

The challenges facing institutions in combating juvenile delinquency

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Abstract:

The aim of combating juvenile delinquency is to redirect the energies of young individuals towards positive aspects (cultural, sports, artistic activities) in order to strengthen their abilities, provide psychological and moral support, encourage them to strive for improvement, and eliminate negative emotions they may experience (fear, hostility, guilt, inferiority). It involves keeping them away from troublesome situations and teaching them emotional control.

The approach to combating juvenile delinquency takes into consideration the uniqueness of each case and its underlying causes, seeking to modify the behaviors of minors through clarification, persuasion, emphasizing self-understanding and boundaries (what they have and what they lack), and modifying their negative and aggressive behaviors. It involves addressing impulsive responses and behaviors through advice and suggestions (punishing negative behavior and reinforcing desired behavior).

Keywords:Combating Juvenile Delinquency, Delinquency, Juvenile Department.

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1. Introduction

Crime in society is not a recent phenomenon; ancient societies also suffered from it. It was defined by the laws of different eras to regulate living within tribes and clans without official authority. The presence of crime has never been completely eliminated by the police, courts, prisons, and communities, due to the conflicting interests that arise between them and the competition to meet their needs.

Despite a series of social changes affecting both ancient and modern communities, the phenomenon of crime still dominates the legal system. This is because it disrupts human relationships and undermines shared values.

Study problem:

The problem of this study can be formulated in the following main question:

What have Algerian institutions done to combat juvenile delinquency?

Study importance:

In terms of importance, it continues to be of interest to sociologists and psychologists. With the changing habits and threats to the state and legal authority, this development takes various forms, especially concerning young people and those who commit crimes. It is noteworthy that juvenile delinquency is most prevalent among juveniles, and most adult criminals started their criminal lives during adolescence.

2. The concept of juvenile delinquency

2.1 Delinquency

The concept of delinquency refers to sin, crime, or wrongdoing (Al-Khouli, 2011, p. 175). Delinquency manifests in behaviors that are not in line with social norms. It involves the commission of acts punishable by law that jeopardize the safety and security of society, which is considered either severe deviance or criminal deviance. This behavior is commonly referred to as delinquency. One of the most widely used definitions, provided by researcher Cohen, defines delinquency as "deviant behavior that violates institutional and group norms recognized and legitimized by a group of individuals." The repeated actions carried out by the delinquent distinguish them from others and warrant legal measures against them (Mohsen, 1999, p. 86).

Psychologist Cyril Burt defined delinquency as a state that exists in an individual whenever they demonstrate serious counter-social tendencies that make them, or could make them, subject to official intervention (Aween, 2009, pp. 22-23).

Juvenile delinquency refers to the involvement of adolescents in unlawful behavior, typically under the age of 18, where they commit acts that are considered crimes. A child is considered delinquent when they commit an offense that violates the law and is not accepted by society. However, sociologists view the concept of juvenile delinquency on a broader scale, believing that it encompasses a wide range of violations of legal and social norms, ranging from minor offenses to serious crimes committed by juveniles. According to a social specialist, delinquency consists of socially unacceptable deviant acts, while a psychiatrist suggests that deviant behavior is an activity that deviates from the norm.

Therefore, deviance itself is socially inappropriate behavior by juveniles in challenging situations. The factors that contribute to these challenging situations can impact and cause psychological pressures on juveniles' social adaptation, particularly regarding material and social circumstances. This is because all crimes that occur result from a complex set of causes, some of which precede the commission of the crime by many years, while others are more immediate and directly linked to the underlying deviant factors.

2.2 *The concept of juvenile*

The word "juvenile" is derived from the Latin term "Juvenis," which means young or youthful (Sahmey, 2013, pp. 3-4). In Arabic, dictionaries agree that a juvenile is a young person, and when referring to age, it is called "hadith al-sinn" (young age), and "ghulamanhadthan" (young boys). The term "juvenile delinquency" specifically refers to a type of behavior associated with young age (Jaafar, 2004, p. 31).

In the social context, a juvenile refers to a person from birth until they reach social and psychological maturity. It encompasses the elements of maturity, which include a complete understanding of one's work and the ability to adapt behavior and actions according to the surrounding circumstances and the requirements of social reality. A juvenile is a child or teenager who exhibits behavior deviating from the accepted societal norm (Issa, 1963, p. 49). Some sociologists consider a delinquent juvenile as a person who engages in social actions deemed deviant or non-conforming based on prevailing social and legal standards, with the understanding that these actions are acquired from society.

Sociologists describe delinquent juveniles as victims of particular circumstances characterized by instability and social unrest, often related to low living standards they experience (Touq, 1978, p. 10).

The legal definition of a juvenile varies according to different societies and their respective legislation, which is based on the social and cultural aspects of those countries and communities when determining the age of distinction and reaching the age of maturity (Law No. 15-12, 2015, p. 04).

In Algerian law, the concept of a juvenile is defined as a person who has not reached the age of 18. Criminal responsibility begins at the age of 18, while civil responsibility begins at the age of 19.

Algerian legislation recognizes limited responsibility for juveniles by granting them special care when they commit offenses. This legislation distinguishes between two age groups: juveniles under the age of 13, considered immature and therefore not accountable and exempt from imprisonment, and juveniles between the ages of 13 and 18, who are considered partially responsible for their actions and subject to half the penalties imposed on adults.

3.Specialized Courts for Juveniles

3.1 The Role of Juvenile Courts

Modern legislation distinguishes between the treatment of child offenders and adult offenders, providing special judgments and appropriate penalties for juvenile offenders. These measures primarily focus on applying suitable measures to the personality of the delinquent, with the aim of assisting and rehabilitating them. This development is a logical progression based on humanitarian and logical considerations, recognizing that punishment, even if mitigated, is a definite detriment to the young individuals who are still in the process of growth. It is an ineffective tool for achieving deterrence or justice, as it exposes juvenile offenders to prison, association with criminals, and the reinforcement of criminal tendencies.

This highlights the concern of societies for children, leading to the call for the establishment of specialized courts capable of understanding and dealing with the child's personality. Juvenile courts have a distinct philosophy that differs from that of regular courts. Their goal is no longer simply to enforce punishments for violations of the law. Instead, they have shifted away from this traditional view, influenced by the principles of the social defense school, especially the rejection of the concept of punishment. Their focus is on new ideas, such as addressing the potential criminal danger in the child and attempting to reform and rehabilitate them.

Juvenile courts are tasked with selecting the appropriate rehabilitative measures that suit the child's individual circumstances, regardless of the type of committed crime or the harm resulting from their deviant behavior. The Algerian legislator has allocated specific procedures for delinquent children within a dedicated department called the "Department for Juveniles" in the court system. This is stipulated in Article 447 of the Code of Criminal Procedure, where this department handles cases involving children within the court's jurisdiction at the local level.

Articles 451-455 of the Code of Criminal Procedure have outlined the courts' procedures, requirements, and necessary follow-up when dealing with juvenile cases. Other legal provisions have also provided the child with all the guarantees to ensure a fair trial. The objective is to reveal the child's personality and keep them away from the atmosphere of adult courts, which might pose a risk of mistreatment or hinder their reintegration into society (Abad Allah, 1990, p. 486).

3.2 Composition of the Juvenile Department

At the head of the Juvenile Department is the Juvenile Judge, who is known for their competence, experience, and educational inclination towards dealing with children's deviant behavior. To be an effective and qualified Juvenile Judge responsible for the Juvenile Department, they must have extensive knowledge in modern education (Baghdadi, 1992, p. 437).

According to Article 450 of the Code of Criminal Procedure, the Juvenile Judge presides over this department, along with two appointed lay judges for a period of three years, based on a decision

by the Minister of Justice. These appointed judges must meet specific legal requirements, including being over the age of thirty, Algerian nationals, and demonstrating their interest and knowledge in children's affairs.

The law stipulates that the lay judges must take an oath before the court, committing to perform their duties with diligence, honesty, and maintain their religious and moral beliefs throughout their work. The selection of these lay judges is based on a list prepared by a committee established within each judicial council, outlining their formation and working methods through a decree.

The Juvenile Department is specifically responsible for adjudicating offenses committed by children, as stated in Article 451, paragraph 1 of the Code of Criminal Procedure. This jurisdiction applies to each judicial district, and the regional Juvenile Department is the court where the crime was committed within its jurisdiction or where the child, their parents, guardians, or the place where the child was found or placed temporarily or permanently resides.

The Juvenile Department, located at the Judicial Council headquarters, is responsible for adjudicating felonies committed by children, as stated in Article 451, paragraph 2 of the Code of Criminal Procedure. This jurisdiction is considered specialized because the legislator differentiates between the types of crimes committed by children and designates the Juvenile Department of the court to handle the misdemeanors committed by children within the court's jurisdiction.

Therefore, it can be said that while juvenile courts, in general, apply procedures aimed at protecting, educating, and rehabilitating child offenders, they also have the legal authority to issue criminal judgments against them. As previously mentioned, given the active role played by the Juvenile Judge, it is essential to select qualified individuals who have knowledge of children's affairs and their issues, in addition to their expertise in this field. The Algerian legislator has granted the Juvenile Judge powers specified in Article 455 of the Code of Criminal Procedure and other relevant provisions. The Juvenile Judge is authorized, among other things, to temporarily hand over the delinquent child to:

- Their parents, guardians, or custodians.
- A shelter center.
- A specialized organization for this purpose.
- The social service department responsible for child care or refuge.
- An institution for rehabilitation, vocational training, or therapy under state supervision.

If the Juvenile Judge deems it necessary to conduct a thorough examination of the physical and mental condition of the child offender, they may order their temporary placement in an accredited observation center. In certain circumstances, the Juvenile Judge may directly impose

temporary supervision under a release with monitoring system. The supervision measures can be revoked at any time. It is prohibited to place a child offender who has not reached the age of thirteen in a correctional facility, even temporarily. Similarly, a child offender between the ages of thirteen and eighteen cannot be temporarily placed in a correctional facility unless such measures are necessary or no other alternatives are available. In such cases, the child is held in a separate wing or a designated area and subjected, as much as possible, to a nighttime isolation regime.

If the Juvenile Judge determines that the facts do not constitute an offense or violation, or if there is insufficient evidence against the accused, they may issue an order for no further proceedings, subject to the conditions specified in Article 163 of the Code of Criminal Procedure.

In accordance with Law 15-12, particularly Article 48, a child under the age of thirteen cannot be subject to pretrial detention if they are suspected of committing or attempting to commit a crime ([Law No. 15-12, 2015](#)).

If the initial investigation warrants it, the judicial police officer must detain, for further proceedings, a child who is at least thirteen years old and suspected of committing or attempting to commit a crime. The officer must immediately inform the Public Prosecutor and provide a report on the grounds for detention.

The duration of pretrial detention should not exceed twenty-four (24) hours and can only occur for misdemeanors that clearly violate public order or for crimes with a maximum penalty exceeding five (5) years of imprisonment.

The extension of pretrial detention is subject to legal conditions and criteria provided for in the law. Each extension of pretrial detention should not exceed twenty-four (24) hours.

Violation of the provisions regarding pretrial detention, as mentioned in the previous paragraphs, exposes the judicial police officer to penalties for arbitrary detention, in accordance with Article 49 of Law 15-12 ([Law No. 15-12, 2015](#)).

According to Article 50, as soon as a child is detained for further proceedings, the judicial police officer must promptly inform their legal representative through all available means and ensure that the child has means to immediately contact their family and lawyer, as well as receive visits from them in accordance with the provisions of the Code of Criminal Procedure. The child should also be informed of their right to request a medical examination during pretrial detention.

Furthermore, Article 80 of the same law states that the Juvenile Department consists of the Juvenile Judge as the presiding judge, and two (2) lay judges who are either the Public Prosecutor or one of their assistants. An administrative clerk assists the Juvenile Department during sessions. The original and reserve lay judges are appointed for a period of three (3) years by order of the competent Judicial Council President. They are selected from individuals over the age of thirty (30), holding Algerian citizenship, and known for their interest and expertise in children's affairs.

The lay judges are chosen from a list prepared by a committee established within the Judicial Council, and their composition and working methods can be extended or modified by a decision of the Minister of Justice.

4. Trial of Juveniles

4.1 Establishing Criminal Responsibility for Juveniles

It is not permissible to treat a delinquent child as an adult criminal. Due to the nature of their mental and physical development, children require special treatment aimed at their rehabilitation and reformation. The stage of adolescence progresses in terms of responsibility through several stages, where appropriate procedures are applied accordingly. One of the pillars of criminal responsibility is the presence of discernment in the perpetrator. Therefore, a minor is not criminally responsible for their actions until discernment is evident in them. Once discernment is present in the minor, it does not occur all at once but gradually. Full discernment is only attained after a period of time during which the minor's understanding matures, their ability to comprehend the external world is completed, and they acquire a sufficient level of experience.

If the legislator recognizes the gradual maturity of minors, they must also acknowledge the corresponding gradual increase in their responsibility. Responsibility begins in a reduced form and increases as the child approaches maturity. When the child reaches full maturity, they bear responsibility for their actions.

The Algerian legislation has not remained immune to global developments concerning juveniles. It addresses juvenile delinquency in two main areas:

- Law 72-03 dated February 20, 1972: This law aims to protect juveniles who are exposed to moral danger ([Law No. 72-03 , 1972](#)).
- The Code of Criminal Procedure: In addition to specific provisions in the Penal Code, Law No. 66-156 dated June 8, 1966, addresses juvenile offenders in articles 49, 50, and 51 ([Order No. 11-14, 2011](#)). It also includes regulations related to prisons and reformation in Law No. 72-02 dated February 10, 1972, specifically in Article 12 ([Law No. 72-02, 1972](#)). Furthermore, Law No. 72-03 dated February 20, 1972, concerning specialized centers and accommodation facilities responsible for the care of children and juveniles, also contains relevant provisions ([Law No. 72-03 , 1972](#)).

The following are the most important articles in Algerian legislation that determine the age of juveniles.

- The Code of Criminal Procedure, in Article 442, states: "The age of criminal majority shall be attained upon reaching the age of eighteen." In Article 427, it is stated, "In cases of crimes and offenses, measures of protection or correctional measures, or a combination thereof, may be taken against juveniles who have not reached the age of 18." Furthermore, Article 445 confirms that, in

exceptional cases, for juveniles over the age of thirteen, the measures specified in Article 444 may be replaced or supplemented with fines or imprisonment as stipulated in Article 50 of the Penal Code, if deemed necessary due to circumstances or the character of the juvenile offender. This decision must include specific reasons for this point. The Child Protection Law, in its first article, states that minors who have not reached the age of twenty-one and whose health, morals, upbringing, or lives are at risk, or whose behavior is harmful to their future, may be subject to protective and educational measures ([Khalayfiya, 2012, p. 139](#)).

- The Penal Code, in Article 49, states that minors who have not reached the age of thirteen shall only be subject to protective or educational measures. However, in cases of offenses, the minor shall only be subject to reprimand. Minors aged thirteen to eighteen may be subject to protective or educational measures or lenient punishments. It is clear from this article that minors below the age of thirteen are not qualified for criminal responsibility but are subject to protective or educational measures. This article demonstrates that the judge has the authority to decide on matters concerning minors below the age of thirteen.

In this regard, Algerian legislation relating to delinquent juveniles distinguishes between juvenile offenders and major criminals, showing significant concern for the full rights of juveniles in care and guidance. We will further clarify this concern in the following points.

Then came ([Law No. 15-12, 2015](#)), dated 28 Ramadan 1436, corresponding to 15 July 2015, concerning the protection of children. Article 2 of this law states: "In the context of this law, the term 'child' refers to any person who has not reached the age of eighteen (18) years complete. The term 'juvenile' has the same meaning."

According to this law, a delinquent child is defined as a child who commits a criminal act and is not less than ten (10) years old. The age is determined based on the day the crime was committed.

The age of criminal majority is defined as reaching the age of eighteen (18) years complete. The age of criminal majority is determined based on the age of the delinquent child on the day the crime was committed, in accordance with the provisions of Article 2 of the aforementioned Law No. 15-12 ([Law No. 15-12, 2015](#)).

4.2 Trial Procedures for Juveniles

The majority of Arab legislations include clear provisions to prevent the disclosure of the child's name, address, or school name. It is also prohibited to publish their photo or publicize trial proceedings through any means of communication in order to protect the child from harm to their reputation or defamation, and to avoid the negative repercussions that may arise, which contradict the principle of the public interest recognized in comparative Arab children's legislation when dealing with juvenile delinquency cases.

It is evident that maintaining the confidentiality of juvenile trials is an exception to the general rule of open court sessions, which is a fundamental principle of procedural legitimacy. It allows for oversight of the judiciary's performance, which should issue judgments with impartiality, impartiality, and full respect for the rights of all parties without discrimination. This exception becomes particularly relevant in children's cases, as the principle of publicity can cause harm to the child by stigmatizing them and affecting their psychological well-being. It may lead to reactions such as introversion, shyness, fear, or even adopting defensive behaviors to enhance their self-perception. Therefore, in order to safeguard the child's best interests and mitigate potential complications, the principle of publicity is sacrificed in favor of child protection (Al-Awji, 1986, p. 218).

According to Algerian legislation, the proceedings are conducted in secrecy, and the parties to the case, including the juvenile offender, the civil plaintiff, and the person responsible for the child, are heard. The child must attend the session if the court decides so, accompanied by their legal representative and lawyer. Testimonies of witnesses are heard if necessary, following the usual procedures.

However, if it is in the best interest of the child not to attend the session, the court may exempt them from attendance. In this case, the child is represented by their lawyer or legal representative, and the decision of the juvenile division is considered valid.

If it becomes evident during the oral pleadings that the crime is not proven against the accused, the juvenile division will pronounce an acquittal. If the pleadings prove the guilt of the accused, the juvenile division will pronounce a judgment accordingly, admonishing the child and subsequently handing them over to their parents, guardian, or the person responsible for their upbringing.

In the case of a minor who has been abandoned by their parents, the juvenile division may order the placement of the child under the supervision of the parole system or temporarily subject them to a specified or indeterminate period of testing until they reach the age of 19, taking into account the provisions of Article 445 of the Code of Criminal Procedure. The juvenile division is also authorized to include an expedited enforceability clause in this decision, notwithstanding any appeal.

The decision is issued in a closed session, as stipulated in Article 463, Paragraph 1 of the Code of Criminal Procedure. It is possible to appeal this decision within ten days of its pronouncement, and the appeal is submitted to the juvenile division chamber of the judicial council, as provided for in Article 472 of the Code of Criminal Procedure.

Each case is considered separately, without the presence of the other defendants, and only the witnesses involved in the case, close relatives of the child, members of the National Bar

Association, representatives of associations concerned with children's affairs, and authorized delegates and judicial personnel are allowed to attend the session and the pleadings.

According to (Law No. 15-12, 2015), particularly Article 82, the pleadings are conducted in a closed session before the juvenile division. The juvenile division renders its decision after hearing the child, their legal representative, the victims, witnesses, the public prosecutor, and the lawyer. It is also permissible for the original perpetrators of the crime or adult accomplices to be heard for the purpose of evidence.

The juvenile division may exempt the child from attending the session if it is in their best interest. In this case, their legal representative, accompanied by their lawyer, represents them, and the judgment is considered valid. The president of the division may order the child to withdraw from all or part of the pleadings at any time.

If it becomes apparent that the crime under consideration by the juvenile division, as a misdemeanor, is actually a felony, the juvenile division that does not have jurisdiction must refer it to the appropriate court. In such cases, the juvenile division may, before making a decision, order a supplementary investigation, with an investigating judge responsible for juvenile cases assigned to handle it.

According to Article 83, the juvenile division decides each case separately, without the presence of the other defendants. Only the child's legal representative, their second-degree relatives, witnesses involved in the case, victims, judges, members of the National Bar Association, and, when necessary, representatives of associations and organizations concerned with children's affairs and designated child protection delegates are allowed to attend the pleadings.

In accordance with Article 91 of (Law No. 15-12, 2015), each judicial council has a juvenile division chamber. The juvenile division chamber consists of a president and two advisors appointed by the president of the judicial council from among the judges known for their interest in childhood matters or those who have served as juvenile division judges. The sessions are attended by a representative from the public prosecutor's office and a court clerk.

Additionally, Article 92 states that the juvenile division chamber conducts proceedings according to the procedures specified in Articles 81 to 89 of this law.

Regarding appeals, Article 93 stipulates that the president of the juvenile division chamber grants authority to the juvenile division judge in accordance with Articles 67 to 71 of this law.

Provisions from Articles 417 to 428 of the Code of Criminal Procedure apply to appeals against the orders of the juvenile division judge and judgments of the juvenile division regarding offenses, misdemeanors, and felonies committed by children. This is in accordance with the provisions of Article 94 of (Law No. 15-12, 2015) mentioned above.

5. CONCLUSION

There is no doubt that juvenile delinquency is a social phenomenon present in all societies. The historical perspective on this issue has varied, with delinquent minors in the past being considered criminals deserving punishment.

Modern societies, however, have undoubtedly realized that minors are often victims of social circumstances that lead them to deviance and maladjustment. This problem has been exacerbated in our era due to the advancements in civilization and industry, especially in developing societies. These advancements have had an impact on the structure and cohesion of families. Additionally, there has been an increase in individual demands, exposure to environmental temptations, rising living costs, and the problems resulting from these conditions, such as work issues, unemployment, migration, housing, and others. These factors have created new opportunities for youth delinquency and increased crime rates.

Therefore, Algeria has taken measures through its educational institutions to combat this issue and expedite its treatment using both deterrent and educational mechanisms.

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