

The Procedural Criminal Protection of the Juvenile Delinquent

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ABSTRACT

Objective: Juvenile delinquency presents a significant challenge to legal systems, with varying approaches across countries like Iraq and Lebanon, and this study aims to critically examine the effectiveness of the procedural protections provided to juvenile delinquents in Iraq and Lebanon. **Method:** Both nations have enacted laws offering procedural protections for delinquent juveniles, but gaps remain in their application, and the research identifies gaps in the law and proposes legislative amendments to enhance juvenile protection through a comparative analysis. **Result:** Iraq and Lebanon's legislations have introduced important reforms, including the right to legal representation and confidentiality during trials, as well as the establishment of rehabilitation-focused detention facilities; however, the research reveals that these measures have not fully achieved the goal of distinct juvenile treatment compared to adults, and both countries have insufficient measures for post-release care and extended detention periods for juveniles. Despite existing protections, legislative frameworks in both countries have not sufficiently distinguished juvenile offenders from adults in a way that addresses their unique needs, and the study suggests that while both systems have some rehabilitative provisions, they need to integrate preventive measures and clearer legal guidelines. **Novelty:** The novelty lies in the comparative analysis of Iraq and Lebanon's juvenile protection systems, identifying significant areas for reform, including the need for specialized juvenile defense attorneys and improvements in post-conviction care, underscoring the necessity for legal reforms that provide better protection and rehabilitation for juvenile delinquents, emphasizing the importance of legislative clarity and the integration of preventive measures to reduce recidivism.

INTRODUCTION

Delinquent juveniles represent a significant legal and judicial challenge, as evidenced by the increasing number of cases and offenses they commit due to various forms of deviant behavior. This situation necessitates enhanced legal measures to address a problem that is increasingly dominated by social dimensions. Procedural criminal protection for juveniles primarily concerns the rules of criminal procedure law, particularly those in the Code of Criminal Procedure, which regulate how the state exercises its right to punish offenders. This includes procedures for investigating crimes, identifying perpetrators, conducting interrogations, defining the jurisdiction of judicial authorities, and appealing judgments [1].

Procedural criminal protection for juveniles constitutes a special procedural privilege granted by the legislator to ensure that delinquent juveniles are afforded a legal framework suited to their circumstances, safeguarding their rights and freedoms against the powers of public authorities. This procedural protection manifests in multiple forms throughout various stages of criminal proceedings. For instance, the law may exclude certain procedural rules for investigation, prosecution, or trial from applying to specific

groups of juveniles, such as those at risk of delinquency or juveniles below the age of criminal responsibility, who are not subject to criminal liability [2].

The juvenile's need for special care and assistance arises from their physical and mental immaturity and their need for adequate legal protection, which provides the necessary framework for care and support. This justifies granting them specific rights, some of which intersect with human rights, including the right to life, the protection of bodily integrity, and other rights applicable to both minors and adults. Additionally, juveniles are distinguished within the family context by rights to development, protection from physical and moral harm, and the enjoyment of substantive and procedural guarantees before, during, and after judicial proceedings, all of which are protected under criminal law in both its substantive and procedural components [3].

Accordingly, the aim of modern criminal policy is not limited to merely drafting optimal juvenile laws; it extends to guiding judges in the proper application of legal rules and to the penal administration responsible for implementing judicial decisions. This component of criminal policy, known as penal policy, seeks to address how juvenile delinquency should be managed during the execution of penalties to achieve the broader societal goals of crime prevention and mitigation [4].

A key feature of modern criminal policy is the establishment of specialized judges and police officers trained in juvenile justice, integrating preventive measures with therapeutic interventions. To achieve this, states have enacted special juvenile laws, which include exceptional judicial provisions to address cases involving delinquent juveniles and those at risk of delinquency [5].

Significance of the Study

The significance of this study stems from the importance of its subject matter. The importance of juveniles and their protection is undeniable across time and place. However, this study is particularly significant because it focuses on the criminal protection of delinquent juveniles. Delinquent juveniles are not inherently deviant; rather, they are a product of society and of their familial or social circumstances. Therefore, they cannot be treated criminally in the same manner as fully cognizant adults, as doing so would equate those with full awareness to those without it [6].

Research Problem

The research problem arises from the prevailing approach to juvenile penalties, which primarily involves detention in social observation centers specifically designated for juveniles essentially juvenile prisons. While these centers may offer various services, the juvenile's condition and stage of development require re-socialization and corrective measures. Accordingly, juveniles should be treated with the highest level of care and flexibility to rehabilitate and correct their behavior. The research thus seeks to answer the following question: To what extent is the procedural protection established by the Iraqi and Lebanese legislators effective in achieving criminal justice for juveniles?

Research Objectives

The study aims to provide practical solutions to legislative gaps in the Iraqi and Lebanese systems regarding procedural criminal protection for delinquent juveniles. This

involves identifying shortcomings in the law, determining cases that require serious legislative intervention, and ultimately working to prevent Iraqi youth from being drawn into criminal behavior. Additionally, the study seeks to raise awareness in the media about the dangers of juvenile delinquency and its societal risks [7].

RESEARCH METHOD

To address the research problem, the study employs a legal-analytical approach to examine the relevant legal texts in light of jurisprudential theories and judicial rulings. Additionally, a comparative method is used to analyze the legal systems of Iraq and Lebanon, highlighting similarities and differences in how they address procedural criminal protection for delinquent juveniles.

Research Structure

To answer the research question, the study is divided into two main sections, each containing two subsections. The first section addresses the nature of criminal protection for delinquent juveniles, while the second section focuses on procedural protection for juveniles during the post-sentencing phase.

RESULTS AND DISCUSSION

Chapter One

The Nature of Criminal Protection for Delinquent Juveniles

The phenomenon of juvenile delinquency has increasingly become a source of concern for all states, as it represents a threat to the security and stability of their societies. This social phenomenon has historically been treated differently across societies. In earlier times, a delinquent juvenile was considered a criminal deserving of punishment, although their capacity for understanding and cognition was recognized as incomplete. Consequently, their deviant behavior was addressed with penalties that differed, in principle, from those applied to fully responsible adult offenders. The primary objective of any measure or punishment imposed on juveniles is rehabilitation and correction rather than deterrence [8].

To clarify the subject, this chapter is divided into two sections. The first section addresses the concept of criminal protection for delinquent juveniles, while the second section examines procedural protection for juveniles during the pre-sentencing phase [9].

Section One

The Concept of Criminal Protection for Delinquent Juveniles

Protecting this vulnerable group has been considered a primary priority in state policy, as juveniles represent the future. Legislators have therefore enacted legal rules ensuring the protection of juveniles from physical harm, moral corruption, and inducement to delinquency. To explore the topic further, this section is divided into two subsections: the first subsection defines the delinquent juvenile, and the second examines the basis of criminal protection for delinquent juveniles [10].

Subsection One

Definition of the Delinquent Juvenile

To shed light on the definition of delinquent juveniles in detail, we first define a juvenile and then define delinquency as follows:

1. Definition of a Juvenile

The Iraqi legislator defined a juvenile in Article 3/Second of the Iraqi Juvenile Care Law No. 78 of 1983, as amended, as follows: “A juvenile is considered any person who has reached the age of nine and has not reached the age of eighteen.” This provision establishes the age of criminal responsibility, indicating that a criminal case can only be initiated if the juvenile has reached nine years of age. The same article distinguishes two categories based on age progression: the “child juvenile” and the “adolescent juvenile.”

Article 3/Third and Fourth of the same law specifies:

- a. Third: A juvenile is considered a child if they have reached nine years of age but not fifteen.
- b. Fourth: A juvenile is considered an adolescent if they have reached fifteen years of age but not eighteen.

In contrast, the Lebanese Law on the Protection of Juveniles in Conflict with the Law or at Risk of Delinquency No. 422 of 2002 defines juveniles in Article 1/First Clause as: “The juvenile to whom this law applies is any person who has not reached the age of eighteen, if they committed an act punishable by law or are at risk under the conditions specified later in this law.” [11]

It is notable that the Lebanese legislator did not initially set the age of criminal responsibility, unlike the Iraqi legislator, who set it at nine years. However, the Lebanese legislator later established the age of criminal responsibility in Article 3 of the same law, stipulating: “No one shall be criminally prosecuted if they have not reached the age of seven at the time of committing the offense.” [12]

2. Definition of Delinquency

Legally, delinquency has been defined in various ways. One definition describes it as “any act or type of behavior that may bring the juvenile before a court and result in a judicial ruling against them.” It is noted that legal scholars traditionally consider delinquency as a crime that entails criminal liability based on a penal law provision. In other words, it refers to an act deemed criminal by law committed by a juvenile who has reached the age of discernment (the age of criminal capacity) but has not yet attained full legal adulthood [13].

A modern perspective has emerged rejecting this narrow legal conception of delinquency. This approach emphasizes the protection of the juvenile as one of the primary objectives when addressing deviant behavior, alongside the protection of society. It broadens the scope of delinquency to include both juveniles who commit acts punishable under criminal law and juveniles at risk of delinquency who require measures to prevent their involvement in criminal activity. In other words, the term “juvenile delinquency” encompasses both actual delinquency (committed crimes) and judicial delinquency (cases recognized by legal adjudication).

Initially, most penal codes were influenced by the narrow conception of delinquency. The principle of legality in criminal law was used as justification to limit delinquency to a strictly defined scope, relying on criminal offenses as the primary criterion.

However, this approach later evolved, and the broader concept of delinquency became predominant, as the traditional narrow concept proved inadequate. The modern conception is based on the principle of addressing deviant behavior at its early stages to prevent further criminal development [14].

Branch Two

The Basis of Criminal Protection for the Juvenile Delinquent

Laws serve as a faithful mirror reflecting a society's civilization, expressing the people's sentiments and interests in security and stability. This has been the case with Iraqi legislation since the Sumerian era. Iraqi laws, as well as other Arab laws, comprehensively regulate human life in civil, familial, and labor domains [15].

Legislation addressing juvenile care aims primarily at rehabilitating the juvenile rather than imposing punishments typically applied to adult offenders. This objective cannot be achieved without a special penal system tailored for juveniles. Juveniles are often more victims than criminals; therefore, applying the same punitive policies used for adult offenders fails to address juvenile delinquency and may even exacerbate it. This necessitates specific legislation to regulate juvenile delinquency, establishing rules governing juvenile responsibility that differ from those applied to adult criminal liability. These rules provide juveniles with special treatment, aiming to ensure care and protection by prescribing reformative measures suitable for each individual case [16].

Juvenile laws are special laws. The Iraqi Court of Cassation, in a key ruling, highlighted the features and objectives of the Juvenile Care Law, concluding that: "Although the Juvenile Care Law is a special law, it is not primarily a punitive law but rather a law providing care for the juvenile, from the moment the unlawful act is committed until the period following the completion of the prescribed measure." Being special laws, juvenile statutes include specific procedural rules tailored to the juvenile's circumstances and personality, considering the crime only as an indicator of delinquency. Consequently, procedures for prosecution, investigation, and trial of juveniles must align with this rehabilitative objective and differ from those applied to adults [17].

It is also important to note that, besides being special laws, the procedures for prosecuting and investigating juveniles and the measures prescribed for them are all specialized. Juvenile courts are specialized tribunals established with a structure distinct from other courts. They are exclusively concerned with crimes committed by juveniles and are typically composed of a single judge, sometimes assisted by a panel of members.

Furthermore, the court's structure and jurisdiction are considered part of public order, and any violation renders proceedings absolutely null. For instance, the absence of legally mandated assisting members in a juvenile court constitutes a valid ground for challenging the judgment issued by that court [18].

Section Two

Procedural Protection of the Juvenile Delinquent in the Pre-Trial Stage

The principles of investigation and trial in cases brought before juvenile courts generally follow ordinary legal procedures, with exceptions for certain special rules designed to consider the juvenile's circumstances. To clarify the topic further, this section is divided into two branches:

- a. Branch One: Protection of the juvenile delinquent during the preliminary investigation stage.
- b. Branch Two: Protection of the juvenile delinquent during the trial stage.

Branch One

Protection of the Juvenile Delinquent During the Preliminary Investigation Stage

Cases involving juvenile delinquents are treated with special consideration distinct from adults. The confidentiality of these investigations must be strictly maintained, a social worker must be summoned, and detention procedures should be conducted under conditions appropriate to the juvenile's situation. To elaborate, the discussion is organized as follows:

1. Confidentiality of the Investigation

Both Lebanese and Iraqi legislators emphasized the principle of confidentiality during the preliminary investigation stage, which is crucial since the investigating judge decides whether to refer the case to the competent court for trial. Lebanese law ensures the secrecy of juvenile proceedings. Article 48 of the Lebanese Law on the Protection of Minors in Conflict with the Law or at Risk prohibits publishing the juvenile's image or investigation and trial details in books, newspapers, films, or any media outlet. Violations are punishable by imprisonment, fines, or both, reflecting the legislature's intent to safeguard confidentiality in juvenile investigations and trials.

In the Iraqi Juvenile Care Law, no explicit provision guarantees investigation secrecy, but Article 157/1 of the Iraqi Code of Criminal Procedure allows the accused, the complainant, the civil claimant, and their representatives to attend investigative procedures. The judge or investigator may exclude any of them for reasons recorded in the official minutes [19].

2. The Social Worker

The Lebanese legislature, in Article 34 of Law No. 422, mandates that when a juvenile is brought before the public prosecutor or judicial police for an observed offense, the responsible officer must immediately notify the child's parents or guardians if possible and contact the appointed social worker, who must attend within six hours. Investigations cannot proceed without the social worker's presence under penalty of disciplinary action.

Similarly, the Iraqi legislature in Article 51 of Juvenile Care Law No. 76 requires that the investigating judge, when a juvenile is accused of a felony, refer them to the Personality Study Office if evidence is sufficient to refer the case to the Juvenile Court. For misdemeanors, the judge may also refer the juvenile to the Personality Study Office if the case circumstances or juvenile's condition necessitate it [20].

3. Detention Procedures

Detention is one of the most intrusive investigative measures because it restricts liberty before any conviction, which conflicts with the presumption of innocence. Consequently, it must be applied only in specific cases with protective guarantees to prevent abuse. Both Lebanese and Iraqi legislations established special detention rules for juveniles:

a. Designated Facilities

Lebanese law requires juveniles to be detained in facilities separate from adults to avoid mixing them with adult detainees, although in practice juveniles are often held with adults when implicated in the same or related offenses. For extended investigations, juveniles may be placed in observation homes for up to three months, extendable by court order (Article 41).

b. Justification of Detention

Detention must be justified by investigative needs, concern for the juvenile's safety, or risk of escape. The term "investigative needs" is broad, granting judges wide discretion, even though juveniles usually lack the physical or mental capacity to tamper with evidence or influence witnesses. Similarly, the risk of escape is often minimal, especially if the juvenile has a known residence [21].

Branch Two

Protection of the Juvenile Delinquent During the Trial Stage

There are several procedural rules that must be followed during the trial of a juvenile delinquent. These rules are designed to address the unique needs and vulnerabilities of juveniles. The main aspects are outlined as follows:

1. Personality Assessment of the Juvenile

The Iraqi Juvenile Care Law emphasizes the importance of considering the social and educational circumstances of the juvenile when imposing sanctions or measures. Article 62 of Law No. 76 states that the Juvenile Court shall issue its judgment while taking into account the juvenile's circumstances as reflected in the report from the Personality Study Office. The Iraqi Court of Cassation has annulled judgments issued without the attendance of a behavior monitor, ruling that: "The Juvenile Court may not decide the case before requesting the behavior monitor to submit their final report on the measures to be taken regarding the juvenile..." This underscores the legal requirement to integrate individualized social assessments into the trial process [22].

2. Right to Legal Defense

The right of the accused juvenile to legal representation is constitutionally guaranteed. Article 19/11 of the Iraqi Constitution [23] provides that the court shall appoint a lawyer to defend any accused of a felony or misdemeanor who does not have legal counsel, at the state's expense. In contrast, the Lebanese Constitution of 1926 does not explicitly provide for legal representation; it generally safeguards citizens' rights but leaves the details of such rights to statutory law.

Assigning the juvenile's parent, guardian, or a representative of social institutions to act as the juvenile's defender without requiring legal authorization is inconsistent with

proper legal practice. Effective defense should be entrusted to a qualified lawyer, as parents or social representatives typically lack the legal expertise necessary to provide an adequate defense compared to a professional attorney [24].

These measures highlight the necessity of specialized procedures during the trial phase to ensure that juveniles receive both fair treatment and protection in line with their unique social and legal needs.

3. Consideration of Multiple Offenses Committed by a Juvenile in a Single Case

Article 67 of the Iraqi Juvenile Care Law provides that: *"If a juvenile is accused of committing more than one offense included under the same chapter of the Penal Code, it is permissible to try them in a single case and impose the measure prescribed for each offense, executing only the most severe measure."*

From this provision, it is clear that the Iraqi legislator set one primary condition for trying multiple offenses committed by a juvenile in a single case: all offenses must fall under the same chapter of the Penal Code. This ensures procedural consistency and aligns with the objective outlined in Article 67 of the Iraqi Juvenile Care Law.

In contrast, the Lebanese Law on the Protection of Juveniles in Conflict with the Law or at Risk addresses the merging of multiple penalties and measures resulting from several offenses committed by the juvenile. Article 47 of the Lebanese law states: *"The juvenile may, in the event of multiple final criminal judgments against them, request the consolidation of the penalties and measures imposed, in accordance with the Penal Code. The request shall be submitted to the court that issued the last judgment."*

From this provision, it is evident that the Lebanese legislator allows for the reduction of penalties resulting from multiple offenses by enabling the consolidation of sanctions after a final judgment, regardless of the legal provisions under which the penalties were issued. This differs from the Iraqi approach, which requires that multiple offenses be tried in a single case and be included under one chapter of the Penal Code.

Chapter Two

Procedural Protection of the Juvenile Delinquent in the Post-Conviction Phase

The protection of the juvenile's best interests does not end with the stages of investigation, prosecution, and trial; it extends to the post-judgment phase, i.e., the execution stage. Execution is the process of bringing the judgment into effect, transferring it from the theoretical realm of law to practical reality. This phase reflects all preceding stages, as without execution, judicial rulings remain mere ink on paper [25].

The Iraqi Juvenile Care Law No. 76 of 1983 does not limit its scope to the discovery of delinquency but also addresses the post-conviction stage. To clarify the topic, this chapter is divided into two sections:

1. Preliminary Measures for the Issuance of the Juvenile's Judgment

The Iraqi legislator places great importance on both the procedures of investigation and trial as well as the measures imposed on juveniles. The primary purpose of these measures is the rehabilitation and reform of juveniles. These measures can be divided into two types: deprivation-of-liberty measures and non-deprivation-of-liberty measures.

To elaborate, this section is further divided into two subsections:

- a. Deprivation-of-Liberty Measures
- b. Juvenile Care Institutions

Section One

Deprivation-of-Liberty Measures

Deprivation-of-liberty measures refer to placing the juvenile in a rehabilitation school to serve the period prescribed in the judgment, based on a decision issued by a competent judicial court. Such measures are applied when the juvenile commits either a misdemeanor or a felony. These measures primarily involve placement in one of the social care institutions, making them among the most severe and burdensome measures for juvenile delinquents. In Iraqi law, there are no alternative designations for these institutions; they are generally referred to as “rehabilitation schools.” [26]

In Lebanese law, they are referred to as the Institute of Reform or Institute of Discipline. This measure requires the juvenile to remain in the designated institution for the duration of the imposed period. It is considered the most severe measure due to its separation of the juvenile from the family environment. Judges rarely resort to this measure except in cases mandated by law, particularly when the family environment is unsuitable for the juvenile’s rehabilitation.

Rehabilitation schools are divided into three main types:

- a. **Boys’ Rehabilitation School:** Designed for juveniles under fifteen at the time of the offense. This school aims to socially rehabilitate and recondition the juvenile to facilitate reintegration into society.
- b. **Youth Rehabilitation School:** Designed for juveniles aged fifteen to under eighteen at the time of the offense. The Kurdistan Court of Cassation has ruled that juveniles under fifteen must be placed in the Boys’ Rehabilitation School, not the Youth School, according to Article 76/Second of the Iraqi Juvenile Care Law, rather than Article 77/Second.
- c. **Adult Youth Rehabilitation School:** For juveniles who reach eighteen after committing the offense. This institution focuses on rehabilitation, whether vocational or educational, and social reintegration.

Additionally, there is a Juvenile Rehabilitation Home, intended for homeless or behaviorally delinquent juveniles, placed by court decision until they reach eighteen. A special wing exists for female juveniles, where they remain until the age of twenty-two or until an appropriate solution is found, such as marriage, employment, or reunification with family.

It is important to note that placement in these institutions is not considered imprisonment; they lack any prison-like characteristics and are akin to boarding schools. In Iraq, the Juvenile Reform Department under the relevant institution manages these schools. This department became independent in 1979 and was later attached to the Ministry of Justice in 2003 pursuant to Coalition Provisional Authority Order No. 10 of 2003 [27].

Rehabilitation schools play a crucial role as part of the juvenile rehabilitation process. The legislator designed these measures thoughtfully, ensuring they do not unduly harm the juvenile. Furthermore, these measures are imposed primarily for serious offenses and are grounded in the understanding that delinquency often results from societal influence and surrounding circumstances rather than the juvenile's inherent disposition.

Section Two

Juvenile Care Institutions

To clarify this topic in detail, we first address Iraqi legislation, followed by Lebanese legislation.

1. In Iraqi Legislation

The following outlines the main types of juvenile care institutions and their functions according to the Iraqi Juvenile Care Law:

Observation Home: This institution is designated for the temporary detention of juveniles by court or competent authority order. Juveniles held here undergo physical and mental examinations as well as personality assessments in preparation for trial. The Observation Home is part of the Juvenile Reform Department under the Ministry of Labor and Social Affairs. The competent court or investigating officer must notify the director of the home within 24 hours regarding the juvenile's release, temporary discharge, or judicial decision.

Juvenile Rehabilitation Schools: These schools are designed for juveniles placed in them by court order, aiming to socially, vocationally, and educationally rehabilitate the juvenile. They are divided into three types:

- a. **Boys' Rehabilitation School:** Designed to accommodate boys for the duration prescribed by the court, focusing on social reintegration and providing vocational or educational rehabilitation opportunities [28].
- b. **Youth Rehabilitation School:** Designed to accommodate juveniles aged 15–17, focusing on social reintegration and providing vocational or educational rehabilitation.
- c. **Adult Youth Rehabilitation School:** Designed for juveniles who have reached 18, either after placement in the Youth Rehabilitation School or at the time of the court decision, providing vocational or educational training and social reintegration.

Juvenile Rehabilitation Home: This institution accommodates homeless or behaviorally delinquent juveniles at risk of delinquency, by court order, until they reach the age of 18. According to the Juvenile Rehabilitation Home Regulation No. 32 of 1971, the home is divided into three sections: boys, male youths, and females. Interaction between males and females is prohibited, and boys and youths are segregated except during study, training, and meal times [29].

These institutions collectively aim to provide structured rehabilitation and protection for juveniles while ensuring that care is tailored to their age, social needs, and rehabilitative potential.

2. In Lebanese Legislation

To clarify this topic in detail, we first address the Reform Institute, followed by the Disciplinary Institute.

Reform Institute: Article 13 of the Lebanese Juvenile Protection Law provides that the rehabilitative measure entails placing the juvenile in the Reform Institute for a minimum of six months. During this period, the juvenile receives academic instruction, vocational training, and supervision over their health, psychological, and ethical affairs according to the institute's organizational regulations established by a decree.

Disciplinary Institute: Article 14 of the Lebanese Juvenile Protection Law provides that the juvenile is placed in the Disciplinary Institute for a minimum of three months. If the juvenile has reached the age of twenty-one while still at the institute, the judge, upon the request of the juvenile or the social delegate and after obtaining a social investigation and a report from the institute director, may release the juvenile under supervised liberty for up to one year. Otherwise, the juvenile remains at the Disciplinary Institute until the execution of the judgments issued by the juvenile judge or is transferred to the juvenile section of an adult prison or a regular prison, as determined by the judge.

The disciplinary measure differs from the rehabilitative measure in that it subjects the juvenile to a more institutionalized system with stricter control and supervision while maintaining an educational and rehabilitative approach suitable for the juvenile's condition. The disciplinary measure represents an intermediate step between rehabilitation and liberty-depriving punishment. However, unfortunately, no dedicated Disciplinary Institute has been established in Lebanon; juveniles are instead placed in a special wing within adult prisons [30].

Section Two

Post-Conviction Measures

The ultimate goal of imposing any measure or punishment on a juvenile is their rehabilitation. Consequently, the method of implementing such treatment must be consistent with this fundamental principle. For clarity, this section is divided into two branches: the first addresses the care of the juvenile before release, while the second addresses the care of the juvenile after release.

Branch One: Care of the Juvenile Before Release

The care of a delinquent juvenile during the enforcement of measures involves providing means that regulate the juvenile's life, which may also continue after the completion of the measure or release. These means include:

1. Education

Inmates receive education either through formal lessons or self-study. Traditional lessons involve teachers explaining academic subjects to the juveniles or conducting discussion sessions where a scientific topic is presented. The juveniles then express their opinions and provide comments. This approach supports gradual learning, develops their cognitive and intellectual abilities, and instills self-confidence by enabling them to view themselves as important members of society with opinions and suggestions [31].

2. Health Care

The primary purpose of health care is the rehabilitation of the juvenile. The deprivation of liberty, along with preceding procedures such as investigation, arrest, and trial, has a negative impact on the juvenile's psychological state. Health care is not limited to treating diseases but also includes other therapeutic methods, which involve:

- a. **Food and Clothing:** The food provided to juveniles must be varied, sufficient, and appropriate to their health needs, and it should be served respectfully. Attention must be paid to the cleanliness of cooking utensils, kitchens, and staff, ensuring the juvenile's dignity is preserved. Regarding clothing, juveniles must wear institutionally designated attire suitable for the weather, provided in a professional and adequate manner [32].
- b. **Personal Hygiene:** Correctional institutions must provide the necessary equipment for the juvenile's personal hygiene, including bathing facilities with sufficient water to maintain cleanliness.
- c. **Physical Activities:** Adequate spaces and equipment must be available for physical exercise, which has positive effects on the juvenile's mental state. A qualified sports staff should assist juveniles in performing exercises, and scheduled times should be allocated for regular physical activity or outdoor group recreation.
- d. **Medical Supervision:** To ensure comprehensive preventive measures and safeguard against illness, medical supervision must be maintained within the correctional system. A physician from the rehabilitation authority oversees the health conditions of food, clothing, and facilities, monitors participation in physical activities and recreational programs, and ensures proper personal hygiene among juveniles.

3. Social Care

Social care involves assisting the juvenile in resolving personal problems, organizing their individual and collective life within the rehabilitation centers, and helping maintain connections with life outside the correctional institution. The most significant challenge faced by the juvenile is the deprivation of liberty and separation from family, which can have harmful psychological effects and complicate adaptation to the new environment of the rehabilitation center. Social care for the juvenile includes:

Organization of Individual and Collective Life within the Institution: The juvenile may lose a sense of identity and humanity if subjected to harsh treatment within the rehabilitation system. Therefore, the juvenile must be allowed freedom of movement and the practice of personal hobbies. This includes organizing their living space in a manner consistent with their interests, such as drawing or photography.

Visits and Correspondence: Visits are essential for supporting the juvenile's rehabilitation. The juvenile has the right to receive visits, especially from family members. Additionally, any other person who contributes to the rehabilitation process may visit, provided that all visits occur under the supervision of the correctional institution. Specific days are designated for visits, which must be conducted in a manner that allows staff to observe all interactions.

Temporary Leave: This refers to allowing the juvenile to leave the rehabilitation center for a limited period for humanitarian reasons, such as visiting family. Temporary leave is granted only when the institution confirms the necessity and ensures it is justified.

It is crucial to provide all means to support the juvenile, as outlined above, to encourage the juvenile to move beyond delinquent behavior, acquire education or vocational skills, and effectively reintegrate into society. Education and vocational training are the most effective tools for social reintegration.

Chapter Two

Post-Conviction Measures for Juvenile Offenders

The objective of imposing any measure or penalty on a juvenile ultimately centers on their rehabilitation. Accordingly, the implementation of such measures must align with this fundamental principle. To elaborate, this chapter is divided into two sections: the first addresses the care of the juvenile before release, while the second focuses on care after release.

Section Two

Care of the Juvenile After Release

To examine this topic in detail, it is approached from several aspects as follows:

1. Structure of the Post-Release Care Department

Article 100 of the Iraqi Juvenile Welfare Law established a specialized department responsible for providing post-release care to juvenile offenders, known as the "Post-Release Care Department." This department is affiliated with the Juvenile Rehabilitation Directorate within the Public Institution for Social Reform. Its task is to care for juveniles after the completion of their custodial measures.

The Iraqi legislator explicitly regulated the Post-Release Care Department, including its composition of a department head and social researchers. By contrast, the Lebanese Juvenile Protection Law makes no reference to such a department. The work of the Post-Release Care Department is specialized, with social researchers operating under the supervision of the department head, leaving no room for unqualified personnel to participate in this work.

2. Responsibilities of the Post-Release Care Department

The legislature prioritizes the welfare of released juveniles by ensuring their well-being across psychological, social, and economic dimensions. These elements are detailed as follows:

a. Psychological Security:

The release period represents a critical stage in the juvenile's life, often accompanied by anxiety, fear, or depression. The juvenile may experience trauma when facing release, as they transition from a familiar environment to a new one. The Iraqi legislator requires the Post-Release Care Department to maintain contact with the juvenile through a social researcher before release, providing guidance and educational instructions to facilitate adjustment to post-release life and enable appropriate decision-making [33].

b. Social Security:

Criminal behavior and recidivism often stem from social disintegration and alienation within the community. Proponents of the criminal illusion theory argue that released juveniles may relapse due to societal stigma labeling them as offenders. The Iraqi legislator, pursuant to Directive No. 2 of 2009 issued by the federal government, mandates that the Post-Release Care Department conduct field visits for juveniles about to be released, to prepare them psychologically and socially for reintegration. Similarly, Article 7(1) of the Declaration of the Rights of Prisoners and Detainees in the Kurdistan Region of Iraq emphasizes that the Ministry of Human Rights, in coordination with other ministries, must integrate released prisoners into society without discrimination [34].

c. Economic Security:

Article 102 of the Iraqi Juvenile Welfare Law requires social researchers to contact the juvenile prior to release to assess qualifications and match them with suitable employment opportunities. The researchers assist the juvenile in obtaining necessary documents for work and in securing permanent or temporary housing if the juvenile lacks accommodation. Article 103 permits financial grants to support the juvenile's needs or facilitate relocation to a safer environment, distinct from the one that contributed to delinquent behavior [35].

In conclusion, post-release care has become a legal obligation and an essential element of effective criminal policy. It complements rehabilitation measures by supporting the juvenile in finding employment, securing housing, and reintegrating into society naturally and responsibly after completing custodial measures.

CONCLUSION

Fundamental Finding : In reality, the legal rules intended by the legislator to ensure the criminal procedural protection of juveniles still require significant improvement and activation, due to the numerous defects and shortcomings that hinder their effective implementation. From this study, we have reached findings such as the Iraqi Juvenile Welfare Law not criminalizing the disclosure of trial sessions, the legislative gaps in both Iraq and Lebanon regarding maximum detention periods, the differences in the role of social workers during investigations, and the lack of post-release care in the Lebanese law compared to its inclusion in the Iraqi law. **Implication :** It is hoped that the legislator will work to activate social protection and preventive mechanisms, overseen by official and unofficial social control institutions, to provide timely interventions that remove juveniles from harmful environments. The recommendations emphasize the criminalization of violating confidential juvenile trials, ensuring legal defense exclusively by lawyers, specifying rights of appeal in custody cases, and focusing on preventive programs through family, schools, society, and modern media platforms. **Limitation :** However, these legal reforms remain theoretical unless enforced effectively, and current frameworks still do not fully distinguish juveniles from adults in treatment, nor do they adequately address detention periods and post-release care. **Future Research :** This study calls for further comparative legal analysis to explore how other jurisdictions integrate

specialized juvenile defense attorneys, clearer detention guidelines, and comprehensive post-conviction care systems, thereby providing models for Iraq and Lebanon to enhance juvenile justice protections and reduce recidivism.

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