THE CRIMINAL PROTECTION OF CHILDREN FROM SEXUAL EXPLOITATION IN JORDANIAN CRIMINAL LEGISLATION: A COMPARATIVE STUDY

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ABSTRACT

Objective: This study aims to investigate the criminal protection of children from sexual exploitation. It examines the substantive provisions related to the crime of inducing prostitution as a form of sexual exploitation, as regulated by the Jordanian Penal Code for the year 2022. Furthermore, it explores the crime of trafficking in children for sexual exploitation under the Jordanian Trafficking in Persons Act for the year 2021.

Method: To achieve the desired objectives of the study, a descriptive and analytical approach was followed in describing and analyzing the texts of the materials that addressed child sexual exploitation in Jordanian legislation and comparative laws. The comparative approach was also used by comparing the subject of the study, which is the criminal protection of children from sexual exploitation in Jordanian legislation, with some criminal laws and international conventions.

Result: One of the study's most important findings is that the Jordanian legislator did not successfully use the term "prostitution" in Article 14 of the Electronic Crimes Law because the term "prostitution" includes females only.

Conclusion: The legislative phrasing of criminal provisions related to child sexual exploitation, specifically the phrase "for the purpose of exploiting them" found in Article 3/b of Jordan's Anti-Human Trafficking Law, and similar provisions in the studied legislation, raises an issue concerning the necessity of proving specific intent in child sexual exploitation crimes, namely the intent to exploit.

Keywords: sexual exploitation, children, human trafficking, electronic sexual exploitation.

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A PROTEÇÃO CRIMINAL DAS CRIANÇAS CONTRA A EXPLORAÇÃO SEXUAL NA LEGISLAÇÃO CRIMINAL JORDANIANA: UM ESTUDO COMPARATIVO

RESUMO

Objetivo: Este estudo tem como objetivo investigar a proteção criminal de crianças contra a exploração sexual. Examina as disposições substantivas relacionadas com o crime de indução da prostituição como forma de exploração sexual, conforme regulamentado pelo Código Penal Jordaniano para o ano de 2022. Além disso, explora o crime de tráfico de crianças para exploração sexual ao abrigo da Lei Jordaniana sobre o Tráfico de Pessoas para o ano de 2021.

Método: Para alcançar os objetivos desejados do estudo, foi seguida uma abordagem descritiva e analítica na descrição e análise dos textos dos materiais que abordavam a exploração sexual infantil na legislação e leis comparativas jordanianas. A abordagem comparativa também foi usada comparando o tema do estudo, que é a proteção criminal das crianças contra a exploração sexual na legislação jordaniana, com algumas leis criminais e convenções internacionais.

Resultado: Uma das descobertas mais importantes do estudo é que o legislador jordaniano não utilizou com sucesso o termo “prostituição” no Artigo 14 da Lei de Crimes Eletrônicos, porque o termo “prostituição” inclui apenas mulheres.

Conclusão: A formulação legislativa de disposições criminais relacionadas com a exploração sexual de crianças, especificamente a frase “para fins de exploração delas” encontrada no Artigo 3/b da Lei Anti-Tráfico Humano da Jordânia, e disposições similares na legislação estudada, levanta uma questão sobre a necessidade de provar a intenção específica em crimes de exploração sexual de crianças, nomeadamente a intenção de explorar.

Palavras-chave: exploração sexual, crianças, tráfico de pessoas, exploração sexual eletrônica.

1 INTRODUCTION

Although child sexual exploitation has existed since ancient times, in the form of sexually exploiting children in prostitution, the scientific revolution and the tremendous advancement in internet technology have introduced a new dimension to the contours of child sexual exploitation. This has brought forth newly emerging forms of physical exploitation of children that were previously not contemplated. Despite the gravity of this crime, it is disconcerting to find that some laws lack a clear definition of sexual exploitation.

The phenomenon of sexual exploitation is one aspect of contemporary sexual trade within global economies, generating substantial profits for countries and international entities through illicit means. This phenomenon has particularly affected children who are subjected to the most abhorrent forms of commercial sexual exploitation. Such exploitation stands in stark contradiction to the physical and psychological well-being of these children on one hand, and the moral, religious, and
legal prohibitions against such acts on the other. Given the gravity of this crime, substantive provisions for child sexual exploitation have been enacted to hold perpetrators of this crime criminally accountable.

Despite the fact that Jordanian legislation did not explicitly define the concept of sexual exploitation, it clarified in Article 2 of the Child Rights Law No. 17 of the year 2022 the definition of a child as follows: "Anyone who has not completed eighteen full solar years." Sexual exploitation is considered one of the cases that endanger the child's health and physical safety, as indicated in Article 43/b, which emphasizes the child's right not to be subjected to any form of trafficking (Senooane, B. 2023), prostitution, exploitation in pornography, or any other form of sexual abuse.

On the other hand, the Jordanian Juvenile Law No. 32 and its amendments for the year 2023 use the term "juvenile" in Article 2, which is defined as anyone who has not yet reached the age of eighteen. The law further divides juveniles into two categories: teenagers and boys. A teenager is defined as "someone who has completed twelve but has not yet reached fifteen years of age," while a boy is defined as "someone who has completed fifteen but has not yet reached eighteen years of age."

In the Egyptian Child Law No. 126 of the year 2008, a child is defined in Article 2 as follows: "A child, in the context of care, as provided for in this law, refers to anyone who has not yet reached the age of eighteen complete Gregorian years."

2 THEORETICAL FRAMEWORK
2.1 DEFINITION OF CHILD SEXUAL EXPLOITATION

Jurisprudential Definition: There have been various juridical definitions of child sexual exploitation, including the following:

It is defined as "harmful behavior towards a child under the age of eighteen, beginning with acts of sexual misconduct towards the child without consent. The concept of a child giving consent to such behavior is not applicable, as no child at all would willingly accept abuse. Most often, the child becomes a victim of deception, cunning schemes, or coercion due to specific circumstances, without being aware of the extent of the impact and consequences of this matter. Such activities may involve actual sexual contact, viewing children in specific sexual situations, exploiting them to produce pornographic materials, or encouraging them to engage in inappropriate and deviant sexual behavior" (Majid N., 2014). It is also defined as "an adult's assault on another
person as a means to satisfy their sexual needs" (Nayel I., 2001). Furthermore, it is defined as "an adult who is sane and mature enticing, seducing, and luring a child for sexual exploitation" (Al-Shawabki M., 2011).

- Some have defined it as "the use of a child or their images in sexual activities to satisfy the desires of adults, whether this is done in reality or through simulation, and whether it is done in exchange for something or without compensation" (Hegazy A., 2004).

- Given the various sexual interactions that children may encounter through multiple means, and considering the psychological definition of child sexual exploitation as "satisfying the sexual desire of an adult through the child's progressive involvement in sexual activity that the child does not comprehend" (Sattar F., 1999), the author can conclude the following:

Here's the translation of the provided points:

1. Sexual exploitation involves forcing the child to engage in sexual acts.
2. Sexual acts include both oral and visual interactions.
3. Sexual exploitation aims to use the child as an object.
4. The primary purpose of sexually exploiting a child is both material and moral gain.
5. Sexual exploitation often serves the deviant's sexual gratification.
6. Sexual exploitation may not necessarily involve physical contact with the child's body.
7. The exploiter must be an adult.

Legislative Definition: Referring to the penal laws that have addressed child sexual exploitation, the author finds that the Penal Code No. 16 of the year 1960 and its amendments until the year 2022, and the Electronic Crimes Law No. 17 of the year 2023, do not provide an explicit definition of child sexual exploitation but rather include various forms of it.

As for Article 3 of the Human Trafficking Law No. 10 of the year 2021, it stipulates that the term "human trafficking" means:

1. The recruitment, transportation, harboring, or receipt of persons for the purpose of exploiting them through threats, the use of force or other forms of coercion, abduction, fraud (Gazali, S., & Lumbaa, M. 2023), deception, abuse of power, or exploitation of vulnerability, or by providing or receiving financial
payments or benefits to gain the consent of a person who has control over these individuals.

2. The recruitment, transportation, harboring, or receipt of individuals under the age of eighteen, even if such exploitation is not accompanied by threats, the use of force, or other methods as described in paragraph (1) of this clause, when it is done for the purpose of exploitation.

This legal definition encompasses various aspects of human trafficking, including those related to child sexual exploitation. (https://www.unodc.org/romena/ar/untoc.html)

3 METHODOLOGY

To achieve the desired objectives of the study, a descriptive and analytical approach was followed in describing and analyzing the texts of the materials that addressed child sexual exploitation in Jordanian legislation and comparative laws. The comparative approach was also used by comparing the subject of the study, which is the criminal protection of children from sexual exploitation in Jordanian legislation, with some criminal laws and international conventions.

4 RESULTS AND DISCUSSION

4.1 PILLARS OF THE CRIME OF CHILD SEXUAL EXPLOITATION

The Material Element of the Crime of Solicitation to Prostitution According to the Penal Code: The Jordanian legislator did not use the term "prostitution" in the Penal Code but instead used the term "al-bigha" (solicitation). However, the Penal Code did not define the term "al-bigha." Nevertheless, the concept of solicitation to prostitution is included in crimes of solicitation to debauchery.

The act of solicitation to prostitution involves "influencing the victim to the extent that they are convinced to engage in prostitution through insistence, enticement, and the promise of material gains, or by exerting physical or moral coercion on the victim" (AL-Saghir J., 1994)

As for "prostitution," it is defined as "the sexual activity of a female seeking sexual intercourse with others without distinction." And "debauchery" refers to prostitution that occurs between males only (Fouda A., 2005). With these definitions, it can be seen that the meanings of "prostitution," "debauchery," and "solicitation" are closely related. All of these terms refer to unlawful sexual intercourse that is prohibited by law and religion.
Despite not using the term "prostitution" in the Penal Code, the Court of Cassation has used the term "prostitution" to refer to the material element in crimes of solicitation to debauchery. In its decision No. 1567/2020 for the year 2022, it stated: "The defendant convinced the victim to work with her in prostitution in exchange for large sums of money, and the victim agreed to it. The defendant engaged in sexual intercourse with different people daily, which necessitates their conviction for the crime of leading a female to commit unlawful sexual intercourse."

The crime of solicitation to debauchery involves influencing the victim and convincing them to engage in the act directly. The actual activity undertaken by the perpetrator involves sending signals that carry incitement, such as indicating a brothel or accompanying the victim to a brothel with the intention of engaging in prostitution there. Similarly, the act of "leading" refers to the ability to influence the human psyche and behavior to direct it toward engaging in prostitution, (Jaafar A., 2013)

Based on Jordanian law, the crime of solicitation to prostitution can take various forms. It includes:

Urging the victim to engage in prostitution inside and outside the Kingdom. This involves persuading the victim to engage in prostitution within Jordan or abroad. Incitement of individuals to leave the Kingdom with the intent of engaging in prostitution. This includes encouraging people to leave Jordan for the purpose of prostitution. Seduction or using various means of deception, violence, or threats to encourage prostitution. This refers to enticing individuals to engage in prostitution using deception, violence, or threats. Assisting the perpetrator in engaging in prostitution: this involves aiding the perpetrator in their prostitution activities. Forcing someone against their will to remain in a house of debauchery and compelling them to engage in prostitution (Fouda A., 2005)

This pertains to forcibly keeping an individual in a brothel and coercing them into prostitution. Facilitating the corruption of minors by allowing them to resort to a brothel:

This relates to enabling minors to turn to prostitution.

In the material element of this crime, the act of solicitation or incitement may involve driving the female toward prostitution. The influencer or perpetrator must use all means of persuasion and commit all actions that lead the victim towards engaging in prostitution, even going beyond the borders of the Kingdom for this purpose.
In some cases, the perpetrator may resort to using force, intimidation, false pretenses, or various means to compel the victim to engage in prostitution. The law identifies these means in Article 311, which includes threats, intimidation, false claims, or deceptive methods. It also encompasses providing or administering drugs or substances to sedate or overpower the victim, making it possible for anyone to engage in unlawful intercourse with her. These actions undermine the will of the victim to commit the crime.

The exploitation of prostitution is also criminalized under Jordanian law. Article 315 states that anyone who exploits prostitution, whether through direct payment or other forms of compensation (such as gifts or goods), and benefits personally from the victim's prostitution, is committing exploitation. The payment may occur before or after engaging in prostitution. The exploitation does not have to encompass the entirety of the perpetrator's livelihood but may involve gaining some income from the victim's prostitution. It also includes situations where the perpetrator resides with a female prostitute and benefits from her earnings, exercising control over her actions, either directly with clients or in general and is aware of her involvement in prostitution.

Indirect exploitation refers to the gain enjoyed by the exploiter as a result of the female's prostitution. This means that without prostitution, the exploiter would not have gained these benefits.

Furthermore, Article 318 specifies that a crime is committed if a person keeps a woman in a brothel for unlawful sexual intercourse or refuses to provide her with clothing or money, intending to force her to remain in the brothel.

As for facilitating the corruption of a minor, this crime is established simply by allowing the minor to resort to a house of debauchery or to stay there, or by their frequenting such a place. It is essential that the act of allowing involves the minor. If the person involved is an adult who has reached the age of maturity, the provisions of Article 314 do not apply to them. The legislator stipulated that the act of allowing must be committed by someone who is accustomed to the care of the minor. The legislator did not specify a particular duration for the minor's frequenting of the house of debauchery; even if the minor goes there only once, the crime is still established.

The material element of the crime of sexual exploitation of children in the human trafficking law: According to Article 2/Paragraph 3 of the Jordanian Human Trafficking Law, exploitation is defined as: “the exploitation of individuals in forced labour, forced
labour, servitude, servitude, organ trafficking, prostitution, or any other form of sexual exploitation.”

Forms of criminal behavior in human trafficking crimes are as follows:

First: Recruitment

The Jordanian legislator has used the term “recruitment of people,” while the United Nations Protocol used the term “recruitment of people.” Recruitment is language from “pole” or “plural,” and it is one of the terms used in human resources management. It means the process that includes a number of activities and procedures concerned with granting qualified individuals in order to fill vacant positions. (Bessiouni M., 1999). To complete and initiate the crime, the offender must go through several stages, including:

A. Searching for a victim: In this stage, the offender targets vulnerable and impoverished individuals, often focusing on virgin girls or children from working-class backgrounds. This stage, according to the provisions of the Jordanian Penal Code, is not punishable. Article 69 of the Jordanian Penal Code states that mere intention to commit a crime without any action does not constitute an attempt.

B. Luring and attracting the victim or attempting to control them: The offender may use various methods for this, such as advertising in newspapers for job opportunities, expressing a desire to marry a minor girl, offering high-paying job opportunities abroad to a minor, convincing the victim's family to give up their child in exchange for money with promises of providing a good upbringing and care, kidnapping children from hospitals, or employing other deceitful and deceptive tactics (Awed T., 2009).

Secondly: Transportation

The criminals use illegitimate methods and means to transport child victims, especially concerning the transportation of children, which include:

1. Forgery of documents by imitating a certificate related to parental consent for the child's travel, or forging documents of accompanying individuals.
2. Forging documents related to the travel of pregnant women across borders to give birth to their children in the countries they intend to sell, adopt, or transfer them to another country.
3. Granting the child political asylum.
4. Traveling through a third country to avoid monitoring points, such as traveling from Romania to the United Kingdom and then to Ireland, as there are
no monitoring procedures for those coming from the United Kingdom. (Fathi M., 2005).

Thirdly: Shelter
The Jordanian legislator made the sheltering of child victims of sexual exploitation a necessary step, given the specific nature associated with organized criminal gangs. Combating this crime is difficult unless all practices within it are criminalized, aligning the text with the international protocol to prevent and combat sexual exploitation. Additionally, the legislator criminalized child sexual exploitation (Bessiouni M., 1999).

Fourthly: Reception
The Jordanian legislator sought to criminalize the act of reception as an independent form separate from the actions of shelter and transportation. After the victim has been recruited, they are transported to another country willingly. The perpetrators must receive their victim in the destination country or at the airport. The recipient receives their victim and completes border procedures before transporting or handing them over to others to reach the final destination or exploitation location (Matr et al., 2010). What applies to shelter, transportation, and recruitment also applies to reception, in the sense that it is a crime by consequence. Therefore, attempting to receive is considered a crime if the act constitutes an offense, such as not recognizing the victim at the airport or apprehending the recipient before receiving the victim.

4.2 THE MORAL ELEMENT IN CRIMES OF CHILD SEXUAL EXPLOITATION
The Criminal Intent for the Offense of Inducing Debauchery under the Penal Code: This crime is intentional, and the form of criminal intent is characterized by general criminal intent, with its two elements: knowledge and will. The perpetrator is aware that the act constitutes a punishable offense under the law, and their intent is directed towards achieving the criminal outcome. This outcome can be facilitating prostitution, inciting it, exploiting prostitution, retaining a person against their will in a house of prostitution, inciting individuals to leave the country for the purpose of engaging in prostitution or using deceptive means. (Al-Shawabki M., 2011).

Regarding facilitating the corruption of a minor, the Jordanian legislator was not explicit in defining the moral element of the crime. However, by referring to general principles, it can be deduced that criminal intent is the rule, and mistake is the exception. Therefore, the court verifies intent through various methods of evidence for criminal
intent. The researcher believes that allowing a minor to go to a house of prostitution while being aware of it constitutes an act of corruption against the minor's sound nature. (Al-Saeed K., 2011).

Specific Criminal Intent in Human Trafficking Laws for Sexual Exploitation: The crime of trafficking children for the purpose of sexual exploitation is an intentional crime. Therefore, it is necessary for the criminal intent to be present, consisting of both knowledge and will. The offender must be aware that the act constitutes a punishable offense under the law and must willfully intend to achieve the criminal result. This result could involve facilitating prostitution, incitement to engage in prostitution, exploiting prostitution, retaining a person against their will in a brothel, inducing individuals to leave the country with the intention of engaging in prostitution or using fraudulent means and deception.

In addition to the general criminal intent, Jordanian legislation for human trafficking crimes, including those involving children, requires a specific intent related to exploiting the victims in various ways, as specified in Article 3/b of the Jordanian Human Trafficking Law. This aligns with the international protocol for the prevention and suppression of trafficking in persons.

The specific intent in human trafficking crimes, including those involving children, is focused on the intention to exploit victims in forced labor, involuntary servitude, debt bondage, slavery, organ removal, prostitution, or any form of sexual exploitation. Jordanian legislation has adopted these means from the international protocol to effectively combat such crimes.

Deception and fraud are essential elements of criminal conduct in sexual exploitation crimes. They involve any action or statement aimed at deceiving the victim or someone who has authority over them, contrary to the truth. Deception and fraud are used to manipulate the victim into believing false claims, allowing the offender to gain control over them. To achieve their deceptive goals, the offender may resort to lying and provide external appearances that support their claims or lies, ultimately strengthening the victim's trust in them.

Additionally, in the context of sexual exploitation crimes, deception, and fraud can also involve the use of authority and power to attract, recruit, transport, shelter, or receive individuals for the purpose of sexual exploitation. The authority can be legal, such
as that of a guardian or guardian, who transports or detains individuals for their forced labor or involuntary servitude.

The term "exploitation of authority" refers to the act of giving or receiving money or benefits in order to obtain the consent of a person who has control over the victim. This is one of the non-coercive methods specified by Jordanian law and aligns with the international protocol. The legislator has defined this method, which involves the exchange of money or benefits to secure the consent of a person who has control over another person. This act may take the following forms:

1. The offender pays monetary amounts or benefits to a person who has complete control over another person to induce the latter to engage in acts prohibited by the law, such as paying money to a child's parent to obtain their consent for the exploitation of the child.

2. The offender receives monetary amounts or other benefits to persuade a person who has control over another person to allow the exploitation of that person.

The Jordanian legislator has criminalized human trafficking in accordance with the international protocol, including means characterized by violence, such as threats or the use of force, in addition to kidnapping, which is treated as a separate offense in the Jordanian Penal Code.

Kidnapping is considered one of the criminal behaviors in human trafficking crimes, and it is listed as an element of criminal conduct in such cases. As the element of danger is present in human trafficking crimes, there is no specific method required for this crime. Therefore, it does not need to follow a specific pattern, in contrast to the provisions of the Jordanian Penal Code regarding kidnapping. According to the Jordanian law on human trafficking, kidnapping is included as one of the methods of behavior in cases of recruiting, harboring, or transporting victims, as kidnapping involves the removal of the victim and their transfer from one place to another.

The Jordanian law on preventing human trafficking grants several rights to victims of sexual exploitation, specifically those exploited through human trafficking. These rights include:

1. The Right to Discontinue Legal Pursuit by the Public Prosecutor:

Jordan's law on preventing human trafficking, under Article 12/A, allows the public prosecutor to discontinue pursuing legal action against victims and those affected
by human trafficking crimes when it is proven that they have been involved in or harmed by such crimes. This is done to safeguard the rights of victims during detention and to prevent further harm to their rights. The conditions for this right include:

- The public prosecutor has sole discretion in making this decision, and they are the ones who can decide to discontinue prosecution for victims or those affected by human trafficking crimes.
- Victims and those affected have this right only if it is established that they have been harmed by human trafficking crimes, such as involvement, complicity, instigation, or incitement. The original offenders do not have this right if it is proven that they were not exposed to these crimes.

2. Not Considering the Consent of the Victim for the Purpose of Mitigating the Penalty:

The law prevents using the victim's consent as a means to reduce the penalty imposed for human trafficking crimes.

3. Regarding crimes of sexual exploitation in the Jordanian Electronic Crimes Law, there is no specific legal definition provided for terms such as "pornography" or "sexual exploitation of children." However, the law includes provisions related to the use of explicit materials or acts that lead to corruption.

4. For reference, other legislations, like the Canadian Criminal Code (1985, amended in 2015) and the Philippine Anti-Child Pornography Act (RA No. 9775 of 2009), have provided definitions for child pornography. They generally describe child pornography as any visual, auditory, or written material, including digital, electronic, mechanical, digital, magnetic, or any other means, depicting minors engaged in or participating in actual or simulated sexual activities.

5. These definitions are used to criminalize the production, distribution, or possession of such materials involving minors for sexual purposes. However, it is important to note that Jordanian law may have different legal provisions and definitions in this context.

When referring to international agreements, the author finds the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography. Article 2 of this protocol defines it as follows: "Any representation, by whatever means, of a child engaged in real or simulated explicit sexual
activities or any representation of the sexual parts of a child for primarily sexual purposes."

Similarly, the Council of Europe's Convention on Cybercrime, which entered into force in 2004, defines child pornography in Article 9(2) (a) as "any material that visually depicts a minor engaged in sexually explicit conduct."

Regarding the legal definitions and concepts of child exploitation and pornography in a jurisprudential context:

- Child sexual exploitation is defined as "sexual behavior by an adult directed towards a child through the internet, with the aim of forcing them to engage in sexual acts, encouraging such acts, facilitating them, benefiting from them, or exploiting them by disseminating them on websites or distributing them in any form to achieve sexual satisfaction for the adult or gain financial benefit" (Al-Nawayseh N., 2011).

- Child exploitation online is defined as "misusing social media platforms such as chat rooms or other technological means to manipulate children or unlawfully benefit from them by persuading them to engage in inappropriate behaviors contrary to morals" (Ismail I., 2019).

- Others have defined it as "the use of computers, the internet, or any modern technological device such as camera-equipped mobile phones to create, produce, prepare, store, view, send, publish, promote, or distribute material with the intent to expose a child to acts or displays of pornography or any sexually explicit conduct in violation of the law, regulations, or religion, whether directly or indirectly, with or without the child's consent" (Azam I., 2019).

In the context of a child rights organization, Article 13(A)-1 of the Jordanian Electronic Crimes Law addresses "Child Pornography and Sexual Exploitation of Children" and states: "Anyone who transmits, publishes, prepares, produces, stores, processes, displays, prints, purchases, sells, transfers, or promotes pornographic activities or materials using the information network, information technology, information system, or electronic website shall be punished by imprisonment for a minimum period of not less than six months or a fine of not less than (3,000) three thousand Jordanian Dinars and not exceeding (6,000) six thousand Jordanian Dinars."

This provision aims to combat child pornography and the sexual exploitation of children through electronic means in Jordan.
According to the aforementioned article, the criminal behavior for this offense involves using an information system or information network to transmit, publish, create, prepare, store, process, print, or disseminate pornographic activities or materials. It should be noted that this offense penalizes each individual act within these behaviors. The legislator has adopted a rotational approach to criminalizing these actions (Hamza A., 2019).

Hence, the criminal actions constituting the offense may involve both sending and publishing, and each of these actions has a different scope. Sending means providing someone or a group of people with pornographic material or material related to the sexual exploitation of children. It involves broadcasting this material without specifying recipients, without distinguishing who can access it. The criminal behavior is realized by engaging in either of these two actions. What is sent or published can take three forms: audible, readable, or visual, and it may involve pornographic content or content related to sexual exploitation. It must involve a person under the age of eighteen (a child), and the transmission or publication must occur through an information system or information network (Al-Nawayseh N., 2017).

As for the act of creation, it involves generating pornographic content using electronic means, such as creating videos or audio recordings. The act of preparation means obtaining pornographic content without the perpetrator's involvement in its creation. The criminal behavior may also include the electronic storage of the content.

In summary, this legal provision criminalizes various actions related to the transmission, publication, creation, preparation, storage, and processing of pornographic materials or materials related to the sexual exploitation of children through information systems or information networks.

The means by which the perpetrator possesses electronic content electronically can vary. It includes downloading such content from a pornographic website and storing it in electronic memory.

As for the act of processing, it involves the perpetrator making modifications to the electronic content or transforming it from one form to another. This requires technical skills from the actor. The presentation can take any form that makes the content available for children to view. Printing, on the other hand, means obtaining physical copies of electronic content, such as printing explicit images or writings. Promotion, as an act, involves disseminating pornographic content, whether in a general or specific manner.
Furthermore, under Article 13(A) (G) of Jordanian law, the penalty is increased if the intent of the perpetrator in the aforementioned criminal acts is directing or inciting the commission of a crime or for the purpose of sexual exploitation of children. "Directing" refers to merely guiding individuals towards committing a crime through pornographic content, while "incitement" involves urging or attempting to induce individuals, through pornographic content, to commit a crime. It's worth noting that the legislator did not specify a particular type of crime; the wording is general, so incitement can apply to sexual offenses or other crimes (Hamza A., 2019).

The Jordanian legislator has extended legal protection not only to children but also to individuals suffering from mental and psychological disabilities, regardless of their age, in order to protect them criminally from sexual exploitation. This is emphasized in the penalty for fine under Article 13(B) (1) of the Electronic Crimes Law. This penalty applies if the pornographic content includes images, recordings, drawings, or other sexually stimulating material involving actual or virtual sexual organs or activities, or if it relates to a person suffering from a mental illness or mental disability.

According to Article 13(B)(2) of the Electronic Crimes Law, the penalty for the perpetrator includes imprisonment for a period not less than two years and a mandatory fine of not less than 20,000 Jordanian Dinars if the content consists of images, recordings, drawings, or other sexually stimulating material involving actual or virtual sexual organs or activities, or if it is designed to entice a person who is not older than eighteen years of age or if it is intended to direct or incite them to commit a crime or for the purpose of their exploitation. This penalty also applies if the content is related to a person suffering from a mental illness or mental disability.

Additionally, the Jordanian legislator has criminalized the possession of pornographic materials for a person not older than eighteen years of age or for content related to a person suffering from a mental illness or mental disability under Article 13(J) of the Electronic Crimes Law. This article penalizes anyone who possesses, within an information system or data storage device, images, recordings, drawings, or other sexually stimulating material involving actual or virtual sexual organs or activities, or designed to entice a person not older than eighteen years of age, or related to a person suffering from a mental illness or mental disability.

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This is the position of the Emirati legislator in Article 36 of Federal Decree Law No. (34) of 2021 regarding combating rumors and electronic crimes, which stipulates that: The penalty shall be imprisonment for a period of not less than (6) six months and a fine of not less than (150,000) one hundred and fifty thousand dirhams. Not more than (1,000,000) million dirhams for anyone who intentionally possesses child pornography using an electronic information system, information network, website, or any information technology means.” This is in contrast to the position of the Omani legislator in the Information Technology Law in Article (14). Which came under the title of content crimes, criminalizing electronic pornography in general, and tightening the penalty when it comes to a child.

According to Article 14/A of the Cybercrime Law, anyone who uses the information network, information technology, or information system, or creates an electronic website to exploit those who have not yet completed eighteen years of age or who suffer from a mental illness or mental disability in prostitution through temporary labor and with a fine of not less than (15,000) fifteen thousand dinars and not exceeding (45,000) forty-five thousand dinars.

This paragraph addressed a more severe offense, which is the exploitation of individuals who have not reached the age of eighteen or who suffer from mental or psychological disabilities for prostitution or pornography. An example of this would be
an individual sending or advertising an offer to engage in prostitution with children. According to this paragraph, this crime constitutes a felony and is based on two elements: a material element and a moral element.

The material element is manifested through the act of exploitation, and exploitation is akin to investment, which means reaping the benefits, whether they are tangible, such as engaging in the trade of child pornography, encompassing all matters related to sexual acts or content that arouses sexual desire, or benefits related to satisfying the sexual desires of the perpetrator or others. The text stipulates that exploitation must be in prostitution or pornography specifically, using an information system or information network (Hamza A., 2019).

The term "prostitution" is relatively new in Jordanian legislation, even though the Penal Code, as mentioned earlier, criminalizes offenses related to prostitution and brothels in Articles 309-318. It's worth noting that the term "prostitution" is broader than the term "indecent acts." Jordanian lawmakers refrained from using the term "prostitution" in the text, as criminal protection is not limited to females only but includes both males and females who have not reached the age of eighteen or have mental or psychological disabilities. The legislator was required to criminalize the exploitation of this category of individuals in matters related to prostitution and debauchery (Al-Nawayseh N., 2011).

In the foregoing, we find that the Jordanian legislator has defined the means of committing a crime electronically. It is inconceivable for a crime to occur electronically without these means. Furthermore, the legislator has defined the content of electronically transmitted and published materials as being related to pornography or the sexual exploitation of those under eighteen years of age. It is also unacceptable to consent to the act of a child, as the consent of a child is not recognized. It is worth noting that the Qatari legislator in Article 7, mentioned earlier, and the Omani legislator in Article 7/2, explicitly state the prohibition of engaging in sexual acts with a child, as the victim, and do not inquire about criminal complicity. According to Article 35, paragraph 3, of Federal Decree-Law No. 34 of 2021 regarding combating rumors and electronic crimes, "the child victim shall not be criminally questioned about the actions resulting from incitement and seduction."

The moral element in this crime is based on general criminal intent; it is an intentional crime. The Jordanian legislator has used the term "intent," so it is
inconceivable for it to occur accidentally or negligently. The perpetrator must actively engage in the criminal act, fully aware of its nature, and the published or transmitted content must involve pornography or be related to sexual exploitation. It must also target a person under the age of eighteen. Since the age of the victim is an essential element of this crime, knowledge of the victim's age is crucial. The offender may claim ignorance of the victim's true age and argue that they believed the content was intended for someone over the age of eighteen. This would be subject to the discretion of the court (Al-Nawayseh N., 2011). It's worth noting that Article 3 of the Child Rights Law for the year 2022 stipulates that "civil status restrictions or their equivalents or the determination by the Joint Medical Committee in accordance with the provisions of the Medical Committees System shall be considered conclusive evidence of the child's date of birth."

The Egyptian Legislator’s Stance on Pornography and Online Sexual Exploitation: The Egyptian legislator has attempted to protect children from online sexual exploitation through laws and regulations that align with international treaties and agreements, such as the Convention on the Rights of the Child in 1989 and additional protocols aimed at providing protection against the online sexual exploitation of children and safeguarding children and women from all forms of sexual abuse, in order to combat organized cross-border crimes (Abdel-Aal, 2021).

We find that the Egyptian legislator, in Article 116, reiterated in Law No. 12 of 1996, as amended by Law No. 126 of 2008, stipulates that: "Without prejudice to any stricter penalty provided for in another law, the same penalty shall be imposed on anyone who: A) Uses a computer, the internet, information networks, or animated images to prepare, store, process, display, print, publish, or promote pornographic activities related to inciting children or exploiting them in prostitution, pornographic activities, defaming them, or selling them."

The Egyptian legislator has addressed the issue of human trafficking, which has notably increased in recent years, often associated with crises arising from natural disasters and conflicts of interest. This has exposed many individuals to the risk of exploitation by organized criminal gangs recruiting them for various purposes, including sexual services and begging. Consequently, Egypt has enacted a specific law criminalizing all forms of human trafficking, Law No. 64 of 2010, in compliance with international commitments previously ratified.
This law was enacted in a context where there was a lack of societal awareness about this phenomenon or the problems associated with it, leading many to deny its prevalence in Egyptian society. Therefore, this crime in Egypt has been given various names, with the most common being "seasonal marriages" or "tourist marriages." These marriages often involve marrying underage girls, often below the legal age, to non-Egyptian men. Additionally, there is the phenomenon of street children who are vulnerable to exploitation, including prostitution, sexual services, and various forms of exploitation.

Egypt's anti-human trafficking law, issued in May 2010, is one of the most consistent and harmonized with international mechanisms and standards. This is evident in the law's definition of human trafficking, which draws inspiration from the definition provided in the "Palermo Protocol." According to the law, this crime consists of three essential elements: trafficking (engaging in any form of dealings with a natural person, such as selling, offering, buying, transporting, delivering, or harboring), using specific means (such as force, violence, or threats, as well as abduction, fraud, deceit, or other methods), and the intent to exploit, regardless of the form it takes, including involvement in prostitution, various forms of sexual exploitation, the exploitation of children for sexual services, begging, or any other form of exploitation.

The Egyptian Anti-Prostitution Law No. 10 of 1961 also punished with imprisonment for a maximum period of seven years for the crime of exploiting a person in prostitution.

The previous article clarifies the situations in which a child can be exposed to sexual exploitation on electronic platforms. It is intended to illustrate how a child can be subjected to sexual exploitation. Therefore, the crime of child sexual exploitation through electronic platforms occurs when the perpetrator or exploiter uses a computer or the internet to prepare, store, process, display, print, publish, or promote activities or works related to inciting children or exploiting them in prostitution and pornography.

Additionally, Article 291 of the Egyptian Penal Code states: "Any interference with the child's protection from trafficking, sexual, commercial, or economic exploitation, or their use in scientific research and experiments, is prohibited. The child has the right to be informed and empowered to confront these risks. Without prejudice to any stricter penalty provided for in another law, anyone who sells, buys, offers for sale, delivers, receives, transports a child, considering them as a slave, exploits them sexually or
commercially, uses them for forced labor, or for any other unlawful purpose, even if the crime occurred abroad, shall be punished with a term of imprisonment not less than five years and a fine not less than fifty thousand pounds and not exceeding two hundred thousand pounds. The same penalty shall apply to anyone who facilitates or incites any of the actions mentioned in the preceding paragraph, even if the crime does not occur as a result. Without prejudice to the provisions of Article 116 of the Child Law, the penalty shall be doubled if committed by an organized criminal group across national borders.”

It is clear from the above that the Egyptian legislator did not fail to criminalize the sexual exploitation of children via the Internet, but rather it investigated precise branches of methods of incitement to sexually exploit children, but the reality of the situation indicates that this investigation is useless because of the violation of that criminalization by other legislation that opens the door to many violations. This is because the punishment imposed by the Egyptian legislator is insufficient in confronting this type of crime. The punishment must be made more severe for the perpetrators of these crimes.

5 CONCLUSION

The Jordanian criminal legislator addressed prostitution in Articles 309-318 of the Jordanian Penal Code, but the legislator also criminalized prostitution and sexual exploitation without clearly defining these terms. The Jordanian legislator should have defined these terms to avoid confusion arising from the use of different terms in texts that regulate prostitution offenses under the heading of "incitement to debauchery." Furthermore, the Anti-Human Trafficking Law No. 10 of 2021 was enacted. Also, the legislative phrasing of criminal provisions related to child sexual exploitation, specifically the phrase "for the purpose of exploiting them" found in Article 3/b of Jordan's Anti-Human Trafficking Law, and similar provisions in the studied legislation, raises an issue concerning the necessity of proving specific intent in child sexual exploitation crimes, namely the intent to exploit. This interpretation excludes one element of the crime if the form of exploitation is not established, creating difficulties in adapting and referring to some forms of child sexual exploitation crimes. While it may be possible to regulate many human trafficking crimes and refer their perpetrators to the judiciary, they may escape punishment due to the prosecution's inability to prove the intent of exploitation. Therefore, the Jordanian legislator was not successful in using the term "prostitution" in Article 14 of the Electronic Crimes Law because the term "prostitution"
only includes females. In this sense, there is a necessity for the Jordanian legislator to increase the severity of penalties related to child sexual exploitation to always be at their maximum limits. The author recommends that the Jordanian legislator amend Article 3 of the Anti-Human Trafficking Law No. 9 of 2009 to use the term "person" or "individual" so that the legal framework for human trafficking crimes applies when it involves a single child. Further, the Jordanian legislator amends the text of Article 3/1 of the Anti-Human Trafficking Law and replaces the term "recruitment" with "enlistment" or includes a definition of the term "recruitment" within the definitions provided in Article (2) of the law, defining it as: “The act of luring or coercing a person for the purpose of exploitation and trafficking”. Furthermore, the legislator should be urged to define or specify the offenses that constitute prostitution in Article 14 of the Electronic Crimes Law as forms of prostitution or simply state that any form of sexual exploitation is inclusive of the crime of prostitution. This would provide broader legal protection for male children.
REFERENCES


