

# Children Courts Procedure; Developments and New Approaches

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**Abstract:** *This means that despite a simple concept is quite complicated. Topics that scholars of criminal law in the twentieth century prompted to preserve and guarantee the fundamental rights of offenders in the judicial process and framework necessary to combat crime and prevention and correction of offenders are technical in the field of the centrality of the Code of Criminal procedure adopted in 1392 in the discussion and analysis in this article.*

**Keywords:** Children Court, Procedure, Children Delinquency, Children Trial

## 1. Introduction

Observance, justice requires rules and laws that the prosecution and punishment of innocent people prevent, running away from the action training tailored to the offenders close the hearing to the possibility to the freedom and independence of the character of these defendants know and take appropriate security measures and education about them determine the cause punishment and reform offenders and bring them back to life with dignity is effective. In addition to adopting appropriate response to the crimes committed by children should also be familiar with the concept of crime and the need to identify it. (11) In view of social pathology and criminal sociology commonly delinquency and crime are in a row. Delinquency in the legal approach is: a violation of the norms of society through criminal law cannot be followed.

Sociology approach is based on the theory of Emile Durkheim, crime is: a natural phenomenon that comes from the culture and atmosphere of each community. Jumbo Marlene writes: "the criminal phenomenon that regardless of the offender, it can be examined." (5) Iranian criminal law provided numerous definitions of crime. Doctor of the crown required a definition states that "the criminal to the crime said that, if committed, in accordance with the law of retaliation limits and sanctions have to be punished." In another definition of delinquent states:(13) "The crime, the to act contrary to the laws, regulations, rules and values and cultural community, and thus to act contrary to the norms, rules and values the culture of any society, the society of crime or a crime and those who commit such acts the offense, the offender or offenders are called. Understanding different views with regard to the crime, be sure to check the course of the proceedings offenders. For convenience and a better understanding of the criminal justice system in general can be a bunch of children in sub-divided into four periods as.

### 1. Before Islam

Although the way hearing children during ancient documents not enough, however, when more closely at

this issue, we explore the lives of each series of carefully studied, we find that according to Iranian culture and civilization in ancient times and more specific rules such leniency towards offenders there. The criminal law of the Twelve Tables law was in ancient times. The law offenders to adult and mature division and compensation for crime were sentenced by fine or corporal punishment. (3) The law also applies to the individual committed "acts of voluntary" and "involuntary actions" had split. Public involuntary crimes committed by children and leading discount was punished. The punishment was applied with more flexibility, but correctional these criminals, were considered.

### 2. The Advent of Islam up to Revolution

However, by examining the criminal law of Islam, we find that the law is holy intensive efforts for fair laws and the principle of criminal liability on the basis of wisdom and maturity has set and why children up to the age of a certain lack of responsibility is known. Finally, it should be stated, it appears at this time Islamic spite of the government, criminal justice the offenders are not properly respected. (10)

### 3. The Constitutional Revolution Islamic Revolution

Before the constitutional and legal organization, there was no clear judicial and Shah was a symbol of justice and reference grievances. Until the 11.06.1290 dated worm, Code of Criminal Procedure, entitled "Temporary Law on Criminal Procedure Code" was passed by the National Assembly Justice Commission. Finally, on 10 / 9/1338's first stand-alone legislation to address juvenile delinquency as "delinquent juvenile court law" was passed by the National Assembly. This law was implemented in 1357 to the Islamic Revolution. The result can be the starting point for the creation of a fair trial for the crimes of children this age, he said.

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#### 4. The Islamic Revolution so Far

After the victory of the Islamic Revolution in many criminal law and criminal procedure code was created radical changes. Declared obsolete. In the law courts with the criterion of Islamic criminal justice system in general and criminal court to juvenile delinquency division and the direct jurisdiction of the General Court was criminal. This process reforms the law in court again revived in 1381 which has continued and changes in the field of pediatric Darcy refused. To create a fair hearing, yet specialized to address crime offenders were removed. (2)

## 2. Organizational Children Court

One of the most important is to create a fair trial standards have been investigating authority to the form and follow a certain order. In the organization of the courts is a very important topic. Referred to children court must first seating at the juvenile court in 1338, the lyrics will be "in any court or juvenile court will be formed a city ...." With a few changes essay on Article 219 Law public and revolutionary courts in criminal matters was in 1378. But the legislator in Article 285 Code of Criminal Procedure in 1392 with a new approach and to achieve justice and a fair trial court, especially children and adolescents predicted and provides: "In the company of Children and Youth Court and in its place a branch of the Prosecutor's Office General court of the city center in each district headed by the juvenile courts as well The plays." (1)

Another important topic in the structure of juvenile courts, the courts are in terms of judicial authorities. The judges, in terms of crimes that people with certain physical and mental conditions are addressed, should have certain characteristics. Legislator in Article 409 of the Criminal Procedure Code 1392 is forecasted conditions for juvenile court judges. It seems that the conditions set forth for the selection of the material is not enough Sat juvenile court. Public courts are by law assigned to address juvenile delinquency. (8)

### Special Children's Court Rules

#### Children Court

As you know the authority to prosecute all crimes court is. Subject to the provisions of Article 43 of the law by a judge or to call him by the investigating judge (substitute judges) are carried out. "However, after the formation of prosecutors between 1381 and transfer all duties judge investigating the prosecutor's office, changes in this build and not to juvenile delinquency still remain within the jurisdiction of the juvenile court. (4) Article 285 of the Criminal Procedure Code 1392 legislative court in the company of the children's court and preliminary investigation for crimes that are committed by children in the court done. It seems that the legislator juvenile court in anticipation of the new law, the legal vacuum that was felt before, in this case, has ended. Also a complex justice system also extends to juvenile court, and improve respect for the rights of the child in criminal proceedings is provided. (9)

#### Accelerate the Crimes of Child

Children and adolescents due to a certain age where, with a specific and sensitive mood. So you need a way to handle their crimes so they suffer less trauma. (11) One way to achieve this goal in the shortest time possible care to their crimes. Judicial authority must be possible prolongation of the proceedings or the adoption of instructions that due process is prolonged, avoid. This can be a form of Clause 2, Article 285 of the Criminal Procedure Act 92 concluded.

#### The Child Tried Behind Closed Doors

However, in the case of juvenile delinquency, in order to avoid putting the child in the public spotlight, principle run not against it has been decreed. (Creator, in 1387) Article 225 of the General Courts revolution in Criminal Matters 1378 on mandated "crimes children will not be made public." .... 1370 Islamic convicted. "Article 648 of the Penal Code 0.1370 abolished by this Act under Article 728 of the Penal Code Article 1392. The above only by changing the number of identically repeated. (13) Now to the topic after hearing one of the most important areas of children's characters discuss the case.

#### Filing for Child Characters

Character dossiers for offenders of school initiatives was the establishment of fulfillment. Charged on character recognition to determine the appropriate penalty is better. Argentina carried out in 1907 and later attracted the attention of other countries and established special centers to identify the personality of the child. Personality sentenced to prison and to detect and resolve problems in their personal, family and social psychologists and record this information on file with the opinion of personality is explicitly mentioned. (3)

However, Article 7 of the Juvenile Court in 1338 said: "If you research on the situation of temperament or mental health of children or parents or the marital status of the child and the environment intercourse necessary, the court children research is himself or by any means it considers suitable to do or comments to draw qualified persons. (6)

#### The Opinions and Decisions Children Court

In fact, the legislator tries to impose decisions and methods of education improves and rehabilitation of children and socialization him to provide legislators with such a view in the IPC 1392 and supplying and training applicable to children by separating the he has set age.(12)

#### Decisions about Children Immature Children Court

As a legislator in the Penal Code in 1392 brought young children to him if the offense on Security and Corrective Measures apply. The legislative task in cases where a child has committed a crime punishable by HAD will be given. In this regard, Clause 2, Article 88 of the Penal Code 1392 provides that: "If a minor commits a crime punishable by HAD, if s from twelve to fifteen lunar year is one of the

measures imposed in paragraphs (d) or (e) sentenced or otherwise of the measures imposed in paragraphs (a) to (c) of this Article in case they are taken.”(5), (12)

### **Children Court Decisions about Children 9 to 15 years**

In the case of preventive and educational offenders aged 9 to 15 years of solar legislator provides: "About Children and youth who commit crimes are punished and their age at the time of commission, not fifteen years of the solar terms case, the court adopts one of the following decisions:

A submission to the parent or parents or legal guardian with a commitment to discipline and moral education and care of the child or youth. Note: If the court deems expedient, as the case may be people in this paragraph and with the commitment to do things such as the following results also obtain court deadline:

1 - Introduction to the child or youth social workers or psychologists and other professionals working with them.  
2. Send the child or youth in an educational institution and culture to education or vocational training.  
3. The measures necessary for the child or youth addiction treatment or under medical supervision.

4. Prevent harmful child or youth socialize and communicate with individuals at the discretion of the court.

5. Prevent the movement of the child or youth to certain geographic areas. (9)

(1173) of the civil Code.

C - Admonished by the judge.

(D) Warning hints or signing a written declaration to the lack of recidivism.

(E) Kept in a juvenile institution from three months to one year in the case of crimes according notch up five. “(11)

### **Decisions Children Court for Children 15 to 18 years**

The lawmakers about the type of Security and Corrective Measures on offenders aged 15 to 18 years of solar in Article 89 of the Penal Code 1392 provides that: "about teenagers who committed a crime punished and their age at the time of commission of between fifteen to eighteen the following punishments shall solar year is:

(A) Held in a juvenile institution from two to five years for crimes for which punishment is legal within three degrees of punishment.

(B) Held in a juvenile institution from one to three years in the case of crimes punishable by law they punished the fourth degree.

(C) Detention in a juvenile institution from three months to one year or a fine of ten million (10,000,000) rails to forty million (40,000,000) Rails or one hundred and eighty to hundred and twenty hours of unpaid public service in the legal punishment for their crimes punished the fifth degree.

(D) A fine of one million (1,000,000) Rails to ten million (10,000,000) Rails or providing sixty to one hundred and eighty hours of unpaid public service for those punishable by law, they punished the sixth degree.

(E) A fine up to one million (1,000,000) Rails legal punishment for their crimes, which the punishment is seven and eight. “(4)

### **Children Court decisions about adult children less than 18 years of Hudud and Gisas**

Legislation on children who commit crimes punishable by Hudud and Gisas and adults under 18 years are decreed that "the crimes punishable by Hadd or Gisas, if mature people under eighteen years of age, the nature of the crime or its prohibition not understand.

### **Discounts and Suspension Decisions Juvenile Court**

Legislator in two of explicitly way off and pile juvenile court has suspended decisions. Article 93 of the Penal Code in 1392 about discounts decisions and court rulings children provides that "the court can have proof of mitigating punishment by half at least reduce and safeguarding measures and upbringing of children and adolescents to another measure. » (7) Article 90 of the Act states that: "the court may, according to the reports of the condition of the child or young person and his behavior in a juvenile institution once in their ratings revised and storage period of up to one-third to reduce or maintain the delivery of the child he turned to the teen or parent or legal guardian. If the appeal court's decision to adopt a child or youth in a juvenile institution for at least one-fifth of the storage period has passed. (3) A court decision is final. This precludes the use of conditional release and other allowances legally with their requirements are met. "Regarding the suspension decisions juvenile courts as the legislature has determined that" the court may on all punishment crimes committed by juveniles, the decision to postpone the implementation of suspend the punishment. "Among children with differences court rulings from other jurisdictions is that courts are not criminal children with books. (8)

### **Individuals and Authorities Competent to Execute Children court sentences**

About what persons or authorities should implement the decision of the juvenile court, not only in the earlier legislation, but the legislation is silent on the Code of Criminal Procedure 92. But in this case the Legal Department of the Judiciary in Theory No. 431/7 dated 01.23.1373 has somehow demystify.

### **3. Conclusion**

Finally, the legislator during decades of rule in Iran, the children always have tried to child rights accused the judicial process including crime detection, prosecution, investigation, issue judgment and execution N\_ be respected. In fact, should act to juvenile delinquency proceedings to the context of the child's return to the

community and his reforms are possible. For the purpose of the legislator in the laws and regulations that are imposed on children, the child is correctional. It is an approach that legislative measures in the Code of Criminal Procedure in 1392 also put their act. In this law, legislators are numerous, yet with certain elegance to it that the way of dealing with juvenile delinquency and decisions, correcting and training, taking into account the conditions and circumstances should be done, when lawyers it called "the principle of individual punishment," they remember. As in the overall assessment, it can be argued that the absence of a law coherent and comprehensive preliminary investigation, the creation of police juvenile, filing personality and maturity, judgment is issued and execution of juvenile courts and juvenile and children largely have been resolved.

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