

Jordanian Law's Punitive Approach To Crimes Involving Human Trafficking In Light Of Recent Amendments

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Abstract

Similar to other penal laws, Jordanian legislation employs a dual punitive approach to dealing with human trafficking offences, aiming to both deter offenders and motivate them to repent and cooperate with the authority of the state.

Notwithstanding the deterrence that the Jordanian legislator applies using a strict punitive policy in the recent amendment to the Human Trafficking Prevention Law is considered a common policy to Deter crime in general and human trafficking crime in particular, the legislator adoption of tolerance policy in tackling these crimes, to encourage the offender to leave the criminal groups and to cooperate with the state justice authorities, has become the distinctive feature of this punitive policy for this type of crime.

Key word: human trafficking, Deterrence, Punitive policy.

Preface

Even though it has extremely old historical origins, human trafficking is one of the crimes that is getting significant attention on both the national and international levels nowadays. Human trafficking crimes have become a contemporary manifestation of the slave trade and have begun to threaten the security and stability of human society. It has recently become remarkably active and poses a multifaceted threat to all nations as it seriously affects the humanitarian, security, social, health, and other aspects of trafficked persons, represents a flagrant violation of their fundamental rights and liberties and of their human dignity, jeopardizes the stability of society and even poses a threat to its very existence.

Therefore, it only made sense for national, regional, and worldwide efforts to confront this sort of crime by concluding agreements and enacting legislation that assure restricting the spread of the human trafficking phenomena. In order to comply with the requirements and be compatible with the international standards stated in the Palermo Protocol in this respect, the

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Jordanian criminal legislator enacted the Human Trafficking Prevention Law No. 9 of 2009, which was later amended by Law No. 10 of 2021. This study is restricted to the most significant aspects of the punitive policy implemented by the legislator in accordance with this law. Then there are some ideas that assure avoiding the weaknesses and deficiencies in light this policy, which the legislator may adopt later after amending the law.

Importance

The significance of this study became apparent as a result of Jordan's actual situation that demonstrated the necessity for legislative intervention to confront the phenomenon of human trafficking. The Jordanian legislator, taking a punitive policy that encourages simultaneously strictness and toleration on these offenses, decided to introduce amendments to the law prohibiting human trafficking, particularly in the area of punishment.

Problematic

The challenge of this study lies in answering the important questions that revolve around the effectiveness of the punitive policy adopted by the Jordanian legislator in amending the Human Trafficking Prevention Law against this sort of crime. Are there any deficiencies in this law when handling human trafficking crimes as required? Or is there a need to adopt a new policy that is more stringent and tolerance-oriented in this respect? All of these questions and others that may be raised by the study will be answered based on available jurisprudential references and scholarly research pertinent to the study's subject and the provisions of the Jordanian Human Trafficking Prevention Law in accordance with its latest amendments.

1.impressions on the human trafficking phenomenon:

it has recently assumed a new, alarming dimension in many countries, necessitating the conclusion of international agreements to deter this phenomenon if it is an international issue and the enactment of domestic legislation if it is a local issue.

1.1. At the international level:

it was natural for international efforts to confront human trafficking crimes to conclude agreements that would guarantee the reduction of the phenomenon of human trafficking and its growth. The beginning was in the United Nations' declaration in 2000 of the Convention against Transnational Organized Crime, and it was followed by the prevention, suppression, and punishment protocol for human trafficking, particularly women and children, known as the Palermo Protocol, as it is the first international instrument that was established within a legal framework to confront human trafficking by issuing a specific definition to human trafficking, explaining its elements, how to confront it, and stating the responsibilities of states regarding this confrontation. This protocol has become the primary reference for countries to participate in the global system concerned with combating human trafficking. (Hussein ,2016).

According to the UN Protocol, the term trafficking in persons means “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs”(Palermo Protocol, 2000). The Protocol indicated that it is not permissible to take into account the consent of the victim of human trafficking to the exploitation indicated in cases in which he has used any of the aforesaid means (Palermo Protocol, 2000). The Protocol also stipulates special protection for the child, as his recruitment, transportation, transfer, harboring, or reception for the purpose of exploiting him is considered

human trafficking, even if this does not involve the use of the aforesaid coercive means (Palermo Protocol, 2000).

The European Convention on Action against Trafficking in persons, adopted in 2005, a definition that is fully consistent with the definition of the United Nations Trafficking in Persons Protocol. This convention also included a text indicating that the victim's consent is not taken into account if the means referred thereto in the Protocol are used. This convention focused on the importance of respecting children and protecting their rights, and pointed out that their exploitation is considered trafficking (Palermo Protocol, 2000).

1.2. On the domestic level:

some countries have resorted to merely amending existing laws to suit the imposed requirements to combat human trafficking, while others have enacted specific legislation against human trafficking, and Jordan has chosen the latter one. Similar to the laws on narcotics, weapons, ammunition, and juveniles, the Jordanian legislator has designated a special law against trafficking in persons. The Jordanian legislator deserves praise for this policy because human trafficking is a foreign phenomenon to Jordanian society and might not last long. This special law has been enacted to facilitate the process of changing or amending thereto as needed, and as long as it is required.

There is no denying that the Arab world has only recently become interested in deterring human trafficking. This includes Jordan, which did not experience a legislative movement against the practice until enacting Human Trafficking Prevention Law No. 9 of 2009, which was amended by Law No. 10 of 2021, where the amendment included 17 legal articles and came into compliance with international standards in this regard, as these amendments included tightening penalties for human trafficking crimes offenders to achieve both public and special deterrence, as well as imposing a set of preventative measures that the public prosecutor can use to accomplish this goal.

2. Definition of Human Trafficking

Article 3(a) of the Human Trafficking Prevention Law defines the human trafficking as the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation or recruitment, transportation, transfer, harboring or receipt of people under the age of eighteen, whenever this is for the purpose of exploitation, even if this exploitation is not accompanied by means of the threat or use of force or other aforesaid forms. Also, paragraph (b) of the said article defines the exploitation as the exploitation of persons in forced labour or services, slavery, practices similar to slavery, servitude, removal of organs, organized beggary, prostitution of others or other forms of sexual exploitation”.

A scholar (Qurari,2009) defines the human trafficking as the recruitment, or transportation of persons by means of the force, coercion, or deception for the purposes of exploitation including the sexual exploitation, forced labour or services, beggary, slavery, trafficking in human organs or others.

Some scholars (Al-Erian,2011 ; Al-Warikat, 2021) have criticized this definition for limiting the criminal behavior of human trafficking to only recruitment and transportation without explaining the other forms that make up this behavior, which are numerous and varied. They

have also criticized the use of words that are synonymous, such as force and coercion, even though coercion includes both the moral and physical nature and the use of force falls under the definition of physical coercion.

Therefore, other scholars (Al-Qadi,2011), went on to state that the human trafficking means any act that occurs on a human being, or one of his organs without the person's approval, through any coercive means, with the aim of exploiting the victim financially, and making a profit. This definition should first to support and give weight, as it did not specify particular means to achieve the purpose of exploitation, making it include all forms of victim exploitation and preventing the offender from evading prosecution and punishment. Furthermore, this definition makes it very apparent that the target of these crimes is the human person, clearing up any doubt that could arise in one's mind about this matter.

2.1. An analytic review of the Human Trafficking Prevention Law No. 9 of 2009 and its amendments from a legal perspective:

The following may be noted after studying this law from the perspective of the legal approach:

2.1.1: General description of the law: The aforesaid Human Trafficking Prevention Law consists of 21 articles distributed as follows:

1. Article 1 included the name of the law and the date of its execution, thirty days after its publication in the Official Gazette.
2. Article 2 included some definitions, such as the ministry, the minister, the committee, and the organized criminal group.
3. Article 3 defines human trafficking crimes and their forms. Additionally, it defines exploitation, and the circumstances under it are considered crimes of a transnational nature.
4. Articles 4, 5, 6, and 7 included the establishment of a national committee to prevent human trafficking, and specified its jurisdiction and the meeting dates.
5. Articles 8, 9, 10, and 11 outline the penalties and measures that must be taken against both natural and legal persons who engage in human trafficking, or any other crime related thereto.
6. Articles 12 and 13 set out how the victim is to be protected, how his rights are to be upheld, and how the witness is to be protected at all times during the gathering of evidence, the investigation, and the trial.
7. Article 14 stipulates the establishment of a Trafficking Victim Assistance Fund to give them the support they require.
8. Article 15 specifies the actions that the public prosecutor or the court may take against those who commit certain offences.
9. Article 16 stipulates the exemption from punishment for those who commit offenses involving human trafficking.
10. Article 17 stipulated a sufficient number of prosecutors and judges must be assigned to each court to consider cases of human trafficking.
11. Article 18 stipulates that the approval of victims or those who were harmed by human trafficking crimes shall not taken into account when determining to reduce their legal penalties stipulated in the law.
12. Article 19 stipulates the confiscation of any money earned from committing a human trafficking offense
13. Article 20 stipulates that the offenders of these crimes must face the most severe penalties outlined in any other legislation.
14. Articles 21 and 22 specify the authority responsible for enacting the appropriate regulations for this law and responsible for its execution.

2.1.2: The legal approach and legislative formulation of the provisions of Combating Trafficking in Human Beings Law:

After having extrapolated the legal texts governing the provisions of human trafficking offences, the observations on the legislative drafting of the Jordanian criminal legislator are as follows:

- 1- **It is used the term “Human Trafficking” instead of “Trafficking in persons”:** The Jordanian legislator uses the phrase "human trafficking" which is commonly used by the laws of the majority of Arab countries ⁽²⁾, contrary to the term "trafficking in persons" which is used in the UN Protocol and some penal legislations ⁽³⁾.

We tend to agree with the criminal jurisprudence that (Hussein 2016, Nashed 2010, Al-Qadi,2011), prefers to use the term "human trafficking" rather than "trafficking in persons," as the legal definition of "person" includes both natural and legal persons, while the term "human trafficking" only refers to the natural person as the target of the crime. It is the most accurate and representative of this information, as well as verifying the concern for the consistency of legal terminology and avoiding the worry that it would be assumed that both legal and natural persons are responsible for trafficking offenses.

- 2- **Characterizing the law as a Combating Trafficking in Human Beings Law instead of human trafficking prevention law:**

The Jordanian legislator stipulated that the trafficking law be described as a Combating Trafficking in Human Beings Law, as opposed to the majority of penal legislation that described it as a human trafficking prevention law. The Jordanian legislation is almost unique in this regard, opened to criticism, as some criminal scholars (Al-Amoush,2016) believes that the legislator failed to give this law a prohibitive character, because prevention is a form of enforcement. Therefore, it has become crucial to amend its description as a Combating Trafficking in Human Beings Law to be more compatible with international accords and other penal laws.

- 3- **Preferring usage of the term “victim” instead of “impacted”:**

Jordanian legislation succeeded in using the term “victim” instead of “impacted” which some legislation has frequently used ⁽⁴⁾, this because the term “victim” is one of the well-known phrases that is frequently used in the field of criminal law. Nevertheless, the term "affected" is defined in Article 14 of the Combating Trafficking in Human Beings Law, which calls for the establishment of a fund in the Ministry of Justice called the Trafficking Victim Assistance Fund to provide the necessary assistance to victims and those impacted by the crimes specified in this law.

² Among the legislations that used the term human trafficking are the Emirati legislation “Anti-Human Trafficking Law” No. 51 of 2006, and its amendments, Egyptian legislation “Anti-Human Trafficking Law” No. 64 of 2010, and Omani legislation “Anti-Human Trafficking Law” by Royal Decree No. 126 of 2002.

³ Among legislation that used the term “trafficking in persons” is the Bahraini legislation “Anti-Trafficking in Persons Law” No. 1 of 2008, and the Saudi legislation “The Anti-Trafficking in Persons Law” of 1430 AH.

⁴ Such legislation includes: Syrian legislation, where the term victim is used instead of impacted, and the victim is defined in Article 1(4) of the Anti-Human Trafficking Law as: a person to whom the act of trafficking has occurred or who has been the subject to this act, and Sudanese legislation, where the use of The term victim is also defined in Article 1(2) of the Anti-Human Trafficking Law as: any natural person who has been subjected to any material or moral harm as a result of committing one of the crimes stipulated in this law.

3. Human Trafficking Forms:

These are numerous, but what is stipulated in Jordanian legislation is limited to the exploitation of persons in forced labor or services, slavery, servitude, removal of organs, organized beggary, prostitution of others or other forms of sexual exploitation. ⁽⁵⁾

In general, the term "exploitation" refers to actions taken by one person or group of people against another person or group that might jeopardize one of their lawful rights. (Al-Marzouq, 2005)

In terms of sexual exploitation, it refers to the use of the victim to satiate the sexual instincts of others for compensation. It is considered the most dangerous and pervasive form of human trafficking, because of the huge profits achieved by the sex trade that far exceed those achieved by the arms and drug trade (Al-Adawi, 2014). The modern technologies have contributed to facilitating the practice of prostitution and sexual exploitation in its various forms, whether it is sex trafficking or practices similar thereto, such as the production of pornography. (Dawoud, 2010)

3.1. The crucial component for criminal behavior of human trafficking crimes:

Criminal behavior is the external physical activity that the offender engages in with the intention of achieving the desired criminal outcome. It is one of the most important elements of the crucial component because it is the most obvious and glaring aspect of the crime when the offender violates the prohibitions of the law. (Al-Qahwaji, 2002)

Jordanian legislation has defined criminal behavior as human trafficking crimes, represented by acts of recruitment, transportation, transfer, harbouring or receipt of persons, for the purpose of exploitation ⁽⁶⁾. In this respect, it should be emphasized that there are many different types of criminal behavior, some of which include the ways that the crime of human trafficking is conducted as well as the stages it takes from recruiting to exploitation (Al-Warikat, 2021).

There is no doubt that this criminal behavior does not qualify as a criminal offense unless it is accompanied by particular means specified by law. These means are classified into two categories: coercive means like the threat, use of force or kidnapping, and non-coercive means represented by fraud, deception, abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over the trafficked persons ⁽⁷⁾.

3.2. Strictness policy against human trafficking crimes:

The following are some manifestations of how Jordanian legislation, like other penal law, pursues a policy of severity and strictness on the offences in question:

First: Toughening the penalty:

The Jordanian law stipulates the punishment for the perpetrators of human trafficking crimes in their ordinary form with penal servitude for term and a fine of not less than three thousand and not more than ten thousand dinars ⁽⁸⁾. It is probable that the Jordanian legislator realized the seriousness of these crimes and thus classified them as felonies and imposed the penalty of imprisonment with penal servitude for term and a fine on any perpetrator in the most recent

⁵ Article 3(b) of the Human Trafficking Prevention Law.

⁶ Article 3(a)(1) of the Human Trafficking Prevention Law

⁷ Article 3(a)(1) of the Human Trafficking Prevention Law.

⁸ Article 8 of the Jordanian Human Trafficking Prevention Law

amendment to the Human Trafficking Prevention Law. This emphasis clearly indicates the tendency of the Jordanian legislator towards a strict policy for any perpetrators of this type of crime. This is really great, as these crimes are so serious and do not require clarification that they constitute a threat to the security and stability of society.

If any human trafficking offense is committed coupled with an aggravating circumstance, the Jordanian legislator imposed a penalty of servitude for term of no less than seven years in addition to a fine of no less than five thousand dinars and no more than twenty thousand dinars. The term "aggravating circumstances" ⁽⁹⁾ refers to facts about the crime or the perpetrator that make it more serious or reveal the extent of the perpetrator's criminal danger, as in this case the penalty must be made more severe, either by changing its type, increasing its limits, substituting a more severe punishment for it, or adding another punishment or measure thereto. The penal scholars have agreed to classify these circumstances into two types, Personal and Real Circumstances (Hosni, 1989).

According to the Jordanian Human Trafficking Prevention Law, personal circumstances" are defined as circumstances relating to the offender's personality and revealing the extent of the offender's criminal danger (Metwally, 2015). These circumstances include the offender's involvement with an organized criminal group, whether he/she is a public employee or assigned with a public service and used that capacity to commit the crime, or whether the offender has a close relationship with the victim, such as a spouse, one of the ascendants or descendants, or someone who has guardianship or authority over him, or if he/she takes advantage of the victim's position of vulnerability, such as being disabled or female ⁽¹⁰⁾.

Real circumstances are those connected to the criminal behavior itself, or reveal seriousness of the behavior that led to the crime being committed, or the circumstances that led to it being committed (Al-Warikat, 2021), such as when the crime was committed under threat of death, inflicting serious harm on the victim, torturing physically or psychologically, or causing a permanent disability or an incurable disease, or if it is of a transnational nature ⁽¹¹⁾.

If the crime of human trafficking is coupled with one of the prior cases that changes it from its normal form, the legislator should have raise the punishment of the perpetrator as described above. We believe that the sentence of at least seven years' imprisonment with penal servitude is not strict enough. The legislator should have used severity and strictness in imposing a penal servitude for life in addition to a fine, as many penal legislations ⁽¹²⁾ mandate, and to seek equality in the punishment regardless of whether the crime occurs or indeed stop at the point of attempt, as well as equality in punishment between the original perpetrator of the crime and the rest of the accomplices, because such provisions are commensurate with the nature of the crime of human trafficking.

Second: Adopting of Precautionary Measures Policy:

⁹ Article: 9 of the same law.

¹⁰ Article 9 of the Jordanian Human Trafficking Prevention Law

¹¹ Article 9 of the Jordanian Human Trafficking Prevention Law.

¹² Such legislation includes: The UAE legislation, which increased the penalty for the perpetrator of any of the crimes of human trafficking if it was accompanied by one of the aggravating circumstances, to life imprisonment in and a fine, pursuant to Article 6 of the Compacting Trafficking in Persons Law, and the Egyptian legislation followed the same direction. It also stipulates the penalty of life imprisonment in cases where the crime of human trafficking is committed coupled with an aggravating circumstance, based on the text of Article 6 of the Anti-Human Trafficking Law

The Jordanian legislator developed a variety of additional measures that can be utilized to combat people who commit offenses involving human trafficking in addition to the penalties listed in the Human Trafficking Prevention Law. Among them are those that a natural person faces, such as the precautionary seizure of cash if it is believed that the offender gained them from any of human trafficking crimes ⁽¹³⁾, prohibition from traveling until the investigation procedures against him are completed and the case is decided for a period of three months. This period may be extended so that it does not exceed a year ⁽¹⁴⁾, in addition to the confiscation of all funds obtained from such crimes ⁽¹⁵⁾. The justification for this action, according to a scholar ((Metwally, 2015), is that the perpetrators do not turn to committing human trafficking crimes except for the purpose of illicit gain and extreme wealth; therefore, this may be a reason for limiting and restricting them. The approval of confiscation is due to the perpetrators' intent in committing these crimes.

The legal person-related measures, such as the total or partial suspension of work for a temporary or permanent term, the revocation of its registration, or liquidation, are included in this list. It is prohibited for the president and members of its board of directors, or the president and members of its directorate committee, as well as any partner found to have personally committed any of the crimes of human trafficking, to participate in or contribute to the capital of any ordinary person with similar purposes or participating in its management ⁽¹⁶⁾.

Without a doubt, the intent of the strict punitive policy, which includes the imposition of such measures in addition to the penalties outlined in the Human Trafficking Prevention Law, is to confront the criminal danger posed by the perpetrator. Although the danger in this case does not stem from the legal person in question but rather from those persons whom the legislator permits to carry on with their daily activities and employment (Al-Qadi,1996).

3.3. The Tolerance Policy Regarding Human Trafficking Crimes:

Contemporary criminal law has adopted the tolerance policy in its punitive response to those who commit human trafficking crimes. In the most recent amended Human Trafficking Prevention Law, the Jordanian legislator embraced the approach of these laws and endorsed the tolerance policy by totally exempting the perpetrator from punishment. It's beneficial because, in some cases, the societal benefit of this punitive policy is far larger than the benefit of the punishment itself.

The tolerance policy endorsed by Jordanian legislation, like other legislation ⁽¹⁷⁾, to confront crimes of human trafficking, represents an exception to the general principle, and is considered one of the two wings of contemporary legislative policy. The penal legislator uses it to combat this type of crime by either establishing legal rules that would encourage the perpetrators to cooperate with the state authorities in order to prevent the crime from occurring or its completion, or to determine the identity of the remaining perpetrators contributing to it, thus facilitating their arrest. The Human Trafficking Prevention Law, which the Jordanian legislator endorsed as policy, completely exempts those who commit these crimes from punishment.

3.3.1. Total exemption from punishment

¹³ Article 15(2) of the Human Trafficking Prevention Law.

¹⁴ Article 15(3) of the above law

¹⁵ Article 19 of the same law.

¹⁶ Article 11 of the Human Trafficking Prevention Law

¹⁷ Such legislation includes UAE legislation, Article 11 of the Law on Combating Human Trafficking Crimes, and Egyptian legislation, Article 12 of the Law on Combating Human Trafficking.

It is called legal justifications that are permissible or exempt from punishment. It means those cases in which the legislator decides to exempt the offender from the punishment prescribed for the crime when the offender has committed the crime, and his criminal responsibility for it has been proven. These cases are characterized by the nature of exception, they are exclusively defined in the law. It is not permitted to broaden its interpretation through analogy (Al-Majali, 2012, Al-Jabour, Al-Jabour, 2011, Abdel Moneim, 2002). Among the applications of these justifications exempting from punishment as stipulated in the Human Trafficking Prevention Law by exempting the perpetrator from punishment in certain cases and according to specific conditions, and this exemption from punishment may be obligatory or permissible.

3.3.2. Mandatory exemption from punishment in the Human Trafficking Prevention Law:

Article 16(a) of the amended Human Trafficking Prevention Law stipulates that “any of the perpetrators who takes the initiative to inform the competent authorities of the committed crime before they learn of it shall be exempt from the punishment stipulated in this law, provided that the reporting results in the arrest of the other perpetrators and the funds obtained from this crime.”

By analyzing this provision, it is possible to demonstrate that there are a number of requirements that shall be satisfied in order to obtain this exemption. The first of these requirements is that one of the perpetrators take the initiative to inform any competent authorities about the occurrence of a human trafficking crime; as a result, only the first perpetrator take the initiative to report will benefit from the exemption. It is only conceivable to allege that the informant committed the crime alone where there are numerous participants to the human trafficking crime, the informant cannot obtain the exemption even he submitted a report on his behalf.

The second requirement relates to the timing of reporting the crime, as the legal text requires that this be before the competent authorities become aware of the crime, and these authorities do not know about the crime during the initiation stage, or whether it has occurred completely. However, if it is clear that the person who reported the crime will benefit from it while it is still in the attempt stage, the question raised by some jurisprudence revolves around the existence of the same reason for the existence of an excuse to exempt the offender from punishment after the crime has occurred and his criminal responsibility for it has been established (Munjed, 2012).

The third requirement relates to the effect that must result from the perpetrator's report, which is enabling the competent authorities to arrest the rest of the perpetrators and seize the money from the crime. This is a requirement based on this report, and as a result of it, the perpetrator is exempt from punishment. It is perceived that this is a restriction on the extent of the exemption and is constraining the tolerance policy. Therefore, it is crucial to raise the penal legislator's attention to the need to change this policy and broaden the scope of the existential exemption in the event that any of the offenders assist the appropriate authorities in their pursuit of justice without the requirement to enable them to seize the collected funds from such crimes; rather, it is sufficient for the submitted report to achieve its purpose.

3.3.3. Permissible exemption from punishment in the Human Trafficking Prevention Law:

In the recent amendment to the law, the Jordanian legislature supported this type of exemption for those who commit human trafficking crimes. Article 16(b) of the law states that "the competent court may decide to exempt from punishment if the notification that was received

even the competent authorities became aware of the crime, led to the reveal of the persons who participated in the crime and the seizure of its funds."

According to the previous paragraph, a legal human trafficking offense must first occur before a permissible exemption can be granted. Additionally, the competent authorities must be informed of the crime and the informant must be a member of the perpetrators who took part in it. Finally, the report made by a perpetrator must result in their arrest and the seizure of the fund obtained from the crime.

This legal permissible exception is predicated on the premise that a human trafficking crime has actually occurred, and the relevant authorities did not know about the crime, but the perpetrator took the initiative to inform about the crime to these authorities, allowing them to arrest additional perpetrators and seize the fund of the crime. This demonstrates the importance of reporting and perhaps the legislator evaluated this situation and gave the court permission to exempt the offender from the punishment in return for his helpful cooperation with the legal authorities.

Exemption, as described above, is permissible, and the judge of the case may grant or deny it even if its requirements are met, as it is permissible, due to his discretionary authority, to enforce the exemption ruling, and rule to acquit the cooperating perpetrator, or rule the penalty prescribed for the crime even though the requirements for permissible exemption are present, if the circumstances surrounding the criminal incident require it.

Exemption from penalty, whether obligatory or permissible, is legally restricted on the condition that there is not a very serious criminal consequence for the committed crime, such as the death of the victim, permanent disability, or incurable disease⁽¹⁸⁾. The Jordanian legislator is grateful for this approach by stating that in the latest amendment to the law where is not only consistent with current penal legislation in this regard, but also, from the perspective of jurisprudence, this requirement is not devoid of wisdom that is consistent with the penal policy of denying the offender of exemption if the crime results in serious consequences affecting the victim's life or safety.

In all cases, in order for exemption from punishment to be issued, the information on which the offender's notification must always be true and accurate and the judicial authorities must make sure of that, with the importance of establishing legal rules to confront cases of obtaining exemption from punishment if it is discovered that the submitted information is false and inaccurate.

The Jordanian legislator is criticized for not adopting a commutation of punishment if the conditions for impunity are not met in the two previous cases, and the accused of cooperating in human trafficking crimes provides information that would enable the authorities during the investigation to arrest other perpetrators of the crime.

Conclusion

In this study, we attempted to ascertain the punitive policy adopted by the Jordanian legislator to combat this type of crime. The study came to a conclusion with a set of findings and recommendations. This study was conducted on the punitive policy regarding human trafficking crimes in accordance with the recent amendment to the Jordanian Human Trafficking Prevention Law.

¹⁸ Article 16(c) of the Human Trafficking Prevention Law

First: Findings: The results of the study are as follows:

- First: It should be noted that the penal policy adopted by the Jordanian legislator against human trafficking crimes has a tendency toward severity in punishments, but that this severity or strictness was not the main aspect of that policy, particularly in its determination of the servitude imprisonment penalty in cases where the crime of human trafficking is committed in conjunction with aggravating circumstances.
- Second: The Jordanian legislator avoid the correct in not deciding equality in punishment between the original perpetrator and the accomplice in human trafficking crimes, as well as equality in punishment between the completed crime and the case of its attempt, as this equality is one of the most obvious manifestations of the strict penal policy to confront these crimes.
- Third: The Jordanian legislator decided a special provision regarding exemption from punishment, whether obligatory or permissible, as a reward for the offender who cooperates with the competent authorities to report the crime. This is a good policy for the Jordanian legislator, but it did not provide specific legal controls governing the work of the judiciary in this regard.
- Fourth: The Jordanian legislator did not stipulate cases of mitigation of punishment, especially in cases where total exemption from punishment does not apply, whether obligatory or permissible. This would narrow the extent of tolerance policy that the legislator has pursued in confronting human trafficking crimes.

Second: Recommendations:

There is no doubt that the Jordanian legislator has taken positive steps in the punitive provisions in the field of combating human trafficking crimes in its recent amendment to Human Trafficking Prevention Law No. 10 of 2021. However, some recommendations that can achieve some aspects of improvement and development, and ensures the legislative instrument to play its desired role in combating human trafficking crimes, are summarized as follows:

- First: Despite the fact that the amended law adopted the approach of the Jordanian legislator toward a policy of severity and strictness in punishing human trafficking crimes, the punishment was not the same in accordance with the Article "9" of the said law, which stipulated the sentence of at least seven years' imprisonment with penal servitude and a fine. We think the legislator should reconsider this punishment and change it to life imprisonment given how terrible it is. Such crimes require the execution of a strict punitive policy to confront them.
- Second: Although the Jordanian legislator has decided cases of exemptions for human trafficking offenders and has given the judiciary broad discretion in determining whether to grant a judicial exemption or not, it has not provided any controls governing the work of the judiciary in deciding that exemption stipulated in Article 16(b) of the amended law. Also, the judge's absolute discretion to determine exemption from punishment, and restrict the mitigation is an indication of the extent of the contradiction in this law that requires legislative intervention to remove this defect.
- Third: The necessity of adopting a more strictness punitive policy against the perpetrators of human trafficking crimes in a way that serves the deterrent concept implied by

this policy, by establishing equality in punishment between the original perpetrator and the rest of his contributors to the crime, as well as equality in punishment whether the crime completely occurred or stopped on the attempt limit, the exclusion of these crimes from the general amnesty provisions, and the impermissibility neither the prescription for the criminal lawsuit arising therefrom nor the imposed penalties, because the prescription in general does not apply to crimes of human trafficking whose harmful consequences exceed the consequences of any ordinary crime, whatever its serious.

Fourth: The significance of stipulating sentencing mitigation for those who committed crimes that were less serious than those for which they cooperated with the authorities, provided that this is allowed for the trial court to decide to take into account a number of factors, such as the surrounding circumstances unique to each individual crime, the offender's level of criminal danger, and his role in the crime, degree of collaboration with the relevant authorities and amount of advantages to the public interest as a consequence of engagement.

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