of any of them, or inflicts physical, mental, or psychological harm on him on the basis of disability is considered violence." Or because of it." Article (48) of the law stipulates a penalty for anyone who commits any of the acts described in Article (30/A) mentioned above.

The Penal code stipulates harm that leads to illness or disability for more than 20 days in Article (333), which stipulates that: "Anyone who intentionally strikes, wounds, or harms a person by any effective act of violence or assault that results in illness or disability from work for a period exceeding for twenty days, he shall be punished with imprisonment from three months to three years, and the minimum penalty shall be one year if the perpetrator uses a weapon. Article (335) of the penal code aggravates the penalty: "If the act leads to the cutting off or removal of an organ, or the amputation of a limb, or to the disabling of it, or the disabling of one of the senses from working or causes a serious disfigurement or any other permanent disability or has the appearance of a permanent disability." As we mentioned above, Article (13) of the Medical and Health Liability Law stipulates that "it is not permissible to carry out any action or intervention with the intention of interrupting a woman's birth, except with her written consent and based on an opinion issued by a specialized medical committee consisting of at least three specialized doctors, with the exception of Emergency". Accordingly, it clearly criminalized the removal of the uterus of women with disabilities, and Article (21) stipulated a penalty for that.

We also refer here to a set of articles of the Penal code that decide to protect a set of rights for persons with disabilities, and to aggravating penalties for crimes committed against them, such as Article (467/4) of the law, which states: "The penalty shall be imprisonment for up to one month or a fine of two hundred dinars or with both of these penalties, anyone who abandons a person with a serious mental or psychological disability and is entrusted with his care." Article (289) of the law stipulates: "Anyone who abandons a minor who has not completed fifteen

(137) The Rights of Persons with Disabilities Act No. 20 of 2017, promulgated in the Official Gazette No. 5464 of 1/6/2017, on page 3710.

years of age or a person with a mental disability, regardless of his age, without a legitimate or reasonable reason, which leads to endangering his life, or in a way that is likely to cause permanent harm to his health.” shall be punished by imprisonment from three months to one year. The penalty shall be imprisonment from one to three years if the minor has not completed twelve years of age. Article 290 stipulates: “Anyone who is a parent, guardian, or custodian of a young child or a person with a disability who is unable to support himself or who was legally entrusted with the responsibility of preserving and caring for him, and who refuses or neglects to provide him with food, shall be punished with imprisonment from one month to one year.” And clothing, bedding, and other necessities, even though he was able to do so, causing such harm to his health through his work, or he was entrusted by law to preserve and care for it, and he abandoned it intentionally or without a legitimate or reasonable reason.” Article (297), which states: “Any person who violates the honor of a person who is unable to resist due to a physical incapacity or a physical, psychological or mental handicap, or due to the forms of deception used against him or caused him to commit it, shall be punished with temporary labor.” Article (302), which stipulates the imprisonment of anyone who kidnaps, by fraud or coercion, a person - male or female - if the kidnapped person in the aforementioned manner is a male who has completed eighteen years of age, and the penalty is not less than two years if he has not completed it. A sixth to a third of it is added to the penalty if the victim was a person with a disability. Article (308) is repeated, which states: “It is not permissible to use mitigating reasons in crimes of assault on honor if the victim had not completed eighteen years of age at the time of the crime, whether male or female, or had a disability, and the perpetrator had completed eighteen years of age.” “His age.” Likewise, Article (330\1\2), which states: “1. Whoever hits or wounds someone with a tool that is not likely to lead to death or gives him harmful substances and never intended to kill him, but the person attacked died as a result of what happened to him, the perpetrator shall be punished with hard labor for a period not less than seven years. The minimum penalty shall be twelve years if the act stipulated in this article is committed against a public employee while exercising his job or for what he did for the job, or against someone who has not completed fifteen years of age, or against a person with a disability, regardless of his age.

Article (13\c) of the Electronic Crimes Law stipulates: “Anyone who possesses an information system or a storage device shall be punished by imprisonment for a period of not less than six months and a fine of not less than (3,000) Dinars and not exceeding (6,000) dinars.” If the data includes sexually provocative pictures, recordings, drawings, or other sexual organs, or real, virtual, or simulated sexual acts of a juvenile under the age of eighteen, or if the content relates to a person suffering from a mental illness or mental disability.

6.1.16 Female Genital mutilation and Male circumcision:

There is no prohibition in Jordanian national laws against female genital mutilation or cutting (such as circumcision) in specific. However, it is not practiced in Jordan⁽¹³⁸⁾ whether within Jordanian local customs and traditions

(138) The Regional Observatory on Violence against Women and Girls, available at the following link: <https://www.efi-rcso.org/ar/%D9%81%D9%87%D8%B1%D8%B3/%D9%85%D9%83%D8%A7%D9%81%D8%AD%D8%A9-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%B6%D8%AF-%D8%A7%D9%84%D9%86%D8%B3%D8%A7%D8%A1-%D9%88%D8%A7%D9%84%D9%81%D8%AA%D9%8A%D8%A7%D8%AA-vawg/%D8%A7%D9%84%D9%85%D8%A4%D8%B4%D8%B1-13%D9%81%D9%8A-%D8%B8%D9%84-%D8%BA%D9%8A%D8%A7%D8%A8-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B4%D8%A7%D9%85%D9%84-%D8%A8%D8%B4%D8%A3%D9%86-%D8%A7%D9%84%D8%B9%D9%86%D9%81-%D8%B6%D8%AF-%D8%A7%D9%84%D9%86%D8%B3%D8%A7%D8%A1>

or religious ideological heritage, but it is not the same for males, as it is practiced for them in Jordan (especially during the period Childhood) due to its connection with the religious doctrinal heritage.

Although the mutilation of any part of the body with the intention of harm is considered a crime punishable by the Penal code (as we mentioned previously), there is no special text criminalizing the mutilation of genital organs of females or (circumcision) for males.

Therefore, male circumcision is dealt with in accordance with Article (62\2\c) of the Penal code in that it falls within the surgical operations and medical treatments that apply to the principles of the technicality and are performed with the consent of the patient or the consent of one of his parents or his legal representative.

6.1.17 Promotion of homosexuality and the lesbian, gay, bisexual, queer, transgender, intersex and others (LGBTQIA +) community:

To begin with, we would like to present here the fatwa of the Fatwa Committee in the Jordanian General Fatwa Department No. (3670) dated 12/30/2021 AD, about sexual relations from the Islamic perspective, in which it was stated in answering a question which content was: “we looked at some studies that call for granting rights For homosexuals in Islamic societies, and calls for changing some laws that stress the prohibition of abortion and the practice of sexual relations outside of marriage under names such as teaching sexual culture and reproductive health, and we noticed in it the use of words such as intimate partner instead of husband and sexual activity outside marriage, so what is the position of Sharia law?’, The fatwa that answers the question stated the following: “The concepts mentioned in the question are in clear violation of the Islamic doctrine, so it is forbidden to promote or call for anything that contradicts what has been decided in the Islamic doctrine and Islamic jurisprudence, which is unanimously agreed upon and known by the religion by necessity, and is contrary to the moral values that are based on It is imposed on Muslim societies, and it is contrary to international laws and treaties that stipulate respect for the religious and cultural privacy of societies. It is known that the Islamic religion is a reference for Islamic countries and an integral part of their religious, legal, cultural and human identity, so it is forbidden to violate its teachings and conflict with its final legal provisions, just as contemporary public international law requires Respecting the cultural and religious particularities of societies and peoples, because it is an inherent collective human right, and the Vienna Convention of 1969 gave states the right to reserve treaties, and this indicates the necessity of taking into account cultural and religious particularities in human rights treaties and other treaties, because they may conflict With the national legislation of countries, especially those legislation that are built on authentic religious or cultural provisions, the concepts mentioned in the question are in direct, clear and clear conflict with the peremptory rulings prevailing in our society of the true Islamic religion, and they conflict with the state’s constitution, which stipulates that the religion of the state is Islam. It does not take into account the values and morals of the Jordanian people with its various components and does not respect the authentic Jordanian customs and traditions, such as its encouragement of sex outside marriage framework which is absolutely forbidden. Based on the above; We categorically reject from a religious, moral, societal and legal perspective, and we reject everything mentioned in the question that contradicts the provisions of Islamic Sharia, including:

- 1- Rejecting, legalizing, defending and encouraging homosexuality among segments of society.
- 2- Refusing to permit adultery under any name (such as sexual activity outside of marriage).
- 3- We categorically reject the expansion of abortion and its availability without acceptable medical reasons.

In another fatwa of the Fatwa Council related to the issue of treating gender identity disorder, the Council ruled that it is not permissible to perform reproductive system conversion or removal operations to treat what is called “gender identity disorder.” The Fatwa Council considered that “if a person is afflicted with a gender identity disorder, then it is necessary to treat this disorder in a way that restores things to normal, so that it is compatible with the origin of masculinity or femininity that is evident in the reproductive system, and not by modifying the sex and changing it through surgery or eradication. The psychological disorder in self-awareness cannot be a ruling on the present physical reality and psychological (inclination) do not matter in this case either.”⁽¹³⁹⁾

However, on the legal level, the sexual behavior of the lesbian, gay, bisexual, transgender, and intersex group is not criminalized in Jordan in itself or in particular, but at the same time, the lesbian, gay, bisexual, transgender, and intersex group can be prosecuted judicially in Jordan, such as The rest of the citizens, if the sexual act is accompanied by activities classified as crimes, such as outraging public modesty, public indecency (Obscenity), violating public morals, morals, and public order, or sexual violence without the consent of a homosexual, or their participation in pornographic or obscene photography, or the practice of debauchery and prostitution, or Male presence in public spaces designated for women.

It is worth noting here that despite the existence of the legislative principle stipulating that (no crime without law) and what appears from its application, consensual homosexual acts cannot be considered a crime or punishable acts if they are committed by adults over eighteen years of age, in a place of their own and without financial return, regardless of their gender, whether one of them is male or female, or their sexual orientation. the existence of this legal principle does not mean at all allowing public homosexual manifestations and activities or allowing the establishment of private associations or clubs for groups of lesbians and gays and bisexual, transgender and intersex also and does not mean allowing the publication of calls for and programs to gain support for them, or include promoting them and their social activity in the press and media, or in universities, cultural clubs, or schools, because all of these are governed by other standards and laws of their own, and most of them derive their reference from the tolerant Islamic law and the Islamic religion, which is the official state religion and one of the most important sources of Jordanian legislation that It aims to preserve the family and society, and not to mention the lack of acceptance of homosexuality in Jordan socially, religiously and culturally.

Jordanian law allows the police and administrative governors to prevent the organization of activities for LGBTQTI++ communities to protect order, public peace and public morals. To clarify all of this, we explain the legal provisions related to this subject in the Penal code and the Cybercrime Law and other legislations as follows:

(139) General Fatwa Department, Resolution No.: (245) (14/2017) Treatment of Gender Identity Disorder, dated 11/21/2017. It is available at the following link: <https://www.aliftaa.jo/decision/545/ShowContent.aspx?Id=244>.

With regard to publishing activities and programs to support, empower, and gain support for the LGBTQTI++ group in the Jordanian press and media, it can (and has been) banned based on Article (5) of the Press and Publications Law, which stipulates: “Publications must respect the truth and refrain from publishing what contradicts the principles of freedom, national responsibility, human rights, and the values of the Arab and Islamic nation.” We previously explained the fatwa of the Jordanian General Fatwa Department in this regard in terms of its prohibition and unacceptability, and the extent to which this violates the values of the Arab and Islamic nation.

The Public Meetings Law⁽¹⁴⁰⁾ gives the administrative governors of the Ministry of Interior entrusted with its implementation discretionary authority through the Crime Prevention Law⁽¹⁴¹⁾ to prevent any activity for LGBTQTI++ community if it was a meeting, celebration, or campaign, or program to gain support for the same considerations mentioned above, that it is contrary to the values and culture of the Arab and Islamic nation, and violates Islamic law, which is one of the most important sources of Jordanian legislation, and because it conflicts with public order and public morals, and for the same reasons, no approval or permission is given to any activities to gain support for LGBTQTI++ people in associations, clubs, cultural institutions, universities, and schools. It is stated in Article (5) of the Public Meetings Law that: “Every public meeting held, or march organized in contravention of the provisions of this law and the regulations issued pursuant to it is considered an illegal act.” Article (6) grants the administrative governor the right to take all necessary security measures and procedures to maintain security, order, and morals and protect public and private funds, and he may assign the agencies associated with him to carry out these tasks.

We mention here regarding “Bisexuals” that the Jordanian Civil Status Law⁽¹⁴²⁾ recognizes only two social genders, namely (male and female), and this is clear from the provisions of Article (15) of the law, which clarifies what the birth notification form must contain and stipulates that: “The notification form must include the following information: The name of the new-born and its gender (male or female), provided that the name does not violate religious and social values or violate public order”. From this article, it is clear that the Jordanian legislator did not mention 'bisexual' as anyone who is not male or female, which creates the issue of legally proving gender for them on national level.

The Jordanian penal code under the title of (misdemeanours against family morals), stipulates the criminalization of adultery and the crime of incest (Articles 282-286), which are crimes committed by sane adults with consent (without violence, usurpation, deception, or misleading). The offences could be committed by a man and a woman and penetration of the penis in the vagina must be established for such offences. Therefore, the sexual activities of the LGBTQTI++ group did not constitute a crime of adultery or incest, even if they involved a married man or woman.

The law also stipulates those crimes of sexual violence whose elements are met by the presence of sexual activity without the valid consent of the victim are either:

(140) Public Meetings Law No. 7 of 2004, issued in Official Gazette No. 4653 dated 4/15/2004, on page 1708.

(141) Crime Prevention Law No. 7 of 1954, issued in Official Gazette No. 1173 dated 3/1/1954, on page 141.

(142) Civil Status Law No. 9 of 2001, issued in Official Gazette No. 4480 dated 3/18/2001, on page 1204. Article (15).

1- Rape crimes, Articles of the penal code (292-295), require that the perpetrator be male and the victim female, (non-wife) and are also only committed by penetrate the penis into the vagina of the victim. Therefore, they are outside the scope of any homosexual activities.

2- Crimes of indecent assault, penal code Articles (296-299), which are any sexual activity that extends to one of the victim's private parts without his valid consent to that. The perpetrator may be male or female, and the victim may be male or female. Accordingly, homosexual activities may constitute indecent assault. The criminal act of this crime is if it is committed by a male against a male or from a female against a female. However, the reference for punishment is the victim's lack of consent and not what a sexual act is.

Penal code stipulates that the crimes of indecent fondling, Article (305), and offering an indecent act, such as directing indecent speech, Article (306). In most cases, they are committed by a male and the victim is a female, but in rare cases the opposite may happen, or the harasser and the victim may be of the same sex. Gender, and therefore homosexuality may constitute a motive for committing "crimes of sexual harassment", if it occurs by a male on a male or a female on a female, and the nature of the crime and punishment is determined by the act of harassment itself and not by the fact that it is homosexual or heterosexual. The law distinguishes between those who have not completed eighteen years of age and those who have completed eighteen years of age without consent. From here, it can also be said that the crime of displaying an indecent act can be committed by electronic means, because the legislator included in the text of Article (306) the phrase (by any means), and this is an absolute phrase, and the absolute applies unless it is specified.

The Penal Code also stipulates the crimes of a public indecency (Obscenity), and if the LGBTQTI ++ engages in public sexual activities, this may constitute a crime of "an act of public indecency (Obscenity)" according to Article (320), and here also these acts are considered a crime if they occur in a public place and not because they are homosexual acts.

As for the Infringement of women's premises, if males are present as "bisexual, transgender and intersex people" in places designated for women and their situation is discovered, they may be punished according to the text of Article (307), which states: "Every man who disguises himself as a woman and enters a place reserved for women or whose entry is prohibited to anyone other than women at the time of the act, shall be punished by imprisonment for a period." Not more than six months." (There is no text similar to women disguising themselves in men's private spaces). The same applies to crimes of impersonation, If a person as bisexual, transgender and intersex people conceals their true identity with the aim of bringing benefit to themselves or others, or with the aim of harming the rights of citizens, then they shall be punished for the crime of impersonating in accordance with Article (269) of Penal code.

The penal code also punishes, under the text of Article (319), any violation of public morals and ethics, such as pornographic materials. Whether that is trading, displaying or advertising any obscene material, or managing or participating in the management of a store that sells, publishes, or displays obscene things, whether printed, manuscripts, photographs, drawings, models, or any other things that may lead to corruption of morals and also included in this regard sexual pleasure items such as sex toys.

The penal code criminalizes prostitution and acts of incitement to debauchery. The penalties have been aggravated for violation of morals and public morals, according to the severity of the crime and the extent of the harm caused to the victim. The law punishes anyone who drives or attempts to drive a female who has not exceeded twenty years of age, so that someone has unlawful sexual intercourse with her in the Kingdom or abroad, and that female is not a prostitute, or is unknown with immoral behaviour, or led a female to become a prostitute in the Kingdom or abroad, or to reside in a brothel. The law imposes a penalty on anyone who prepares a house for prostitution, manages, works in, assists in its management, rents a house, or allows it or part of it to be used for prostitution, or was the owner and wage of the house for prostitution. The imprisonment of every male who lives on the earnings of a female prostitution, while every woman who proves that she is an earner, affects the prostitute's movements in such a way as to appear to help that woman or force her to engage in prostitution with another person is also punishable by imprisonment.

As for the Cybercrimes Law, Article 13 of it stipulates:

A- 1. Anyone who sends, publishes, prepares, produces, saves, processes, displays, prints, buys, sells, transfers, or promotes pornographic activities or works using the information network, information technology, information system, or website shall be punished with imprisonment for a period not less than for six months or a fine of no less than (3,000) three thousand dinars and no more than (6,000) six thousand dinars.

2 . The crimes stipulated in Clause (1) of this paragraph shall be prosecuted based on the complaint of the victim who has completed eighteen years of age, and the public right's claim to forgive the victim shall be dismissed.

3. If the purpose of the acts stipulated in Clause (1) of this paragraph is to direct or incite the commission of a crime or with the intention of sexual exploitation, then they shall be prosecuted without the need for a complaint, and the penalty shall be imprisonment for a period of not less than one year and a fine of not less than (6,000) six thousand dinars. Not more than (15,000) fifteen thousand dinars.

B- 1. The acts stipulated in Clause (1) of Paragraph (A) of this Article shall be punished by imprisonment for a period of not less than one year and a fine of not less than (6,000) six thousand dinars and not exceeding (30,000) thirty thousand dinars if this The content includes sexually provocative pictures, recordings, drawings, or other sexual organs or real, virtual, or simulated sexual acts of a juvenile under the age of eighteen, or the content relates to a person suffering from a mental illness or mental disability.

2. The acts stipulated in Clause (3) of Paragraph (A) of this Article shall be punished by imprisonment for a period of not less than two years and a fine of not less than (9,000) nine thousand dinars and not exceeding (30,000) thirty thousand dinars if the content is pictures or Recordings, drawings, or other sexually stimulating sexual organs or real, virtual, or simulated sexual acts of a juvenile under the age of eighteen, or designed to entice him, or whose purpose is to direct or incite him to commit a crime, or with the intention of exploiting him, or if such content relates to a person suffering from a mental illness or with a mental disability .

C. shall be punished by Imprisonment for a period of not less than six months and a fine of not less than (3,000) three thousand dinars and not exceeding (6,000) six thousand dinars, anyone who possesses within the information system or a data storage support image, recordings, drawings, or other sexually stimulating sexual organs or acts. Real, virtual, or simulated sexual intercourse with a juvenile under the age of eighteen, or if the content relates to a person suffering from a mental illness or mental disability.

These articles are applied without distinction as to whether they contain homosexual or heterosexual activities. Article (26) of the Cybercrimes Law also stipulates: “Anyone who commits any crime not stipulated in this law and is punishable under any legislation by using the information network, information technology, information system, or website, or participates in, interferes with, or incites to Committing it shall be punished with the penalty stipulated in that legislation.”

6.1.18 Marital rape:

There is no explicit legal text that criminalizes “marital rape” in the Jordanian penal code or legislation in force in Jordan, but the Jordanian legislator stipulates the crime of rape in Article (292) of the penal code within Chapter Seven (in crimes against ethics and public morals). We find Article (292/A) which states: “Whoever has intercourse with a female (other than his wife) without her consent, whether by coercion, threat, trick, or deception, shall be punished with temporary labor for a period of not less than fifteen years.”

We also find that there are a number of Arab legislations that have taken this point into account by explicitly stipulating the exception of the wife from the crime of rape, such as the Syrian legislation in the text of Article (489/1) of the Penal code, which states: “Whoever forces someone other than his wife with violence or threats to have sexual intercourse...” And Article (503) of the Lebanese Penal code, which stipulates: “Whoever forces someone other than his wife to have sexual intercourse with violence or threats...”, as well as the Palestinian penal legislation in Article (152), which states: “Anyone who has unlawful sexual intercourse with a female without her consent...”. These legislations explicitly stipulate the form of the punishable act, which is a person coercing a woman other than his wife to have sexual intercourse. This means, in terms of the violation, that the husband will not be punished if he coerces his wife in order to have intercourse with her.⁽¹⁴³⁾

We point out here that the jurisprudence of the Jordanian Court of Cassation in "marital rape " has established that there is no rape between spouses and requires that the act of rape be committed against a woman other than the perpetrator's wife as the subject of the crime of rape.⁽¹⁴⁴⁾

6.1.19 Mandatory reporting of SGBV cases and the legal impact regarding GBV and SAE:

Article (4) of the Law on Protection from Domestic Violence stipulates that: “A-1- Each of the health, educational, or social service providers in the public and private sectors must report any case of domestic violence against

(143) Marital rape between criminalization and permissibility (a comparative study), Abdel Halim Ben Mishri, University of Bouira, Ma'arif Magazine, Department of Legal Sciences, No. 14, 2013. Page 218.

(144) Please see the decision of the Jordanian Court of Cassation, Penal Cassation No. 1646/2023.

a person who is incapacitated or has incomplete capacity as soon as he becomes aware of it or informs him of it. 2- Reporting shall be with the consent of the affected person if he has full capacity and the act committed against him constitutes a misdemeanour in accordance with the provisions of this law. B. It is not permissible to disclose the identity of the complainants in domestic violence cases unless the judicial procedures require otherwise. C. Anyone who violates the provisions of Paragraph (A) of this Article shall be punished by imprisonment for a period not exceeding one week or by a fine not exceeding fifty dinars, or by both of these penalties.

We can conclude that this article does not oblige service providers (including health and sexual care service providers such as doctors and nurses) to report crimes of domestic violence committed against fully competent persons over the age of 18, which constitute a misdemeanour.

As for Article (207) of the penal code, anyone who, while practicing a health profession, provides first aid to a person who appears to be a victim of a felony or misdemeanour, is obligated to inform the relevant authorities. Thus, health care service providers (workers in the health sector) are obligated to report crimes under the penal code. Regardless of the age, legal capacity of the victim, or type of violence.

The Child Rights Law was also keen to prevent abuse of the child in all its physical and moral forms and authorized the concerned authorities to take all measures to confront this. The Jordanian legislator, out of a desire to ensure effective protection for the child, reduced the severity of the procedures used for reporting, making it the right for any person to report any violation of the child's rights. A child or exploitation of him, and in this regard, Article 20 of the Child Rights Law stipulates that: "Taking into account the rights of parents or those who take their place in supervising and raising children in accordance with the legislation in force, the child has the right to be protected from all forms of violence, mistreatment, neglect, exploitation or assault." His physical, psychological, sexual safety, or his detention, and the competent authorities shall take the necessary preventive measures for that." Article (21\ b) affirms that: "Providers of educational, health, and social services, labor inspectors, and anyone who knows about exposing a child to violence, abuse, and exploitation, or exposing a child to any form of human trafficking, prostitution, exploitation in pornography, or any other form of Forms of sexual abuse, exposing the child to economic exploitation, including forcing the child to work or beg, or neglecting the child, whether by unduly abandoning him by his parents or the person entrusted with his care, leaving him unaccompanied, or refusing to accept him from his parents or the person entrusted with his care when a decision is issued regarding custody or refusal. Refrain from treating him or her, or making a habit of withholding food from him, by informing the competent authorities."

Sexual violence can be defined as: every act or statement of a sexual nature that causes the victim to engage in sexual activity directly or indirectly, or to use the sexual sphere with the intention of harm or exploitation. It may be towards the partner, such as cursing with obscene words or sexual comments, or threatening to violate one's one's honor and reveal what is hidden, or being forced to perform unacceptable sexual acts, or being unjustly abandoned in bed. It may also be practiced by the violent person towards a non-partner, such as sexual harassment of a family

member in word or deed, or rape. It includes coercion into prostitution and sexual exploitation of the victim for other goals, such as obtaining money. Sexual violence is the most dangerous type of violence because of its devastating psychological, physical and social effects.⁽¹⁴⁵⁾

It is pertinent to mention the Law on Prevention of Trafficking in Human Beings in Relation to Sexual Exploitation, the law considers sexual exploitation to be a form of human trafficking, and defines "human trafficking offences" as:

A- 1. Attracting, transporting, harbouring or receiving persons for the purpose of exploiting them through the threat or use of force or other forms of coercion or abduction, fraud, deception, abuse of power or exploitation of a state of weakness, or by giving or receiving sums of money or benefits to obtain approval from a person who has control over these persons, or.

2. Recruiting, transporting, harboring, or receiving people under the age of eighteen if this is for the purpose of exploiting them, even if this exploitation is not accompanied by the threat or use of force or other methods mentioned in Clause (1) of this paragraph.

B- For the purposes of Paragraph (A) of this Article, the word (exploitation) means the exploitation of persons in forced labor, slavery, servitude, the removal of organs, prostitution, organized begging, and any form of sexual exploitation.⁽¹⁴⁶⁾

Sexual exploitation in prostitution is one of the most prominent forms of sexual exploitation and one of the huge trades in the world, alongside the drug and arms trade, Sexual exploitation of children is also one of the most prominent forms of sexual exploitation.⁽¹⁴⁷⁾ It should be noted that the Human Trafficking Prevention Law stipulates the punishment of anyone who, by virtue of his position or profession, knows of the existence of a plan to commit exploitation in prostitution or any form of sexual exploitation, or knows of its occurrence, and does not report it to the competent official authorities.⁽¹⁴⁸⁾

Article (13) of the Cybercrime Act states: "1. Anyone who sends, publishes, prepares, produces, maintains, processes, displays, prints, buys, sells, transmits or promotes pornographic activities or works using the information network, information technology, information system or website shall be liable to imprisonment. 2. Prosecution for the offences provided for in section (1) of this paragraph shall be carried out on the complaint of the victim, who has completed the right of 18 years. If the purpose of the acts provided for in section (1) of this paragraph is to direct or incite the commission of an offence or with the intention of sexual exploitation, it shall be pursued without the need for a complaint. The penalty shall be a term of imprisonment of not less than one year and a fine of not less than (6000) dinars and not more than (15000) dinars". Article (14/b) of the Act also criminalizes anyone who uses the information network, information technology or information system or establishes a website to facilitate, promote, incite, assist or incite prostitution, debauchery, solicitation of another person or exposure to public morals. for the exploitation of prostitution by persons under 18 years of age or by persons with symptoms of psychiatric illness or mental.

(145) National Council for Family Affairs, Guide to Protecting the Family from Violence, 2023. Available at: <file:///C:/Users/lenovo/Downloads/331414cb-08a4-656dbcd64b6b-1.pdf>

(146) Human Trafficking Prevention Law No. (9) of 2009. Issued in Official Gazette No. 4952 dated 3/1/2009. On page 920. Article (3) thereof.

(147) Human trafficking for the purpose of exploitation in prostitution (a human tragedy and legal challenges), Fakhar Hisham, University of Bouira, Legal Analyst Journal, Volume (1), Issue (2), 2019. Page 48-50.

(148) Article (10/a) of the law

6.1.20 Defamation and the violation of privacy:

The concept of privacy is linked to a person's entity or his private space through which he seeks to protect his private feelings, thoughts, and secrets as an embodiment of his individual being. Privacy can be defined as a private space that allows an individual to interact or not interact with others, without the interference or intrusion of any unwanted person. It also gives the individual the freedom to determine what he wants, and with whom he wants, to share his detailed or secondary information, or even the permission to invest it for commercial or non-commercial purposes... We conclude that every member of society has a public space that he shares with others and a private space that he reserves for himself and/ o r he shares it with whomever he wants according to his whims and desires; the public sphere represents the individual's public activities, craft, and profession, which may be of an administrative, political, cultural, or artistic functional nature.⁽¹⁴⁹⁾ As for the private space, it is represented in the narrow circle or what is called private life, such as health, physical, financial, emotional, marital, or family status. The right to privacy is one of the closest rights that have been established for humans, the various aspects of which are often difficult to limit and distinguish with clear boundaries between what is considered part of a person's private life and what is considered part of a person's public life.⁽¹⁵⁰⁾

The right to privacy has been protected from the danger of electronic means in many Arab legislations, such as in the Jordanian Cybercrimes Law, which stipulates in Article (26) of the criminalization of anyone who commits any crime punishable under any applicable legislation by using the information network or any information system or A website, and Article (348) bis of the Jordanian penal code stipulates the criminalization of anyone who violates the privacy of others by eavesdropping on sight or hearing by any means, including audio recording, taking pictures, or using binoculars.⁽¹⁵¹⁾

Also the Cybercrime Law stipulates the criminalization of defamation, slander (Insult), and contempt in Article (15), where it is stated in Paragraph (A) : "Anyone who intentionally sends, re-sends, or publishes data or information via the information network, information technology, or the information system, website, or social media platforms contain false news targeting national security and community peace, or defame, slander (insult), or humiliate any person by imprisonment..." Article (188) of the Penal code defines defamation as: " attributing a specific material to a person - even in the context of doubt and questioning - that would undermine his honour and dignity or expose him to people's hatred and contempt, whether that material is a crime requiring punishment or not". It also defined slander (Insult) as: "attacking the dignity, honour, or reputation of others - even in the context of doubt and questioning - without stating a specific substance". Article (190) also defines humiliation as: " any humiliation or vilification - other than defamation and slander (insult) - directed at the victim face to face, through words or movements, or in writing or drawing that was not made public, or through a telegraphic or telephone communication, or through harsh treatment". Article (360) added another form of contempt, which is someone who belittles a person

(149) The Right to Privacy in the Digital Age, Sarah Ali Rimal, Al-Halabi Legal Publications, Beirut, 2017. pp. 12-14-75.

(150) Combating Computer and Internet Crimes in the Model Arab Law, Abdel Fattah Bayoumi Hegazy, Egypt, Dar Al Nahda Al Arabiya, 2009. p. 604.

(151) Crimes of Social Media Platforms, Adv. PhD. Ramzi Al-Dabak, Dar Al-Ghaya for Publishing and Distribution, 2018. Page 54.

outside of defamation and slander (insult), in word or deed, face to face, or in a written letter that he addressed to him or intended to inform him of, or by (extending his tongue) to him, or by a specific gesture, or by harsh treatment. The legislator stipulated in Article (198) of the penal code what is considered legitimate publication, even if any material is published that is defamatory or slander (insult), and limited it to the following cases:

1. If the topic of defamation or slander (insult) is true and its publication benefits the public interest.
2. If the subject of the defamation or slander (insult) is exempt from culpability based on one of the following reasons:

A- If the subject of the defamation or slander has been published by the government or the National Assembly or in an official document or record, or

B- If the subject of defamation or slander (insult) was published against a person affiliated with military discipline, police discipline, or gendarmerie and it relates to his behaviour as a person affiliated with that discipline and the publication occurred from a person with authority over him in relation to his behaviour to another person over whom he has that same authority, or

C- If the subject of the defamation or slander (insult) was published during judicial proceedings by a person who participated in those proceedings as a judge, lawyer, witness, or party in the case, or

D- If the subject of the slander or slander (insult) is in fact a true statement of any matter that was said, done, or broadcast in the National Assembly, or

E- If the subject of the defamation or slander (insult) is in fact a true statement about anything or matter that was said, done, or highlighted during judicial procedures taken before any court, provided that the court has not prohibited the publication of what was mentioned, or that the trial in which those procedures took place was conducted in secret, or

F- If the subject of the defamation or slander (insult) is an accurate copy, image, or summary of a previously published material, and the publication of that subject is exempt from culpability in accordance with the provisions of this article.

However, the Jordanian legislator suspended all defamation, slander (insult), and contempt lawsuits (except those committed in accordance with the Cybercrime Law) until the victim takes the status of personal plaintiff.

The Cybercrime Law in Article (20/B) also criminalizes anyone who uses an information network, information technology, information system, website, or social media platform to install, modify, or manipulate a recording, image, scene, or video that the person is keen to preserve and prevent, displaying to the public with the intention of defamation or offending or obtaining a benefit as a result. With regard to privacy as well, we find that Article (348) bi's of the Penal code stipulates that: "Anyone who violates the private lives of others by eavesdropping on hearing or seeing by any means whatsoever, including Audio recording, taking photos, or using binoculars, and the penalty is doubled in case of repetition."

It is also mentioned here what is stated in Article (9/C) of the Family Reform and Reconciliation Offices

Regulations⁽¹⁵²⁾: “The deliberations and procedures for the work of the offices and bodies shall be confidential,” and this is what the Sharia Procedures Law⁽¹⁵³⁾ affirmed when talking about family reconciliation, mediation, and reconciliation offices. Article (11/d) stipulates that: “It specifies all matters Related to the work of the offices stipulated in Paragraph (c) of this article “in accordance with a system issued for this purpose, including observance of confidentiality in office work procedures.” Article (46) of the same law stipulates the principle of confidentiality of the trial to preserve family privacy.

6.1.21 Circumventing the Internet Protocol address (IP Address):

The Jordanian legislator views protocol address circumventing as a purely electronic crime that harms the security of individuals and countries. The perpetrator uses the fake address to commit any crime or to hide his personal data. The goal of this is to obscure his personal features and prevent the security services from discovering his identity. What increases the seriousness of this crime is that it is difficult to reveal the identity of the perpetrator except by using high security techniques, at the same time that the crime is committed with complete ease simply by using the perpetrator of a program or website. Circumventing the protocol address has been linked to multiple criminal activities, such as money laundering, terrorist financing, arms and drug trafficking, human trafficking, and pornographic sexual crimes. Such crimes are committed by the perpetrator hiding behind a fictitious address that is difficult to reveal or locate.

Article (2) of the Cybercrime Law stipulates the definition of the protocol address (IP), defining it as: “a digital identifier assigned to every information technology means for the purposes of communication in an information network.” It defined the information network as: “a connection between more than one information system or any means of information technology to make and obtain data and information available.” Article (12) of the Cyber-crimes Law criminalizes circumvention of the protocol address, as it stipulates that: “Anyone who circumvents the protocol address by using a fictitious address or an address belonging to a third party or by any other means with the intention of committing a crime or preventing its discovery shall be punished by imprisonment for a period of not less than six months or a fine of no less than (2,500) dinars and no more than (25,000) dinars.”

One of the most important things to note about the legal limits and applications of this article is that it may appear that it prevents individuals and institutions from hiding their personal identity and not revealing it on the Internet, which may help them express their opinions frankly and clearly and without fear of revealing their identity,⁽¹⁵⁴⁾ but Article (12) stipulates for the crime to be committed, the intent of circumventing the protocol title is to commit a criminal crime, and therefore the freedom of individuals in their right to hide their identity is not infringed as long as this is done in legitimate ways and for purposes and reasons not criminalized by law. Criminalization is based on circumvention for the purpose of committing a crime or concealing the signs or effects of a crime. It is also noted

(152) Family Reform and Reconciliation Offices Regulation No. (17) of 2013, issued in Official Gazette No. 5209 dated 2/28/2013 on page 912. The goal of establishing family reconciliation offices is to end family disputes amicably, through awareness and education about marital rights and duties, and providing family guidance. In order to achieve its goals, offices may use appropriate methods, means and techniques.

(153) Sharia Procedures Law No. (31) of 1959, issued in Official Gazette No. 1449 dated 11/1/1959, on page 931.

(154) Human Rights Watch, Jordan: The draft cybercrime law should be withdrawn, a report available on the organization’s official page, and at the following link: <https://www.hrw.org/ar/news/2023/07/24/jordan-scrap-draconian-cybercrimes-bill>

in this article that it did not specify a specific form or specific shape for circumventing the protocol address, but rather mentioned “or by any other means” to include all forms and cases that lead to circumventing the protocol title.

One of the technical confrontation steps to criminalize circumvention of the protocol address in the Cybercrime Law is what was stipulated in Article (33) of the law, which obliges the service provider to immediately surrender to the Public Prosecutor’s decision requiring the removal, blocking, stopping, disabling, or intercepting the flow of data if it is proven to him that taking this measure would confront a crime, prevent it from occurring, or prevent it from proceeding. It also obliges the service provider to provide all the data requested by the public prosecutor to facilitate knowing the identity of the offender and immediately prosecuting him. in addition to the obligation to maintain the confidentiality of that data.

A - To the competent public prosecutor or to the competent court, and when an information system, website, service provider inside or outside the Kingdom, social media platforms, or the person responsible for any account, public page, public group, channel, or anything similar publishes any materials that violate the provisions of this law. Or the legislation in force in the Kingdom, issuing an order to those in charge of it to take the following: -

- 1 - Remove, block, stop, disable, record, intercept the flow of data or any publication or content, prevent access to it, or block the user or publisher temporarily during the period specified in the decision.
- 2 - Providing them with all the necessary data or information that helps reveal the truth, including the data of the owner or user of the website or information system that helps determine his identity and conduct legal prosecution.
- 3 - Urgent preservation of data and information necessary to reveal the truth, store them and maintain their integrity.
- 4- Maintaining confidentiality.

B - In the event that those in charge of the information system, social media platform, website, or service provider do not respond or refuse to the order stipulated in Clause (1) of Paragraph (A) of this Article, or if urgency requires it, the competent public prosecutor or the competent court maybe a reasoned decision, an order is issued to the competent authorities to block the information system, website, social media platform, or service on the national network, or block access to violating content.

C- Anyone who refrains from implementing or violates the orders of the public prosecutor or the competent court and does not exceed (30,000) thirty thousand dinars shall be punished with a fine of no less than (15,000) fifteen thousand dinars and no more than (30,000) thirty thousand dinars.

6.2 Reproductive and sexual health components adopted in the national reproductive and sexual health strategy (life cycle approach) and the cybercrimes and penal code offences

According to the National Strategy for Reproductive and Sexual Health 2020-2030 issued by the Higher Population Council, , it is noted that the components of sexual and reproductive health contained in the strategy have been

approved according to the life cycle (classified as five age groups), starting with new-borns and infants (age 0-1 year). Then childhood age (1-9 years), adolescents age (10-19 years), youth age (12-30 years), reproductive age (15-49 years), post-reproductive age (over 50 years). Here we will analyse these classifications legally, noting that the Jordanian legislator did not divide the texts regulating reproductive and sexual health based on all age groups, but rather in some cases it arranged an effect for the group whose members are less than eighteen years of age: such as aggravating the punishment if the victim is under that category. Here we will analyse these classifications legally as follows:

I: Neonatal and infant care (0-1 year)

Infant care, breastfeeding and neonatal care, including:

1- Basic care for newborns as follows:

Immediate care at birth (delayed cord clamping, thorough drying, respiratory assessment, skin-to-skin contact, early initiation of breastfeeding).

2- Encouraging best infant feeding practices:

- Timely initiation of breastfeeding for children between 0 and 23 months (i.e. children aged 0 to less than 24 months).
- Exclusive breastfeeding under 6 months (i.e. infants younger than 6 months).
- Exclusive breastfeeding without formula under 6 months (i.e. infants younger than 6 months).
- Continuation of breastfeeding until the age of 2 years in children aged 20 to 23 months (i.e. children aged 20 to less than 24 months).
- Introducing solid, semi-solid or soft foods to infants aged 6 to 8 months (i.e. infants aged 6 to less than 9 months).
- Consumption of iron-rich foods or iron-fortified foods in children aged 6 to 23 months (i.e., children aged 6 to less than 24 months).

The Cybercrimes and Penal Code provisions are not applicable to anything in the above except for what was previously stated.

II: Child care (1-9 years)

- Child care.

Includes:

- monitoring the growth and development of children.
- Gender-based violence, including care for rape survivors.
- Services include investigating domestic violence of all kinds and clinical procedures to deal with cases of sexual assault and rape by providing medical interventions and referrals to protection and psychological support services.

The Parenting Awareness Program involves working with mothers, fathers and caregivers to enhance their knowledge and skills to support their children's early childhood growth and development.

- School Health.

It includes identifying the most important health problems in the school community, informing educators about them, and conducting a set of clinical and laboratory examinations for school students according to the targeted age group for early detection of diseases and giving the necessary vaccinations.

- Vaccines.

Includes vaccines from the National Program of the Ministry of Health and additional vaccines (meningococcal, pneumococcal, etc.).

The Cybercrimes and Penal Code provisions are not applicable to anything in the above except for what was previously stated.

III: Caring for adolescence (10-19 years) and youth (12-30 years) and it includes:

- management of sexually transmitted infections including viruses and immunodeficiency virus.

They are diseases that are usually transmitted from one person to another during sexual activity, whether directly or indirectly. These diseases include a wide range of infections that can be transmitted through unprotected sexual intercourse. Some sexually transmitted diseases (STDs) can also be transmitted during pregnancy, childbirth, breast-feeding, and through contaminated blood or blood products. These infections include: trichomoniasis, AIDS, chlamydia, herpes, and others.

- family planning.

Traditional family planning methods include modern temporary short-term methods (combined pills, progestin only pills, and condoms), modern long-term (Intrauterine device -IUD, implant, and injectables such as medroxyprogesterone acetate), and permanent (vasectomy and tubal ligation).

- Physiological changes include physical and psychological physiological changes.

It includes counselling on puberty: It is a stage of physiological and psychological growth and development that occurs before adolescence, and it is the primary determinant of the individual's transition from childhood to adolescence, so that the male and female bodies become able to complete the process of reproduction. It is also the stage in which the child acquires secondary sexual characteristics. External secondary sexual characteristics are one of the clear signs in the physical appearance, voice, etc., and it usually takes from two to five years, until it is completed.

- Pre-marital care.

- Pre-marital examinations including (In Jordan), a complete blood count and urine examination are requested, in addition to counselling about pregnancy, family planning, and others.

- Gender-based violence, including care for rape survivors.
- Reproductive tract infections.
- School health and healthy lifestyles.
- Vaccines.
- Education related to reproductive and sexual health for adolescents and young adults.

The Cybercrimes and Penal Code provisions are not applicable to anything in the above except for what was previously stated.

IV: Care in reproductive age (15-49) and it includes:

- Pre-marital care.

- Pre-pregnancy care.

Clinical examination, and laboratory tests when needed, and prescribing nutritional supplements.

- Prenatal care.

- Birth care: where the woman is prepared for childbirth, the type of birth normal vaginal vs cesarian section, its place, and advice is given on breastfeeding and family planning.

- Breastfeeding.

- Postnatal care: It is known as postpartum care after normal vaginal or cesarean delivery, in which the woman is examined over several visits, pelvic examination is conducted, to check of the return of the reproductive organs to their previous position, it also includes complete blood count testing, urine analysis, and screening for depression and psychological problems.

- Post-abortion care: It includes checking the woman's condition after a miscarriage, clinical and laboratory examination, and family planning counselling.

- family planning.

- Sexually transmitted infections including immunodeficiency virus management.

- Infertility care: infertility is defined as the inability to achieve pregnancy after 12 months or more of regular intercourse without protection, and assisted reproductive technologies such as intracytoplasmic injections, in vitro fertilization (IVF), or drug stimulation.

- Gender-based violence, including care for survivors of rape and sexual violence.

- Cancers of the reproductive system.

Such as cancer of the cervix, uterus, breast, and ovaries for females, and prostate cancer for males

- Reproductive system morbidity such as polycystic ovary syndrome.

What is related to the above has already been stated previously in Article (5) of this legal consultation and analysis.

V: Care after childbearing age (over 50 years) and it includes:

- Management of Sexually transmitted infections including immunodeficiency virus.

- Menopause services: It includes a clinical examination for a postmenopausal woman and investigation of common diseases in this age group (often after the age of fifty, such as screening for blood pressure, diabetes, osteoporosis, cancer, etc., in addition to counselling about physiological changes in this age group).

- Cancers of the reproductive system screening.

- Gender-based violence, including care for survivors of rape and sexual violence.

What is related to the above has already been stated previously in Article (5) of this legal consultation and analysis.

7 Public order, public morals, and legal prohibitions on publishing information related to reproductive health and sexual and reproductive rights

It must be recognized that there is generally no comprehensive definition of the concept of Public Order; this applies to Jordan as there is no specific legal definition of Public Order in Jordan's national legislation, but it can be understood as a set of basic rules governing society and ensuring its stability and security. These rules include:

- **Rules related to public order:** such as the rules of public security, public health, public morals, and public ethics.
- **Rules related to basic rights and freedoms:** such as freedom of opinion and expression, freedom of religion, freedom of movement, and others.
- **Rules related to the state's political system:** such as the form of the state and its system of government.

Public Order is a changing concept that evolves over time, depending on the changes that occur in society. The most important characteristics of the general system are:

- **Mandatory:** all individuals and institutions are required to respect its rules.
- **Generality:** Its rules apply to all persons and throughout the state.
- **Continuity:** Its rules remain in effect without time limits.

Examples of public order rules in Jordan include:

- **Prohibition of murder and self-assault:** These actions are considered a violation of the rules of public order because they harm public security and the demographic structure of society, in addition to the fact that doing them is considered a crime.
- **Prohibition of theft and fraud:** These actions are considered a violation of the rules of public order because they harm private property.
- **Prohibition of pornography, prostitution, and immorality:** These acts are considered a violation of the rules of public order because they harm the public moral order and morals of society.

A judge can decide whether an action is against public order or not, based on a range of factors, such as:

- **Nature of the act:** Is it a work that threatens public security, public health, or public morals?
- **Circumstances of the act:** Was the act committed in a private or public context?
- **Impacts of the act:** What are the effects of the work on society?

Therefore, the Jordanian Court of Cassation endeavored to define public order, and we find that there is more than one court's jurisprudence regarding the definition of public order, agreeing on the content even if they differ on the wording. Among that, it defined public order as "the political, economic, and social structure of a nation,"⁽¹⁵⁵⁾

(155) Court of Cassation in its civil capacity, Judgment No. 2733 of 2010 - issued on 4/12/2012.

and defined it as “The set of legal rules that aim to achieve the general interest of the state, whether from a political, social, economic or moral perspective, that are related to the higher order of society and are above the interests of individuals who must take this interest into account and are not permitted to agree otherwise.”⁽¹⁵⁶⁾ It has also been defined as “a set of rules and peremptory legal texts that may not be agreed upon to violate.”⁽¹⁵⁷⁾ Public order is therefore an important concept in Jordanian law, as it governs many aspects of life in society. All individuals and institutions must respect the rules of public order to maintain society's stability and security.

The same applies to public morals or public ethics. There is no specific definition of public morals and ethics in Jordanian legislation, but its concept can be derived through the provisions of various laws that address behaviors that are considered disruptive. In general, public morals and ethics include:

- **Social values and principles:** such as respect for religious and cultural values, customs and traditions prevailing in society.
- **Personal behaviours:** such as respecting others and not harming them, being honest and truthful, and avoiding scandalous or offensive behaviour.
- **Public order:** such as respecting laws and regulations, preserving the environment, and avoiding public disturbance.

Among the most important laws that address crimes against morals and public morals in Jordan are:

- **The Jordanian Penal code:** stipulates penalties for a number of crimes, such as incitement to immorality, sexual harassment, foreplay that is indecent, offering an indecent act (Obscenity), indecent fondling, disturbing public comfort, prostitution, and corruption of morals.
- **Cybercrime Law:** It addresses crimes committed through the use of electronic media, such as publishing pornographic materials, incitement to hatred, defamation of others, and contempt of religions and societal peace.
- **The Press and Publications Law:** regulates the work of newspapers, magazines, and websites, and prohibits the publication of any materials considered violating morals and public morals.

The concept of public morals or the general sense of modesty is a relative feeling and varies according to the time and place in which the act was committed. What is considered a violation of public morals in the village may not be considered such in the city, what is considered a violation of public morals in the city, or the public street may not be the same on the seashore, and what is considered a violation of public morals in Jordan may not be the same in a European country, and what is considered a violation of public morals in Jordan today may not be the same in years to come.

It follows from the relativity of public morals that the judge of the matter is the one who determines whether or not the movement, action, or statement has violated public morals or the general sense of modesty, basing this on the set of religious and moral values and social morals that prevail in society, of which the sum consists of Public

(156) Court of Cassation in its civil capacity, Judgment No. 4164 of 2018 - issued on 5/9/2019.

(157) Court of Cassation in its civil capacity, Judgment No. 1441 of 2020 - issued on 6/22/2020.

morals or a general sense of modesty.⁽¹⁵⁸⁾ Thus, the idea of interpreting what is considered a violation of morals and public ethics became established that it depends on the cultural and social context, and perhaps this is considered the main reason for the differences in provisions and laws related to this matter from one country to another.

With regard to ethics and public morals, the concept of morals must be dealt with in the abstract and independent of the concept of public order, most of the legal jurisprudence has tended to address them and mention them together as a conjunction and not as a distinction, the two terms (public order and morals) went hand in hand and were associated with each other in every case dealt with. one of them, public order is considered an independent concept from morals, which is the most specific ethical aspect of public order. Legislation protects good ethics, and ethics is abstract and, in general, is a set of behavioral rules and polite morals, which people found themselves obligated to follow in accordance with a moral law that prevails in their social relations. Religion has a major impact in adapting it, and the concept of morals is a flexible concept on the basis that it is the idea expresses the sum of the fundamental interests affect morals in the group, so it varies according to place and time. While some legal systems permit the establishment of gambling clubs and nudist beaches, others consider this to be indecent for morals. The standard of morality should not be a subjective standard in which the judge refers to his beliefs or personal assessment, but rather an objective standard in which he takes into account the prevailing ideas and trends that people have agreed to accept, and the basic moral rules that they find themselves obligated to follow, even if the law does not order them to do so. In addition to the objective criterion, the idea of relativity must be taken into account. Because it is not possible to define and control the scope of morality in a specific nation and generation, it was decided to invalidate the condition of celibacy imposed on the air hostess because it is an indirect violation of morality, as long as it encourages illicit intercourse. Defining the concept of morality is difficult in general, and for many years legal jurisprudence has been accustomed to defining the concept of morality with narrow, direct, and traditional examples and confining it to its templates, such as brothels, gambling clubs, and illicit sexual relations, while the scope of this concept must be expanded to include situations that may lead to it. Indirectly, as in the aforementioned example, considering that it (i.e., the concept of morals) is a relative and variable concept.⁽¹⁵⁹⁾

We find that the Jordanian legislator did not set a specific definition of public morals, leaving that to the courts, and one of the Jordanian judicial jurisprudences in defining the frameworks of public morals and ethics is to define what is considered not to be among those public morals and ethics. Therefore, the Supreme Administrative Court stated that “Any violation of the laws and regulations in force that infringes the general morals of Jordanian society, is considered a crime against morals”.⁽¹⁶⁰⁾ The Jordanian legislator has allocated a specific section for crimes against morals and public ethics in the Penal code in implementation of this, as we mentioned previously.

Whereas national constitutions and penal laws guarantee full protection of sanctities, rituals and religious beliefs. Including the Jordanian Constitution in Article (14), as we mentioned previously, insulting religions is among

(158) Al-Mojaz in Explanation of the Penal code - Private Section, Mahmoud Naguib Hosni, Dar Al-Nahda Al-Arabiya, 1993. Page 485.

(159) Mazen Al-Nahar, Public Order and Public Morals, an article published on the Arab Nation University website and available at the following link: https://arabnationleague.com/a_web/one_sub.php?id=1575

(160) Higher Administrative Court, Resolution No. 106/2020 dated 30/6/2020.

the matters forbidden by law, and is also punishable by the Penal code because of the social danger of this act, which lies in stirring up feelings of contempt and disdain towards adherents of the creed in a way that may lead to a disturbance of security and public order. Accordingly, Article (17) of the Cybercrimes Law punishes anyone who intentionally uses the information network or information technology or information system or electronic website or social media platform, to publish what may incite strife or sectarianism or target societal peace or incite hatred or advocate or justify violence or insult religions.

It must be noted that family values do not deviate from the concept of social values, as they are part of them and are completed by them. Family values aim to maintain the reputation and respect of families within their community. Therefore, the values of society that are protected by the law are the social values derived from the teachings and values of the true Islamic religion⁽¹⁶¹⁾ stipulated in the Jordanian Constitution in Article (6/4) that the family is the foundation of society, its foundation being religion, morals, and love of the homeland, and the law preserves its legal entity and strengthens its bonds and values. Any action that violates public morals in this area is subject to the provisions of Article (14) of the Cybercrime Law, and its corresponding Article (319) of the Penalties code.

It is worth noting that this, on its surface, does not conflict with what has been approved by some components of international legitimacy in this field, especially what is stated in Article (19) of the International Covenant on Civil and Political Rights, which stipulates the right to freedom of opinion and expression, and that:

- 1- Every human being has the right to hold opinions without harassment.
- 2- Every human being has the right to freedom of expression. This right includes his freedom to seek, receive, and impart various types of information and ideas to others, regardless of borders, whether in written or printed form, in artistic form, or by any other means he chooses. The exercise of the rights stipulated in Paragraph (2) of this Article entails special duties and responsibilities. Accordingly, it may be subject to some restrictions, but on the condition that they are specified by the text of the law and that they are necessary:
 - a. To respect the rights or reputations of others.
 - B. To protect national security, public order, public health, or public morals.

We refer here to what the Administrative Formations Regulation stipulates in Article (4) that: “The Ministry of Interior shall assume the tasks and responsibilities assigned to it in accordance with the legislation in force, including: taking measures and procedures for preserving security, public order, morals, and public safety in the Kingdom, preventing crime, and working to prevent It occurs”.⁽¹⁶²⁾ Article (11/c) of the regulation stipulates that: “The governor shall assume the duties and powers assigned to him under the applicable legislation, including: maintaining public order and public morals and ensuring public comfort.” Article (11\c) of the regulation also stipulates: “The administrative governor shall assume the duties and powers assigned to him under the applicable legislation,

(161) Criminal Liability for Electronic Publishing Crimes in Light of the UAE’s Anti-Information Crimes Law, Ahmed Al-Hajj, Police Thoughts Magazine, Issue (35) of 2013.

(162) Administrative Formations Regulation No. 70 of 2000, issued in Official Gazette No. 4455 dated 9/17/2 Jordanian Higher Court of Justice, Resolution No. 432 of 2002 - issued on 12/3/2002, on page 3702.

including: maintaining public order and public morals and ensuring public comfort.” Article (11\c) of the regulation also stipulates: “The administrative governor shall assume the duties and powers assigned to him under the applicable legislation, including: maintaining public order and public morals and ensuring public comfort.” In this regard, the Jordanian national judiciary held that: “If the administrative governor exercises his legal powers in accordance with the provisions of the law, as he is one of those charged with maintaining public security and public morals, then the grounds for appeal are unfounded and the lawsuit must be rejected.”⁽¹⁶³⁾ Articles (14\c), (31\c) and (44\c) of the regulation oblige the heads of official, public and private institutions to fully comply with the decisions of the administrative governors (governors, administrators, and administrative directors), and their written requests related to security, public order, and public safety, and to It does not conflict with applicable legislation. Based on the above, it can be said that any reproductive and sexual health activity can be prosecuted, whether the practitioner is an individual or an institution, in the event that it violates the provisions of public order, ethics, and public morals in Jordan. We have previously explained the set of legal texts that the Jordanian legislator has allocated to preserve public order, public morals, and public ethics in legislation potentially related to elements of reproductive and sexual health.

(163) Supreme Court of Justice of Jordan, Judgment No. 432 of 2002 of 3/12/2002.

8 The position of Jordanian judicial regarding international agreements related to reproductive and sexual health

There is no doubt that constitutions play a fundamental role in the implementation of international treaties, as they determine the national authorities competent to ratify and approve the treaty, and also specify the procedures that make it implemented, and sometimes clarify the solution when a conflict occurs between the treaty and internal laws. It is noted by examining the texts of the Jordanian Constitution, especially the text of Article (33), which regulated the subject of international treaties, that it involved many problems related to the process of ratifying treaties, and distinguished between treaties that require the approval of the National Assembly and other treaties that do not. However, they It neglected to mention the legal value of international treaties and agreements, and it also did not refer to the jurisdiction of the Constitutional Court to monitor the constitutionality of treaties.

The Jordanian constitution, like other constitutions in the world, has authorized the legislative authority (which in Jordan consists of the National Assembly, with its two parts, representatives and notable's "senates") to approve international treaties and agreements. In doing so, it follows the approach of most constitutions of democratic countries, which make the ratification of international treaties and agreements the prerogative of the legislative authority.⁽¹⁶⁴⁾ We find this in the text of the first paragraph of Article (33) of the Jordanian Constitution, which states: "The king is the one who declares war, concludes peace, and concludes treaties and agreements." However, a restriction on the king's authority to conclude treaties was mentioned in the second paragraph of the same article, where emphasized that there are two types of treaties are implemented only after approval by the National Assembly: These are treaties that entail bearing some expenses on the state treasury, in addition to treaties that affect the public or private rights of Jordanians. The Jordanian legislator held that the treaty concluded based on incomplete ratification was not enforceable, and this is evident from the text (Article 33/2) of the Jordanian Constitution, which states that a treaty that did not meet the required form, such as the approval of the National Assembly, is not enforceable. It is worth noting here that the Jordanian Constitution used the term (approval) and did not use the term (ratification). In fact, the Vienna Convention on the Law of Treaties considered (approval, acceptance, and ratification) synonymous terms, as it was stated in Article (14/2) of the Convention that: "A state expresses its consent to be bound by a treaty by accepting or approving it on terms similar to those that apply to ratification."⁽¹⁶⁵⁾ However, the term ratification is more commonly used by public international law jurists.

Although the Jordanian Constitution does not use the term (ratification), the practical reality since the entry into force of the current Jordanian Constitution in 1952 until now is that the National Assembly expresses its approval of treaties through a law called the Law of Ratification of the Agreement in question, and this can be considered as

(164) Such as the Constitution of the United States of America in Article (2/2) thereof, the French Constitution in Article (53) thereof, and the Italian Constitution Article (80) thereof, and the Dutch Constitution Article (91\1) which stipulates that "The Kingdom is not bound by treaties, nor are such treaties denounced without the prior approval of the Parliament. The cases in which approval is not required are specified by Act of Parliament, stating that "the provisions of a treaty that conflict with the Constitution or which lead to conflicts with it may be approved by the Chambers of the Parliament only if at least two-thirds of the votes cast are in favor."

(165) Vienna Convention on the Law of Treaties, adopted by the United Nations Conference on the Law of Treaties held by United Nations General Assembly Resolution 2166 of 5 December 1966.

constitutional custom. An interpreter of the text of Article (33/2) of the Jordanian Constitution, and then the interpreted custom is attached to the constitutional text itself and takes its ruling.⁽¹⁶⁶⁾ The wisdom behind issuing approval from the legislative authority for important treaties is to provide the legislative authority with the opportunity to reconsider the treaties concluded by the executive authority, to ensure that they do not harm the supreme interests of the state, or affect the rights of Jordanians, especially since the legislative authority did not participate in the negotiations or sign those Treaties.⁽¹⁶⁷⁾ The Jordanian government issued temporary laws ratifying some international agreements, and this places the process of concluding and approving the treaty in the hands of the executive authority (Government) alone. There is no doubt that ratifying the agreement with a temporary law is contrary to the constitution and constitutes a blatant violation of the executive authority's jurisdiction. The legislative authority, in violation of the principle of separation of powers in light of the philosophy on which the parliamentary system is based.⁽¹⁶⁸⁾ It goes without saying that the Jordanian constitution did not follow the path of contemporary constitutions by explicitly stipulating the legal value of international treaties.⁽¹⁶⁹⁾

In light of the above, we find that this has had an impact on what was settled by the jurisprudence of the Jordanian judiciary. We find at times that the jurisprudence has settled on the fact that treaties and agreements are superior to domestic laws, whether they require approval by the National Assembly, or those that do not need the approval of the National Assembly. Recently, It has been proven that this leads to a breach of the principle of separation of powers, particularly in treaties that do not require the approval of the National Assembly, since by adopting an agreement through the executive authority that conflicts with laws issued by Parliament, the priority is in implementing the agreement. Thus, the executive authority can suspend a law issued by Parliament, which violates the principle of separation of powers and is considered an encroachment by the executive authority on the powers of the legislative authority. Likewise, treaties and agreements that are approved by the executive authority without the need for the approval of the legislative authority cannot be challenged as unconstitutional before the Constitutional Court because they do not need a law to be implemented. This distinction is considered critical because the constitution must prevail over all other international legislation and treaties.

8.1 Some jurisprudence of the Jordanian court of cassation regards the application of international agreements and treaties in Jordan

As we mentioned previously, the jurisprudence of the Jordanian Court of Cassation is based on the superiority of international agreements and treaties over national laws as a general rule (with details about that). The Jordanian

(166) The mediator in political systems and constitutional law, Noman Al-Khatib, eleventh edition, House of Culture, 2017, p. 409.

(167) Public International Law, Adel Al-Taie, third edition, 2010, Amman, House of Culture, Publishing and Distribution, p. 133.

(168) Principles of Constitutional Law with an Analytical Study of the Jordanian Constitutional System, Salem Al-Kiswani, Al-Kiswani Press, Amman, 1983, p. 248

(169) Activating the constitutional amendments in Jordan, a solo performance for the government and a marginal role for civil society, Ayman Halsu, Legal Agenda Studies, Beirut, 2014, p. 7. According to the researcher, quoted by CNN Arabic, "The committee found that there are dangerous aspects to this because international standards are not consistent." With Jordanian society, it was therefore decided that Jordanian laws and the Constitution would remain superior.

Court of Cassation has issued many decisions that confirm this rule, and among those jurisprudences is what was stated in one of its decisions. From that: "It appears that judicial jurisprudence and jurists are unanimously agreed that international agreements concluded by states are of a higher rank than the domestic laws of these states and that these agreements are more worthy of application even if their texts conflict with their internal law. Also, the application of international agreements and laws is within the jurisdiction of the judiciary without letting the parties to the dispute choose the agreement or the law they desire because that is part of public order."⁽¹⁷⁰⁾

Likewise, the decision stated: "The Court of Cassation ruled that the treaty on the extradition of fugitive criminals between the Hashemite Kingdom of Jordan and the government of the United States of America, which affects the public and private rights of Jordanians, must be approved by the National Assembly based on Article (33) of the Constitution in order for it to be effective, as It is not sufficient for the purposes of its implementation to publish it in the Official Gazette without issuing a constitutional law that puts its provisions into effect. What the Court of Appeal concluded with its distinguished decision is consistent with the provisions of the law and what was settled by the judiciary of the Court of Cassation."⁽¹⁷¹⁾ The judgment affirmed that: "International agreements prevail over the provisions of internal laws."⁽¹⁷²⁾ The decision stated: "It is established in judicial jurisprudence and jurists that international agreements and treaties are superior to internal laws, and that the provisions of any internal law may not be applied in conjunction with these international agreements and treaties. Internal laws are taken into account only if they do not conflict with these international agreements and treaties so that they can be applied together, this is a well-settled principle of our jurisprudence."⁽¹⁷³⁾ The decision (public body), which stated: "The jurisprudence of the Court of Cassation established that the New York Convention does not contain anything that affects the public or private rights of Jordanians or Jordan's sovereignty over its lands, and there is no need to present it to the National Assembly ((cassation of Rights No. 2233/2004 and No. 2996/1999)) Therefore, the arbitration agreement signed between the parties to the dispute in this case outside the Kingdom, for arbitration to take place before the London Arbitration Authority, does not violate the Constitution and is consistent with the international agreements to which the Kingdom has acceded."⁽¹⁷⁴⁾

In another case law of the Jordanian Court of Cassation concerning conventions and treaties that have not passed the constitutional stages, we find that the court's jurisprudence is: "The extradition agreement concluded between the Hashemite Kingdom of Jordan and the State of Qatar did not pass the constitutional stages and was not ratified by the National Assembly, and because extradition treaties are among the treaties that affect the rights of Jordanians, both public and private, shall not be effective unless the National Assembly approves them in accordance with the provisions of Article 33 of the Constitution and in accordance with the jurisprudence of the Court of Cassation in many of its decisions."⁽¹⁷⁵⁾

(170) Jordanian Court of Cassation (Rights Decision) No. 2353/2007 (General Authority) dated 4/8/2008.

(171) Jordanian Court of Cassation (Penal Decision) No. 1312/2005 dated 11/8/2005.

(172) Jordanian Court of Cassation (Rights Decision) No. 599/1999 dated 10/16/1999.

(173) Jordanian Court of Cassation (Rights Decision) No. 599/1999 dated 10/16/1999.

(174) Jordanian Court of Cassation (Rights Decision) No. 2353/2007 dated 4/8/2008.

(175) Jordanian Court of Cassation (Penal Decision) No. 3049/2019 dated 11/18/2019.

9 Some jurisprudence of the Jordanian court of cassation and the Jordanian judiciary on issues related to elements of reproductive and sexual health

9.1 Sex change and correction:

1- "As for the first, second and third reasons, in which the appellant claims that the Court of Appeal violated the law, this is because the plaintiff's claim against him is not based on a sound legal basis and requires a response, and its decision was in violation of the text of Article 8 of the Medical and Health Liability Law No. 25 of 2018, which prohibited the service provider. Performing a sex change operation. Changing civil status records is restricted within the limits of Article (9) of the Civil Status Law, which makes civil status records and records authentic, including the evidence and photos extracted from them, unless it is proven otherwise or invalid. Jordanian law prohibits performing a sex change operation so it is not permitted. The court ordered an expert to verify the truth about appellant two daughter's genders, and in terms of her reliance on personal evidence that contradicted official written evidence. Whereas the Court of Appeal reviewed the written and personal evidence presented in the case and weighed it, what it reached in its contested decision is based on legal evidence established in the case and is in accordance with the law, which makes it necessary to reject these reasons."⁽¹⁷⁶⁾

2- "It was proven from the evidence presented in the lawsuit that the plaintiff (against whom the plaintiff was appellant against) registered in the records of the Civil Status Department that his gender was male, and based on that, he was given a male (shahir) name, and it became clear after he reached puberty, as is proven from the report of the District Medical Committee No. (L T L / 0000). (Dated) that after the medical examination of the person being appellant against, it was found that he was a female with a vagina that was normal in appearance and length and that she had natural breasts, and that the feminine characteristics prevailed over the masculine traits. Therefore, she is a female, and it is legal evidence issued by a competent official body that cannot be challenged except by forgery. It is also technical evidence, the opposite of which may not be proven except with technical evidence of its level or higher, and it is sufficient to prove that an error occurred in registering the person against whom the person appellant against in the Civil Status Department requires it to be amended and corrected to reality. Correct and consistent in terms of gender and name in application of the provisions of Article Nine of the Civil Status Law No. (9) of 2001, which stipulates that civil status records, including the data and images extracted from them, are evidence of their authenticity unless their opposite, invalidity, or forgery is proven by a final judicial ruling. "And since the Court of Appeal decided to correct the gender and name of the plaintiff against him from a male gender and the name (Shaher) to a female gender and the name (Chantal) according to what was established in the case papers, it has applied the law in a proper manner, which requires rejecting these reasons."⁽¹⁷⁷⁾

3- "What was stated in the report of Queen Rania Al Abdullah Hospital No. 00000 dated, which is a government (official) body, cannot be disputed except by forgery that proves that there are deformities in the external

(176) Court of Cassation, in its civil capacity, Resolution No. 4521 of 2023 - issued on 10/11/2023.

(177) Court of Cassation, in its civil capacity, Resolution No. 2092 of 2014 - issued on 8/21/2014.

genital organs and that there are healthy internal female internal organs, so he underwent an operation.” Correcting the external deformity and that he currently has female external and internal organs and therefore needs to correct the gender and name, and since this does not require referring the plaintiff’s son to the medical committee, since the report is official evidence. We find that the conclusions of the Court of Appeal are incorrect in two respects. The two reports issued by the Queen Rania Al Abdullah Children’s Hospital are unclear photos, one of which bears the hospital’s seal, which is illegible, and the other report is without a stamp. On the other hand, the content of the two reports issued by a surgeon Children: A description of the patient’s condition and the necessary operation that was performed on him to correct the external deformity, and that he currently has female external and internal organs. We find that this is not sufficient to change the sex of the child from male to female unless a specialized committee decides that the feminine characteristics predominate over the masculine and therefore, she is female. This is why the Court of Appeal should have responded to the distinguished request to refer the plaintiff’s son to the district medical committee to examine him and decide that, and why it did not do so. Therefore, this reason for appeal is included in its decision and must be overturned.”⁽¹⁷⁸⁾

9.2 Marital rape

1- " Therefore, the accused having sexual intercourse with the complainant, as practiced by spouses during the legal waiting period, is considered a restoration of marital life between them, which means that the accused has contact with the victim and is consistent with the legal rulings and denies illicit contact with them, which means that the material element of the crime of rape attributed to the accused is not established.” This requires him to declare that he is not responsible for what has been assigned to him.”⁽¹⁷⁹⁾

2- “The actions of the appellant by having sex with the complainant are the practice of husbands without her consent and consent, and by trickery and deception, as he is her husband under a valid legal contract despite his knowledge that he has divorced her in an irrevocable and minor divorce and that she is not permissible for him except under a new contract and dowry and his repeated sex with her over the course of twenty years.” Approximately, up to five thousand times, it constitutes all the elements and elements of the crime of rape, contrary to the provisions of Article (292/1/A) repeated five thousand times.”⁽¹⁸⁰⁾

9.3 Internet protocol address circumvention

1- “We find that the person sought for extradition has been charged with forging an electronic document and circumventing the protocol address of the information network by using the fake network (VPN) with the intention of committing a crime, entering a prohibited website inside the country without a permit, and exceeding the limits of the permit granted to him to practice his work with the intention of copying a database and obtaining it without permission.” Declaration of a password to enter a website and infringement of a financial right by downloading

(178) Court of Cassation, in its civil capacity, Resolution No. 6915 of 2022 - issued on 6/6/2023.

(179) Court of Cassation, in its criminal capacity, Resolution No. 3217 of 2020 - issued on 1/31/2021.

(180) Court of Cassation, in its criminal capacity, Resolution No. 1646 of 2023 - issued on 6/8/2023.

a copy of the program (Thero Platinum) on the computer on which it runs without a license from the author who holds the right, in violation of the provisions of Articles (1, 2/2-1, and 6/1). 9, 14/1, 41 and 42) of Decree Law (5) of 2012 Concerning information technology crimes, and in terms of Article (216) of the Penalties code amended by Decree Law No. (7) of 2016, and where we find that the penalty for forgery in an electronic document is contrary to the provisions of Article (1) of Decree Law (5) of 2012 regarding information technology crimes, and in terms of Article (216) of the Amended Penalties code and Articles (1, 2, Clause 2, 5, 7, 38/3, and 4) of Law No. (7) of 2001 regarding copyright and related rights. The minimum penalty for the crime of forgery in an electronic document is not less than one year's imprisonment. The Ras Al Khaimah Court issued a ruling in Criminal Case No. (7462/2018) dated 1/30/2019 in absentia ruling that the person sought for extradition (al-Mumayaz) be sentenced to three years' imprisonment, and that such crimes are punishable in the Jordanian Penalties code, crimes of forgery and using a forgery within the limits of Articles (260). -265) of the Penalties code. The minimum penalty shall not be less than three years' imprisonment, which makes the conditions of Article (39) of the above agreement fulfilled by the extradition request, especially since no cases of non-extradition were mentioned in the file papers in accordance with the provisions of Article (37) of this agreement. We find that the distinguished decision fulfilled all its legal conditions and was in accordance with the provisions of Article (237) of the Code of Criminal Procedure. Therefore, we decide to reject the cassation appeal, uphold the appealed decision, and return the papers to their source.”⁽¹⁸¹⁾

9.4 Possession, display, distribution and publication of obscene material

1- “ The court also found that the actions committed by the accused, represented by his possession pornographic material that would corrupt morals and sending it through a private account that he created for the complainant, constitute all the elements and elements of the misdemeanour of possession of obscene material in violation of the provisions of Article (319) of the Penalties code.”⁽¹⁸²⁾

2- " Since the text of the article in question criminalized the possession of the expletive for the purpose of distribution and dissemination in its various forms, criminalized the display of such a profane substance in a public place, criminalized the administration of a place of abuse of such acts and criminalized the advertising or re dissemination of such acts The article in question, as derived from it, not only criminalizes possession of the expletive, but also criminalizes acts which may publish such material".⁽¹⁸³⁾

9.5 Indecent ACT

1-“Returning to the incident of the case regarding the act of the victim photographing herself topless and sending it to the accused, and she did not provide evidence that satisfied the court stating that the image was sent via a live video call. The act as such applies and it is a crime to display an indecent act. Within the limits of Article (306) of the Penal code. Whereas the court found that the accused asked the victim, who had not yet reached eighteen years of age, to send him a picture of her body from above, the act constituted by him the elements and elements of

(181) Court of Cassation, in its criminal capacity, Resolution No. 287 of 2020 - issued on 6/1/2020.

(182) Court of Cassation, in its criminal capacity, Resolution No. 5 of 2023 - issued on 5/15/2023.

(183) Court of Cassation, in its criminal capacity, Resolution No. 2999 of 2022 - issued on 12/29/2022.

displaying an indecent act within the limits of Article (306/1) of the Penalties code, and not the crime of indecent assault, which requires... Amending the criminal description from a felony of indecent assault within the limits of Article (296/2) of the Penalties code and within the meaning of Article (15) of the Cybercrimes Law to a misdemeanor of displaying an indecent act within the limits of Article (306/1) of the Penalties code and within the meaning of Article (15) of the Crimes Law e ".⁽¹⁸⁴⁾

2- "With regard to the crime of committing an act that is contrary to public morals and making immoral statements in violation of the provisions of Article (306) of the Penalties code assigned to the defendants, it is necessary for the criminal model to be completed with regard to the misdemeanor assigned to the defendants to have the following elements present: -

The material element: It is represented by every act that is contrary to modesty, or the expression of a sign that is contrary to modesty, which is every act contrary to morals committed in public that offends or could offend the feeling of modesty among people who witness it against their will. Its purpose is to protect the public's feelings from being hurt by seeing some nude scenes or sexual manifestations. Which morals and public morals require concealing their commission, then they are not words but rather positive actions that contain obscenity in themselves or physical signs made by the defendant. This meaning is not evidenced by the legislator's use of the phrase "he sees" in the beginning of Article (320) of the Penalties code."⁽¹⁸⁵⁾

9.6 Indecent assault

1- "Whereas it was proven to the court, through the victim's statements and the accused's confession, that the latter had extended to the areas of his chastity that he was keen to preserve and maintain, and to offend his occasional feeling of modesty, and that the sexual acts committed by the accused were not violent or threatening, and since the victim was twelve years old and not fifteen years old on the date of the incident. Therefore, the actions committed by the accused constitute all the components and elements of the felony of indecent assault within the limits of Article (298/2) of the Penalties code It is not as stated in the Public Prosecution's attribution that it constitutes a felony of indecent assault within the limits of Article (296/3) of the Penalties code, which requires amending the description of the crime assigned to the accused from the felony of indecent assault within the limits of Article (296/3) Penalties to the felony of indecent assault within the limits of Article (298/2) From him and criminalizing him with this description. As for the misdemeanor of committing an indecent act assigned to him within the limits of Article (306/1) Penalties and within the meaning of Article (15) of the Cybercrimes Law, since he showed the victim pornographic films on his cell device. Since the Public Prosecution did not provide any evidence that the accused used The World Wide Web, according to what was stated in Article (2) of the Cybercrime Law, and that the accused's actions were that he displayed a pornographic scene on his mobile device to the victim.

(184) Court of Cassation, in its criminal capacity, Resolution No. 4366 of 2022 - issued on 2/9/2023.

(185) Court of Cassation, in its criminal capacity, Resolution No. 4147 of 2021 - issued on 1/10/2022.

This constitutes the elements of the misdemeanor of committing an indecent act within the limits of Article (306/1) and not as stated in the Public Prosecution's attribution, which requires amending the description of the crime charged to him of the misdemeanor of committing an indecent act within the limits of Article (306/1) of the Penal code and in accordance with Article (15) of the Cybercrimes Law to the misdemeanor of committing an indecent act within the limits of Article (306/1) of the Penal code and being convicted of it with this description.”⁽¹⁸⁶⁾

2- “The court found that the acts committed by the accused, represented by his forcing the complainant to engage in obscenity with him (sodomy) under threat, thereby insulting the modesty of the complainant (the victim) and without the consent of the latter, these acts constitute, in legal application, all the elements of the felony of indecent assault. According to the provisions of Article (296/1) of the Penal code.”⁽¹⁸⁷⁾

3- “As for the felony of indecent assault, contrary to the provisions of Article (297), the penalties assigned to the accused, the court found that, to the extent that was certain of the evidence of the Public Prosecution, represented by the accused's confession before the police that he had engaged in sodomy with the complainant, and that the Public Prosecution provided evidence of the circumstances in which he was taken, the court found that those The acts represented by the accused taking advantage of the mental retardation suffered by the complainant and inserting his penis into the complainant's buttocks and repeating these acts ten times at different periods and times. These acts constitute all the elements and elements of the felony indecent assault, within the limits of Article (297), punishments repeated ten times, which requires criminalizing him for this crime and its punishments.”⁽¹⁸⁸⁾

9.7 Practicing sodomy

-1 "Regarding the misdemeanour of having sex with someone of the same gender, contrary to article 53 of the Military Penal Code. The accused confessed to the investigator that he had sexual intercourse with a male of his gender and it was established to the court that his statements were taken from him voluntarily and chose him without pressure or coercion".⁽¹⁸⁹⁾

2- “By applying the provisions of the law to the facts concluded, the court found that the accused, by virtue of his work as a trainer, tapped into (H)'s back, buttocks, and upper buttocks, and hugged him from behind with a locking motion and raising (H)'s head without his consent. and touched (H)'s buttocks with his penis, and repeated this movement three times and his threat that he will terminate his services and punish him if anyone reports what is happening between them constitutes, with proper legal application, the crime of indecent assault, in violation of the provisions of Article (296/1) of the Penal code (repeated three times), because the actions committed by the accused have been reached to parts of (H)'s body that are considered private parts other people protect and defend, and that touching them offends the victim's feelings of modesty, incidental to hearing and sight.”⁽¹⁹⁰⁾

(186) Court of Cassation, in its criminal capacity, Resolution No. 10 of 2022 - issued on 3/20/2022.

(187) Court of Cassation, in its criminal capacity, Resolution No. 4387 of 2023 - issued on 2/22/2024.

(188) Court of Cassation, in its criminal capacity, Resolution No. 3911 of 2023 - issued on 2/11/2024.

(189) Court of Cassation, in its criminal capacity, Resolution No. 1762 of 2022 - issued on 8/25/2022.

(190) Court of Cassation, in its criminal capacity, Resolution No. 282 of 2019 - issued on 10/14/2019.

9.8 Practicing lesbianism

1- “With regard to the misdemeanor of offering an indecent act in accordance with the provisions of Article (306) Penal code, the court has proven that the accused committed this misdemeanor, which necessitates his conviction for this misdemeanor because he was offering “M” to practice lesbianism with her in exchange for money.”⁽¹⁹¹⁾

9.9 Sending messages contrary to public morals by electronic means

1- “By applying the law to the established facts, the court finds that, with regard to the crime of sending immoral messages through any means of communication, This crime occurs when the offender sends messages that contain immoral content, and in this complaint, and as it was proven to the court and through the evidence presented represented by the written evidence preserved in the investigation report, which represents the content of the messages and the testimony of the Public Prosecution's witnesses, that the defendants had opened a video chat (call) with the complainant, in which a man appeared in an immoral position, which affected the psychological state of the complainant, the defendants conscious and wilful actions constitute all the elements of the offence attributed to them.”⁽¹⁹²⁾

9.10 Freedom of speech

-1 "We find that freedom of opinion and expression does not exist in its entirety, but rather is surrounded by some restrictions, including that it be within the limits of public order, the law, and public morals and in a way that does not harm the interests and reputation of others, which is not available in this case because the actions carried out by the appellant party involved a violation of the provisions of the law.”⁽¹⁹³⁾

2- “The legislator elevated freedom of opinion and expression to the rank of constitutional rights by stipulating it in Article (15) of the Jordanian Constitution. Freedom of opinion and expression was also stipulated in all international and regional conventions concerned with human rights in accordance with Article (19) of the Universal Declaration of Human Rights of 1948 The International Covenant on Civil Rights and international and regional covenants did not leave this right, absolute, but rather surrounded it with some restrictions, including that it be within the limits of public order, law, and public morals, and in a way that does not harm the interests and reputation of others, which is not available in this case, since the actions were carried out by the appellant involved a violation of the provisions of the law.”⁽¹⁹⁴⁾

“The right to freedom of opinion and expression is a fundamental right reflected in a number of international and regional conventions. Article (19) of the International Covenant on Civil and Political Rights (ICCPR) considers the international framework as the basis for its codification, but this is conditional on some of the limitations referred

(191) Court of Cassation, in its criminal capacity, Resolution No. 1612 of 2016 - issued on 8/23/2026.

(192) West Amman Criminal Magistrate Court Resolution No. 1249 of 2022 - issued on 11/29/2022.

(193) Court of Cassation, in its criminal capacity, Resolution No. 708 of 2020 - issued on 6/22/2022.

(194) Court of Cassation, in its criminal capacity, Resolution No. 111 of 2016 - issued on 2/17/2016.

to in paragraph (2) of the same article: 1. Be necessary to protect the rights or reputations of others. 3. Necessary for the protection of national security, public order, public health or morals. Applying this to the situation presented, the Jordanian Constitution on its article (15) guaranteed this right within the limits of the law and in conformity with the above-mentioned international standards, and this was supported by the Supreme Court of Justice's decision No. (287/2013) dated 23/6/2013 and the decision of the Court of Cassation (Criminal Capacity) No. (1118/2004) dated 14/10/2004, which indicate that freedom of opinion and expression must be within the limits of the law, and that the scope of permissible criticism does not affect the rights or reputations of others or endangers the interests of the State with others.”⁽¹⁹⁵⁾

9.11 Violation of private life or privacy

1- “We find that the actions taken by the accused, represented by placing his mobile phone inside the washing machine inside the bathroom and directing the camera to the shower place while he was in a photographic position in order to photograph the complainant while she was showering, these actions constitute a misdemeanour for violating the private life of others within the limits of Article (348) bis penal code.”⁽¹⁹⁶⁾

2- " The court also found that the actions committed by the two accused, represented by looking into the complainant's private life, viewing pictures of him while he was undressed (naked) after they photographed him, and luring him to the accused's house, constitute all the elements of the misdemeanour of violating the private lives of others, in violation of the provisions of Article (348) of the Penalties code assigned to them⁽¹⁹⁷⁾.”

9.12 Adultery

1- “And since the act of murder in this case occurred on a female, the betrayed (R), who is the sister of the accused (N), then by referring to the text of Article (340/1) of penal code, It is established that: (He benefits from a mitigating excuse, whoever is surprised by his wife, or one of his ascendants, descendants, or sisters, while she is caught in the act of adultery or in an illicit bed, and kills her on the spot, or kills the one who is committing adultery with her, or kills them both, or assaults one or both of them in an assault that results in injury, harm, permanent disability, or death.

Therefore, since it has been proven that the accused was not surprised by his betrayed sister (R) by committing the crime of adultery or in an illicit bed, he does not benefit from the mitigating excuse stipulated in Article (98) of the Penal code, which requires that this reason be dismissed”.⁽¹⁹⁸⁾

2- “Whereas it was proven to the court through the evidence presented and heard in the case that the suspect (Q) entered the house of the accused (H) taking advantage of his absence, drank drinks and smoked, and met the wife

(195) Court of Cassation, in its criminal capacity, Resolution No. 562 of 2015 - issued on 4/15/2015.

(196) Court of Cassation, in its criminal capacity, Resolution No. 1039 of 2020 - issued on 5/31/2020 .

(197) Court of Cassation, in its criminal capacity, Resolution No. 1009 of 2020 - issued on 6/1/2020.

(198) Court of Cassation, in its criminal capacity, Resolution No. 334 of 2020 - issued on 3/17/2020.

of the accused (H) in his house due to the existence of a romantic relationship and sexual correspondence between them, and the incident of adultery between them was not proven to the court. Whereas it is established that the legislator requires special evidence and means of proof for the crime of adultery that are accepted and used as evidence to prove the crime of adultery, which is to catch the adulterer and the adulteress in the act, or for a judicial confession to be issued by them, or conclusive documents that the crime occurred, or for one of them to issue a judicial confession and The other is conclusive documents that the crime occurred, and the Public Prosecution's evidence was incapable and inadequate in proving the crime of adultery attributed to suspects (F) and (Q).

However, on the other hand, the court found that the actions committed by the suspect (Q) while he knew that this relationship affected and destroyed the family relationship constitute, to the certain extent, the misdemeanour of spoiling the marital bond according to the suspects (Q) and not as was stated in the Public Prosecution's attribution, which makes it necessary to amend the description of the charge assigned to the suspects (F) and (S) From the misdemeanour of adultery, in violation of the provisions of Article (283/2) of the Penalties code, to the misdemeanour of spoiling the marital bond, in violation of the provisions of Article (304/3) of the Penalties code⁽¹⁹⁹⁾

(199) Court of Cassation in its criminal capacity, Resolution No. 3027 of 2023 - issued on 11/22/2023.

10 Recommendations

10.1 Are there any alternative solutions to disseminate or produce (restricted) reproductive and sexual health information

After reviewing many of the best legal practices in many countries regarding dealing with the legal aspect of publishing or producing reproductive and sexual health information (especially countries that face many legal and legislative restrictions), and in addition to what was mentioned previously, some alternative solutions can be proposed for publishing or producing reproductive and sexual health information as follows: -

- 1- Raising awareness of legal risks and disseminating information on how to protect against prosecution (for individuals and institutions) and the limits of legal prosecution with regard to elements of reproductive and sexual health. This is to make it easier to avoid the pitfalls of legal prosecution while at the same time maintaining the smooth flow of work.
- 2- Building support networks aimed at enhancing solidarity and cooperation between individuals and institutions working to disseminate and produce reproductive and sexual health information in order to identify and share information that is not covered by criminal legal texts. This is within the applicable legal and legislative frameworks.

10.2 Are there any topics or words in the field of reproductive health and sexual and reproductive rights that should be avoided during digital and non-digital correspondence

In general, any topics or words that might be considered offensive, embarrassing, or discriminatory should be avoided when discussing reproductive health and sexual and reproductive rights. It is also necessary to avoid everything that violates Jordanian national laws (as stated previously, especially in Clause (5) of this consultation), as well as what conflicts with public order, public morals, and public morals that constitute the religious and social values in Jordanian society.

Some examples of topics to avoid include:

- Sexual practices:** Avoid going into details about personal sexual practices or promoting unsafe, immoral, or
 - illegal practices.
- Sexual health:** Avoid using obscene or offensive language when talking about sexual health, such as using
 - slang, insulting or offensive terms, or using materials and tools that involve sensitive sexual areas of the human body.
- Abortion:** Avoid expressing negative or judgmental opinions about abortion that conflict with national laws,
 - especially if you do not know the other person's position, such as promoting “illegal” abortion.
- Childbirth:** Avoid sharing explicit photos or video clips of the birth process without the consent of the person
 - concerned, in a way that exposes private parts or shows the physical areas of sensitive sexual organs, the display of which is considered indecent and a dissemination of what violates public morals (according to the Jordanian Penalties code).

- **Sexual orientation:** Avoid using discriminatory or derogatory terms when talking about sexual orientation, such as using terms such as “gay” or “lesbian” in a negative way. At the same time, respecting and taking into account religious and social values (established in the Jordanian Constitution and national legislation) in this regard, as stated previously in Clause (5) of this consultation.
- **Disability:** Avoid using discriminatory or derogatory terms when talking about disability when talking about the reproductive and sexual health of people with disabilities.

Instead, you can focus on:

- **Providing accurate and reliable information:** Ensure that information is obtained from reliable sources such as international health organizations or specialized health experts. In accordance with the national legislative system.
- **Use respectful and comprehensive language:** Use respectful and objective language that avoids any discriminatory or insulting terms or that infringe on the religious and social values prevailing in society and are not consistent with the Jordanian penal philosophy and the national penal legislative approach.
- **Focus on people’s experiences:** sharing positive and inspiring stories of people who have faced reproductive, sexual and reproductive health challenges. Taking into account avoiding disdain for the religious and social values prevailing in Jordanian society.
- **Creating a safe space for dialogue:** by encouraging open and honest dialogue about reproductive, sexual and reproductive health, and respecting everyone’s opinions, taking into account that some restrictions can be imposed on this, provided that these restrictions are defined by the text of the law and are necessary:
 - To respect the rights or reputations of others.
 - To protect national security, public order, public health or public morals.

In general, the legal complications resulting from digital and non-digital correspondence and consequently the potential restrictions on freedom of opinion and expression and access to information in relation to them can be summarized, which in their entirety are either related to national public order, public security/safety and public morals, or to the rights of other individuals and their reputations.

The first challenge for individuals' rights is the disclosure of confidential information, specifically those related to trade secrets or private life, for instance. by employees or others on social media. The second challenge is the unauthorized use of trademarks on social media, which may create legal liability due to trademark infringement or unfair competition. Social networking sites have policies for reporting infringement of intellectual property by its owner against those who may adopt it as a username or something similar. The third challenge is when users use materials protected by intellectual property laws, such as texts, music, images, video, or source code, which are copied from other sites. Contents that are open to the public, such as open-source code, may be subject to conditions and must be referred to their owner. The fourth challenge is the issuance of comments and statements on social media that include defamation or slander against a person, official body or social entities, which imposes criminal

legal liability on the source of the offensive expressions, and the (anonymity) of the name does not constitute an obstacle to prosecution, as the perpetrator can be tracked through IP digital addresses and other technical means. It should be noted that comments, messages and statements on social media are shorter in length and therefore open to more misinterpretation than emails and written texts. The fifth challenge is the violation of the privacy of others through photos, films, and comments published on social media sites, as well as employees in companies, especially in the health sector, violating privacy rules, such as disclosing information about the patient's health status on social media.⁽²⁰⁰⁾

10.3 How can the Share-Net platform continue to produce and distribute information and materials related to reproductive health and sexual and reproductive rights

We find that the Cybercrime Law subjects the information network, information systems, information technology means, social networking sites and their users to its provisions, which, in addition to the crimes mentioned in the law itself, also criminalizes anyone who commits any crime that is not stipulated in the Cybercrime Law and is punishable under any legislation using the information network, information technology, information system, website, or who participates in, intervenes in, or incites to commit, shall be punished with the penalty stipulated in that legislation. In general, in order for Share-Net Jordan to be able to produce and distribute information and materials related to reproductive and sexual health, it must be noted that while the law approves the freedom to spread the word through modern social networking sites, this freedom is not absolute, but is restricted by a set of restrictions and controls. Failure to comply with it is considered a crime, and the publisher becomes subject to criminal liability. These controls can be summarized as follows:

1. Ensure the sincerity of the information, investigate accuracy and integrity in transmitting it, and obtain it by a legitimate way. from a reliable source.
2. Not to mislead and spread heresy and misguidance, or broadcast false news, rumors, or inflammatory propaganda that harms the general interest of society, or does not take into account the Islamic principles prevailing in society.
3. Expressing and publishing an opinion should not be an infringement on the freedoms of others. Opinion holders are free to the extent that they do not harm and endanger others. Be wary of any word that causes harm to society and its religious and social values.
4. Freedom of opinion through social networking sites must be moderate, neither excessive nor negligent, but rather allows for subjective and objective criticism, far from differences and lies.
5. Withholding any information that harms the public interest and preserving one's private life from others. Strive for honesty, integrity, and honesty. It is imperative to investigate and understand information before relying on opinion.⁽²⁰¹⁾

(200) Crimes of social media platforms, Adv. PhD. Ramzi Al-Dabak, previous reference, pp. 100-101.

(201) Criminal liability for those who spread rumors through social networks (a jurisprudential study), Sirin Jaradat and Muhammad Al-Qudah, Jerash Journal for Research and Studies, Issue (1) for the year 2019, p. 100.

Referring to the National Population Strategy 2020-2030 prepared and approved by the Higher Population Council, we find in the third axis (sexual and reproductive health and health axis), specifically the goals of the sexual and reproductive health and health axis, the general third goal of achieving health well-being and the sub-goals emanating from it, which are: (Achieving universal health coverage and comprehensive health insurance, ensuring access to sexual and reproductive health information and services, promoting healthy lifestyles, raising awareness about dealing with health crises), We find in this a wide scope provides Share-Net Jordan producing and distributing information and materials related to reproductive health and sexual rights. Emphasizing that any production and distribution of information must comply with the provisions of Article (33) of the Cybercrimes Law, which granted to the public prosecutor or the court when the information system, website, or service provider is established inside or outside the Kingdom or the social media platforms or the person responsible for any account, public page, public group, channel, or similar powers that we mentioned previously when publishing any materials that violate the provisions of the law or legislation in force in the Kingdom. (In line with what we explained in clause “5” previously).

10.4 Can encrypted messages or virtual private networks (VPN) be used to circulate information

As previously indicated, the Cybercrime Law criminalizes circumvention of the Protocol's address but requires that the elements of criminality be complete that the circumvention is intended to commit an offence or prevent its detection, in the sense that the circumvention of the Protocol's address is intended to commit a criminal offence and therefore does not prejudice individuals' freedom to conceal their identity as long as it is done legitimately and for purposes and for reasons not criminalized by law.

However, with regard to personal data as defined in the Personal Data Protection Law, concealment of identity is considered “processing,” and the law has required obtaining the prior consent of the person concerned or in cases authorized by law. The law stipulates that prior approval must be explicit and documented in writing or electronically, it is specific in terms of duration and purpose, the request is in clear, simple, non-misleading language and it can be easily accessed. The approval of one of the parents or guardians of the person who does not have legal capacity, or the approval of the judge upon the request of the organizational unit responsible for protecting personal data in the Ministry of Digital Economy and Entrepreneurship if the best interest of the person who does not have legal capacity requires that. It is worth noting here that the law stipulates that processing is considered legal and legitimate and may be performed without obtaining prior approval or informing the person concerned if it is necessary for preventive medical purposes, medical diagnosis, or providing health care by someone licensed to practice any of the medical professions. However, the processed data may not be retained after the purpose of the processing has ended unless the legislation stipulates otherwise.

It can be said that freedom of expression in social media finds its limits, especially in the national penal provisions in each country, when this expression is criminalized and constitutes a penal offense punishable by law. Therefore, actions that use social media in terms of posting photos, making statements that hurt others, or deleting the comments

on social media are evaluated in light of traditional legal principles. However, some dispute the possibility of applying legal rules to what is published on social media, which were not originally developed to govern these media. Although freedom of opinion is protected by law, there is an opinion that is not protected if it contains obscenity, impudence, defamation, slander, speech that complements criminal activity, offensive (offensive) words, child pornography, fraud, or real dangers. Therefore, it can be prevented through the policy of using social media within the institution, without prejudice to the principle of freedom of opinion and expression. In this regard, the European Convention for the Protection of Human Rights and Fundamental Freedoms⁽²⁰²⁾ stipulates in Article 10, Section 2, that the exercise of freedom of opinion and expression may be subject to (formalities), conditions, restrictions or penalties as stipulated in the law and necessary in a democratic society.⁽²⁰³⁾

Therefore, using any means of circumventing the protocol address to commit or conceal a crime is considered a crime under the Cybercrime Law and is therefore subject to legal prosecution. As we stated previously with regard to personal data, the Jordanian legislator considered concealment of identity to be part of the "processing" of data and considered it criminal if it was carried out in ways other than what the law required for its validity.

10.5 Will the shadow ban be applied to social media accounts or deleted if any of the restricted or prohibited topics are published online?

As we stated previously, according to the Jordanian Cybercrime Law, only the public prosecutor or the court can (and when an information system, website, service provider inside or outside the Kingdom, social media platforms, or the person responsible for any account, public page, public group, or channel or something similar by publishing any materials that violate the provisions of the law or legislation in force in the Kingdom "restricted or prohibited topics", issuing an order to those in charge of them) to take any of the following measures: -

- 1- Remove, block, stop, disable, record, intercept the flow of data or any publication or content, prevent access to it, or block the user or publisher temporarily during the period specified in the decision.
- 2- Providing them with all the necessary data or information that helps reveal the truth, including the data of the owner or user of the website or information system that helps determine his identity and conduct legal prosecution.
- 3- Urgent preservation of data and information necessary to reveal the truth, store them and maintain their integrity.
- 4- Maintaining confidentiality.

It is pertinent to mention that there is a legal responsibility of the Internet service provider, which is that it must implement the decisions of the Public Prosecutor as well in relation to the above case by stopping the access of the fake or stolen protocol address to the Internet, and that the service provider must provide the necessary data to detect the perpetrator, provided that If he fails to carry out these duties and others stipulated in Article (33),

(202) European Convention on Human Rights, Convention for the Protection of Human Rights within the Council of Europe, Rome on November 4, 1950. Article (10/2).

(203) Crimes of Social Media Platforms, Adv. PhD. Ramzi Al-Dabak, op. cit. Pages 91-94.

the penalties stipulated in Paragraph (C) of that Article will be imposed, which means that the service provider will fall under criminal liability as well as the related civil liability as a result of his failure to implement the provisions of the Cybercrime Law.

The shadow ban on content on social media platforms is subject to their own usage policies.

10.6 Can the Share-Net Jordan platform publish information through Share-Net international or through other channels outside Jordan instead of publishing it on its website and communication channels

As we mentioned previously, with regard to personal data, what applies to Share-Net Jordan's activities in terms of publishing data necessarily applies to Share-Net International. The Personal Data Protection Law, when defining the responsible person, states that it is: Any individual or legal entity, whether inside or outside the Kingdom, shall have the data in his custody. He also defined the recipient as: any individual or legal entity, whether inside or outside the Kingdom, to whom the data is transferred or exchanged with the responsible person. Accordingly, any dissemination of information that involves processing within the meaning of the law is prohibited under the Personal Data Protection Law unless it is carried out in accordance with what is permitted by the law itself.

As for publishing information, news, or other such information in general, it is governed by the provisions of the Press and Publications Law - which were stated previously -, but it must be noted that any publication that includes anything that violates Jordanian National laws and regulations will, as a result, affect Share-Net Jordan, whether that is Share-Net International or Share-Net Jordan, we find that Article (7) of the Press and Publications Law gave freedom of thought and opinion, and made it a right for the citizen and the journalist, with no difference between them, as in Paragraph (7/B),), but it referred to morals (ethics) that a journalist must adhere to so that the published opinion is not a rumor leads to liability, as in Paragraph (7/A), which indicated to refrain from violating privacy, as this is a method of spreading rumors (defamation), and in Article (49 \f) "The electronic publication, its owner, its editor, and the writer of the journalistic material, when it violates the provisions of this law, shall not exempt the writer of the comment from legal responsibility in accordance with the legislation in force for what was stated in his comment."

Here we should point out that any publication that affects security and public order is necessarily a reason for legal accountability and punishment in the Cybercrime Law, and that includes publication that affects religious and family values, and the clearest form of it is publishing topics that insult religions, religious beliefs, family values, and private life, and we find that in the text Article (17) of the Cybercrime Law punishes anyone who intentionally uses the information network, information technology, information system, website, or social media platform to spread sedition or strife, or to target societal peace, incitement to hatred, advocacy or justification of violence or disdain religions. Among the most important values of society protected by the law are the religious and social values derived from the teachings of the true Islamic religion and stipulated in the Jordanian Constitution in Article (6/4) that: The family is the foundation of society, based on religion, morals, and love for the homeland. The law preserves its legal entity and strengthens its bonds and values.

With regard to publishing information that violates public order and public morals, it should be noted that the text contained in the Cybercrime Law, Article (14/A), does not require that the person publishing that information necessarily be the creator of the website. Rather, the element of criminalization may be achieved by (using) the information network or information technology or the information system, such as sites that may be magazines, forums, or other sites that undertake the work of publishing, or creating a website to facilitate, promote, incite, assist, exhort, seduce, or violate public morals, all of which falls within the limits of criminality. Scientific, artistic, educational or other purposes are not excluded from this.

The penalty for association with speech transmitted by automated electronic means and the instigator or intervenor is in the Penal code article (77) which stipulates that: “The two partners in the crime committed by speech transmitted by mechanical means as stated in the second paragraph of Article (73) or in the crime committed by one of the means mentioned in the third paragraph of the same article are the author of the speech, writer and the publisher, except that the first proves that the publication occurred without his consent.”⁽²⁰⁴⁾

Article (81) also stipulates that: “The instigator or accomplice shall be punished:

1. A Imprisonment for life or a period of twenty-five years if the perpetrator is sentenced to death.
- B. The same penalty if the perpetrator's penalty is life imprisonment or life imprisonment.
2. In other cases, the instigator and accomplice shall be punished with the same penalty as the perpetrator after the penalty is reduced from one-sixth to one-third.
3. If incitement to commit a felony or misdemeanor does not result in a result, the penalty specified in the previous two paragraphs of this article shall be reduced by one third.

What is useful from the text of Article (33) of the Cybercrime Law when an information system, website, service provider inside or outside the Kingdom, social media platforms, or the person responsible for any account, public page, public group, channel, or anything similar publishes any Materials that violate the provisions of this law or the legislation in force in the Kingdom, the Public Prosecutor may remove, block, stop, disable, record, or intercept the flow of data or any publication or content, prevent access to it, or block the user or publisher temporarily.

(204) Article (73) of the Penal code stipulates forms of publicity, and they are considered means of publicity: 1 - Actions and movements if they take place in a public place or a place open to the public or open to view, or they take place in a place that is not one of the aforementioned places, but they take place in a way that can be seen by any person. A person present in the aforementioned places. 2- Speech or shouting, whether spoken aloud or conveyed by mechanical means, so that in both cases it can be heard by someone who has no involvement in the act. 3- Writing, drawings, manual and photographic images, films, badges, and various pictures, if they are displayed in a public place or a permissible place. To the public, or displayed for public viewing, sold, offered for sale, distributed to more than one person, or published by electronic means that enable the public to read or view it without restriction.

11 Annex (1)

Examples of international legal practices and jurisprudence related to reproductive health and sexual and reproductive rights.

Under the heading above, we seek to present images and models of judicial decisions within the comprehensive global legal and regulatory frameworks regarding access to sexual and reproductive health services and rights. We will present a selected number of issues related to reproductive and sexual health rights and analyse how these issues depend on the interpretation of legal safeguards on reproductive and sexual health and rights within the international dimension, including provisions on matters such as abortion, maternal health care and reproductive assistance⁽²⁰⁵⁾.

I: The right to health and the right to access justice

In *Alyne v. Brazil*: " the first-ever international human rights decision holding a state accountable for a preventable maternal death, a woman of Afro-Brazilian descent went to a private health clinic seeking care for complications with her pregnancy. The hospital initially sent her home and when she returned the doctors were unable to detect a fetal heartbeat. Her labor was induced, and she gave birth to a stillborn fetus. However, the medical staff failed to extract her placenta until fourteen hours after the birth. When Alyne was eventually transported to a more intensive care facility, she was left untreated in a hallway where she died⁽²⁰⁶⁾.

- In *Millicent Awuor Maimuna & Margaret Anyoso Oliele v. Attorney General and others*, two women were detained by a hospital at various times due to their inability to pay their medical bills relating to labor and delivery. While being detained at the hospital, the women were subject to degrading conditions, including having to sleep on a floor next to a flooding toilet and being denied adequate food and post-natal care. The High Court of Kenya noted the similarities between the petitioners and Alyne's case, as they all came from disadvantaged backgrounds. The Court also relied upon the decision in *Alyne v. Brazil* in finding that inadequate maternal health services that fail to meet the health needs of women are a form of discrimination. The Court further cited *Alyne v. Brazil* when referring to a lack of maternal health care having a differential impact on a woman's right to life and in recognizing that policies created to eliminate discrimination against women need to have clear actions and be adequately funded.⁽²⁰⁷⁾
- In its 2020 decision in *Centre for Health, Human Rights and Development v. Attorney General* (Constitutional Petition Number 16): the Constitutional Court of Uganda looked to *Alyne* in recognizing that the rights to life and health are interconnected and that lack of appropriate maternal health care affects the right to life.

(205) Across Borders: How International and Regional Reproductive Rights Cases Influence Jurisprudence Worldwide. Centre for Reproductive Health, available on the Center website: https://reproductiverights.org/wp-content/uploads/2021/12/12012021_Across-Borders_How-International-and-Regional-Reproductive-Rights-Can-INfluencer-Jurisprudence-Worldwide.pdf

(206) IBID

(207) *Millicent Awuor Maimuna & Margaret Anyoso Oliele v. Attorney General and others*, Constitutional Petition No. 562 of 2012, High Court of Kenya, paras. 159, 186 (2013).

20 This decision ultimately held the Ugandan government accountable for failing to provide adequate maternal health services, including emergency obstetric care, recognizing these as violations of the rights to life and health, among other rights.⁽²⁰⁸⁾

- In *Lopes de Sousa Fernandes v. Portugal*: A European Court of Human Rights case concerning state accountability for a death occurring from medical negligence, one of the judges invoked Alyne in a partial dissent urging the Court to recognize the “universal standard” of a states’ responsibility for contracts out to private facilities.⁽²⁰⁹⁾

II: Denial of abortion services to pregnant adolescents as a result of rape

In *Paulina Ramírez v. Mexico*, the case of *Paulina v. Mexico* was filed before the Inter-American Commission on Human Rights and was caused by the denial of abortion services to a teenager who became pregnant as a result of rape. The petitioner requested an abortion, but the hospital administration lied to her and created obstacles to her obtaining the procedure. A friendly settlement agreement was reached between the parties, in which Mexico acknowledged that it had violated Paulina's human rights by preventing her from performing an abortion, which was legal in the case of rape. The State agreed to pay its compensation, to compensate her and her son for health care and education, to publicly recognize responsibility and to issue a decree providing guidelines for obtaining abortion in the case of rape. In addition to approving the Friendly Settlement Convention, the Committee recognized that women could not fully enjoy their human rights if they did not have timely access to health-care information and services.

- In *Centencia -627/12T*, a domestic case in Colombia, where the petitioners were a group of Colombian women who alleged that the Inspector General's Office had violated their rights by providing false assurances regarding previous statements by WHO and the Constitutional Court on reproductive health s rights ", including reporting that health clinics no longer provide services to remove barriers to women seeking abortion. The Court cited *Polina v. Mexico* in noting that medical professionals in the case had provided the applicant and her mother with inaccurate information about abortion and its consequences. Finally, the Court found that public officials were obliged to provide accurate, reliable and timely information to women regarding their reproductive and sexual health.⁽²¹⁰⁾
- In *Medidas autosatisfactiva /FALs*: a domestic case in Argentina recognizing that abortion is legal in pregnancies resulting from rape, the Court referred to *Paulina* in recognizing that States must not interfere in the

(208) Centre for Health, Human Rights and Development vs. Attorney General, Constitutional Petition No. 16 of 2011, Constitutional Court of Uganda and Kampala, August 19, 2020, page 37, available at:

<https://www.cehurd.org/publications/download-info/judgement-to-the-constitutionalpetition-no-16-of-2011-maternal-health-case-decided-in-the-affirmative/>

(209) Centre for Health, Human Rights and Development vs. Attorney General, Constitutional Petition No. 16 of 2011, Constitutional Court of Uganda and Kampala, August 19, 2020, page 37, available at:

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(210) Constitutional Court of Colombia, Judgment No. T-627/12, August 10, 2012. M.P.: Humberto Antonio Sierra Porto, paras. 45, 47, available at: <https://www.corteconstitucional.gov.co/relatoria/2012/t-627-12.htm>

exercise of women's human rights and that, in circumstances where abortion is legal, States must guarantee women's right to exercise their human rights. Access to such services.⁽²¹¹⁾

III: The right not to be subjected to inhuman and degrading treatment and the right to respect for privacy

in the *R.R. v. Poland*: R.R. is 18 weeks pregnant when her ultrasound tests revealed possible foetal impairment. Although further testing is needed to determine whether this indicates severe foetal weakness, medical professionals have repeatedly refused to conduct these diagnostic tests, including for reasons of conscience or religion. While the tests were eventually performed in the 23 weeks of pregnancy, she did not receive. " t "Results confirming severe foetal impairment up to the 25 weeks of pregnancy. When she then requested an abortion, she was informed that the time frame for legal abortion had expired. In 2004, R.R. filed a Complaint to the European Court of Human Rights.

In 2011, the European Court of Human Rights issued its historic decision, which established that Poland had violated the right not to be subjected to inhuman and degrading treatment, article 3, and the right to respect for privacy, article 8, of the European Convention on Human Rights. The Court considered that Poland must establish an effective legal and procedural framework that ensures that relevant, complete and reliable information is available to women to make informed decisions about their pregnancy. The Court also affirmed that "the State has a positive obligation to establish a procedural framework enabling pregnant women to exercise their right to access legal abortion". In addition, the Court clarified that if States parties to the Convention choose to allow medical professionals to refuse reproductive health care on the basis of conscience or religion, they must organize their health services in such a way as to ensure that such refusal does not prevent patients from accessing health care and from accessing health services that they are entitled to under national law.⁽²¹²⁾

- In *EN-IPPF v. Italy*: The European Commission of Social Rights found that Italy had violated women's right to health because the Italian authorities had failed to put in place effective measures to ensure that the refusal of abortion care by medical professionals did not jeopardize access to legal abortion. It highlighted the authorities' failures to implement and enforce existing regulatory safeguards regarding the refusal of medical personnel to provide care, and stressed that the State had failed to address a series of shortcomings in the effective and timely provision of legal abortion care⁽²¹³⁾. In addition, the Committee considered that the State's failure to ensure effective access to legal abortion care had led to multiple discrimination, in violation of the principle of

(211) F. A. L. s/ Medida autosatisfactiva. SENTENCIA 13 de Marzo de 2012, Nro. Interno: 259. XLVI. CORTE SUPREMA DE JUSTICIA DE LA NACION. CAPITAL FEDERAL, CIUDAD AUTÓNOMA DE BUENOS AIRES. Magistrados: RICARDO LUISLORENZETTI - ELENA I. HIGHTON de NOLAS CO - CARLOS S. FAYT - ENRIQUE SANTIAGO PETRACCHI (según su voto)- JUAN CARLOS MAQUEDA - E. RAÚL ZAFFARONI - CARMEN M. ARGIBAY (según su voto). Id SAIJ: FA12000021, pages 120, 121, available at:

<http://www.saij.gob.ar/corte-suprema-justicia-nacion-federal-ciudad-autonoma-buenos-aires--edida-autosatisfactiva-fa12000021-2012-03-13/123456789-120-0002-lots-eupmocsollaf>

(212) *R.R. v. Poland*, Appl. No. 27617/04, Eur. Ct. H.R., para. 200.

(213) *International Planned Parenthood Federation – European Network (IPPF-EN) v. Italy*, Complaint No. 87/2012, Eur. Comm. Soc. R., para. 161 et seq.; see also id. at paras. 78, 107, 111 et seq

non-discrimination, article (e) in conjunction with the right to protection of health. The Committee also referred to a number of crucial principles in R. 's case. R.I. against Poland, noting States' obligation to regulate their health system in such a way as to ensure that the refusal of medical professionals to care, when permitted by national law, does not preclude patients from obtaining abortion services that they are legally entitled to under applicable legislation.⁽²¹⁴⁾

- In *Costa and Pavan v. Italy*: applicants challenged restrictions on access to assisted reproductive techniques and prohibited pre-transplant genetic diagnosis under Italian law. The Court held that the circumstances of the case fell within the scope of the right to respect for private and family life guaranteed under article 8 of the European Convention on Human Rights, and referred to R.H. 's case. R.I. against Poland when it reaffirmed that article 8 includes the right to respect for a decision whether a party wants to become a parent.⁽²¹⁵⁾

In the *Justice and Development Party v. Latvia* case: concerning access to appropriate information and medical care during pregnancy, the European Court of Human Rights referred to R.H. ' R.I. In recognizing that "private life" includes the right to personal autonomy and personal development, and "the decision of a pregnant woman" to continue her pregnancy, whether or not it falls within the scope of private life and autonomy, Poland has the effect that legislation governing the suspension of pregnancy affects the area of private life⁽²¹⁶⁾.

- In *"Yar & Anr" v. "Haryana and Urs"*: Following a District Court decision in India, the Court considered a minor's application for termination of pregnancy beyond the time limit prescribed by Indian law. Although the court eventually left the decision to a medical committee, it referred to the "R.J." case. R. v. Poland in its account of the case law of foreign courts, noting that " She was in a very vulnerable state and suffered severe pain, distress and humiliation as a result of the prolonged denial of prenatal diagnostic services and the failure of medical personnel to recognize or adequately address her concerns."⁽²¹⁷⁾
- In *"Artavia Murillo v. Costa Rica"*: the case also concerned the repeal of the country's ban on pipe fertilization, the Inter-American Court of Human Rights noted that the decision to become a parent or not was part of the right to private life. The Inter-American Court also cited the European Court of Human Rights' interpretation of the right to privacy, which it emphasized included the physical and mental integrity of the person, and the recognition of the positive obligation of States to guarantee this right to their citizens.⁽²¹⁸⁾
- in a case *"Y.Y" v. Russia*: the European Court of Human Rights addressed the issue of medical disclosure without the patient's consent. The Court emphasized that the protection of medical data is a fundamental aspect of article 8 (right to respect for private and family life) of the European Convention on Human Rights, and considered that "it is important not only to respect the sense of privacy of the patient but also to maintain confidence in the medical profession and health services in general"⁽²¹⁹⁾.

(214) *International Planned Parenthood Federation -European Network (IPPF-EN) v. Italy*, Complaint No. 87/2012, Eur. Comm. Soc. R., paras. 54, 69 (2014).

(215) *Costa and Pavan v. Italy*, Appl. No. 54270/10, Eur. Ct. H.R., para. 55 (2012).

(216) *A.K. v. Latvia*, Appl. No. 33011/08, Eur. Ct. H.R., para. 63 (2014).

(217) *R And Anr v. State of Haryana & Ors*, CWP6733-2016, para. 24 (India) ILR (Punjab-Haryana), available at: <https://indiankanoon.org/doc/173069994/>

(218) *Artavia Murillo et al. (In Vitro Fertilization) v. Costa Rica*, Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2012. Series C No. 257. para. 143, footnote 231 (2012), available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf

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