

Check references dealing with the rights of children and young people in Iran's Law

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Abstract: The preliminary investigation and the trial proceedings distinct from the adult in charge of them is common. Juvenile justice in the criminal justice system has been developed in a manner divorced. Juvenile proceedings are said to be coherent set of rules, which in crime detection, prosecution, investigation and prosecution should first contact arrangements for children and adolescents with law enforcement and judicial authorities in terms of committing acts against the law to consider He is charged with end in order to meet the lofty goal of maintaining the best interests of children and young people, be respected. We explored and with this analysis of the provisions of the Code of Criminal Procedure of Iran, will demonstrate that the legislator has predicted special rules in hearing children, but the purpose is not guaranteed.

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Introduction

Criminal proceedings are generally understood as criminal offenses, prosecutions, preliminary investigations, trials of accused persons, as well as methods of protesting criminal judgments in judicial institutions and the quality of enforcement of sentences. However, children's special psychological, psychological and social conditions require that they be considered in the event of prosecution, preliminary investigation, and special trials for adults. That is why the Criminal Procedure Code of the Special Procedures for Pediatric Procedures has been drafted in a separate way. Therefore, the special hearing of children and young people is referred to as a coherent set of rules that, in the context of crime detection, prosecution, preliminary investigations, and procedures, the child and youngsters must contact the law enforcement authorities and the law enforcement authorities at the moment when they commit acts. The prosecution of his charges is due to the high standard of humanity and to the protection of the interests of children and young people.

Regarding the jurisdiction of criminal authorities in Iran's judicial system, considering that by the year 1290, when the first law of the criminal procedure under the title of the Provisional Law on the Principles of Criminal Proceedings with 506 articles was approved by the Justice Commission of the National Assembly and a major development in criminal proceedings In order to investigate the accused's accusations, there is no specific methodology that reflects the jurisdiction of the investigating authority, and the handling of accusations by the accused in each period of the year has had a more tangible aspect, and

the will of the kings alone for the issuance of sentences, Or condemnation, was enough. The jurisdiction of the criminal courts in Iran's judicial system has progressed every day and in 1337 we witnessed the establishment of children's courts in Iran. After the victory of the Islamic Revolution, according to the specific conditions governing the society and the religious ideology of the revolutionists, We became aware of the jurisdiction of the criminal courts, most notably the dissolution of the city, provincial and administrative courts, the formation of revolutionary courts, the formation of a special court for clergy and the establishment of public courts in 1358, the establishment of criminal courts 1 and 2, and branches Supreme Court of the Supreme Court in 1989, then the removal of the prosecution system from the judiciary and the removal of the courts Frei one and two, and the jurisdiction of the Courts of Justice to deal with all lawsuits and to establish a review center in the provincial governorate by the enactment of the Law on the Establishment of Public and Revolutionary Courts in 1373, the formation of the Children's Courts pursuant to Article 219 of the Courts Proceedings Law Public and Revolutionary Criminal Procedure in 1999 and the adoption of the Law on the Amendments to the Law on the Establishment of Public and Revolutionary Courts in 1381 which resulted in the restoration of the Public Prosecution and Revolutionary Court in the country's judicial system and the establishment of a penal court to investigate major crimes in the center of a judiciary Provinces, and the legislator's attitude in the recent legislative period to specialization The criminal courts and the judiciary's multiple judgment approach minimize the

errors and mistakes in the proceedings, and to some extent provide the mental security of the parties to the proceedings and help protect the rights of the defendants and the defendant's defense rights. Ultimately, the proposed criminal procedure bill that is under consideration in the Islamic Consultative Assembly, the criminal courts are again divided into criminal courts 1 and 2, and the number of judges multiplied by major criminal offenses 1 and the Revolutionary Courts and the formation of a court of special tribunal Is taken into consideration.

Background of research

1. Ali Herdoroud Hashemi (1392), in his article entitled "The Principles and Effects of Developments in the Qualifications of Criminal Institutions in the Legal System of Iran, writes:

Regarding the jurisdiction of criminal authorities in Iran's judicial system, considering that by the year 1290, when the first law of the criminal procedure under the title of the Provisional Law on the Principles of Criminal Proceedings with 506 articles was approved by the Justice Commission of the National Assembly and a major development in criminal proceedings In order to investigate the accused's accusations, there is no specific methodology that indicates the jurisdiction of the investigating authority, and the handling of the charges against the defendants in each period of the era, and in each dynasty and the rule of the kings, has a more tangible aspect, and the will of the kings to Loneliness was sufficient for the issuance of sentences, whether of adjudication or conviction, Dee was right to objection and appeal, in determining the sentence, the type and its implementation king enjoyed absolute discretion. In parallel with the trial of the King and the rulers and judges appointed by him, religious leaders also in some cases addressed the people's complaints. Then, the Shari's courts and the ordinary courts of judiciary affairs took charge. After removing the prosecution system from the judiciary and removing one and two penal courts, and the power to empower the courts to deal with all claims and to establish a reviewing authority in the provincial capital by the enactment of the law establishing the general and revolutionary courts in 1994, According to Article 219 of the Code of Criminal Procedure for Public and Revolutionary Courts of Criminal Matters in 1999 and the Law on Amendments to the Law on the Establishment of Public and Revolutionary Courts in 1381, which resulted in the restoration of the Public Prosecutor's Office and the Revolutionary Court in the country's judicial system and the establishment of a court The provincial penal code has been applied to address major crimes in the provincial governorate The legislator's attitude in the recent legislative period is to specialize the criminal courts and the judge's plurality

approach, which minimizes mistakes and mistakes in the proceedings, and, to a certain extent, secures the mental security of the parties in the proceedings. Protecting the rights of citizens and defending rights of the accused. Finally, the proposed criminal procedure bill that is under consideration in the Islamic Consultative Assembly, the criminal courts are again divided into criminal courts 1 and 2, and the number of judges is subject to major criminal offenses Criminal Court 1 and the Revolutionary Court and the formation of the Children's Court with special circumstances have been considered.

2. Hamid Moazzenzadegan (2009) in his article titled

The criminal procedure for children in Iran's law provides that: a criminal procedure for children who, from the outset of the child and adolescent contact with law enforcement officials and the judiciary, in the context of committing acts contrary to the criminal law, until the expiry of his charge, proceeds as necessary Providing a high-quality human right to rehabilitate and prevent their crime is of great significance. The procedure for the hearing of children and adolescents has a number of differentiated features in adulthood. Including the fact that police and judges exclusively or often involved in pediatric justice should be familiar with the creation of courses with a variety of sciences such as child psychology, social work and criminology. The hearing should be completely censored and protected by the child. A person's case file that contains comments from various medical professionals, psychologists, practitioners and criminologists is required along with a criminal case to make a proper response to the child's or adolescent's perception. In this article, the author compares the main lines of criminal justice for children in customary law and international documents with Iranian law. Also, the recent bill proposes a law on the formation of the Children's and Juvenile Court. The bill, if approved, will be an effective step in promoting the special pediatric justice.

3. Hamid Safaie Atashgah (1392) in an article titled

The assessment of the differential treatment of children and adolescents in the Criminal Procedure Bill, in the context of the International Covenant on the Rights of the Child, states: "Given that the primary objective of the Children's and Juvenile Court is the upbringing of children and adolescents, the organization and management of this process must be addressed A specific one is also to be adopted. The Criminal Procedure Bill specifies a specific issue, and the present study seeks to provide a brief look at the background of the establishment of the Children and Adolescent Tribunal to clarify the organization and procedures for the special consideration of the

Children and Young Adults Tribunal established in the bill; By complying with the international instruments protecting the rights of children and young people, they will examine and criticize the rules of the bill. In spite of the criticism of some criticisms, the researchers finally concluded that most of the provisions on the organization and procedures for the examination of children and adolescents are consistent with the standards of the international documents examined.

Research hypotheses

1. The Supreme Court appears to be the point of reference for resolving disputes arising from interference and doubt in the jurisdiction to handle the case.

2. Initial investigations appear to be the responsibility of the investigating magistrate.

3. It seems that with the expertise of the children in dealing with and interfering intrinsically competent with the clergy, any reference to its accused persons appears to be dealt with.

Competence and issuance of the judgment of the Pediatric Court

First speech: How to handle Islamic punishment

According to the Islamic Penal Code, there are no special procedures for the prosecution of crimes committed by perpetrators, and the trial and prosecution process is similar to the case of an adult who committed a crime. In accordance with the provisions of the Islamic Penal Code of 1370, Article 49, "Children in the case of committing a crime are a criminal offense..." The term "child" means a person who has not reached the age of maturity. In other words, if someone reaches the age of maturity, it is a criminal offense and in The act of committing any kind of crime will be treated like a grown man.

On the other hand, the legislator used the term "crime" in a general and absolute manner, and according to the provisions of Article 2 of the same law, "any current law designated for that punishment is a crime". Criminal law is based today on the assumption of responsibility. Children are known to be exempt from punishment for lack of intelligence and full-time education, while in the past they punished children as adults. When children committed crimes, they were treated with extreme fullness.

How to handle child crimes in accordance with the Criminal Procedure Code

Judiciary and Rights of the Islamic Consultative Assembly and has been approved by the Guardian Council on March 31, 1999. Article 298 of this law of 1394 states that: In every jurisdiction and, if necessary, one or more branches of the general courts are assigned to deal with all crimes committed by children and in areas where such a court is not

established, the General Court of the Supreme Court This chapter will deal with child crimes.

Thus we see that the courts of the children of Special Courts are not the only jurisdiction to the crime of children and the formation procedure is quite synonymous with public courts are as immediately Article 231 of the Criminal Procedure Code old adds: The propriety of some branches of the General Court does not prevent the filing of other files of those branches.

According to the criminal law of Islam, children and adolescents are not subject to criminal responsibility in the case of committing a crime. However, the necessity of meeting the supreme goals of educating and updating his personality and preventing repetition of their crimes and ensuring judicial security and compensation of the victims requires that the judicial system of the countries In pursuit of these goals, to pursue the issue of committing a crime and to adopt a criminal-based response based on scientific principles.

Conclusion

In the preliminary investigation process, a special court may grant judicial appointments to a child or adolescent in order to ensure their presence in the preliminary stages of preliminary investigation. The penal policy of the legislator has been modified in the new law in comparison with the former law and is in line with the implementation of the differential treatment of children and adolescents. In addition, in order to realize the correction and rehabilitation of children and adolescents as the main goal of the differential treatment of children and adolescents, the necessity of filing a personality has been mentioned. In this section, innovations are considered first in terms of funding arrangements and will be followed up by the filing of a child's profile.

In order to secure the sacred purpose of protecting the interests and interests of children and adolescents against the law, while the principle of equalizing people against the law and the courts in the basic laws (Principles 19 and 20 of the Constitution of the Islamic Republic of Iran) involves the prevention of the formation of special courts In dealing with the crimes of specific social groups, however, due to the achievements of criminal and criminological sciences and the advisability of international documents, in the criminal justice systems of most countries, the Special Court for Children has special jurisdiction to deal with allegations of children and adolescents.

According to Article 9 of the bill, the local jurisdiction of the Children and Adolescents Court, in addition to the criterion of the place of the crime in the judicial district, which is in accordance with the Criminal Procedure Code of Iran regarding the

handling of adult crimes, is also subject to the arrest of a child or adolescent in the jurisdiction Court, the jurisdiction of the children's court has been expanded to deal with the child's charges. In accordance with Article 5 of the Law on the Establishment of the Court of the Juvenile Delinquency of 1338, the Children's Court reviewed the crime or place of residence or the place where the child was arrested. This is based on the principles of criminal procedure in facilitating the examination and assignment of the child as soon as possible in conducting investigations, prosecutions and issuing sentences. In the Code of Criminal Procedure, passed in 2002, the legislator on the local jurisdiction of the court hearing the crimes against children is silent in Section 2 of Article 219, he must, in principle, refer to the General Public Law as to the jurisdiction of the General Court. In the new law of procedure The Code of Criminal Procedure, approved in 1992, for 408 cases, provides for the prosecution of crimes against children and adolescents, and addresses the shortcomings of the pre-trial rules, and continues to neglect the previous laws, taking into account the preliminary investigation phase for child crimes, which is contained in Articles 285-287 The new Code of Criminal Procedure approved 92 measures One of the new aspects of the new Criminal Procedure Code was the fact that in addition to the formation of the Children's and Juvenile Court, it has been mentioned at the top of Article 315 of the Criminal Procedure Act 92 that if Persons under the age of 18 years have committed one of the crimes of the Revolutionary Tribunal, in which a number of judges are heard, but because the child is under the age of 18, this type of hearing is exclusively considered by the criminal court of the Special Commission for the Investigation of Children and Juvenile Delinquency And the accused receives all the privileges of the children's and adolescent court.

References

1. Akhundi, Mahmoud, Criminal Procedure, Qom, Ishraq Publishing, First Printing, 2000.
2. Ashoori, Mohammad, Criminal Procedure, Tehran, Position, First Printing, 2000.
3. Ansel, Marc, Social Defense, translation by Mohammad Ashoori and Ali Hossein Najafi Ebrahbandadi, Tehran, Rahnama Publishing House, 1366, First Edition.
4. Ardebili; Mohammad Ali, child victimization in Iranian law.
5. Hosseini Nejad, Hossein Gholami, Social Defense, or A Short Opinion on Criminal Law, Journal of Public Research, No. 9, Spring and Summer 1991.
6. Attention of Abdolali, Thought to Protect Victims and its Position in the Global Sphere and Legislative Criminal Policy, Tehran, Publishing Ganj Danesh, First Edition, 2010.
7. Shambiyati, Houshang, Delinquency of Children and Adolescents, Tehran, Paghang, 1998.
8. Knowledge, time crown, criminal justice in comparative law, Tehran, publishing volume, First edition, 1999.
9. Sanei, Parviz, General Penal Law, Tehran, Shahid Beheshti University Publication, Third Edition.
10. United Nations Children's Fund (UNICEF), lecture series presented at the Special Youth Courses Workshop, Hamid Marashi Translator, Tehran, First Printing, 1999.
11. Faizi, Alireza, Sharing and Compliance with Islamic General Penal Law Volume I, 1392.
12. Abbasi, Maryam, Child Criminal Law in United Nations Documents, Tehran, Majd Publication, First Edition, 2001.
13. Erfanian, Masoud, Paper on Transformation and History of Criminal Procedure in Iran, Journal of Law, 2014.

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