

MEASURES AND PNALTIES PRESCRIBED FOR JUVENILE OFFENDERS UNDER ALGERIAN LEGISLATION

Dr\ Rabah Achraf Redaounia

(Department of Social Sciences _ Faculty of Social and Human Sciences _ University of 20 August- Skikda)

Published on: Published online on October 1, 2026

Abstract:

This research paper addresses the issue of the measures and penalties prescribed for juvenile offenders under Algerian legislation, given that juvenile delinquency constitutes one of the issues requiring special criminal treatment that takes into account the nature of the juvenile's age , the particularities of his or her personality, and the psychological, social, and educational circumstances surrounding him or her

The paper also aims to examine the extent to which the Algerian legislator has embraced the philosophy of reform, rehabilitation , and reintegration in dealing with juvenile offenders, through an examination of the principal legal measures prescribed for them, essentially consisting of handing the juvenile over to his or her parents, guardian, or a trustworthy person , placing the juvenile under supervision; and placing him or her in educational and vocational training institutions or medical and educational institutions.

The paper also examines the exceptional circumstances in which penalties may be imposed, particularly fines and imprisonment, in respect of juveniles over thirteen and under eighteen years of age.

The paper further addresses the legal safeguards afforded to juveniles during the investigation and trial stages, during the execution of judgments, and following release, as well as the role of specialized juvenile courts and juvenile care institutions in achieving protection, rehabilitation, and reintegration. It also examines the preventive dimension by highlighting the role of the family, the media, and the juvenile court in reducing delinquency and addressing the factors leading to it. The study concludes that, as a general principle, the Algerian legislator has adopted a reformative and educational approach to the treatment of juvenile offenders and has made penalties exceptional in nature. However, achieving the objectives pursued by this policy remains dependent upon the

effectiveness of specialized institutions, the provision of the necessary human and material resources, and the strengthening of aftercare, prevention, and social reintegration.

Keywords :

juvenile offender, juvenile delinquency, juvenile justice, investigation procedures, prescribed penalties, legislation.

Introduction

Juveniles occupy a special position in criminal policy, given that childhood and adolescence constitute a fundamental stage in the formation of an individual's personality and in his or her psychological, mental, and social development. This makes the treatment of criminal conduct committed by a juvenile different from the treatment of offences committed by adults.

A juvenile who commits a criminal act has not necessarily attained the degree of maturity and awareness that would justify subjecting him or her to the same punitive treatment prescribed for an adult. Rather, delinquent behaviour may be the result of family, social, educational, or psychological circumstances that have contributed to pushing the juvenile toward conduct contrary to the law.

From this perspective, modern criminal policy has evolved from a focus on punishment and deterrence toward an approach based on protecting the juvenile, correcting his or her behaviour, rehabilitating him or her, and reintegrating him or her into society, while at the same time preserving public security and society's interests. This orientation has been reflected in Algerian legislation through the establishment of a special system of juvenile criminal justice that takes into consideration the juvenile's age, personality, and circumstances, and makes educational and rehabilitative measures the general rule in dealing with juveniles, while permitting recourse to penalties only in exceptional circumstances and subject to specific conditions and safeguards.

The special nature of juvenile treatment is not limited to the type of measures or penalties prescribed for juveniles; rather, it extends to the various stages of dealing with them, beginning with investigation and trial, passing through the execution of the measure or penalty, and extending to the post-release stage. The legislator has surrounded juveniles with a number of legal and judicial safeguards and has established specialized institutions responsible for their care, supervision, and rehabilitation.

It has also adopted a preventive approach to the phenomenon, on the basis that reducing juvenile delinquency cannot be achieved solely through intervention after the commission of an offence, but also requires addressing the factors that may lead to delinquency, particularly family disintegration, neglect, inadequate supervision, and social and cultural influences.

Accordingly, studying the legal system applicable to juvenile offenders requires first examining the measures adopted by the Algerian legislator to correct and protect their

behaviour, then determining the scope of penalties and the conditions governing recourse to them, before addressing the safeguards afforded to juveniles during trial, execution of the judgment, and after release, ultimately considering the preventive means aimed at reducing juvenile delinquency and addressing its causes.

First: Legal Measures

The Algerian legislator has not provided a precise definition of legal measures. Accordingly, legal scholarship has attempted to formulate various definitions, including that of Professor Mohamed Abdelkader Kwasmia, who defines them as: “methods of protection and reform regulated by juvenile legislation in each country, from among which the juvenile judge selects what he considers appropriate to the condition of the juvenile offender brought before him”¹.

Accordingly, the Algerian legislator distinguished between felonies and misdemeanours, on the one hand, and contraventions, on the other. The measures prescribed for juveniles who commit felonies or misdemeanours are set out in Article 444 of the Code of Criminal Procedure, as amended by Law No. 82-03 of 13 February 1982. Under this provision, with regard to juveniles over thirteen years of age, the measures provided for in Article 50 of the Penal Code may be replaced or supplemented, whereas in cases of contraventions, a juvenile may only be reprimanded.

On the basis of the aforementioned provisions, these measures may be summarized as follows:

1. Handing the Juvenile Over

The Algerian legislator provided for handing the juvenile over as a corrective measure to be adopted in respect of a juvenile appearing before the court. Article 444 of the Code of Criminal Procedure provides that, In matters involving felonies and misdemeanours, no measures other than protective and educational measures may be taken against a juvenile who is under 18 years of age.

Accordingly, handing the juvenile over according to the status of the recipient may be divided into two categories:

A. Handing the Juvenile Over to His or Her Parents, Guardian, or a Trustworthy Person

Under this provision, the legislator established an order of priority among the persons who may receive the juvenile². Thus, the juvenile may only be entrusted to one of them where those preceding him or her in the order are unsuitable. The juvenile is entrusted successively to his or her parents, the person exercising parental authority or guardianship, and then to a person deemed suitable and trustworthy. The rationale for establishing this order is that the natural inclination toward the juvenile and the concern for his or her interests progressively increase according to the persons listed in the statutory order.

B. Handing the Juvenile Over to His or Her Parents or Guardian

This form of placement ensures close supervision of the juvenile's behaviour because the person receiving the juvenile is legally responsible for his or her care, upbringing, and

protection. It also constitutes a natural duty toward the juvenile and a legal obligation imposed upon the parents.

The law does not require the parents or guardian to consent to receiving the juvenile because they are legally and religiously required to take him or her in and provide care. It is also permissible to hand the juvenile over to one parent rather than the other if the latter is unfit to raise the juvenile because of poor character, or if he or she is deceased or absent³. It is necessary for the juvenile to live with the person to whom he or she is entrusted, since there would be no benefit in handing the juvenile over to a person with whom he or she does not reside.

C. Handing the Juvenile Over to a Trustworthy Person

This form of placement presupposes the suitability of the person to whom the juvenile is entrusted to provide care and upbringing. The judge determines whether that person is suitable after examining his or her circumstances.

Such person must undertake to educate and properly care for the juvenile. The requirement of an undertaking is justified by the fact that the person does not belong to the juvenile's family and therefore does not necessarily possess the natural affection toward the juvenile that family members have. Acceptance of the undertaking constitutes the basis of his or her legal obligation.

The duration of the undertaking is subject to the requirement of maintaining the juvenile's good conduct and providing care. Under Article 444 of the Code of Criminal Procedure, the maximum duration of this measure may not extend beyond the date on which the juvenile reaches the age of civil majority, while the determination of any shorter period remains within the judge's discretion.

D. When Does the Liability of the Person Receiving the Juvenile Arise?

Such liability arises once an incident reveals clear negligence or failure to exercise supervision. There may also be liability on the part of persons who have adopted these children, because inadequate treatment of juveniles may entail serious consequences, particularly where equal treatment between the sexes is lacking⁴.

In 2006, a proposal was reportedly made by the British Government and introduced in the same year, under which parents could be sent to prison for more than three months if they allowed their children to be absent without authorization. Similarly, if a mother abandoned her duty of care, she could be imprisoned by operation of law. This constituted an important aspect of the law by imposing full responsibility on parents for their children, and likewise on adoptive parents⁵. Paragraphs 4 and 5 of the Algerian Code of Criminal Procedure provide: "If an incident reveals clear negligence in supervision on the part of the parents, guardian, person entrusted with custody, or organizational obstacles encountered in the performance of the delegate's duties, the juvenile judge or the juvenile division may, regardless of the decision taken with respect to the juvenile, impose upon the parents, guardian, or person entrusted with custody a civil fine ranging from 100 to 500 dinars. In the event of recidivism, the fine may be doubled"⁶.

The legislator therefore considered such negligence to constitute civil liability on the part of the person receiving the juvenile. However, if the juvenile commits an offence or engages in delinquent behaviour despite having been properly treated, no sanction is imposed upon the recipient.

It should also be noted from Article 481 that the legislator did not require the delinquency or offence to occur within a specific period. The liability of the recipient therefore remains in existence ⁷.

It may further be observed that the provision does not determine the amount of the fine according to the type of offence committed or the nature of the delinquency, but establishes a maximum of 500 dinars and a minimum of 100 dinars, leaving the court discretion according to each case, having regard to the seriousness of the juvenile's delinquency and the extent of the recipient's negligence.

Notwithstanding the foregoing concerning handing over the juvenile, some scholars do not regard this measure as a corrective measure in the technical sense, since in reality it merely orders the juvenile to return to the same environment and circumstances in which he or she previously lived and which necessarily played an important role in creating the delinquent behaviour.

However, we consider that the Algerian legislator's provision allowing a judgment ordering the handing over of a juvenile to be accompanied by a system of behavioural supervision⁸ does not mean that handing the juvenile over merely amounts to returning him or her to the environment that contributed to creating the delinquent behaviour. Rather, it aims at reforming the juvenile's situation and preventing recidivism through supervision imposed by the court while the juvenile remains with his or her family or with the person entrusted with his or her protection or care. In this regard, Article 330(3) of the Penal Code provides: "Any parent who seriously endangers the health, security, or morals of his or her children or of one or more of them, by mistreating them, setting a bad example by habitual drunkenness or misconduct, neglecting their care, or failing to exercise the necessary supervision over them, shall be punished by imprisonment for two months to one year and a fine of 500 to 5,000 dinars, whether or not his or her parental authority over them has been withdrawn."

2. Reprimand or Warning

Reprimand constitutes one of the effective corrective measures supporting the range of measures prescribed for juveniles, from among which the juvenile judge selects the measure appropriate to the juvenile's condition⁹. Reprimand generally consists of the court

addressing blame and admonition to the juvenile. Algerian legislation has recognized reprimand as a measure that may be imposed upon a juvenile who commits a contravention. In respect of a juvenile under eighteen years of age in contravention cases, the court may, in addition to a simple reprimand, impose a fine.

As for a juvenile under thirteen years of age, the court may either issue a reprimand or refer the file, after pronouncing judgment, to the juvenile judge, who has the power to place the juvenile under a system of supervised release.¹⁰ Accordingly, the law has not prescribed a specific method for administering a reprimand and has left the matter to the judge. Nevertheless, there are limits to which the judge must adhere, the most important being that the reprimand must not involve violence or harsh expressions likely to leave psychological effects on the juvenile, which could produce results contrary to those sought through the corrective process. It is preferable for the judge to restrict himself or herself to admonishing the juvenile, explaining the nature of the wrongdoing, advising the juvenile to follow a proper path, and warning against repeating such conduct. The reprimand should take place in open court so that it may have the desired effect, which requires the presence of the juvenile; consequently, this measure cannot be imposed in absentia.

It should be noted that the Algerian legislator made reprimand a sanction applicable to contraventions only and not to other offences, because contraventions do not indicate an inherently evil tendency on the part of a child, and therefore reprimand is considered sufficient as a response to them.

3. Fine

Some Western scholars consider the fine to have educational value, arguing that most juveniles over fifteen years of age receive wages and that, when a delinquent juvenile is fined, he or she will attempt to rectify the mistake and understand that he or she must not squander those resources if genuinely wishing to achieve his or her aspirations and dreams.¹¹ The fine may also help the juvenile overcome feelings of guilt and thereby facilitate the restoration of his or her position within society.¹²

In reality, however, the fine has little educational or deterrent value, since most juveniles -at least in Arab countries- do not possess sufficient financial resources to pay it. Furthermore, the fine is not replaced by another measure when the juvenile is unable to pay it; rather, it is to replace or supplement the measures provided for in Article 444 with a fine where it considers this necessary in light of the juvenile's personality, provided that the decision is defined as “a treatment system through which the juvenile remains in his or her natural environment, enjoying a considerable degree of social freedom, while during is important in many cases that supervisors and specialists work together with specialized judges and that the conclusions reached through their work be directly applied, without prejudice or other delegates.

A delegate is appointed for each juvenile by an order of the juvenile judge or by the judgment deciding the case. Delegates are selected from among educators and specialists

in juvenile affairs. They are empowered to supervise the material and moral conditions of the juvenile's life, health, education, behaviour, and employment. They must submit reports on their work to the juvenile consequently subject to the judge's discretion and to the juvenile's responsiveness and willingness to comply with it. The Code of Criminal Procedure permits this measure to be applied to juveniles under eighteen years of age in respect of various offences, whether felonies, misdemeanours, or contraventions. Depending on the circumstances, the system of social supervision may operate as a temporary, to collect evidence and shed light on the juvenile's personality so as to select the appropriate form of treatment. This includes social

investigation, medical, mental and psychological assessment, vocational guidance assessment, and related procedures. The juvenile judge may also order that a juvenile who has committed a contravention be placed under social supervision when the case file is referred to him or with reference to the measures required by the care and educational services, as well as the juvenile's responsiveness to the measure and the extent to which it is sufficient to reform him or her and restore compliance with the law. The duration is determined by the juvenile judge, provided that in all cases it does not extend beyond the juvenile's attainment of the working in care and social services to develop their abilities and skills, facilitating implementation of the work plan within a short, carefully considered period linked to the duration of their employment. Some of these workers must be collected whenever payment becomes possible.

The Algerian legislator nevertheless adopted a comparatively appropriate approach by allowing, in matters involving contraventions, the imposition of a fine upon a juvenile under thirteen years of age and permitting it in respect of those over thirteen, provided that it is accompanied by a simple reprimand (Article 446 of the Code of Criminal Procedure). Thus, where the court does not impose a fine upon the juvenile- which is generally the case- it will at least have applied the measure of reprimand.

Article 445 of the Code of Criminal Procedure permits the adjudicating authority, exceptionally, with respect to juveniles over thirteen years of age, to replace or supplement the measures provided for in Article 444 with a fine where it considers this necessary in light of the juvenile's personality, provided that the decision states the reasons that led the court to do so.

4. Social Supervision

Social supervision is considered a therapeutic measure. In the field of juvenile delinquency, it is defined as “a treatment system through which the juvenile remains in his or her natural environment, enjoying a considerable degree of social freedom, while

during the period of supervision being subject to the observation and care of a representative of the juvenile court known as a social supervision officer”¹³.

It is important in many cases that supervisors and specialists work together with specialized judges and that the conclusions reached through their work be directly applied, without prejudice or other considerations, with a view to establishing appropriate procedures or legislation for delinquent juveniles¹⁴.

Accordingly, the task of supervising juveniles is entrusted to permanent and voluntary delegates. A delegate is appointed for each juvenile by an order of the juvenile judge or by the judgment deciding the case. Delegates are selected from among educators and specialists in juvenile affairs. They are empowered to supervise the material and moral conditions of the juvenile's life, health, education, behaviour, and employment. They must submit reports on their work to the juvenile judge every three months.

Social supervision is therefore an embodiment of one of the fundamental principles of modern criminal policy, namely the principle of individualized treatment, which requires treatment suited to the juvenile's personality. This measure is consequently subject to the judge's discretion and to the juvenile's responsiveness and willingness to comply with it.¹⁵ The Code of Criminal Procedure permits this measure to be applied to juveniles under eighteen years of age in respect of various offences, whether felonies, misdemeanours, or contraventions. Depending on the circumstances, the system of social supervision may operate as a temporary, preliminary, or final measure.

The Code of Criminal Procedure also permits the juvenile judge, during the investigation stage, to place the accused juvenile under temporary social supervision, the purpose of which is to collect evidence and shed light on the juvenile's personality so as to select the appropriate form of treatment. This includes social investigation, medical, mental and psychological assessment, vocational guidance assessment, and related procedures. The juvenile judge may also order that a juvenile who has committed a contravention be placed under social supervision when the case file is referred to him or her by the contraventions court.¹⁶

As regards the duration of social supervision, it should not be determined on the basis of the seriousness of the offence committed by the juvenile or the gravity of the act, but rather with reference to the measures required by the care and educational services,¹⁷ as well as the juvenile's responsiveness to the measure and the extent to which it is sufficient to reform him or her and restore compliance with the law. The duration is determined by the juvenile judge, provided that in all cases it does not extend beyond the juvenile's attainment of the age of civil majority (nineteen years), pursuant to Article 462 of the Code of Criminal Procedure.

It is also necessary to provide a degree of freedom and capacity that enables persons working in care and social services to develop their abilities and skills, facilitating implementation of the work plan within a short, carefully considered period linked to the

duration of their employment. Some of these workers must remain in contact with the children for whom long-term support is required.¹⁸

Members of the care or health-care team are also responsible for the rehabilitation carried out in treatment centres, while the general supervisor or director remains fully responsible for ensuring that health care is directly connected with the role of judicial and correctional institutions as institutions responsible for the health of prisoners, residents, and persons subject to temporary social supervision.¹⁹

5. Placement in Juvenile Institutions

The Algerian legislator recognized institutional placement as a therapeutic means. Undoubtedly, this measure is among the oldest types of measures applied to juveniles, and it is based on an educational and corrective approach aimed at treating delinquent juveniles, rehabilitating them socially, and correcting them personally.²⁰

The situation of juveniles who violate the law is alarming, as they have increasingly become victims of circumstances characterized by inadequate supervision. At the same time, the law is based on sanctioning persons who violate it, while police stations are often crowded with habitual visitors as well as newly arrested offenders. This complicates the task considerably and makes the search for offenders and the fight against crime a continuous process requiring the development of criminal legal systems, as well as training, retraining, and the introduction of new technological means in combating crime. Establishing the identity of an offender or proving the accusation may be extremely difficult, particularly in determining whether the offence was committed individually or with accomplices, with or without financial inducement.

These institutions provide juveniles with proper health, psychological, and social care by offering constructive programmes and methods aimed at eliminating the causes that led to delinquency. They also seek to instil principles of affection and cooperation, psychological stability, and reassurance in juveniles so that they may resume normal lives.

Crimes and diseases may be described as placing a heavy burden on the legal system through difficult-to-understand and difficult-to-control processes.²¹ They require treatment at both the legal and health levels in order to ensure an integrated perspective based on a coherent system of knowledge, experiences, and expertise. Juvenile rehabilitation centres constitute important sources of information through which understanding of behaviour or the nature of an act can be developed, allowing the course of juveniles' development and their problems to be assessed within the context of changing circumstances and events in society. It is therefore necessary to emphasize the role of such indicators and information in providing information rather than concealing it, as a fundamental condition for developing an integrated conception of dealing with delinquent and criminal behaviour.

This should be based on situational and immediate diagnosis capable of identifying the directions taken by individuals and the development of their behaviour, as well as emphasizing the structure of such deviant behaviour through professionals and

understanding the circumstances in which it originated. There is also a discrepancy among certain approaches that determine the rate of delinquent behaviour on the basis of concepts and procedures of criminalization represented by the deviant behaviour of individuals and groups.

6. Juvenile Reception Institutions under Article 444 of the Code of Criminal Procedure

-Any public or private organization or institution established for educational or vocational training purposes and qualified for this purpose, Any medical or educational institution qualified for this purpose.

-Any public service responsible for assistance.

-Any boarding school suitable for accommodating juvenile offenders of school age.

The same applies to those under thirteen years of age, in respect of whom no measure involving placement in a public educational institution under supervision or in a corrective education institution may be adopted. In all cases, the judgment ordering such measures must not extend beyond the date on which the minor reaches the age of civil majority.

7. Juvenile Institutions under Article 455 of the Code of Criminal Procedure

Reception centres and departments where juveniles reside during the preliminary investigation.²²

Observation centres for the physical and psychological examination of juveniles. In certain cases, general examinations of mental, psychological, and physical health are required, as imposed or ordered by courts and accommodation centres.²³

Social service departments responsible for assisting children or attached to a hospital institution.

Second: Penalties

Historically, offences committed by persons holding authority have sometimes been marginalized, making it difficult to hold such persons accountable for their criminal conduct. Ultimately, such offences may escape punishment. In reality, impunity for criminal conduct or behaviour that escapes application of the law may shock members of society because of the serious negative consequences this entails for the security of individuals and society.²⁴

If crimes that end without apparent consequences-“Safety Crime as Violence”- take place without attracting attention, the reality is that such crimes often remain unreported. The problem arising here is that academic studies remain difficult in this field because the necessary research process cannot fully take place. Studies in the social sciences also confirm in many cases the seriousness of keeping such crimes hidden without allowing them to proceed through the legal process and without punishing their perpetrators. This may be attributed to various considerations, including traditions, culture, fear, and others. Crimes may occur between relatives, and following their occurrence relatives may deliberately conceal them because they believe that reporting them would create family

problems. Yet it may be argued that family problems will arise later as consequences, and these may be more significant at the broader societal level.

Researchers in criminology and scholars concerned with criminal and delinquent behaviour among juveniles have emphasized the importance of understanding and learning the methodology through which perpetrators of crimes that escape legal accountability may be identified. This phenomenon may be limited to certain groups rather than others. The danger lies in the absence of criminal justice that holds every perpetrator accountable for his or her criminal conduct. Otherwise, how can the law be effectively enforced?

Accordingly, within criminology there is a very high level of attention and caution²⁵ regarding such conduct, which contributes to the phenomenon of violence, delinquency, and crime generally. It is therefore necessary, in the context of violent crime, to recognize that offences escaping punishment must be taken into account. Any study conducted by criminologists and legal advisers working with courts on violence, delinquency, and crime should include such considerations, whose absence may be strongly observed.²⁶

Although the law does not expressly refer to judgments that disregard positive conduct by individuals, it is nevertheless necessary to continue collecting the relevant legal circumstances. A mere observation of the relationship between individuals and different groups, together with an integrated perspective arising from collective work, may provide the basis for appropriate procedural reports upon which penalties can be determined, thereby preventing impunity.²⁷

The Algerian legislator initially emphasizes the opportunity to reform the juvenile. However, where reform proves unsuccessful after various means have been tried, the matter may require the imposition of an appropriate penalty to eliminate criminal factors that may have become entrenched in the juvenile's personality. Punishment may constitute a symbolic expression that is not necessarily equivalent or proportionate to the type of offence committed, requiring an assessment of the relationship between each offence and its corresponding sanction.²⁸

This approach is used only exceptionally and subject to special conditions because of the psychological effects that punishment may have on juveniles. It may distance them from the desired objective, namely rehabilitation and return to society as productive members. For this reason, the legislator has permitted punishment only exceptionally, since imprisonment in itself is not necessarily the ultimate solution for an offender²⁹.

Punishment entails considerable burdens, including supervision, care, food, medical examination, and other requirements. Furthermore, imprisonment may expose the juvenile to other criminal influences within the prison, allowing him or her to become a different kind of offender and to constitute a continuing threat. The possibility of further criminal conduct inside prison therefore remains present, meaning that the threat may begin outside prison and continue within it. Yet there is one prison, and while the duration of punishment may be extended, it is impossible to build a prison within a prison.³⁰

This is what Article 445 of the Code of Criminal Procedure provides: “The adjudicating authority may, exceptionally, in respect of juveniles over thirteen years of age, replace or supplement the measures provided for in Article 444 with the fine or imprisonment prescribed by Article 50 of the Penal Code.” The provision establishes the following conditions for resorting to punishment:

A. Application of the Penalty to Juveniles Aged 13 to 18

The penalty may be applied to a juvenile between thirteen and eighteen years of age. The penalty is also necessarily linked to the seriousness and gravity of the unlawful conduct, which may constitute a felony, Misdemeanour, or contravention.³¹

B. Circumstances Relating to the Juvenile or His or Her Personality

There must be circumstances relating to the juvenile or his or her personality that justify imposing a penalty. Internal and external factors may accompany the commission of delinquent or criminal behaviour. Certain other factors may also exist in relation to particular offences, although not all offences. These include the individual's psychological state at the time of the conduct, which may manifest itself in various forms resulting from recklessness or impulsiveness despite awareness of the dangerous nature of the unlawful conduct, thereby giving rise to the juvenile's criminal responsibility and the corresponding severe penalty.³²

Such a situation may arise where individuals engage in conduct contrary to the law that is classified as a felony or misdemeanour, resulting in their detention. This may constitute evidence of wrongdoing. The officer must also have a legal basis for responsibility,³³ since the belief that continued detention is necessary to secure or preserve evidence concerning unlawful conduct may justify extending detention beyond the initial period. Evidentiary requirements are particularly important in justifying additional detention and strengthening the role of the officer, especially with respect to persons detained in order to obtain such evidence through questioning. Thus, this constitutes essentially the same basis underlying the initial decision by officers to extend detention beyond twenty-four hours.

C. Specific Reasoning of the Judgment

The judgment must provide specific reasons relating to the juvenile's circumstances and personality. This last requirement is frequently neglected by juvenile judges, whether at the court or appellate level. Judges, courts, and legal advisers must carry out lawful judicial functions within juvenile courts and must adhere to the same concepts and legitimate procedures applicable to other judges and legal advisers within the judicial system.³⁴

It should be noted that educational measures may not be combined with the penalties of a fine and imprisonment pursuant to the final paragraph of Article 49 of the Penal Code and Article 445 of the Code of Criminal Procedure. We have previously examined the limits of these penalties as applied to juveniles. The question therefore arises as to the rationale behind applying reduced penalties at this stage.

The legislator took into account the principle of graduated responsibility in dealing with juveniles. A juvenile under eighteen years of age is, as a general rule, subject only to protective and educational measures. As an exception to this principle, the law permits a penalty to be imposed upon a juvenile between thirteen and eighteen years of age where the measures prove ineffective. This is not the only consideration demonstrating the limits of punitive treatment. It also points to the narrow and potentially ineffective effects of a criminal justice system that may possess a particular culture forming the basis of a punitive system characterized by harsh punishment, which may not necessarily be effective.

For example, with respect to 100 persons who violated the law, the British Home Office indicated that only 41 were reported, while the police recorded only five cases as having been resolved out of 23 cases, three of which resulted in warnings and only two in other outcomes.³⁵

This period of the juvenile's life is among the most critical because it is characterized by important features, including the beginning of true adolescence, with its tendency toward disorder and individualism and the emergence of conflict between the juvenile and the surrounding environment. At this stage, awareness begins to develop but has not yet fully matured.

For these reasons, the legislator considered that there are dangerous cases in which punishment may be necessary. Nevertheless, the severity of punishment may not be compatible with the juvenile's physical and psychological structure at this age. It was therefore reduced to remain consistent with the principal objective of punishment under the modern theory of rehabilitation and crime prevention in society. The structure of society itself has a close relationship with crime rates, which may be associated with various factors beyond distinctions between individuals that lead to respect or discrimination.³⁶

Thus, the Algerian legislator has responded to the most recent scientific theories by making measures the general rule in the treatment of juveniles and reduced penalties an exception. The judge is required to expressly justify resorting to punishment and to link such recourse to the juvenile's circumstances and personality. The law applicable in criminal proceedings must be applied in accordance with what the juvenile court determines,³⁷ based on the established facts, which must be coherent and reasonable and from which the judge must derive the legal classification in order to establish the judgment on a correct legal basis.³⁸ A judgment or opinion arising from negligence or disregard of fundamental principles - namely, the essential principles of criminal law itself - cannot

fulfil its function as an explicit message. Criminal law possesses a value whose coherence may be essential to maintaining respect for it, especially when it is applied to difficult cases. Disregard for such principles may undermine respect for court judgments as well as for criminal law itself.³⁹ If the accused juvenile denies guilt, the court must hear the juvenile and consequently must conduct the judicial hearing anew.⁴⁰

It may also be observed that the legislator adopted the precautionary theory in applying these measures. They are not fixed in duration and may be modified, replaced, or revoked. An appeal or objection does not suspend their execution, pursuant to Articles 474–488 of the Code of Criminal Procedure.

The general approach to the treatment of juveniles under Algerian legislation, following a review of the provisions concerning juveniles in Articles 49 and 50 of the Penal Code, Articles 442–464 of the Code of Criminal Procedure, Articles 121–142 of the Prison Reform Law, and certain special laws, demonstrates that the Algerian legislator has surrounded juvenile offenders with special legal protection, taking into account their interests at the various stages of proceedings in juvenile cases. One of the most important safeguards ensuring a fair trial for juveniles is the separation of juvenile justice from adult justice. Article 447 of the Code of Criminal Procedure provides that “every court shall have a juvenile division,” while Article 450 provides that “the juvenile division shall consist of a juvenile judge as president and two lay judges.” Articles 451 and 455 establish the jurisdiction of these courts and the procedural conditions to be followed in deciding juvenile cases.

Other legal provisions have also provided juveniles with safeguards designed to ensure a fair trial whose purpose is to understand the juvenile's personality and remove him or her from the atmosphere of adult trials, which may hinder reintegration into society. This is based on a set of principles and rules that differ from those governing traditional criminal justice systems⁴¹ - which focus primarily on establishing guilt or innocence with a view to reducing or avoiding punishment - because juvenile crime does not necessarily result from an inherent evil in the juvenile's personality, but may arise from lack of experience, limited awareness, and incomplete will. Society itself bears a considerable degree of responsibility because the factors underlying juvenile delinquency are, in many cases, social in nature.

Among these safeguards, the Algerian Code of Criminal Procedure provides the following:

1. Protection During Investigation and Trial

The Algerian legislator has provided several safeguards protecting juveniles during the trial stage, including:

A. Prior Investigation

A juvenile may not be prosecuted for a felony without a prior investigation, and the juvenile judge must conduct an investigation as soon as the case is referred to him or her (Article 452 of the Code of Criminal Procedure).

Those responsible for adjudication must seek to achieve the true objectives of punishment, which include reforming offenders. This requires understanding the relationship between what takes place in court during the hearing and the nature of the judgment issued, as well as the extent to which the judgment contributes to the development of the court's role in line with developments in criminal law and criminal procedure. It also requires clarifying which judgment should apply to individuals whose unlawful conduct is classified as a felony, misdemeanour, or contravention.⁴²

B. Presence of the Juvenile's Legal Representatives and Counsel

The juvenile judge summons the juvenile's parents, guardian, or person having custody of the juvenile, and the juvenile must be represented by counsel (Article 454 of the Code of Criminal Procedure). If the juvenile does not choose a lawyer, the judge appoints one on his or her own initiative.

C. Limitation on Detention in Penal Institutions

As a rule, a juvenile may not be placed in a penal institution, even temporarily. Exceptionally, temporary placement may be ordered where the measure is necessary, no other measure is possible, and the juvenile is over thirteen years of age, provided that a separate section or place is reserved for the juvenile and that, as far as possible, the juvenile is subject to a separate regime at night (Article 456 of the Code of Criminal Procedure).

Judges may also establish intervention rules aimed at preventing violence and crime. Prison administrations may cooperate with institutions to develop legal rules and standards contributing to broad preventive programmes designed to reduce violence and crime.⁴³

D. Confidentiality of Proceedings

Pleadings are conducted in camera (Article 461 of the Code of Criminal Procedure), and the decision is rendered in a closed session (Article 463). Publication of the proceedings in books, the press, radio, or cinema is prohibited (Article 477).

E. Exemption from Attendance

The juvenile may be excused from attending the hearing (Article 467). Attendance at the pleadings is restricted to witnesses, close relatives of the juvenile, the juvenile's guardian or legal representative, members of the Bar, representatives of associations, leagues, services, or organizations concerned with juvenile affairs, juvenile supervision delegates, and members of the judiciary (Article 468).

F. Right to Challenge Judgments

The juvenile's guardian or legal representative has the right to challenge judgments, file objections, and appeal them (Articles 463, 466, and 471 of the Code of Criminal Procedure).⁴⁴

2. Protection During Execution of the Judgment

One of the most important safeguards afforded to the juvenile is continued judicial supervision during execution. The Algerian legislator has fully adhered to this safeguard

by making the juvenile judge the principal authority responsible for implementing these measures. The judge may modify and review them (Article 482 of the Code of Criminal Procedure), decide all incidental matters and applications for changes concerning supervised release, placement, and custody (Article 484), and has the power to change the institution in which the juvenile is placed (Article 137 of the Prison Reform Law).

Moreover, the judge receives periodic reports concerning the juvenile's condition from the institution in which the juvenile is placed, both during and after the observation period, in order to monitor the juvenile's condition and take whatever measures he or she considers appropriate.⁴⁵ In this context, the judicial system must rely upon experts whose research, opinions, and experience support this approach so that punishment or release at the end of the sentence does not become the sole objective of the judicial system. Criminal problems and unlawful behaviour cannot be addressed through one or two methods, and there can be no satisfactory treatment under a rigid approach.⁴⁶

The measures imposed upon the juvenile are enumerated in Article 444 of the Code of Criminal Procedure as follows:

- Handing the juvenile over to his or her parents, guardian, person having custody, or any trustworthy person.
- Placing the juvenile under supervision.
- Placing the juvenile in an educational or vocational training institution.
- Placing the juvenile in a medical or medical-educational institution qualified for this purpose.
- Placing the juvenile in a boarding school suitable for accommodating juvenile offenders of school age.

The legislator required the judge to order these measures (Article 444 of the Penal Code) and permitted the adjudicating authority, exceptionally, with respect to juveniles over thirteen years of age, to replace or supplement the measures provided for in Article 444 with a fine or imprisonment under Article 50 of the Penal Code, which permits the imposition of reduced penalties.⁴⁷

Accordingly, it may be stated that the Algerian legislator has taken into account the principal modern approaches to criminal policy concerning the treatment of juveniles by adopting the following:

- The independence of juvenile justice.
- Judicial supervision over the execution of juvenile measures.
- Diversification of the measures prescribed and recognition that juvenile measures constitute the general rule in their treatment.
- Provision of all safeguards necessary to ensure a fair trial for the juvenile.

On this basis, it is extremely important to conduct an assessment through comparison between persons sentenced to imprisonment for a specified period and those placed in pre-trial detention. This requires implementation of a set of procedures connected with the specific circumstances and situation involved, emphasizing the rights of the accused

during this stage by applying complementary procedures until the final judgment is rendered, without disregarding the right to legal representation.⁴⁸

The establishment and diversification of institutions have also broadened the scope of juvenile protection. In this context, institutions have been designated for juveniles who are unable to adapt to their social environment and have been authorized to receive juveniles up to the age of twenty-one. All this confirms that the Algerian legislator has benefited from modern approaches to addressing juvenile crime and preventing delinquency.⁴⁹

3. Protection After Release

Aftercare derives its importance from its role in completing the rehabilitation and educational efforts undertaken within the institution. It also protects released juveniles from exposure to factors that may lead to renewed delinquency. This takes the form of aftercare aimed at readapting juveniles to life outside the institution. Treatment should therefore be viewed as a continuous process extending beyond release from the institution.

Where the juvenile is to return home, the family must be prepared for his or her return. Aftercare aims to monitor the juvenile's rehabilitation following release and assess the extent of his or her adjustment within the family and society, as well as in education and employment, in order to assist the juvenile in establishing a stable social life and thereby keep him or her away from delinquency and crime.

Society also has a role through protection centres, which should receive increased financial support to develop services and train the personnel responsible for them. Through such efforts, released juveniles may become active members of society and rebuild their lives on a new basis rather than remain defined by their previous history, filled with painful and negative events that continued to trouble them until they were able to understand, assimilate, and effectively adapt to new social environments.⁵⁰ Society can provide facilities for finding solutions to problems that the State previously sought to eliminate or escape from by providing social institutions with the resources necessary to meet the needs of young people.⁵¹

In the United States, federal and state governments have extended initiatives capable of transforming the child-care system and juvenile justice practices. Solutions to social problems are based on comparison and the application of rules of evidence. Various fields have become integrated through the provision of comprehensive child care and genuine juvenile justice. For example, problem-solving approaches at the court level have become more common through the introduction of social bodies such as drug-treatment boards, mental-health boards, family boards, domestic-violence boards, and re-entry boards. This creates a system capable of providing numerous opportunities on a practical basis through which justice can be delivered and problems addressed within reasonable periods, while making genuine opportunities for justice possible.⁵²

A released juvenile may either have a family to which he or she returns, or may have no family at all, or the family may refuse to accept him or her. In such circumstances, the

juvenile may be placed in a transitional residence if a social inquiry establishes the need for temporary accommodation until permanent housing is found or until the juvenile can return to a family that has become ready to receive him or her.

If placement in a transitional residence is not possible and the juvenile has no family, he or she may be placed temporarily in a guest residence within the institution in which the juvenile was previously accommodated. During this period, the juvenile is treated in the same manner as a child placed in a transitional residence until suitable accommodation is found. It should also be noted that supervision of the juvenile should be carried out by an employee of the institutional authority or a social worker. Volunteers may also undertake this task under the supervision of a person trained for this purpose.

This is also an area of concern for physicians, psychiatric and psychological experts, social-care workers, and other health professionals,⁵³ as well as religious counsellors under the supervision of the Ministry of Social Affairs and Religious Affairs, and others.

It is now understood that rehabilitation within a centre cannot produce positive results unless it is followed by a period of care and protection that shields the released juvenile from the obstacles encountered during the process of reintegration into society.

To achieve this, it is also necessary to improve services for victims through new procedures that recognize their rights.⁵⁴ Denial of victims' rights may lead individuals to feel that they do not deserve an appropriate social status within society. Many victims feel as though they are guilty and perceive that they have been indirectly or directly blamed. Many persons who are subjected to violence or criminal acts continue to suffer for a long time without obtaining their rights as victims. This may lead them to feel that they are offenders rather than victims. In reality, such thinking may have negative consequences for their lives, as victims of crime may subsequently engage in serious acts of retaliation against the original offenders, thereby becoming offenders themselves. Consequently, the process of care and protection may fail. This moral failure may be deeply rooted at all levels of the judicial system and even within the highest levels of criminal justice research.⁵⁵

There is also a risk arising from the circumstances of these individuals, particularly when they are immersed in negative cultures. Such circumstances may encourage antisocial behaviour that prevents adaptation to law-abiding members of society because of the spread of cultures of poverty and individual wrongdoing.⁵⁶ For this reason, the legal system works continuously to establish sound rules, stable and secure legislation, and successful and effective approaches through the introduction of new laws capable of improving the role of the judicial system⁵⁷ and institutions of protection, care, social rehabilitation, and reintegration.

Third: Prevention of Juvenile Delinquency

If the objective of treatment is to rebuild the juvenile's personality by developing his or her resistance and reducing susceptibility to negative biological, psychological, or social influences, there has been a shift from the theory of punishment and reform toward

the theory of preventing juvenile delinquency. This section therefore addresses family care and protection of the family unit, the role of the media in preventing juvenile delinquency, and finally the role of the juvenile court in preventing delinquency. Such measures provide an effective means of protecting individuals from crime and developing independent thinking rather than relying solely on intervention systems aimed at protecting them.⁵⁸

Independent thinking may begin with the statement "I can," which corresponds to personal tendencies, inclinations, or interests. Children should therefore be encouraged to develop their skills, attitudes, and interests, because⁵⁹ they cannot form principles without possessing skills and knowledge. The requirements of purposeful creativity are not limited to creativity itself. This tool is found at almost every level of school creativity and subsequently encourages individual creativity at later stages according to each person's abilities, capacities, and interests.⁶⁰ Children need not only to develop independent thinking but also to understand the perspectives of others in order to identify the appropriate path and methodology of sound thinking.⁶¹

This enables them to make decisions, express their choices, and articulate their legitimate needs in a manner that qualifies them to become well-adjusted members of society.⁶²

1. Family Care and Protection of the Family Unit

Studies conducted over the past fifty years in the psychological, health, social, and criminological fields have demonstrated the effective and, at the same time, significant role played by the family in the child's development. The child finds the most suitable conditions for growth within the family. Most countries that have considered removing children from their families at an early age have done

so for reasons connected with political doctrines that sacrifice the individual for the benefit of society, and history provides many examples of this.

Psychology has also established, through Freud's work, that morality is not delivered fully formed, but that its roots lie in the mother's love for her child and the child's love for his or her mother.

Social institutions can likewise play an effective role in reducing delinquency and antisocial behaviour among juveniles. However, their role remains incomplete and unsuccessful unless positive efforts are directed primarily toward the family. A social institution, school, or State cannot fulfil its role in providing care except through the family and through full cooperation with it, strengthening family cohesion through mutual respect between younger and older members and consolidating the relationship between mother and child through affection and care.

The mother rushes to her child when the child cries or is hungry, accompanies the child wherever necessary, cares for the child with kindness and tenderness, and then seeks to teach independence and experimentation in preparation for the future. She is also expected to nourish the child emotionally and with affection. Emotional nourishment constitutes

the “psychological vitamins of growth.” A child may therefore be deprived of adequate care even while living with his or her family if the mother is unable to provide the affection and love the child needs, which may contribute to delinquency.⁶³

Interventions carried out through social settings involving the family, school, press, and community can influence the lives of young people and juveniles. This comprehensive approach may contribute to reducing levels of behaviour contrary to the law—which may constitute a contravention, misdemeanour, or felony—more effectively than focusing on a single influencing factor.

Researchers almost unanimously agree that family problems constitute a strong factor contributing to delinquency. As a result of several factors, foremost among them industrialization, the family has become smaller and generally limited to parents and children. In order to meet economic needs and the necessities of life, parents work, often at workplaces far from home. When they return home exhausted from their work, they devote themselves to rest after completing essential household tasks. Parents may become irritated by their children's questions, and the father may respond with vague, rigid, idealized, and inconsistent answers—the same answers he received when he was twelve years old and which no longer correspond to the new world.

Parents who behave in this manner may give their children the impression that they are defending negative values. This is inconsistent with the role of educators who understand their children, their suggestions, and their objections, and who stimulate their awareness. Parents are therefore expected to fulfil the meaning of the word “educators” in the fullest sense.

When examining the relationship between family relationships and delinquency, an important issue arises concerning parental responsibility for children's delinquency, on which opinions differ considerably. Some scholars argue that

parents should be punished for their children's conduct and that doing so does not conflict with the principle of personal responsibility or the principle of personal punishment.⁶⁴ This is based on the argument that parents may themselves commit offences through the children under their authority and may therefore deserve punishment. Such punishment could deter others and reduce delinquency to some extent because juvenile delinquency may often result from parental negligence, failure to provide proper upbringing and guidance, or mistreatment.

This is apparently what the Algerian legislator intended in Article 330 of the Penal Code, which provides: “Any parent who seriously endangers the health, security, or morals of his or her children or of one or more of them, by mistreating them, setting a bad example by habitual drunkenness or misconduct, neglecting their care, or failing to exercise the necessary supervision over them, shall be punished

by imprisonment for two months to one year commits an offence because of the lack of due care, the court may impose upon the guardian or educator a fine or compensation, or

both, corresponding to what and a fine of 500 to 5,000 dinars, whether or not his or her parental authority over them has been withdrawn.”⁶⁵

The Iraqi legislator followed a similar approach in Article 31 of the Iraqi Juvenile Law, providing that if a juvenile commits an offence because of the lack of due care, the court may impose upon the guardian or educator a fine or compensation, or both, corresponding to what could have been imposed upon the juvenile for that offence.

Others, however, oppose this view and argue that punishing parents has little benefit in reforming juvenile offenders. They maintain that punishment of parents may become another factor contributing to juvenile delinquency, in addition to damaging the family's reputation within society. Regardless of its deterrent effect upon parents, punishment may seriously harm the family.

According to this approach, the family should instead receive social and educational support aimed at strengthening family relationships by helping family members solve problems involving their children. This approach seeks to improve the necessary social conditions for building a sound and integrated family. More importantly, families should be given support to fulfil their essential functions toward their children, especially given the increasing complexity of modern life and the continuing decline in parental authority over children.

Juvenile courts should therefore refrain from punishing parents except in exceptional cases, after establishing that the juvenile's delinquency is primarily attributable to the parents, provided that such punishment will genuinely and necessarily benefit the juvenile's rehabilitation and that it will not result in family disintegration or impose excessive financial burdens upon the family.

There is a belief that imprisonment leads to family breakdown by undermining the possibility of family members remaining together and maintaining their relationships. Consequently, institutions responsible for imprisonment should encourage contact between families and prisoners in order to rebuild or restore previously damaged family relationships, whether before or during sentencing and the beginning of imprisonment. Such positive action by the relevant authority includes facilitating visits by family members and friends⁶⁶.

Among the current issues in the Arab world concerning the family are regulation of marriage rights, polygamy, divorce, and children's rights in cases of divorce. Many Arab legal systems regulating these matters derive their rules from the objectives of Islamic law and seek to protect the interests of the family and society.

For example, in Iraq, a person wishing to marry a second wife is required to obtain authorization from the competent court, while Moroccan law permits polygamy subject to the duty of equal treatment between wives. Algerian law similarly permits polygamy under Article 8 of the Family Code subject to the obligation of fairness.

Participants in the Fifth Arab Conference on Social Defence also highlighted the phenomenon of family disintegration, which has been identified as a fertile environment

for delinquency, inadequate housing, and the absence of scientific projects for family planning and child care. The conference therefore recommended that the concerned States address these circumstances in a manner ensuring family cohesion ⁶⁷ and guide the younger generation properly in religious and moral matters while keeping them, as far as possible, away from cultural influences that increase their susceptibility to delinquency and deviant behaviour.

It is therefore clear that the family is of fundamental importance and that the strength and resilience of society depend to a considerable extent upon it. Some educators have emphasized its importance and positive role, stating: "Humankind achieved civilization through the family, and its future depends upon this institution more than upon any other." Intervention focusing on choices and alternatives concerning children's ways of thinking, as well as positive recognition

by juvenile offenders of their own unlawful behaviour, is connected with inadequate solutions to problems. On the other hand, social intervention skills may have positive effects⁶⁸.

2. The Role of the Media in Preventing Delinquency

The media today appear to play a major educational and guiding role in all developed societies. Their influence in educating and preparing the younger generation has become significant. Media officials should therefore understand that their message is fundamentally educational, reformative, and cultural before being a means of entertainment. At the very least, the role of the media should aim at healthy socialization and should ensure that entertainment does not undermine the moral standards and fundamental values of society.

Likewise, guidance should not be presented in a rigid form that alienates the audience. This requires a clearly defined educational, social, and media policy that takes into account the large proportion of juveniles in society and seeks, at least partially, to achieve integration and coordination between the role of the media and that of the home, school, and other social institutions.

For the purpose of preventing delinquency, integrated efforts must be undertaken within a carefully designed policy. The United Nations Social Commission for Juveniles, at the 1953 Conference on Crime Prevention in the Middle East, recommended "that preventive programmes for juveniles in the field of cinema should include the establishment of film-review bodies composed of representatives of organizations also established a set of instructions for broadcasters containing general principles for the formulation and implementation of programmes.

With regard to children's programmes, these instructions recommended taking into account the social dimension of the juvenile in concerned with child welfare, and that governments should encourage film institutions to produce and import films suitable for and beneficial to children ”⁶⁹ .

The National Association of Broadcasters in the United States also established a set of instructions for broadcasters containing general principles for the formulation and implementation of programmes. With regard to children's programmes, these instructions recommended taking into account the social dimension of the juvenile in broadcast materials and ensuring that those who prepare or review such materials possess a high degree of social awareness.

Programmes should aim to promote virtues such as honesty, obedience, and respect for the law, and should give priority to encouraging clean living, innocent recreation, respect for parents, and appreciation of the family. Such programmes should under no circumstances include horror or frightening stories or fictional materials that provoke anxiety or confusion in the minds of young listeners or juveniles.

A body concerned with publishing materials for children in Europe also established a set of guidelines for publishers, summarized as follows:

- Materials intended for children's entertainment should emphasize innocent amusement and useful educational messages and should possess a clear educational character, without containing material likely to undermine the moral standards of the community.

- Avoidance of indecent images.

Avoidance of presenting crime in a manner that ridicules the law or police or justice officials or encourages imitation.

- Avoidance of colloquial language except to the narrow extent required by dialogue, while avoiding obscene words and explicit vulgar expressions.

Avoidance of presenting family disputes in a mocking manner intended to cause scandal.

- Avoidance of attacking religious beliefs or ridiculing colour, sex, or traditions⁷⁰.

3. The Role of the Juvenile Court in Preventing Delinquency

The Algerian legislator has emphasized the need to expand the activities and functions of the juvenile court so that its role is not limited to therapeutic matters but also extends to prevention, given that the juvenile court is a social institution concerned the social objective for which it was established, or as a legal institution that remains a court established in accordance with the law and exercises judicial with child welfare.

A debate has arisen as to whether this body should be regarded as a social institution, in light of the social objective for which it was established, or as a legal institution that remains a court established in accordance with the law and exercises judicial functions and powers similar to those of other courts⁷¹. The following presents both approaches.

4-The Juvenile Court Is Not a Purely Social Institution

Many scholars consider the juvenile court to be a social body or agency because its primary mission is to examine the social circumstances in which the juvenile lives and the extent to which these circumstances expose him or her to delinquency and behavioural problems. These scholars have expressed concern that those responsible for juvenile courts are judges trained in law, whereas ideally they should all be social workers or specialists in social services.

This approach, however, has been criticized for viewing the juvenile court exclusively from a social perspective. The decisions of the juvenile judge may affect the social structure of the family, potentially resulting in the removal of parental authority from parents and requiring the juvenile to leave his or her natural environment and move into an artificial one. It may also restrict institution, many scholars have argued that it is essentially a legal court like other courts vested by law with a particular jurisdiction. Its the juvenile's freedom or, in countries where legislation permits it, result in imprisonment⁷².

5-The Juvenile Court as a Legal Institution

Since the juvenile court is not merely a social institution, many scholars have argued that it is essentially a legal court like other courts vested by law with a particular jurisdiction. Its jurisdiction concerns problems of juvenile delinquency and focuses on the juvenile himself or herself.

The court considers juvenile cases according to a set of legal procedures established by law. It seeks to protect the juvenile from neglect and moral deterioration and, for this purpose, imposes various legal obligations upon the juvenile and his or her parents. The Dr. Munir Al-Asra considers the juvenile court to be a social and legal institution of a dual nature, making it both a social and legal agency. This juvenile court therefore seeks to understand the juvenile's social and psychological needs and to compensate for what is lacking in his or her life⁷³.

6-The Juvenile Court as a Dual Social and Legal Institution

In this context, Dr. Munir Al-Asra considers the juvenile court to be a social and legal institution of a dual nature, making it both a social and legal agency. This characterization is based on the fact that most problems brought before juvenile courts have both legal and social dimensions.

The law determines the age of a juvenile and identifies cases of delinquency, whether positive or negative forms of deviance. It ultimately leads to the issuance of an appropriate decision concerning the juvenile after granting the court jurisdiction and establishing the corrective and therapeutic means available to it.

The law also gives the court a social role that allows it to examine the juvenile's condition from social, medical, and psychological perspectives with the aim of eliminating the causes of delinquency and restoring the juvenile's adaptation to the community.

In doing so, the court applies principles of social defence, particularly those relating to abandoning the concept of punishment in favour of corrective means aimed at rebuilding the juvenile's personality⁷⁴.

Like many countries around the world, the Algerian legislator, under the influence of colonial legislation, provided from the early years following independence for juvenile offenders to be tried by special courts known as juvenile courts, distinct from courts dealing with adult offenders. Under the Code of Criminal Procedure enacted in 1966, juvenile courts were established in all provinces of the country.

Following the reorganization of the Algerian penal system in 1972,⁷⁵ the Ministry of Justice decided to establish a special juvenile division at every court in the country. However, the decision was not implemented until 1975 because Such programmes seek to prevent juveniles from engaging in criminal behaviour and to eliminate or reduce the effects of harm where it occurs, particularly in of the shortage of judges.

Criminal law also pursues objectives through programmes specifically developed by bodies concerned with studies aimed at developing legislation relating to juveniles. Such programmes seek to prevent juveniles from engaging in criminal behaviour and to eliminate or reduce the effects of harm where it occurs, particularly in relation to victims, directly or indirectly, throughout society. Traditionally, juvenile criminal courts often disregarded the claims of victims. There was a degree of uniformity in judgments and insufficient recognition and respect for victims on a broad scale. However, new legal systems have become aware of these shortcomings and have increasingly focused on the interests research paper demonstrates that the Algerian legislator has established a special criminal treatment system for juveniles based on recognition of the particularity of their legal and human status and on of victims, assessing their circumstances and future and seeking outcomes that respond to their needs⁷⁶.

Conclusion

The present research paper demonstrates that the Algerian legislator has stablished a special criminal treatment system for juveniles based on ecognition of the particularity of their legal and human status and on the necessity of reconciling the requirements of protecting society with the need to protect, reform , rehabilitate, and reintegrate the juvenile.

Accordingly , punishment has not been made the central element of juvenile criminal treatment . Instead, the legislator has primarily relied upon educational and corrective measures compatible with the nature of this stage of life and with the juvenile's personality and circumstances.

The measures prescribed for juveniles vary between handing the juvenile over to his or her parents, guardian, or a trustworthy person; placing the juvenile under supervision; placing the juvenile in educational or vocational training institutions; placing the juvenile

in medical or educational institutions; or placing the juvenile in appropriate boarding schools. This diversity reflects the legislator's desire to enable the juvenile judge to select the measure appropriate to each juvenile's condition, based on the principle of individualized treatment and without subjecting all juvenile offenders to the same treatment regardless of differences in their circumstances and personalities.

The legislator has also permitted the imposition of penalties upon juveniles over thirteen and under eighteen years of age, but only exceptionally, taking into account the juvenile's circumstances and personality, the seriousness of the offence committed, and the requirement that the judgment provide reasons where measures are replaced or supplemented by a penalty. This confirms that the legislator intended punishment in the juvenile context to remain an exceptional means rather than an end in itself, and that the ultimate objective of the treatment should be reform, rehabilitation, and reintegration.

It has also become clear that the protection afforded to juveniles by the legislator is not limited to the stage of judgment. It extends to investigation and trial, execution, and the post-release stage. Juveniles are provided with specialized courts and procedures suited to their particular circumstances, as well as safeguards concerning investigation, defence, confidentiality, and limitations to punitive or judicial measures. Prevention remains more closely connected with addressing the causes and factors leading to delinquency. In this context, the family is of necessary for their implementation, including strengthening juvenile care institutions, providing specialists in the social, psychological, and educational fields, reinforcing aftercare, and strengthening cooperation among families, courts, and on their placement in penal institutions. The measures are also subject to judicial supervision and may be reviewed and modified according to changes in the juvenile's condition.

Such protection extends beyond release through aftercare and assistance in readapting to family and community life, education, and employment. It is likewise apparent that addressing juvenile delinquency cannot be confined to punitive or judicial measures. Prevention remains more closely connected with addressing the causes and factors leading to delinquency. In this context, the family is of particular importance as the primary environment in which the juvenile's personality develops, alongside the role of schools, social institutions, the media, and juvenile courts in prevention, guidance, and protection.

The paper concludes that the effectiveness of criminal policy concerning juveniles under Algerian legislation does not depend solely upon the multiplicity of legal provisions and prescribed measures. It also requires the practical conditions necessary for their implementation, including strengthening juvenile care institutions, providing specialists in the social, psychological, and educational fields, reinforcing aftercare, and strengthening cooperation among families, courts, and educational and social institutions.

The protection and rehabilitation of juveniles do not constitute an individual interest concerning the juvenile or his or her family alone. They also represent a means of

protecting society, reducing recidivism, achieving genuine social reintegration, and ensuring the juvenile's sustainable adaptation to the environment in which he or she lives.

References :

1 – Mohamed Abdelkader Kwasmia, *Juvenile Delinquency in Algerian Legislation*, National Book Publishing House, n.p., 1992, p. 167. For further reading, see also: Hassan Bouskia, *The Concise Guide to General Criminal Law*, Algeria: Dar Houma, 2nd ed., 2004, p. 28.

2 – A person under eighteen years of age who commits an act that would constitute an offence if committed by an adult. This definition was proposed in 1959 at the Second Meeting of Arab States on Crime Prevention and was adopted by Algeria after independence in the Code of Criminal Procedure of 1966.

3 – Article 9 of the Egyptian Juvenile Law provides: “The juvenile shall be handed over to one of his parents or to the person having parental authority or guardianship over him...” It may be noted that this provision uses the expression “handing the juvenile over to one of his parents,” unlike the Algerian legislator in Article 444(1) of the Code of Criminal Procedure, which provides for “handing the juvenile over to his parents.”

- 4 – Barry Goldson and John Muncie, *Youth Crime and Justice*, Sage Publications, London, 2006, p. 73.
- 5 – Rachal Sondry, *Families Shamed – The Consequences of Crimes for Relatives of Serious Offenders*, Willan Publishing, London, 2007, p. 70.
- 6 – Unlike Article 35(2) of the Iraqi Juvenile Law, which provides that the liability of the person receiving the juvenile arises where the juvenile commits an intentional felony or misdemeanour during the undertaking period, in addition to proof of negligence on the part of the recipient.
- 7 – Unlike the Egyptian legislation of 1937, which required the second offence to occur within one year from the date of handing over the juvenile; if it occurred after that period, the recipient was not subject to punishment.
- 8 – See Article 462(2) of the Algerian Code of Criminal Procedure, as amended by Law No. 82-03 of 13 February 1982.
- 9 – Mohamed Abdelkader Kwasmia, *op. cit.*, p. 173.
- 10 – Article 446 of the Algerian Code of Criminal Procedure.
- 11 – The French Court of Cassation has ruled that procedures concerning *amende de composition* or *amende forfaitaire* do not apply to juvenile offenders.
- 12 – Mohamed Abdelkader Kwasmia, *op. cit.*, pp. 174–175. For further reading, see: Ahmed Ouaine Zineb, *Juvenile Justice: A Comparative Study*, 1st ed., International Scientific House and Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2003, p. 27.
- 13 – Mohamed Abdelkader Kwasmia, *op. cit.*, p. 177.
- 14 – John Muncie and Barry Goldson, *Comparative Youth Justice*, Sage Publications, London, 2006, p. 87.
- 15 – Article 445 of the Algerian Code of Criminal Procedure.
- 16 – See Article 446 of the Algerian Code of Criminal Procedure.
- 17 – Petter Moss and Jennifer Wallace, *A New Deal for Children? Reforming Education and Care in England–Scotland*, Bronwyn Cohen, The Policy Press, London, 2004, p. 2004.
- 18 – Ian Sinclair, Ian Gibbs and Kate Wilson, *Foster Carers: Why They Stay and Why They Leave*, Jessica Kingsley Publishers, London, 2004, p. 180.
- 19 – Simon Creighton, Vicky King, Hamish Arnott, *Prison and Law*, Tottel Publishing, London, 2005, p. 184.
- For further information, see Law No. 04-05 of 27 Dhu al-Hijjah 1425 AH, corresponding to 6 February 2005, concerning the organization of prisons and the social reintegration of prisoners, Articles 1–171.
- 20 – Andri Semi Khodskii, *Dealing with DNA Evidence (A Legal Guide)*, Routledge-Cavendish, London, 2007, p. 53.

- 21 – Alana Barton, Karen Corteen and David Whyte, *Expanding the Criminological Imagination (Critical Readings in Criminology)*, Willan Publishing, London, 2007, p. 122.
- 22 – Paragraphs 2 and 3 of Article 455 of the Code of Criminal Procedure.
- 23 – Stuart Sime, *A Practical Approach to Civil Procedure*, 9th ed., Oxford University Press, London, 2006, p. 42.
- 24 – David Carson, Becky Milne, Francis Parkes and Andrea Shawyer, *Applying Psychology to Criminal Justice*, John Wiley and Sons, London, 2007, p. 156.
- 25 – Steve Tombs and Dave Whyte, *Safety Crime*, Willan Publishing, London, 2007, p. 80.
- 26 – *Ibid.*, p. 81.
- 27 – *Ibid.*, p. 137.
- 28 – Nils Christie, *A Suitable Amount of Crime*, Routledge Publishing, London, 2004, p. 84.
- 29 – John Muncie and Barry Goldson, *Comparative Youth Justice*, Sage Publications, London, 2006, p. 190.
- 30 – Brian Littlechild and Debra Fearn, *Mental Disorder and Criminal Justice – Policy, Provision and Practice*, Russell House Publishing, Bristol/London, UK, 2004, p. 112.
- 31 – Tim Bateman and John Pitts, *Youth Justice*, Russell House Publishing Ltd., London, 2005, p. 107.
- 32 – Rob White and Daphne Habibis, *Crime and Society*, Oxford University Press, London, 2005, p. 7.
- 33 – Richard Stone, *Civil Liberties and Human Rights*, Oxford University Press, London, 2004, p. 115.
- 34 – Augustine Brannigan and George Pavlich, *Governance and Regulation in Social Life*, Routledge Publishing, London, 2007, p. 42.
- 35 – Katherine S. Williams, *Textbook on Criminology*, 5th ed., Oxford University Press, London, 2004, p. 290.
- 36 – Peter Squires, *Community Safety: Critical Perspectives on Policy and Practice*, The Policy Press, University of Bristol, UK, 2006, p. 170.
- 37 – Keg Cases, Jacqueline Martin and Christ Turner, *Evidence*, Hodder Arnold, London, 2006, p. 72.
- 38 – Paul Roberts and Adrian Zuckerman, *Criminal Evidence*, Oxford University Press, London, 2004, p. 22.
- 39 – Rodrick Munday, *Evidence*, Oxford University Press, New York/London, 2005, p. 119.
- 40 – Jacqueline Martin and Chris Turner, *The English Legal System: The Comparative Guide to All the Facts*, Hodder Arnold, London, 2005, p. 76.
- 41 – Roger Graef, *Why Restorative Justice? (Repairing the Harm Caused by Crime)*, Calouste Gulbenkian Foundation, London, 2002, p. 10.

- 42 – Jones Dinan, *Understanding Victims and Restorative Justice*, Open University Press, London, 2005, p. 106.
- 43 – *Punishment and Politics: Evidence and Emulation in the Making of English Crime Control Policy*, Willan Publishing, London, 2004, p. 139.
- 44 – Abdullah Suleiman Suleiman, *The General Theory of Preventive Measures: A Comparative Study*, National Book Publishing House, Algeria, 1990, p. 480.
- 45 – *Ibid.*, p. 480 et seq.
- 46 – Lord Windlesham, *Dispensing Justice: Responses to Crime*, Vol. 4, Clarendon Press International Ltd., Padstow, Cornwall, Oxford, UK, 2001, p. 238.
- 47 – Articles 50 and 444 of the Algerian Penal Code.
- 48 – R. Bull and C. Cooke, *Criminal Psychology*, R. Hatcher and J. Woodhams, One World Publications, London, 2006, p. 134.
- 49 – Abdullah Suleiman Suleiman, *op. cit.*, p. 501. For further reading, see:
Dr. Noura bint Bashir Sanhat Al-Otaibi, *Social Care Services in Riyadh Prison from the Perspective of Planning and Development*, Riyadh, 2009, p. 91 et seq.
Samati Al-Tayyib, *Protection of the Rights of Crime Victims during Criminal Proceedings under Algerian Legislation*, Al-Badi' Foundation, Algeria, 2008.
Zineb Ahmed Ouaine, *Juvenile Justice in Jordan*, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2003, p. 108.
- 50 – Kevin Gorman, Marilyn Gregory, Michelle Hayles and Nigel Paton, *Construction Work with Offenders*, Jessica Kingsley Publishing, Philadelphia/London, 2006, p. 60.
- 51 – John Braithwaite, *Crime, Shame and Reintegration*, Cambridge University Press, London, 1989, p. 226.
- 52 – Basia Spalek, *Crime Victims (Theory, Policy and Practice)*, Palgrave Macmillan, London, UK, 2006, p. 183.
- 53 – Churchill Livingstone and Gwenneth Hegarty, *Intimate Partner Abuse and Health Professionals (New Approaches to Domestic Violence)*, Genefeder, London, 2006, p. 174.
- 54 – Sondra Walks Hate, *Victims and Victimology*, Willan Publishing, London, 2007, p. 164.
- 55 – Brian Williams, *Victims of Crime and Community Justice*, Jessica Kingsley, London, 2005, p. 104.
- 56 – Maira Peelo and Keith Soothill, *Questioning Crime and Criminology*, Willan Publishing, London, 2004, p. 29.
- 57 – *Ibid.*, p. 65.
- 58 – Andrew Ashworth and Mike Redmayne, *The Criminal Process*, 3rd ed., Oxford University Press, London, 2005, p. 57.
- 59 – David Lazear, *Higher-Order Thinking: The Multiple Intelligences Way*, Crown House Publishing Limited, London, 2005, p. 19.

- 60 – Dennis M. McInerney, *Understanding and Using Motivation in the Classroom: Information Age Helping Kids Achieve Their Best*, USA Publishing, 2005, p. 88.
- 61 – Robert Fisher and Nelson Thormers, *Teaching Children to Think*, United Kingdom, London, 2005, p. 59.
- 62 – Jon Ord, *Youth Work Process, Product and Practice (Creating an Authentic Curriculum in Work with Young People)*, Russell House Publishing, London, 2007, p. 63.
- 63 – Graham J. Towl, *Psychological Research in Prison*, Blackwell Publishing, London, 2006, p. 192.
- 64 – Abdullah Ouhabia, *Commentary on the Code of Criminal Procedure (Investigation and Inquiry)*, Dar Houma, Algeria, 2008, p. 101.
- 65 – Article 330 of the Algerian Penal Code.
- 66 – David Fraser, *Criminals' Inside Views of Crime, Punishment and Justice*, Book Guild Publishing, Sussex, England/London, 2006, p. 136.
- 67 – Ben Bowling and Coretta Phillips, *Racism, Crime and Justice*, Pearson Education, London, 2006, p. 251.
- 68 – Dr. Ahsen Mubarak et al., *Modern Systems in the Management of Penal and Correctional Institutions*, Naif Arab University for Security Sciences, Riyadh, 1999, p. 156.
- 69 – Mohamed Abdelkader Kwasmia, *op. cit.*, 1992, p. 251.
- 70 – *Ibid.*, p. 255.
- 71 – Dardous Makki, *Concise Introduction to Penology*, University Publications Office, Constantine, Algeria, 2010, p. 187.
- 72 – Zaidouma Drias, *Protection of Juveniles under the Code of Criminal Procedure*, Dar Al-Fajr for Publishing and Distribution, Cairo, 2007, p. 176.
- 73 – *Ibid.*, p. 177 et seq.
- 74 – Dr. Munir Al-Asra, *Juvenile Care and the Problem of Rehabilitation*, Modern Egyptian Office, undated, p. 216.