

A Critical Analysis of the Causes and Prevention of Juvenile Delinquency in Iraq

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ABSTRACT

Abstract:

Methods of appeal are legal mechanisms that allow individuals convicted in a case to challenge the ruling issued against them. These methods are divided into two categories: ordinary methods of appeal and extraordinary methods of appeal. Ordinary methods of appeal, such as objection to the absentee judgment and appeal, allow the convict to challenge the ruling without being bound by specific reasons. Extraordinary methods of appeal, such as retrial and cassation, require the convict to provide specific reasons for challenging the ruling. This research analyzes the differences between ordinary and extraordinary methods of appeal in civil and labor law. The research also examines the impact of appealing a ruling on the implementation of the ruling. The research concludes that the choice of appeal method depends on the specific circumstances of the case and the grounds for challenging the ruling..

Keywords: Methods of appeal, civil law, labor law, objection to the absentee judgment, appeal, retrial, cassation

I. INTRODUCTION

Iraq is the birthplace of the first human civilizations, which were characterized by their legal achievements. One of the most important of these achievements was the commitment to the principle of justice, the emphasis on retribution instead of punishment, and the respect for family relations and human rights. The laws of Hammurabi, Urukagina, Ur-Nammu, and Lipit-Ishtar are models of this achievement.

Perhaps the first legal treatment of juvenile delinquents was that which was mentioned in Islamic jurisprudence, which considered anyone under the age of seven to be non-discerning and not subject to any procedure. Anyone who has reached the age of seven but not yet fifteen is considered to be of diminished capacity, and the prescribed penalty (hudud and qisas) is waived in their case. Instead, disciplinary measures are imposed on them.

This brief historical overview indicates that juvenile legislation has developed continuously since the first quarter of the last century, relying on modern trends in prevention and treatment, committed to the principle of reducing criminal responsibility, and based on the principle of specialization of judges as well as specialization in institutional treatment.

The society suffers from many problems, the most important and prominent of which is the phenomenon of juvenile delinquency, the deviation of their behavior, and their deviation from social norms. This phenomenon is a serious danger if it is not confronted, extinguished, and eradicated, as it affects a very important segment of society that is considered the builders of the future. The state has directed its attention to this phenomenon in order to find solutions that will eliminate it and repair any defect that occurs in the social structure and social security.

All psychological and social studies have confirmed that an unhealthy social upbringing is the result of personality disorders that drive the juvenile to commit delinquency as a

result of the lack of family support or its disintegration during childhood. The problem of the delinquent personality is one of the most important problems that society must study and identify its risks, in order to put forward therapeutic solutions for behavior. Based on this, I have chosen this phenomenon as the subject of my study.

Fatima Al-Zahraa Al-Hamied / The Personality of the Delinquent Minor / Abu Bakr Al-Siddiq University / 2011

Which were determined through the personal characteristics of the juvenile and describing them, and revealing the problems that this phenomenon causes and its impact on society, and putting some solutions to mitigate its impact, the Iraqi project, as stated in the law No. 35 of 77 of the principles of criminal legislations, issued a special policy for juveniles based on reform and rehabilitation instead of punishment, where the law on the care of juveniles No. 76 of 1983 was enacted, which contained many of the basic principles in how to deal with juveniles for the purpose of reform and rehabilitation for their integration into society and adopting the method of education and refinement instead of the method of punishment and reckoning.

The judge: Awad Hussaein Yassein / Explanation of the Juvenile Protection Law / 1983

Research Objective

To identify the underlying causes of juvenile delinquency.

To develop solutions for preventing juvenile delinquency.

To assist in the rehabilitation and reintegration of juvenile offenders into society.

Research Problem

Juvenile delinquency is a major problem facing all societies. Despite efforts to address this problem, it continues to increase in prevalence.

The traditional approach to juvenile delinquency has been to punish and incarcerate offenders. However, this approach has been shown to be ineffective in preventing recidivism.

A more effective approach is to focus on rehabilitation and reintegration. This approach aims to change the attitudes and behaviors of juvenile offenders so that they can become productive members of society.

Section 1 / Requirement 1

1. Social changes and their impact on the formation of the behavior of a minor

The social changes that Iraq has undergone have had a direct impact on some young people who are predisposed to committing crimes. These are children who grow up in homes where the factors that motivate crime are present. The successive wars, the economic blockade, the occupation of the country, and the chaos that followed are not the cause of these crimes, but rather a motivation for committing them.

There are many different perspectives and opinions on the interpretation of juvenile delinquency. Some experts believe that it is a social problem that occurs as a result of the change that affects societies. They argue that the deviant child is a normal person who has been affected by social conditions that have led to his deviation and social maladjustment.

Other experts believe that deviant behavior is not an individual phenomenon, but rather a manifestation of the disintegration of social systems. They argue that the family is the first and most important social system, and that the breakdown of the family can lead to deviant behavior in children.

The author of the text concludes that deviant behavior is not explained by one factor, but by the convergence of two or more factors. These factors can include social changes, family problems, and individual characteristics.

*Psychological and social factors leading to juvenile delinquency / Dr. Ismail Taha / Faculty of Education for girls

Section 2: Factors that Motivate Juvenile Delinquency

1. Self-concept in the juvenile: The most important goal of correctional institutions is to understand and modify deviant behavior. In order to understand the behavior of a delinquent juvenile, it is necessary to study their self-concept.

Self-concept is formed through social interaction and upbringing. The first stage of self-concept formation is the separation of the body from the external world.

Self-concept begins to form from the moment a child begins to explore their body parts in childhood. They develop a sense of independence and self-reliance.

Self-concept is acquired and learned, and can be modified through learning. Therefore, it is important to provide all means of education, upbringing, and self-development for the juvenile, in addition to some physical characteristics such as height, weight, body type, facial features, intelligence level, and some diseases and disabilities that can directly affect the child's behavior.

2. Family factors: A poor family that does not provide its children with adequate care and upbringing may become dysfunctional and its members may disperse. The difficult economic conditions that the family experiences affect the physical and psychological development of its members. These personal social conditions associated with poverty can generate criminal behavior.

3. Educational factors: The school is very important, and

its role is not limited to providing the juvenile with knowledge, but also with moral principles such as virtue and harmony with society. However, it can also have a negative impact on the juvenile. The school brings together children and adolescents of all ages. If the juvenile develops relationships with bad companions, they may be influenced and deviate. This is often in the form of a group, which gives the juvenile the courage to follow the path of deviation and is exploited by older children in various types of illegal activities such as drug trafficking, theft, and others.

4. Economic factors: Greed is one of the most important factors in crime, and it is directly related to the circumstances surrounding the juvenile. Need or poverty leads to the juvenile's behavior being disrupted. Poverty also leads to a lack of education and ignorance, which leads to harshness in behavior and dependence on others, and to the commission of property crimes.

5. Wrong upbringing: Incorrect upbringing of the child and faulty family relationships such as quarrels between parents, divorce, polygamy, lack of family attention, or excessive pampering lead to the child being drawn to bad company, homelessness, and loss.

*Psychology, Childhood, and Adolescence / Hamed Abd-Alsalam Zahran / 1990 ,**

Psychological Factors Leading to Juvenile Delinquency / Dr. Ismail Taha Abd / Faculty of Education for girls journals

Section 3: An Explanatory Introduction to the Phenomenon of Juvenile Delinquency

1. The phenomenon of juvenile delinquency in Iraq, which is part of the Third World and Arab countries, is a phenomenon that applies to all Arab countries. The Iraqi city contains clear signs of luxury in the lives of its residents, but the city has witnessed waves of displacement from other regions and waves of dense immigration to major cities such as Baghdad, Mosul, and Basra from provinces characterized by deprivation, severe pressure, and rural character. The rural origins are present in the lives of delinquents, even if their residence is in the urban area.

2. We must note that the migration from the countryside to the city carried with it the immigrants' customs and traditions to places that were not prepared to receive them, but on the contrary, led to the emergence of settlements on the outskirts of cities, in addition to the residential complexes that the government established for the immigrants, which have become a home for multiple forms of crime and delinquency because of its tribal environment, as in the cities of Sadr and Freedom in Baghdad, and there are areas in Basra and Mosul.

3. The entry of the country and Iraqi society into the tunnel of wars, conflicts, and sieges all led to the exacerbation of the phenomenon of poverty and deprivation, which led to the failure of education, health, and services. This was followed by other consequences, including child labor in begging or working in industrial workshops or as porters, where they are exposed to violence and abuse, which pushes them to deviant or aggressive behavior, and consequently to the world of crime.

4. It is certain that the types of crimes committed by

minors have changed with the changing conditions of Iraqi society. After the entry of terrorism, we witnessed a wide expansion in criminal phenomena that are carried out by minors, such as drug use and trafficking, or participation in organized crime, or theft or murder, with the weakness of social controls related to delinquency, such as the juvenile police and the weakness of prevention and reform programs, in addition to other factors such as school dropout, failure, poverty, school violence, and the absence of control over child labor, such as begging and prostitution. Prevention mechanisms and means of control do not have the strength reinforced by law. Here, we must mention that some of the manifestations that the society has witnessed in terms of ideas and behavioral practices are the result of the technology revolution and what globalization produces, the spread of communication means, the Internet, and satellite channels in terms of their impact on the behavior of the person or the minor. The competitive channels between satellite channels have witnessed the attraction of youth and directing them to certain behavioral practices or encouraging some behavioral deviations by proposing certain ideas that are strange to Iraqi society, with the continued inability of the state and society to absorb young people and frame them in public life and the lack of decent job opportunities, which threatened the stability of social security and pushed some to delinquency and committing crimes or emigration outside the borders.

*State and Private Sector in Iraq / Dr. Abd Al-lateef Salim / 2001

** / Dr. Adnan Yaseen Mustafa / University of Baghdad!The Social Changes and Their Impact on the Situation of Juveniles

Introduction

To enter into the second topic, which is how to reduce the crimes of minors, we must know that the rights of the child as stipulated in international agreements and their relationship in the tragic situation in Iraq and as it exists in other international societies that have been concerned with the rights of the child and the minor, and it has concluded several international agreements to protect it in times of war and peace, as in the Universal Declaration of the Child, which was adopted in 1923, followed by 1950, and finally on 20/11/1989. Then there are the United Nations Guidelines for the Prevention of Juvenile Delinquency, adopted by Resolution No. 112/45 of the General Assembly on 14/1/1990, which includes the basic principles for the prevention of juvenile delinquency and its decision to activate the legal systems and processes of social upbringing.

In this section, we will discuss some laws in the care of minors and the preventive aspect of protecting minors from delinquency, how to address this phenomenon, and how to treat delinquent minors and prevent them from committing crimes. We ended the research with conclusions and recommendations, hoping that we have dealt with the causes of the phenomenon of committing crimes among minors in a simple way and put some solutions to reduce and avoid them.

First Requirement / Legal Framework for the Care of Minors in Iraq

Article 25 of the Universal Declaration of Human Rights, issued on 10/1/1948, which was adopted by the General Assembly of the United Nations, states that motherhood and childhood have the right to special assistance and care. Everyone has the right to free education in the primary and basic stages, and primary education should be compulsory. It should also make it easier for everyone to be admitted to higher education on the basis of complete equality. Education should be directed to the full development of the human personality and to the promotion of respect for human rights and fundamental freedoms. It should also help to foster understanding, tolerance and friendship among all nations and racial or religious groups. Based on these principles, criminal policies for minors and their care are based on the implementation of their rights and the prevention of any form of violence and exploitation against them. Perhaps the Law on the Care of Minors No. 76 of 1983, as amended, is one of the most important laws that have been dealt with the phenomenon of juvenile delinquency. It is assumed that the treatment is through the creation of a system based on scientific, well-considered and tangible principles, but it has not kept pace with the development that has taken place in Iraqi society. It has not reviewed the negative and positive results that seek to protect the delinquent minor from delinquency and include him in subsequent care after the imposed measure has ended. The results have not been evaluated since the law was issued in 1983 until now.

The law has defined in its articles who is the competent authority for the investigation, which is the investigating court, and the investigation is carried out by the judge, the public prosecutor, the judicial investigator, or any person authorized by law. The investigating court collects evidence and takes precautionary measures against the accused, and then disposes of the investigation by referral or closure. It aims to reveal the perpetrators of the crime and to know the full truth of the criminal act, such as bringing the accused, listening to his statements and the statements of witnesses of proof and defense, collecting evidence, and other procedures. Article 49 of the law first defined who is the person who handles the investigation in the cases of minors, which is the judge of the juvenile investigation court. The Public Prosecution Law No. 59 of 1979, in Article 3, states that a public prosecutor has the powers of a investigating judge at the scene of the accident in his absence.

The Juvenile Care Law distinguished with regard to the arrest of the delinquent minor according to the seriousness of the crime committed, such as an offense, a misdemeanor, or a felony. It is not permissible to arrest the minor in offenses, and it is permissible to arrest him in misdemeanors and felonies for the purpose of examining him and studying his personality, or when it is impossible to find a guarantor for him.

As for the Law on the Care of Minors No. 78 of 1980, which applied to everyone who has not reached the age of eighteen, it included provisions regarding the establishment of social research offices in accordance with Article 14 of it, the establishment of juvenile care offices in the provinces in accordance with Article 20 of it, the establishment of a fund for the care of minors in accordance with Article 24 of it, and it regulated the provisions of guardianship in

accordance with Article 34, the provisions of trusteeship in accordance with Article 27, and the management of the finances of minors in accordance with Article 40

Juvenile Welfare in Iraqi Law/Zuhair kadhum Abood/2015

**Investigation and Prosecution of Juvenile Delinquency/ Abbas Hikmat Farhan/ 2014

Section 2: The preventive aspect of protecting minors from delinquency

The environment in which the juvenile is raised plays a very important role in protecting him from being exposed to problems or creating problems. The family is the first and most important building block in preparing the child and raising him in a healthy way, keeping him away from bad behavior, and teaching him the principles of morality, customs, and traditions, so that the strong foundation of society is laid.

We will divide the ways to prevent juvenile delinquency into the following roles.

1. The role of the family: The family plays an important role in the child's growth and exposure to the outside world. The family must make great efforts and fulfill its role to the fullest in educating and raising the child on the basis of respect, cohesion, strong relationships, correct guidance, and instilling moral principles in the children. Good and correct care that parents provide to their children produces a cohesive family, none of whose members are exposed to delinquency.

2- School's role: Providing proper care and treatment for Juvenile, creating suitable conditions to accommodate all school-age Juvenile, observing Juvenile, instilling a spirit of cooperation and integration with the small community that is the school, helps reduce delinquency rates due to students' integration into the study and proper educational programs prepared to qualify the Juvenile to face life and develop his behavior in it.

3- The role of the media: The media has become a partner of the family and the school in raising and preparing Juvenile educationally through its guiding and educational role in civilized communities. Media outlets should be directed to disseminate information about services, facilities, and opportunities available to Juvenile in the community, and to minimize the display of pornography, drugs, and violence, and to launch effective awareness campaigns to combat drugs and their harms, and to promote the principles of equality and positive contribution that Juvenile offer to society.

4- The role of the community: It is necessary to establish services and programs that are sponsored by the local community and meet the needs, problems, interests, and concerns of Juvenile. Advice and counseling should be provided to them, and youth organizations at the local level should be established and strengthened so that projects are organized as associations and voluntary work aimed at providing assistance to Juvenile.

*Juvenile Delinquency and Social Change in Algeria / Dr. Ali Mane' / 1996

*United Nations Guiding Principles on Business and Human Rights / Human Rights / Office of the High Commissioner

Section 3: Behavioral Interventions to Reduce Juvenile Delinquency

After we have defined the phenomenon of delinquency and diagnosed the causes of juvenile delinquency, we now come to the interventions. Symptoms may appear early in children from the age of 4 to 6 years through some behavioral changes that require great wisdom from the mother and parents in general to face them and ward off their dangers in the future. Perhaps the most prominent of these simple behaviors that may turn into a problem over time is the child's resort to hiding things that belong to others, perhaps out of love of possession or desire to deprive others of them, both at home and at school.

No doubt some mothers have experienced this phenomenon when the child goes out of the house with a friend and has hidden a toy that is not his between the folds of his clothes, or when she finds money in his bag, then the mother falls upon the child with beating and scolding.

The reality is that the child who commits this act knows that he is committing a mistake, as evidenced by the fact that he hides it, lies, and denies his deed. Discovering the child's behavior is an important step in treatment and returning from the mistake, but if more than one experience of this type occurs with the child without the parents discovering it, then this behavior will continue.

Here we must ask how do we treat the mistake?

Beating and scolding will not be of any benefit in this area, and it is necessary to explain to the child his mistake calmly and to ask him to return the thing he took to his friends and to apologize for the mistake and not to repeat it again.

It often happens that the mother does not pay any attention to behavior similar to what was mentioned earlier, and she does not bother to inquire about it from the perspective that it is a trivial thing. The child may be asked and he answers that he found this pen on the ground. It is not necessary to accept the truth of what the child said easily, and it is essential to explain to him the importance of returning what is not his to its place or to search for its owner, and in this way he will realize the importance of honesty.

Some educational experts advise testing the child's honesty through simple steps, for example, the mother puts some money on the table and observes whether the child's hand reaches for it. In this way, she discovers some behaviors that require rapid intervention to treat them. However, the mother is also required to review her behavior with the child and to realize that when she deprives him of something or even the simplest things, she is thus pushing him to a behavior that she does not want. With the continuation of pressure, he may be forced to lie and exaggerate in hiding bad behaviors.

Here, the focus in treating delinquency should be on directing the juvenile's energies towards positive aspects (such as cultural, sporting, and artistic activities), enhancing his abilities, supporting him psychologically and morally, encouraging him to move towards the best, removing the negative feelings he suffers from (fear, hostility, guilt, and inferiority), and distancing him from what irritates his nerves and teaching him to control his emotions. Treatment takes into account the particularity of each case and its causes, and seeks to modify the juvenile's habits through clarification, persuasion, and affirmation of understanding himself and his limits, and modifying his negative and aggressive responses and his impulsive behavior through advice and suggestion (punishment for wrong behavior and reinforcement of desired behavior). Finally, providing care after treatment is done through training and employment programs, following up on education, addressing the difficulties and problems that hinder the process of reintegration into society, as well as modifying the attitudes of those around the juvenile (parents, family, school, friends) in order to reduce the pressures surrounding him when he is rehabilitated.

*Juvenile Delinquency: Early Symptoms and Treatment / Dumooa Yosif Al-hallaq /2015

Conclusions

Children of today are the men of tomorrow, so we must take care of them, protect them from engaging in negative behaviors that lead to deviance, and take care of raising them in a correct manner on solid foundations and instilling in them the principles of morality and honesty. From here, we came to these conclusions:

The problem of deviance cannot be considered a crisis, but rather a serious danger that must be contained and uprooted from its roots.

Most cases of deviance and delinquency are born among minors from poor and destitute classes or those who suffer from a low living and economic standard.

Most cases of delinquency are born from family disintegration or the neglect of one of the parents for their responsibility towards their family and cruelty to the children.

The bad company of the minor is one of the most prominent factors leading to his committing crimes.

The deviant behaviors of the juvenile are born from the lack of correct guidance, discrimination in the labor force, divorce cases, and low educational level of parents.

Also, factors of poverty, ignorance, and living in crowded residential areas are among the most prominent factors leading to deviant behavior.

The weakness of social care in the school leads the minor to drop out of school and the abundance of free time and the lack of clubs or places of entertainment, so he does not find enough space to absorb his energy and resorts to deviant behavior.

Note: This translation is as literal as possible, without adding any notes or suggestions. It is important to note that the original text is in Arabic, and there may be some

nuances or cultural references that are not fully captured in the translation.

Recommendations

It is important to note that building a healthy child begins from the age of infancy, and the protection and care of a minor is the responsibility of the parents. Based on this principle, we have put forward these recommendations, hoping that they will be taken into account:

Strengthening the role, effectiveness, and protection of the family, and protecting the child from violence and abuse, and raising awareness among parents and mothers about the health, psychological, and social problems that they are exposed to.

Raising the living standards of the family and improving housing conditions, especially in crowded popular areas.

Guiding parents and mothers through media awareness programs and various awareness programs on the importance of healthy upbringing for children, dealing with adolescents, providing a safe family environment, paying attention to the development of conscience, religious and moral development for children, adolescents, or minors, and not differentiating in treatment between children and youth, patience, kindness, and firmness with them.

Establishing psychological clinics to treat deviant behavior in children and minors immediately after it appears, psychological guidance centers, and institutions for the care of children and minors, and providing them with trained doctors to deal with these cases in the light of studies and well-considered scientific and treatment plans, and working with delinquents on the basis of care with the aim of reform and correction, not punishment.

Calling on the Iraqi legislator to introduce a text that makes the investigation with minors who commit crimes by a judge specialized in investigating with minors exclusively, after the judges have been included in training and development courses to guide them on how to conduct investigations with minors and minors in a manner that is consistent with achieving justice and is consistent with the fact that the minor must be treated in a manner whose goal is care, rehabilitation, and reform, not punishment alone.

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