

Check delinquency status of children in Iran Criminal Law

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ABSTRACT: To juvenile delinquency and juvenile offenders requires a special hearing for them. Only if there is such a juvenile delinquency proceeding, the properties of the attention. The success of juvenile justice and juvenile justice is entirely dependent on the establishment of special institutions. These institutions are subject to the same principles of justice and due process follows the same objectives. That is (to formalize the presence of two counsel at the trial session is required. The importance of establishing such institutions and their particular approach to juvenile delinquency in some countries, especially Iran, specialist institutions with a particular policy to tackle the crime is necessary. The framers of the law in this regard, he attempted to predict specific institutions that could be in two elbow "judicial bodies" and "non-judicial" classification. Legislation enacted in 1392 to address the court with juvenile delinquency and participation typically is formed in the presence of a judge that (the meeting to formalize the presence of two counsels at the trial is necessary.

Keywords: consulting, juvenile court, criminal, punishment, criminal procedure law.

INTRODUCTION

Kids have their humor is highly sensitive and capable of correcting and training, if you neglect support and guidance in action, it may in the future become dangerous criminal and in some cases has been observed that the chiefs of police of social workers and counselors to explore the atom. Which could have a crucial bearing on due process. Kids may be hearing all problems related to the judicial authorities and not the police, perhaps it was not part of the statute and partly related to the lack of skilled workers and experts.

Statement of the problem

Iranian law for first offenders in courts of law was established in 1338. The court would handle crimes of 6 to 18 years and in the presence of two consulting an advisory opinion to the judge that they had anticipated. According to the law, surrender the child to the parents or their fate commitment to discipline and moral education and child care, Censure and admonition by the judge, sent to a juvenile institution, including the courts could make decisions. This research aims to use the civil law to investigate the role of consultant pediatric trials in determining the amount of delinquency or pay penalties in the Code of Criminal Procedure adopted in 1392.

Hypotheses

1-legislative procedures carefully consider the specific maturity have been developed in the spirit and personality of children, by determining the terms of the consultant.

2. In accordance with Article 410 of the new law, the new Penal Code, the pediatric trials should be held in the presence of counsel.

(3) In accordance with Article 42 of the new law, interrogation and investigation of minors must be performed by the enforcers trained and in compliance with the Sharia.

Research Methodology

This research method is descriptive. This research using descriptive views and opinions of jurists to review and analyze related legal materials will be discussed. In this way, using valid and reliable scientific books and articles about the subject will be studied. Using tools to gather information will be taking notes. Collecting, using and referring to articles and sites of scientific library rest.

The concept of children under Iranian law

General Penal Code 1304, in Articles 34 to 39, to pay the offenders. The minors are divided into three categories. Children under twelve years under article 34 were non-prosecution, children 15-12 years, in accordance with Article 34 of the same law, auditors are considered And if the offense must surrender his authority to commit to the discipline, training, and they are good temperament, Finally, children 18-15 years, in accordance with Article 36 of the Penal Code, punishable as a criminal offense, imprisonment in Correctional over five years while the waste is not Jonah and if they are committed, the punishment between one-half to one-half the minimum and maximum penalties for committing the same crime.

The definition of child offenders

Children from the perspective of various disciplines including psychology, biology, sociology and law is studied and each of the child and the child's vision Scientists have explained. In general, children in Spanish refers to every boy and girl who are maturing and growth is not. Childhood onset of pregnancy and continuing until maturity. In terms of the Rights of the Child or Minor who is said to be that in terms of age, physical and mental development is not necessary for social life. Minor legal point of view, "one who has not reached puberty."

Types of crimes committed by offenders

Different types of juvenile delinquency have existed in human societies from the most ancient times and we can say that the life of this social phenomenon as old as human society has passed from life. Crime on what the real issue in terms that is different and divided in three parts: (1) crimes against persons 2. crimes against property (3) crimes against the security of public welfare, however, also committed crimes that children are not excluded from this category as they look.

Crimes against persons

Including crimes committed by the persons entered Assault and battery among children and adolescents are abundant. This type of crime among teenagers between the ages of 16 to 20 years old can be seen. Because the puberty and adolescence at the height of the crisis are young and know adolescents, especially boys at this age, people often aggressive, violent and are easily offended and the less excuse frantic skirmish with the other party to pay.

Crimes against property

Another issue that exists in all communities of the past and present are relative, Crimes against property is due to people's living environment, the amount and type it in every community is different than other communities. In general, the number of robberies Kids is large enough compared to other crimes even the issue of crimes that can be committed to steal their children secured.

Theft Kids

Usually begins stealing from home without the children.

A child touches objects in four or five months.

Available in five months that his object is to drift off and plays with it.

In general, if a pencil to keep in front of the children, without being detected

What type of device is weak and takes them all by hand

And if they get their strength from her show and refused to give them.

In this case, the child resistance without any impact on his work His will be done.

Crimes against the security of public welfare

Each community, according to the customs, traditions, customs, moral and religious beliefs, social status, economic and political principles, and if someone from the community, and does not respect the principles and rules of the offender's wishes disrupt public order and be prosecuted and punished. One such practice that is socially undesirable public order include: drug addiction, vagrancy and begging and crime prostitute.

Kid's addiction

Addiction is a bitter fact is irrefutable and no individual, group or family cannot be sure That is immune from the potential damage of drugs and its consequences Therefore, dealing with this epidemic and pervasive phenomenon that has had two million members of our society and the future of millions of people with adolescents and youth to jeopardize. Since selling drugs is a great benefit, the smugglers try Adolescents and youth are addicted to it so that they enjoy themselves sexually, and also by their own sex to sell.

Begging and vagrancy

Beggars and stray from the things that previously had no criminal aspect in many countries, But now due attention to the harmful effects of the practice on the economy and public morals, Therefore, the practice in most countries criminalize and prosecute the perpetrators of it.

Crimes of sabotage and financial losses

One of the most common crimes on behalf of the juvenile delinquent, Sabotage and financial losses can be thy name. In general, vandalism and damage to children and adolescents, today turned into an acute social problem In most countries, children and adolescents with failure LED lighting fixtures Roads and public places such as parks and breaking chairs and glass doors and windows of buildings without residents As well as removing and destroying the lives of pedestrians and traffic signs to protect passengers and drivers are installed And rip the seat buses, mini-buses and railway cars annually Riyal damage to society and the State and its owners put their vehicles. Financial losses due to vandalism and crime by children and adolescents is due to the fact They in the pursuit of pleasure, recreation and leisure, violated ethical principles and subconsciously want His revenge on the society that put them in restraints or statutory provisions, take. Vandalism and property damage offenses committed one of the urban boys and girls, urban and rural residents are rarely commit such crimes.

Crimes against the security of public welfare

For the realization of the crime, there are two elements of material and spiritual needs, although most lawyers, "regulatory element" also known in the row elements of crime (Sanei, 1371), but the principle of legality of crime and punishment, as a parallel element and material elements It is not spiritual plan. But also material element and psychological element, based on the law and legal elements and the relationship between material and spiritual elements of a longitudinal relationship is not accidental.

Maturity and social maturity

Establishment of the rights and duties of religious scholars in the past we were dependent upon physical maturity namely to start following the religious commandments, at least puberty are essential. The overwhelming consensus among leading scholars on the maturity just a few starts, There is (although promised that the law reflected the majority) But it seems obvious that the majority of jurists, unlike legislators, were well aware Which counts only years after the birth of sufficiency and not sufficient to reach social maturity.

Dispersed in determining the age of a child

One of the main causes confusion and uncertainty in determining the age of our rules of So combining age-inappropriate and pondered the establishment of religious commandments (which coincides with the maturity of our scholars have considered it correctly), with age the establishment of assignments and Social and civic responsibility (Inferred that the legislature has taken us to the wrong jurisprudence). However, we are now a society of educated and progressive society. With the encouragement and support of the vast majority of literate community members. But for practical reasons and in order to initiate the necessary mechanisms to carry out religious obligations and the special needs of physical and sexual maturity criteria to measure them. They are also good signs in the extremity saw signs of puberty emerge and the physical transformation of religious orders index was run. Of course, he should remember that in the Quran, the holy legislator has not determined the age of maturity.

The social impact of confusion in determining the age of a child

As we have repeatedly pointed out, force normalization rights, the rights extends beyond its borders And a general normative value is. Ambiguity and confusion in determining the child's age, adverse effects on their controversial in the community And leads to inconsistency and confusion and fragmentation behavior of members of society in dealing with children and the issue of children. It is not morally legislator under the umbrella and the

protection of sacred theology, social consequences of its decision not to accept and take responsibility on the shoulders of the law.

To avoid discordance in childhood

Of the phenomena that the human mind's destruction and the force of his activity is healthy, "dispersed" and "dispersion" is. Various dispersion factors. Many seen today in the media community, to eliminate this anomaly; But all investments in this area is not successful and only mandate is housing and the human psyche. Religious conceptions have failed to resolve relaxation and mental confusion. Some religious theorists in the world to have its own and the Hereafter, both religious frameworks to maintain and are not bereft of formats; But how to arrange the two were not efficient, especially if they are not comprehensive expert and deep understanding of religion and the truth is not it.

Elements responsibility

Despite the absence of individual responsibility is the title, the abstract and shipped him. When compared to responsive and responsible human act or omission that is committed to doing or leave it And when a person commits an act or omission imagine the good and benefit of and be acknowledged And when this will be perceived and acknowledged that reached the degree of perceived wisdom In addition, it can do the work and have the freedom and authority. So the responsibility of binding elements or conditions include, wisdom, knowledge, power and physical ability.

Reason

The reason is rational comprehension. If it does not work and live in security and be met with punishment.

Science

Another condition is given the task of science. When the man obliged and responsible to know that in addition to education, especially science that such work is illegal and punishable.

Authority

Another element in the uprising there must be responsibility and task is optional. Who are forced or compulsory labor knocks the other hand, precarious and can be studied to determine his criminal responsibility Whether forced or compulsory except the point that he had authority, and whether the loophole.

Physical ability

Another element in the realization of tasks and responsibilities it is effective, physical ability. Or do homework all, they must not be questioned. But in the Islamic context is the same and that no one outside of Islam is affordable and what is not possible. May be an age or generation, young people 10, 11 years old, married and the ability to conceive and bear a common punishments had at the time, but at this time it does not.

General Penal Law Review 1304

The study of Articles 34 and 35 and 36 General Penal Code is clear that the legislator, its criminal policy of punishing offenders, based on age-classification is:

Non-discerning children

It refers to children twelve years of minors do not have all the punishment that point. Under Article 34 of the General Penal Code, "non-discerning children cannot be sentenced for the criminal. In criminal cases, any child who is 12 years old and does not discriminate punishment. Minor court about the power of discernment, he has provided. That is, if the accused, a minor non-audit, no criminal responsibility. Otherwise it will be responsible. In fact, the reason for denial punishable by law, lack of audit powers are in these children.

Children point

Children who are 12 years of age and have not attained the age of 15 all, known point. General terms of Article 35 of the Penal Code: "If non-adult children age 15 years have not discriminate, committed misdemeanors or crimes, only ten to fifty lashes. However, in an excess of ten days and in two days fifteen whip should not be too surprised. "As can be seen legislator, in fact, a minor penalty applicable in this age of knowledge and greater responsibility for their children than non-point has been made. What is remarkable is that far more children than children without decimal point and risk are problematic However, it should pay attention to the education law and ethical care of these

were taken into account. But while parents than children of non-point in Article 34 of the Public are obliged to take care, Legislative and educational measures in Article 35 requiring parents to take care of minors auditor did not anticipate.

Adults

Under Article 36 of the General Penal Code, "an adult who age more than fifteen years, but not to eighteen years in prison if they commit crimes are punished is retarded, whilst not in excess of five years. If you are guilty of a misdemeanor punishable by more than half of them less than half of the minimum and maximum penalties would not commit the same misdemeanor.

The Court approved the law establishing offenders in 1338 The condition of the formation of the court

Despite the fact that the law establishing the court offenders in Iran, was the first law Training and refinement in which the actions of children and to prevent recidivism and general aspects of protection of minors noted, But its implementation was delayed for various reasons. Because Article 1 of this law was announced: "... Not formed until the juvenile court to juvenile delinquency in accordance with the provisions of this Act shall be considered a misdemeanor court Until that point, the juvenile institution, shall be made in the fourth quarter of this law has not been established, According to the penal code will be sentencing. "Therefore, the establishment of the centers of the possibility of proceeding The law is not established, under the general criminal law sentencing will be. " Therefore, the establishment of centers of possible specific proceedings in juvenile court, in accordance with the new law did not exist and were therefore to juvenile delinquency should be done this way.

Competent court

In countries that juvenile delinquency is specifically addressed, especially two types of courts: the courts in trials that are bound by the principles of judicial and other administrative councils are formed. The court established by law offenders, juvenile courts in Iran, the first type, the trials that act on the principles of justice, has been predicted.

Investigation of private claims losses and loss

ADAK law, the crime can be injured Losses as a result of the criminal offense of criminal court shall consider the crime Or demand the law court. In the case of juvenile delinquency that is associated with damage, this demand is made by the court competent children. Article 12 provides that the law establishing the court offenders' juvenile courts to petition the private claimant under the provisions of the law and the sentence is issued. "The private complainant can petition their losses before the first hearing for the children and submitted to the court in this case, dispute the capacity or the guardianship of the minor accused, he brought tutelary.

Investigation of juvenile institution

In accordance with Article 23 of the law establishing juvenile courts in criminal, juvenile institution consists of three parts: the first - keep the interim, the second - the correctional third - prison. Children below the court has been decided about them Be sent to the temporary care and juvenile court on the basis of a final verdict, In paragraph 2 of Article 17 and paragraph 3 of Article 18 of the Act be sent to a juvenile institution Children who under Article 26 of the Act, as amended ethics and behavior of the juvenile prison are re-transmitted, stored in the second. Teens in accordance with paragraph 4 of Article 18 of the law more than 15 years has been committed, the final decision by the court of the prison are kept. However, the whereabouts of the girls from the boys in any part of the above, according to a separate law will be the last part of Article 23

Islamic Penal Code 1979

The first law of criminal responsibility for children in the aftermath of the Islamic revolution experiment Article 26 of the Islamic Penal Law 21/7/1971 Judicial Affairs Committee of Parliament. Unlike many other provisions of this Article shall rewrite of the 1968 reform law but a completely new and fresh. The experiment was completed in 1974, implementation of this law and its implementation was extended for another five years by former Supreme Judicial Council. Evaluation of materials related to the criminal liability of children (Article 49 and 50 BC. M.a). It was unjustifiable, regardless legislation and extending the implementation of this law and the bug was discussed by the Council With the completion of putting the necessary time to commence the new law is adopted, The previous law had no objections to accommodate the needs of the time. Thus, the experimental law Penal Judicial Affairs Committee was approved on 08.05.1979 With the approval of the Islamic Consultative Assembly for five years from the date of approval of the feasibility tentatively found

The main theme of this two criminal responsibility of minors is the first part of Article 49, children completely from it either knows. In addition, these two substances involves some other issues about the upbringing of children and civil liability and responsibility for the murder and mayhem, assault children. These are rational as they discuss: Bachnd responsibility in relation to the child as (company, department, and start number, repeat)

Including the principle of criminal liability of children in general and Article 49 of the Penal Code to start is that crime, vice and company of their children and repeated the offense is Vtdd.32 of penal code reform in 1352 said, "the rules on repeat offenders and plurality of crimes about not being respected." Legal Department of the Ministry of Justice through a deliberative theory on 13.5.1967 says: "According to the principle of collective punishment, Murad 32 legislators in the General Penal Code prohibiting severe penalties for crimes committed in 1352 is no doubt that the child has been just. After sentencing as normal for each of multiple crimes, the most severe punishment on him will be applicable exclusively"

Despite the lack of crime in criminal acts of children:

They justify this theory Because children do not intend to violate the law and commit crime and their actions are not the result of reason and control and choice, The spiritual element is missing and necessary means of achieving any bad intention 'scorched earth criminal offense or an element of all three pillars of the legal, material and spiritual, is So with these words to the conclusion that the acts committed by children is not a crime, Unless the crime consists of two elements be considered legal and material That sufficient material used to implement the authentication element it can be said that this assumption is not guilty of the crime committed, but the gatekeeper However, we must admit that we know if the child is responsible for his action only judge about the unpleasant result we have And such judge what difference children and insanity, animals and objects and the dead in ancient societies is The theory that a small minority of experts, including the Abu Hanifa and his fans and so that the arc is not empty at all, but it may be due to two major problems:

Inability to mass assignment to the minor subject:

Earlier in the season we said that potential general assignment committed the crime of criminal responsibility is one of the pillars and components. This feature depends on the existence of elements assignment or perception and the knowledge and the will is the perpetrator of the offense.

Almost non-audit Minor lawyers agree that both of these attributes (knowledge and will) greatly deprived and disadvantaged and therefore has full civil Stone. He also does not have any criminal responsibility, but we can say about a minor point Which are partly able to recognize the values and anti-values and risks and benefits and direct their actions to achieve the benefits or harm, Preserving and enhancing the value and reject the anti-values or abnormalities.. Therefore, apply some of the knowledge and authority he derived a minor point and therefore any is attributable to him.

Code of Criminal Procedure Act 78

We saw it as part of the thesis, a reference to a set of rules so that children have in relation to the proceedings. This rules format that can be divided in three groups and have each separately been studied.

Including the principles and rules governing the stage of criminal proceedings in the criminal procedure law approved in 1378 is also referred to four the summary to them.

Iranian legislator in Article 225 of the General and Revolutionary Court Hearing Procedures in Penal Matters stated: "will not be open to juvenile delinquency. In court only child of parents and legal guardians, attorneys and witnesses and informants and representatives of their juvenile institution as the court deems necessary will be present.

Publication of trial by media or video and slides, prohibit disclosure of the identity and characteristics of child offenders Punishable under Article 648 of the Penal Code shall be sentenced"

Conclusion

Juvenile justice, juvenile court, prosecution and preliminary investigation, to expedite the proceedings, proceedings, pre-trial detention of criminal procedure in a general sense to the discovery of the crime, the prosecution, the preliminary investigation and trial of criminal suspects as well as ways to protest vote the competent judicial authorities and law enforcement refers to quality, to the benefit of victims, respecting the rights of defendants, judicial security and public order has been developed and is of the utmost importance., requires that the judicial system in providing for such purposes, issue tracking and responding criminal offense adopt scientifically based.he is self-incompatible or possibly help them intensify the adverse conditions, avoid them.have serious attention because it involves the promotion of juvenile justice and children is part of the process of national development.

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