Punitive Enforcement for Juvenile Offenders: A Legal Guarantees Perspective

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Abstract:

Juvenile delinquency is one of the most pressing contemporary legal issues, due to the child's vulnerable status and the need to distinguish them from adults. The importance of this topic lies in its direct role in shaping a fair criminal policy that upholds the best interests of the child. This study aims to highlight the legal safeguards granted to juveniles during the sentencing phase, with a focus on Algerian legislation. The research concludes that effective protection of juvenile offenders requires the proper legal and practical enforcement of these safeguards to ensure their successful reintegration into society.

Keywords: Juvenile delinquency, Child protection, Alternative sanctions, Algerian legislation, Reintegration

INTRODUCTION

Juvenile delinquency and the legal procedures and treatment associated with it are among the most significant topics of interest in legal studies, particularly in modern times. Legal scholars and criminologists have

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paid close attention to this subject, dedicating considerable effort to analyzing and interpreting juvenile deviance through legal, social, and scientific approaches.

These efforts have had a profound impact on the development of criminal legislation. Many countries have introduced separate legal systems for juvenile offenders, characterized by flexibility and a specialized nature that distinguishes them from those applied to adults. This specificity extends to all stages of criminal procedure—from investigation and inquiry, through trial, to the execution of sentences. These systems aim to safeguard the best interests of the child and maintain a balance between protection and deterrence.

The Convention on the Rights of the Child has affirmed this approach, emphasizing the importance of treating juveniles in a manner that respects their dignity, promotes their reintegration into society, and recognizes their potential for reform[1]**,** The Convention on the Rights of the Child emphasizes the need for specific legal safeguards for juvenile offenders, particularly in Article 40, which states:

"States Parties shall seek to promote the establishment of laws, procedures, authorities, and institutions specifically

[1] - The Convention on the Rights of the Child, 1989, adopted and opened for signature, ratification, and accession by United Nations General Assembly Resolution 44/25 dated 20/11/1989. Published at: https://www.unicef.org/arabic/crc/files/crc_arabic.pdf. Algeria ratified the Convention through Presidential Decree No. 92-461 dated 19/12/1992, Official Gazette No. 91, issued on 23/12/1992

applicable to children alleged as, accused of, or recognized as having infringed the penal law. In particular, they shall: (a) establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law..."

In line with their obligations under the Convention, most national legal systems have moved toward giving special attention to juvenile offenders. This has been done by adopting criminal procedures that take into account the child's age, psychological condition, and social environment. These procedures aim to ensure that the child is treated in accordance with the principle of the "best interests of the child."

Within this framework, the Algerian legislator has introduced special protections for this category of children. These are found in the Penal Code, particularly in Articles 49 (as amended), 50, and 51[1].

which enshrines the principle of progressive responsibility of juvenile delinquents, or through the Law on the Organization of Prisons and the Social Reintegration of Detainees[2], chapter V of which is devoted to the re-education and reintegration of juveniles.

[1]- Ordinance No. 66-156 dated 08/06/1966, includes the Algerian Penal Code. Official Gazette No. 49, issued on 11/06/1966, as amended and supplemented.

[2]- Law No. 05-04 of 06/02/2005 concerning the Organization of Prisons and the Social Reintegration of Prisoners. Official Gazette No. 12, issued on 13/02/2005.

This protection was further reinforced by Law No. 15-12 concerning child protection. The law includes a set of preventive, punitive, and procedural provisions aimed at ensuring comprehensive protection for the child. This is particularly important in cases where the child is exposed to delinquency or danger. These measures align with Algeria's international commitments in the field of child rights protection[1].

Although the juvenile offender is, from a legal perspective, considered the perpetrator of a crime, his status as a minor requires the legislator to adopt a distinct approach. This approach is based on a set of legal principles that differentiate between minors and adults in terms of responsibility and punishment. It also emphasizes the principle of appropriateness, which requires the criminal justice process to be adapted to the juvenile at every stage of the proceedings—from investigation and prosecution to the execution of the sentence.

The stage of sentencing execution is one of the most sensitive phases of the criminal justice process. It involves a direct impact on the individual's freedom and dignity. For this reason, it receives special attention from the legislator, particularly when dealing with juvenile offenders. In this regard, the Algerian legislator has enacted several legal provisions aimed at ensuring that

[1]- Law No. 15-12 dated 15/07/2015 on Child Protection. Official Gazette No. 39, issued on 19/07/2015

minors receive special treatment during the execution of their sentences. These provisions seek to strike a balance between the need for deterrence and the goals of rehabilitation and reintegration, while also preventing punishment from becoming a tool that reinforces delinquency instead of correcting it.

Based on the above, the following central question arises:

What are the legal guarantees provided to juvenile offenders during the execution of sentences under Algerian law?

To address this question, the article will follow a methodological structure built around two main axes:

First Section: Principles of Criminal Protection for the Juvenile Offender

Second Section: Aspects of Protecting the Juvenile Offender During Sentence Execution

First Section: Principles of Legal Protection for the Juvenile Offender

Many legal systems, both national and international, have enacted specific provisions to establish distinct legal protection for children. This is due to their special condition, marked by incomplete physical and mental development, as well as limited ability to perceive and distinguish.

This approach is particularly clear in the criminal treatment of juvenile offenders. The laws seek to balance the need to hold children accountable for their actions with the requirements to protect them and guide them toward proper behavior.

To achieve this, various legal systems have adopted principles that affirm the unique status of juvenile offenders. These include the principle of graduated criminal responsibility (first), and the principle of mitigating punishment (second).

First: Graduated Criminal Responsibility for the Child

A child's criminal responsibility is based on the principle of gradation. This principle is widely accepted in modern legislations. It is grounded in the changing psychological and mental characteristics of the child at different stages of growth.

Accordingly, the stages of criminal responsibility are divided into three successive phases. These differ according to the child's age and mental maturity. They include:

1. The stage of non-responsibility
2. The stage of diminished responsibility
3. The stage of full responsibility

These stages are detailed as follows:

1. The Stage of Non-Responsibility

The condition of non-responsibility applies to two groups of individuals. The first group includes those affected by mental illness or intellectual disability that impacts their perception and behavior. The second group includes children whose mental and psychological development is incomplete due to their young age. This latter group is the focus of this study.

The period of non-responsibility for a child lasts from birth until reaching the age of discernment. During this time, the child bears no criminal responsibility, even if they commit an act that constitutes an offense or crime under the law. This is because their will is legally disregarded, as it lacks the element of discernment, or the freedom of choice, or both[1]

The Algerian legislator considers that a child under the age of ten lacks the capacity for understanding. Therefore, such a child cannot bear criminal responsibility. This principle is established in the amended Article 49/1 of the Criminal Procedure Code[2],It states as follows: "A minor who has not reached the age of ten shall not be subject to criminal prosecution." These provisions correspond to Article 56 of the Child

[1]- Ali Mohamed Jaafar, Protection of Juvenile Offenders and Children at Risk of Delinquency: A Comparative Study, University Institution for Studies, Publishing and Distribution, Beirut, 2004, p. 123.
[2]- Ordinance No. 66-156 dated 08/06/1966, including the Penal Code, as amended. Previously cited.

Protection Law[1],It states that "a child who has not reached the age of ten (10) shall not be subject to criminal prosecution." Accordingly, the period before a child reaches the age of ten is considered free of criminal responsibility due to the absence of criminal capacity.[2].A child who commits a felony or misdemeanor before reaching the age of ten (10) is not subject to criminal prosecution[3],At this stage, young age is considered evidence of the absence of discrimination, and thus the absence of criminal responsibility. Non-responsibility here means that no legal action is taken against the child, whether in the form of punishment or other measures.

Young age acts as a barrier to criminal responsibility if the child has not reached ten years old. However, if the child is between ten and under thirteen years old, this barrier is lifted. The child becomes responsible for actions committed during this period, but this responsibility is mitigated.

In this context, the child is subject to protective or educational measures, according to Article 49/2 (as amended) of the Algerian Penal Code, which states: “No measures shall be imposed on a minor aged ten to under thirteen except protective or corrective measures.”

[1]- Law No. 15-12 dated 15/07/2015 on Child Protection. Previously cited.
[2]- Criminal capacity refers to a person’s ability to understand the nature of their actions and to assess their consequences. See: Ahmed Fathi Sorour, Principles of Criminal Law, (Publisher not indicated), Cairo, 1972, p. 425.
[3]- Mohamed Ali Skiker, Children’s Rights in Religious Laws and Legislation, Dar Al-Jumhuriya Press, Cairo, 2006, p. 190.

Article 57 of the Child Protection Law confirms this rule by stating: "A child aged ten to under thirteen at the time of committing the offense shall only be subject to protective and corrective measures."

If the child commits a minor offense, only reprimand is applied. Article 9/3 (as amended) of the Algerian Penal Code provides: "In cases of minor offenses, only reprimand shall be imposed."

2. Stage of Diminished Responsibility

At this stage, the child reaches the age of discernment. The child becomes capable of understanding the nature of their actions and aware of their legal consequences. Therefore, ignorance of the law cannot be used as an excuse.

However, the legislator, considering the child's youth and immaturity, decided to exclude severe punishments such as the death penalty and life imprisonment. Some other punishments prescribed for adults are also mitigated. Additionally, some penalties may be replaced by reformative measures[1].

This stage, according to Algerian legislation, extends from the age of thirteen (13) until the age of eighteen (18). The mitigating aspects of criminal responsibility during this phase are reflected in the provisions granted

[1]- Ali Mohamed Jaafar, Protection of Juvenile Offenders and Children at Risk of Delinquency. Previously cited, p. 151.

by the legislator to this group of children. Article 49/4, as amended in the Penal Code, states: "A minor who has reached the age of 13 up to 18 years is subject either to protective measures, disciplinary measures, or mitigated penalties." Article 50 of the same law further stipulates: "If it is ruled that a minor between the ages of 13 and 18 is subject to a criminal sentence, the punishment shall be as follows: if the imposed penalty is death or life imprisonment, it shall be commuted to imprisonment for a term ranging from ten to twenty years. If the penalty is temporary imprisonment or detention, the sentence shall be half the duration that would be imposed if the offender were an adult." Likewise, Article 51 specifies: "In matters of misdemeanors, a minor aged between 13 and 18 shall be sentenced either to reprimand or a fine".

3. Stage of Full Responsibility This stage begins when the juvenile reaches the full age of eighteen (18). At this point, the individual is legally considered an adult under criminal law. The legislator has set this age in Article 2 of the Child Protection Law, which states: "The age of criminal majority is eighteen (18) full years." Once the juvenile reaches the age of eighteen, they become fully liable for criminal responsibility, along with all the legal consequences that follow[1],All penalties stipulated in the Penal Code apply to the individual for the crimes committed. The individual does not benefit from any

[1]- Mahmoud Suleiman Moussa, Juvenile Criminal Procedures: A Comparative Study in Arab Legislation and French Law in Light of Modern Criminal Policy Trends, University Publications House, Alexandria, 2008, p. 167.

sentence reduction, except as permitted by the general provisions of the Penal Code.

Accordingly, at this stage, the person is excluded from the special provisions applicable to juvenile offenders. They are not subject to the measures designated for juveniles, nor do they benefit from mitigated liability rules. Moreover, they are not tried before juvenile courts but are instead tried before ordinary courts, just like adults[1].

Second: The Principle of Mitigating Punishment

In accordance with the provisions of Article 17, paragraph 1, of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice[2],The provision states: "The response must always be proportional not only to the circumstances and seriousness of the offense but also to the circumstances and needs of the juvenile offender, as well as those of society."

The Algerian legislator has sought to balance the best interests of the child, based on protection and rehabilitation, with society's interest in addressing delinquency and punishing offenders. In this context, the Child Protection Law mandates giving priority to

[1]- Ibid., p. 250.

[2]- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), adopted by UN General Assembly Resolution 40/33, dated 29/11/1985. Available at: http://www.ohchr.org/AR/ProfessionalInterest/Pages/BeijingRules.aspx

educational and preventive measures (1), with an emphasis on avoiding custodial penalties whenever possible (2), and applying community service penalties (3).

1. Measures Prescribed for Juvenile Offenders

According to Article 2(1) of the Child Protection Law, a juvenile offender is defined as any child who has reached at least the age of ten and commits an act considered a crime under the law. Upon the child's conviction, the law grants the judge two main options for dealing with the case: First, to impose one of the legal measures aimed primarily at the rehabilitation and reform of the child. This option is considered the standard approach in handling juvenile offenders. Second, to impose a criminal penalty, as an exceptional measure reserved for cases where the offense is of a high degree of severity that justifies such action.

Naturally, the range of measures prescribed for juvenile offenders varies due to the diversity and multiplicity of the causes of their criminal risk[1],Typically, these measures, despite their variety and different forms, aim primarily to rehabilitate the juvenile offender and prepare

[1]- Abdullah Suleiman, General Theory of Protective Measures, National Publishing Foundation, Algeria, 1990, p. 143.

them for reintegration, rather than to inflict pain or punishment[1].

Pursuant to Article 85 of the Child Protection Law, the legislator strictly defined the measures that may be taken against a juvenile who commits a felony or misdemeanor, as follows:

a) Custody: The child is handed over to both parents, who are primarily responsible for their care. If one parent is absent for any reason, the child is given to the other parent. If neither parent is available, custody is granted to the legal guardian. In the absence of a legal guardian, the child is entrusted to a trustworthy person appointed by the juvenile court judge.

b) Implementation of placement measures: If the juvenile judge determines that custody alone will not yield the desired benefit, given the child's personal and circumstantial conditions, the judge may order one of the following placement measures:

- Placing the child in an accredited institution tasked with supporting children. This measure is applied when the child's physical or psychological condition requires special care or social and psychological support. The institution ensures the child's protection and rehabilitation in an appropriate

[1]- Ali Mohamed Jaafar, Protection of Juvenile Offenders and Children at Risk of Delinquency. Previously cited, p. 343.

environment, away from factors that may hinder their reform or worsen their situation.

- Placing the child in a boarding educational institution dedicated to children of school age, to guarantee their right to education and provide a stable educational environment that supports continued academic progress.
- Placing the child in a specialized center for the protection of juvenile offenders, aimed at distancing the child from family or social environments that negatively affect their behavior and psychological or social development.

The legislator explicitly limited these measures, thus obliging the juvenile court judge to select the most suitable measure according to the child's condition. This selection must achieve the intended goals of rehabilitation, correction of behavior, and prevention of delinquency. Fundamentally, these measures serve as preventive interventions designed to address the root causes that may lead to the child's delinquency or exacerbate their condition[1].

In all cases, the ruling imposing the aforementioned measures must specify a fixed duration. This period shall not exceed the date on which the child reaches the age of the criminal majority. This is in accordance with Article 85/7 of the Child Protection Law.

[1]- Zainab Ahmed Owein, Juvenile Justice, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2003, p. 230

The Algerian legislator, under the provisions of Article 86 of the Child Protection Law, exceptionally allows, in cases of misdemeanors and felonies, the replacement or supplementation of the measures stipulated in Article 85 of the same law with a fine or imprisonment. This is subject to the conditions outlined in Article 50 of the Penal Code. This exception applies exclusively to children aged between thirteen (13) and eighteen (18) years, whenever the competent judicial authority considers that the circumstances of the case or the personal characteristics of the juvenile offender justify resorting to this punitive option.

If the proceeding concerns a minor offense, the legislator permits the court, according to Article 87/1 of the Child Protection Law, to limit its response to a simple reprimand for the child, without resorting to other measures or penalties. The court may also impose a fine as provided for in Article 51 of the Algerian Penal Code, if necessary.

However, for children between ten (10) years and less than thirteen (13) years of age, the court may only impose a reprimand or place the child under supervision if liberty is deemed necessary. This is pursuant to Article 87/2 of the Child Protection Law.

2. Penalties

The penalties applicable to juvenile offenders vary and may include a fine (a), imprisonment (b), or community service (c).

a. Fine

A fine requires the convicted individual to pay a specific amount to the public treasure, as determined by the court in its ruling[1].

A monetary fine is a criminal penalty prescribed for offenses committed by juveniles aged thirteen years and above. It is regarded as the second level of punishment following a reprimand in cases of violation. This is established by Article 51 of the Criminal Procedure Code[2],"In cases of minor offenses, a juvenile between the ages of 13 and 18 may be subject either to a warning or to a fine."

This principle was upheld by the Supreme Court in Decision No. 388708, issued on 10/19/2005 by the Misdemeanors and Infractions Chamber, which stated: "A judgment imposing a fine on a minor under the age of 13 is invalid"**[3].**

[1]- Ali Hussein Al-Khalaf and Sultan Abdul Qadir Al-Shawi, General Principles in Criminal Law, Legal Library, Baghdad, (Date of publication not indicated), p. 428.
[2]- Ordinance No. 66-156 dated 08/06/1966, includes the Penal Code, as amended. Previously cited.
[3]- Judicial Journal, No. 1, 2005, p. 463.

B – Custodial Sentences Custodial sentences are those that result in depriving the convicted person of their liberty, within the limits set by the execution of the sentence[1].

In this context, the legislator exceptionally allows the juvenile judge to impose a custodial sentence on a delinquent child, provided that the sentence is carried out in appropriate and specialized institutions.

Referring to the provisions of Algerian law, particularly Articles 49 (as amended), 50, and 51 of the Penal Code, along with Article 70 and those following in the Child Protection Law, it becomes clear that the legislator used the child's age as a criterion in determining the type of penalty that may be imposed. The general rule is to apply protective measures. However, if the circumstances require a criminal sentence due to the seriousness of the offense, then the penalty must be lighter than that applied to adults.

This is stated in Article 50 of the Penal Code, which provides: "If a minor aged between 13 and 18 is sentenced in a criminal case, the punishment is as follows:

- If the penalty is death or life imprisonment, the sentence shall be reduced to imprisonment for a term between ten and twenty years.

[1]- Ali Hussein Al-Khalaf and Sultan Abdul Qadir Al-Shawi. Ibid., p. 423.

- If the penalty is temporary imprisonment or detention, the sentence shall be reduced to half the term that would have been imposed if the offender were an adult."

C – Community Service Penalty Under Law No. 09-01 of 25 February 2009..[1],The Algerian legislator amended Ordinance No. 66-156, which includes the Penal Code, by adding Article 5 bis. This article permits the substitution of a custom sentence with unpaid community service. The convicted individual performs this service under the supervision of a public legal entity. The conversion rate is two hours of community service for each day of imprisonment. This service must be completed within a maximum period of 18 months and must total between 20 and 300 hours for juveniles.

To impose community service, the judge must ensure the following conditions are met:

- The convicted person must have no prior criminal record, as verified by Criminal Record Certificate No. 2.
- The individual must be at least 16 years old at the time the offense was committed.
- The legal penalty for the offense must not exceed three years of imprisonment.
- The actual custodial sentence imposed must not exceed one year of effective imprisonment.

[1]- Law No. 09-01 dated 25/02/2009 amending and supplementing Ordinance No. 66-156 of 08/06/1966 on the Penal Code. Official Gazette No. 15, issued on 08/03/2009.

Before pronouncing the community service sentence, the presiding judge must inform the juvenile of their right to accept or refuse it. This must be clearly stated in the judgment. If the juvenile accepts, the sentence is pronounced in their presence[1],He is warned that any failure to comply with the obligations arising from its implementation will result in the enforcement of the custodial sentence that was previously substituted[2].

The legislator also authorized the sentencing judge, when necessary, to suspend the execution of a community service sentence if health, social, or family circumstances arise that justify such suspension[3].

Second Axis: Aspects of Protecting the Juvenile Offender During Sentence Execution

Criminal justice authorities must provide appropriate justice and judicial care for every child who is subject to suspicion or accusation. This obligation applies throughout the investigation and trial phases, as well as during the execution of measures and sentences issued against the child. Ensuring the legal protection of the juvenile offender does not stop at setting general principles. Rather, it is concretely realized through mechanisms and measures applied during sentence execution that take into account the child's status as a minor. The focus is on rehabilitating and reintegrating

[1]- See Article 5 bis 1 of Law No. 09-01. Previously cited.
[2]- ee Article 5 bis 2 of Law No. 09-01. Previously cited.
[3]- See Article 5 bis 3 of Law No. 09-01. Previously cited.

the juvenile into society, rather than merely emphasizing the punitive aspect of the sentence.

In this context, the Algerian legislator has enshrined, through Law No. 15-12 on Child Protection, a set of provisions that implement the principle of legal protection for children sentenced during the execution phase (firstly). The Law on the Organization of Prisons and the Social Reintegration of Detainees also includes**...**[1]**,** Specific Rules Aimed at Treating the Detained Child in a Manner Consistent with Their Status as a Minor, Who Requires Rehabilitation More Than Punishment (Second Axis).

First: Applications of Protection for the Juvenile Offender under Law No. 15-12

Unlike ordinary courts, where the court's connection to the case ends after the judgment is pronounced, the juvenile justice system, by its social and therapeutic nature, grants the juvenile judge the authority to oversee the execution of measures and to review them according to the development of the juvenile's condition and needs during the enforcement phase. In addition, the juvenile may, when appropriate, be placed under a supervised release system.

1. Modification and Review of Supervision and Protection Measures

[1]- Law No. 05-04 dated 06/02/2005 on the Organization of Prisons and Social Reintegration of Prisoners. Previously cited.

The legislator addressed appeals for review and modification in Articles 96 and the following of Law No. 15-12, which governs child protection. The competent authority to consider these appeals is also specified.

A. Appeals for Review and Modification of Measures Imposed on the Juvenile Offender

The legislator granted the juvenile judge the right to review the measures taken against the juvenile offender as follows:

- **Regarding review requests submitted at any time:** Pursuant to Article 96 and subsequent articles of the Child Protection Law, the juvenile judge has the authority to reconsider a protective or disciplinary measure imposed on the juvenile offender at any time. This can be done on the judge's own initiative, based on a report from the probation services, or upon a request from the public prosecutor.
- **Regarding review requests submitted after six months from the start of implementation:**

According to Article 97/1 of the Child Protection Law, the juvenile's legal guardian has the right to request a review of the out-of-home placement to facilitate the juvenile's return to their care. This is conditional upon certain requirements, notably: the passage of at least six months from the start of the sentence's execution; the guardian's proven ability and readiness to take responsibility for the juvenile's care and upbringing; and

improvements in the juvenile's behavior and responsiveness to the imposed measure.

Additionally, Article 97/2 grants the juvenile the right to request to be returned to parental care if they demonstrate behavioral improvement and readiness for family reintegration. The juvenile may submit written testimonies from individuals or the institution where they are placed, or request their presence before the juvenile judge to provide testimony regarding the juvenile's conduct and reform.

If the juvenile judge rejects a request to review the placement measure, Article 97/4 of Law No. 15-12 stipulates that the request may not be renewed until three months have passed since the rejection decision.

B. Competent Authority for Reviewing Requests to Modify Measures

Pursuant to Article 98 of the Child Protection Law, the legislator defined the territorial jurisdiction for reviewing requests to modify measures imposed on the juvenile offender. This jurisdiction belongs to the juvenile judge or the juvenile division that originally handled the case.

- The juvenile judge or the juvenile division located within the jurisdiction of the legal guardian's residence, or the residence of the employer or institution where the child was placed by court order, based on a delegation

from the juvenile judge or division originally handling the dispute.

- The juvenile judge or juvenile division located in the jurisdiction where the child is placed or detained, delegated by the juvenile judge or division that originally ruled on the matter.

In urgent cases, the juvenile judge with jurisdiction over the place of the child's placement or detention may order appropriate temporary measures.

2. Possibility of Subjecting the Juvenile Offender to a Supervised Release System

Under Article 85/6 of Law No. 15-12, the legislator permits the juvenile judge to apply a supervised release system to any juvenile offender under the age of 18. This applies regardless of the nature of the offense, whether felony, misdemeanor, or violation.

The article states: “The juvenile judge may, when necessary, place the child under supervised release, assigning the probation services to oversee it. This system may be revoked at any time.”

Once a child is placed under supervised release, Article 100 of Law No. 15-12 requires that the child and their legal representative—whether parent, guardian, or custodian—be notified of the procedure, its purpose, and the obligations it entails.

The supervised release is enforced within the jurisdiction of the court that ordered it or the child's place of residence, according to Article 101 of the same law.

In this context, probation officers, as outlined in Article 103/1, are responsible for monitoring the child's material and moral conditions, including physical and psychological health, educational development, and positive use of time.

Probation officers must submit periodic reports to the juvenile judge every three months regarding the child's status under supervised release. Additionally, they are obliged to provide immediate reports when urgent intervention is necessary. This includes cases of behavioral deterioration, physical or moral danger, justifying the modification of the judicial measure, or obstacles preventing the officers from performing their duties. These obligations are mandated by paragraphs 2 and 3 of Article 103.

Furthermore, Article 104 of Law No. 15-12 requires the child's legal representative or employer to immediately inform the juvenile judge without delay if the child dies, suffers a serious illness, changes residence, or is absent without permission.

Second: Treatment of the Incarcerated Child in Light of Law No. 05-04

Law No. 05-04, concerning the organization of prisons and the social reintegration of detainees, established a special framework for the treatment of incarcerated children. This framework takes into account their status as minors and aims to ensure their legal protection during the execution of the sentence. The legislator reflected this specificity through a set of provisions that emphasize the educational and rehabilitative nature of the treatment provided to the incarcerated child within the penal institution, in line with the child's best interests.

This specificity is manifested in several practical aspects adopted by the legislator to guarantee distinguished treatment for incarcerated children. The most notable of these include: organizing accommodation according to precise legal standards that consider age, gender, and legal status (1); ensuring comprehensive care by addressing health and social aspects within the penal institution (2); providing the right to education, vocational training, and apprenticeship as mechanisms for reintegration (3); and facilitating access to parole under legal conditions that respect the principles of proper guidance and rehabilitation (4).

Thus, the particular treatment of incarcerated children represents one of the most significant protective measures established by the Algerian legislator. It seeks to balance the demands of deterrence with the necessities of care and rehabilitation within correctional facilities.

1. **Accommodation of the Incarcerated Child According to Legal and Human Rights Standards**

In implementation of Article 116 of Law No. 05-04, the legislator established a specific system for the accommodation of detained juveniles. This system ensures their separation from adult prisoners to protect them from the potential negative effects of mixing within correctional facilities. These juveniles are assigned to specialized centers based on defined criteria, including gender, age, and legal status, in a manner consistent with their best interests.

During the detention period, the juvenile offender undergoes appropriate observation and guidance aimed at assessing their behavior and specific needs. This evaluation helps determine the most suitable care pathway within the penal institution. Furthermore, the child receives regular psychological and educational follow-up, supervised by multidisciplinary teams. These teams include psychologists, social workers, and educators, all working towards rehabilitating the child and supporting their future social reintegration.

2. **Health and Social Care for the Incarcerated Child**

Legal protections for the incarcerated child extend to cover both health and social care aspects. Articles 57 and 59 of Law No. 05-04, related to prison organization and social reintegration of detainees, guarantee the juvenile's right to access healthcare services. Such services may be

provided within the health clinic of the specialized center or, when necessary, at an external hospital facility. This care includes first aid, regular medical examinations, vaccinations, and necessary medical tests aimed at preventing contagious diseases.

In the same vein, Article 199 of Law No. 05-04 enshrines a set of rights designed to preserve the dignity of the juvenile offender during detention and to ensure humane conditions of confinement. Among these rights are receiving balanced meals, appropriate clothing, daily outdoor recreational time, and the facilitation of social communication. The latter includes allowing the child to speak freely with visitors and to use remote communication methods under the supervision of the facility's administration[1].

3. Guaranteeing the Right of the Incarcerated Child to Education and Vocational Training

As part of the effort to promote education and rehabilitation, the legislator, under Article 94 of the Law on the Organization of Prisons and Social Reintegration of Detainees, guarantees the right of the incarcerated child to benefit from various educational programs. These include general education, technical education, vocational training, and apprenticeship, in addition to

[1]- For more details, see Executive Decree No. 05-430 dated 08/11/2005, which defines the means of remote communication and the conditions for their use by prisoners. Official Gazette No. 74, issued on 13/11/2005.

physical education. The aim is to prepare the child for effective reintegration into society upon release.

The prison director is authorized, according to Article 120 of the same law, to assign the incarcerated juvenile to useful and productive work. Such work must be suitable to the child's physical capacities, thus contributing to the development of practical skills and fostering a sense of responsibility.

To reinforce the rehabilitative approach in dealing with juvenile offenders, Article 99 of Law No. 05-04 allows for the granting of a work certificate to the child upon release if they have acquired professional competence through activities undertaken within the institution. This measure enhances the child's chances for reintegration into the workforce and broadens opportunities to obtain suitable employment.

Moreover, Article 125 of the Law on the Organization of Prisons and Social Reintegration stipulates that an incarcerated child who demonstrates good conduct may be granted a summer leave of thirty (30) days. This leave may be spent either with their family or in designated summer camps. The child may also benefit from exceptional leave during religious and national holidays, which shall not exceed ten (10) days every three (3) months.

This provision underscores the law's commitment to respecting the particular needs of the incarcerated child

and safeguarding their best interests, by ensuring that rights such as leave are granted in a manner that supports the child's welfare and reintegration.

4. The Incarcerated Child's Benefit from the Conditional Release System

In accordance with Articles 134 and 137 of the Law on the Organization of Prisons and Social Reintegration of Detainees, a well-behaved incarcerated juvenile may be eligible for conditional release. This is contingent upon serving a probationary period of the sentence imposed.

The request for conditional release can be submitted personally by the juvenile, by their legal representative, or upon the recommendation of the judge responsible for enforcing penalties or the prison director.

Following this, the enforcement refers the request to the Penalties Enforcement Committee. This committee must include the juvenile judge and the director of the juvenile rehabilitation and reintegration center, as stipulated in Articles 138 and 139 of the same law.

After considering the committee's opinion, the enforcement judge issues a conditional release order in line with Article 141 of the law. This is subject to the condition that the remaining sentence is equal to or less than 24 months.

The conditional release order is immediately communicated by the prison administration to the public prosecutor's office. The prosecutor has the right to appeal within eight (8) days of notification before the Penalties Classification Committee. This committee is required to decide on the appeal within forty-five (45) days. Failure to decide within this timeframe is considered a rejection of the appeal.

The duration of conditional release corresponds to the remaining sentence period at the time the release decision is issued.

5. Enabling the Incarcerated Child's Right to Complaint and Appeal

Within the framework of the legal treatment established by Law No. 05-04 on the organization of prisons and the social reintegration of detainees, the incarcerated child is granted a set of safeguards to protect their rights inside the correctional facility. Among the most important of these safeguards is the child's right to file a complaint if any of their legally guaranteed rights are violated.

Article 79 of this law states that every detainee, including the juvenile offender, has the right to submit a complaint to the director of the correctional institution concerning any infringement or violation of their rights. The administration is required to respond to the complaint within a maximum period of ten (10) days.

If no response is provided, the incarcerated child has the right to notify the enforcement judge. Additionally, the child may address their grievance to qualified officials and judges responsible for periodic inspections of the institution. The child must be allowed to meet with these officials without the presence of the prison staff.

CONCLUSION

Through our study of the protections granted to the juvenile offender during the execution of the sentence, it becomes clear that the Algerian legislator has given this sensitive phase of the criminal process special attention. This reflects an understanding of the serious effects punishment can have on juveniles, which could entrench criminal behavior rather than correct it.

This protection is embodied in a set of principles and guarantees that frame the enforcement of penalties.

In its pursuit of modernizing the national criminal policy and aligning it with contemporary trends in juvenile justice, the Algerian legislator has adopted an approach centered on educational and preventive measures, alongside the introduction of alternative sanctions to imprisonment.

Ultimately, it can be concluded that the Algerian legislator aims, through this integrated legislative approach, to establish a comprehensive criminal policy focused on protecting juvenile offenders and guiding

them toward reform, rather than solely on punitive measures.

Alternative measures and legal safeguards during sentence execution together form a coherent system aimed at properly reintegrating the juvenile into society.

However, the success of this policy depends not only on the quality of legislative texts but primarily on the effective field application. This requires providing the necessary human and material resources to the relevant institutions, training specialized personnel, and ensuring coordination and integration among all actors in the juvenile justice system.

In this way, legal texts can be translated into practical realities that genuinely protect juvenile offenders and preserve their dignity and right to a second chance.

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