



PATH OF INTERVENTION OF ACTORS IN THE CASES OF CHILDREN ACCUSED AND CONVICTED OF VIOLATION OF THE LAW FROM THE POINT OF VIEW OF CHILDREN'S RIGHTS IN ARAB STATES

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Abstract

The study aims at answering its key question: What is the best path for the intervention of actors in the cases of children accused and convicted of violating the law from the perspective of children's rights in Arab states? The study uses four research methods. The first is the analysis of document content including official documents such as legislations and also study reports, reports on professional forums, and operations and services management models. The second is a case study of all Arab juvenile justice systems in light of both internal and external data. The third is standard comparisons between the state of Arab juvenile justice systems and expectations based on their adopted principles and ideal international standards. Finally, interviews were used with those concerned such as juvenile police, judges and social specialists. Accordingly, a best path has been set to deal with children in conflict with the law consisting of three key stages each including a number of sub-factors reflecting the expected roles and tasks of interveners.

Keywords: Juvenile Justice, Child rights, Penal Correction, Convicted Children.

Introduction:

Some children in Arab countries commit criminal acts including violations, misdemeanors and felonies, which subject them to criminal accountability according to the minimum and maximum ages of receiving judgments, which differ from one Arab state to another. These children are made accountable for their actions before actors and interveners in their legal statuses, whose professional titles and roles, and limits to their powers and responsibilities were stipulated in various legislations. It has been revealed through content analysis of one of these legislations, the Jordanian Juvenile Law 33 of 2014 (Ministry of Social Development, 2015), that it fails to indulge into defining the scope of operations and sub-operations of these interveners, fails to mention the tasks related to their roles, and does not mention the limits of flexible intervention among their roles. This was clear from other data collected from a number of other countries. Sources of that data include the Tunisian Child Protection Journal (Ministry of Women, Family and Childhood, 2012), the Yemen Juvenile Welfare Act (Ratrouf and Dabwan, 2014) and the Omani Law of the Child (Ratrouf, 2013).

Criminal accountability of children for their criminal acts in Arab states usually leads to stripping them of their freedom by arresting them in security centers for periods determined by the law and then placing them in juvenile sections of prisons or in juvenile homes pursuant to judicial rulings. In Jordan, for example, the arithmetic mean of juveniles arrested for later consideration in security centers during the period 2012-2015 was (5224.5) children. The change rate of the numbers of arrested juveniles between 2014 and 2015 was (14.43%). The arithmetic mean of juveniles placed in rehabilitation centers for the period 2012-2015 was (204.25) children. The change rate in their numbers between 2014 and 2015 was (9.43%) (Al Shneikat, 2017).

Detention of children leads to violation of their human rights. These rights were unanimously agreed to in international, regional and local reports. On the global level, the Situation of the World's Children Report (UNICEF, 2005) revealed most of the violations committed against detained juveniles. These violations include violence, as justice systems concerned with their cases leave them detained for unlimited periods isolated from the outside world and mixing with adults in unhealthy conditions. In addition, those responsible for running detention facilities enjoy immunity and are barred from questioning. These workers also use detention institutions irresponsibly. Such facilities have no alternatives in the community, their programs lack care and rehabilitation services, they have no external regulations, they accept violence taking place in their environments, their staff lack proper training and they lack coverage in the media. On the regional level, the results of a recent study on the evaluation of juvenile justice systems in the Arab world (Ratrouf, 2013) revealed that children detention facilities in Arab states are run by various parties and are

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dominated by violence and lack of satisfaction of both service providers and recipients. On the local level, reports have revealed violations of detained juveniles' rights in many Arab states. For example, in Jordan, some juveniles are subjected to violence during questioning and they are stripped of their freedom and locked up in security facilities (National Center for Human Rights, 2016, pp. 16-17). In addition, levels of depression among detained juveniles reach (87%) compared to juveniles out of prison (4%- 8%). Dangerous behavior is also common among residents of juvenile care and rehabilitation centers such as smoking at a rate of 84%, absence from school at a rate of 70%, self-harm at a rate of 16% and suicide thoughts at a rate of 21% (Ibrahim, 2016, p 4). In Yemen, a recent study by (the Yemeni NGO Coalition for Children's Rights, 2011) revealed that prisons and detention centers pose dangers to children held within them. These facilities lead to violating these children's human rights, some of their buildings are worn and lack repair, they lack special sections for girls, they are over-cramped, they lack adequate rooms for family visits, their outside yards are too small and there is a lack of cleanliness. Regarding staff working in these detention facilities, it was revealed that guards lack minimum psychological knowledge and lack proper communication skills with the juveniles. There are also shortages of psychosocial experts, medical staff, teachers and technical trainers. Regarding the quality of services provided by these facilities, it was noticed that the children's health conditions were poor and some children died due to medical negligence and poor medical care. Also noticed was the lack of clean water, insufficient meals, lack of toilets and the spread of skin diseases, asthma, tuberculosis and rheumatism, as well as lack of mental care.

Arab juvenile justice systems are open to the process of development in light of the children's rights approach based on operation management to ensure clear perceptions in the minds of the service providers and recipients of their police, judicial and social institutions. Abidance to such standards enables these institutions to meet accreditation and quality control criteria and allows them and their staffs to compete for distinction awards.

Based on the above, the remaining part of this study comes in two sections, theoretical and practical. The theoretical section includes the standards and principles of children justice systems, the best methods to reach proper juvenile justice systems procedures, and looking into Arab juvenile justice systems from a research point of view. The practical section of the study includes the study justifications, importance, objectives, methodology, results and recommendations.

Theoretical Framework:

1- Principles and Standards of Children's Justice Systems:

A children's justice system is formed of its overall inputs including its legislations, institutions, service recipients and providers, plans, budgets etc. It also includes its operations, which can be criminal or correctional for its service recipients consisting of children accused or convicted of breaching the law, or protective for service recipients consisting of children victims of or witnesses to crimes. The system is also formed of its outputs, which reflect the direction of its inputs and operations, as well as feedback from its outputs, and finally, its resulting characteristics, whether positive or negative.

The Child Rights Convention was announced and the door was opened for party states to sign, ratify and join it in 1989 (UN, 2002). The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), non-custodial measures (Tokyo Rules), UN Standards for the Protection of Juveniles Deprived of their Liberty (Havana Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the UN Rules for the Treatment of Women Prisoners (Bangkok Rules) were agreed in 1985, 1990 and 2010 consecutively (Penal Reform International, 2016). Total quality management models and awards have become common worldwide (Nassar, 2011) as there are three global models for principles and standards of juvenile justice systems. They are as follows:

a- Principles and Standards Model with a Planning Nature:

This model is known as the 10-Point Plan aiming at an effective and just juvenile justice system (Penal Reform International, 2012). It was prepared by a joint team from the UN and international organizations concerned with child justice. The aim of this plan is to prevent children's delinquency and protect detained children. According to this model, juvenile justice systems must operate according to seven principles and must meet the requirements of all ten standards (Ratrou and Dabwan, 2014). Principles for the ideal child justice system include equity and effectiveness, conformity with international standards, enhancement of children's safety and security, suitability between procedures taken and the nature of the crime committed by the child, taking into consideration children's individual characteristics, response to the children's growth requirements, and facilitating children's education and reintegration. Principles and requirements for an ideal juvenile justice system include the strategy applied with children leading to crime



prevention. It involves analyzing the reasons behind children carrying out crimes and targets both delinquent and potentially delinquent children. It also concentrates on keeping children within their families and communities. A number of executive plans can be derived from it involving education and vocational training, supporting poor and marginalized families, spreading human rights culture and opening the door for communal participation in child protection awareness programs. The criminal responsibility age standard reveals the level of conformity between the set age for criminal responsibility and the age indicated by UN conventions. The minimum age for criminal responsibility has been set at 12 years. The database standard involves the child criminal justice practices and how they are administered. It also includes numbers of children (juveniles) criminal cases and numbers of participants to these cases, the types and categories of crimes committed by children, the numbers and characteristics of children detained in detention facilities, categories of detention facilities they are locked up in (prisons, educational institutions, rehabilitation centers, protective facilities), and institutions concerned with them (police, Ministry of Interior, Ministry of Justice, Ministry of Social affairs). This standard also involves measures taken and their effectiveness, financial costs of these measures and repeat offenders and reasons of their return to crime. The standard of children's institutions stresses the need to supply institutions with qualified staff, to separate these institutions' children service recipients from adult service recipients, to provide safety for children service recipients, to apply these institutions' procedures to all types of children offenders and to ensure continued education for staff members. In the standard of eradicating crimes applying to juveniles (behavioral irregularities such as running away from school or home, violating curfews and possessing alcohol or cigarettes), more effort must be exerted to solve behavioral misconduct through child protection mechanisms. The standard of hearing children's opinions on matters of concern to them shows ways to alleviate fears and anxieties they feel towards legal prosecution procedures. This requires taking into consideration a child's medical and mental health, providing him with supportive services such as translation, providing legal assistance and training workers on methods of dealing with children. The standard of investing in the referral or transfer of children (juveniles) beyond the official justice system can be implemented through a number of steps. These include providing required legislation, granting discretionary powers to law enforcement bodies, the presence of communal bases for accepting such measures, ensuring that such procedures achieve the best interests of the children, taking gender into consideration, and training staff and workers on negotiation, conflict resolution and legal mediation principles. Regarding the standard of resorting to detention as a final precaution and for the shortest time possible, it can be said that detention shall be resorted to during trial only in specific cases. Such cases include lack of assurance that the child will appear before the court, protecting the child from any dangers inflicted to him by others and lack of safe conditions for the child outside detention (failure to find his family, the family's incompetence, the nature of the crime, lack of support and supervision measures for the child etc.). The standard of rehabilitation and reintegration focuses on programs targeting children from the first moment they reach detention centers. Such programs provide comprehensive care and psychosocial support and encourage the children to communicate with their surrounding families and communities. They also provide opportunities to acquire essential life skills through education and targeted activities that enhance rehabilitation and improve the quality of life inside detention centers. The standard of prohibiting all forms of violence against children can be achieved through a number of mechanisms. They include the presence of punishment legislation against violence, abuse and torture, the attendance of children's parents, guardians, lawyers or representatives of all legal prosecution procedures, limiting detention to the shortest possible periods and resorting to it as a last resort, separating children from adults in all facilities and procedures, creating mechanisms to discover and follow up abuse cases, the presence of complaints mechanisms and reporting of abuse cases, independent supervision of detention venues and providing training for workers on child treatment mechanisms.

b- Principles and Standards Model of a Human Rights Nature:

This model is known as General Comment No. 10 (2007) issued by the Children's Rights Committee (UN, 2007). It aims at encouraging signatory countries to establish and implement a comprehensive policy for juvenile justice to prevent juvenile delinquency and to deal with this phenomenon based on the Convention on Rights of the Child and its provisions. It also aims at allowing the request for consultancy and support from the Inter-agency Coordination Panel of Juvenile Justice established pursuant to the Economic and Social Council Resolution 1997/30.

According to this model, the ideal juvenile justice system is that which is based on five principles including six factors. Some of this system's contents are derived from the provisions of the Convention on



Rights of the Child and includes non-discrimination between children violating the law and taking into consideration a child's best interests such as his right to life, continue, grow and participate with dignity.

The elements of the ideal juvenile justice system are prevention of juvenile delinquency before it happens through a number of measures expressed by the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) adopted and proclaimed by General Assembly Resolution 45/112 on 14th December 1990. These measures include intervention beyond judicial procedures by following referral system measures. In the framework of judicial procedures, alternatives should be used to prevent loss of liberty. In case this is inapplicable, a juvenile shall be held in prison provided he enjoys his rights and is subjected to a rehabilitation process. The minimum age for criminal accountability should be raised and so should the maximum age for juvenile justice. Just trial should be ensured in the form of preventing child punishment retrospectively or unintentionally, assuming a child's innocence, the child's right in his opinion being heard and his participation in his trial procedures, deciding on the lawsuit without delay and in the presence of the parents, the child's right in obtaining legal assistance and other form of suitable assistance, notifying the child immediately and directly of the charges put against him, the presence and questioning of witnesses, the right of appeal, providing free interpretation and full respect of privacy. Other elements include the use of pretrial alternatives such as the police, general prosecution and non-detention court measures. Denial of liberty should be used as a last resort only and for the shortest period possible.

c- Principles and Standards Model of Regular Nature:

This model was developed by some UN agencies and international organizations (Penal Reform International, 2012; Ratrout and Dabwan, 2014). It consists of ten indexes to measure the levels of efficiency and effectiveness of juvenile justice systems. The indexes are: detention periods before and after the issuance of a court ruling, the number of child deaths in detention centers over a period of 12 months, the number of children whose cases are referred during their period of litigation, the number of detained children for each 100,000 children, the number of detained children during the 12 month period preceding the detention of every 1000 children, the number of detained children who have harmed themselves during a 12 month period, the number of children detained in closed or limited spaced areas at least once during a 12 month period, the availability of a system that ensures independent and regular inspection of child detention centers, the existence of non-violence disciplinary measures of detained children.

Despite the capacity of juvenile justice systems to be evaluated based on the above models, only the Jordanian juvenile justice system has been subjected to evaluation (Ratrout, 2017). Results have revealed that its level of conformity with ideal international principles and standards models collectively was low at a rate of 42.85%. Individual conformity was low for the planning model (28.53%) and the regular model (42.85%) and average for the human rights model (57.17%) with statistically significant differences.

2- The Ideal Methodology for Setting Juvenile Justice Systems Procedures:

Despite that the correct source to obtain an ideal methodology for setting juvenile justice system procedures could be the principles and standards of ideal international models for juvenile justice mentioned above, scientific literature has no mention of this methodology. Therefore, an alternative could be found in the study of ideal practical methods. These practices stress the following:

a. Use of qualitative research with its research methods mentioned below, which involve sharing and participation. The procedures of the juvenile justice system, ways to develop this system and the methods used by Penal Reform International (2017) during its implementation of its projects in the form of procedural guides for institutions concerned with juvenile justice are as follows:

1. Analysis of document content such as national legislations, international agreements and conventions related to child justice, procedural manuals for childcare in developed countries and reports on discussion circles specialized in professional intervention into juvenile conditions. This shall allow the researcher to determine the titles of actors and interveners in cases of children violating the law, their roles, operations and limits of intervention.

2. Case study. This regards each actor or intervener dealing with a law-breaking child's situation as dealing with an individual case in light of the actor's roles and tasks defined by law and reflected by its provisions.

3. Comparison between the actual and expected roles of actors in a delinquent child's situation and the current roles of actors in other countries. Also, comparing between judicial procedures towards a delinquent child in a specific country and procedures in other countries.

4. Focal groups for actors and interveners in a delinquent child's situation to find out their perceptions towards their roles and tasks.



5. Feedback from the outputs of discussion groups dealing with professional interventions into delinquent children's situations.

6. Open meetings with officials in the juvenile justice system and field visits to parties concerned with the conditions of delinquent children.

b. Use of Large Data Method: Examples include the study of the status and development opportunities of juvenile justice systems in Jordan, Algeria, Egypt, Morocco and Yemen (Ratrouf, 2011). Five research methods were used during these studies as follows: 1- the standard comparative method, which compares between the status of juvenile justice systems in the states under study and their ideal models derived from their legal, administrative and developmental literatures. 2- the case study method, which views each juvenile justice system as a total case within its surrounding conditions and each part of the system as a partial case. 3- the content analysis method of official and unofficial documents dealing with the status of juvenile justice systems in the states being studied. 4- the available data method on juvenile justice systems in studied states. 5- the environmental analysis method involving the monitoring of internal strengths and weaknesses and external opportunities and threats facing juvenile justice systems under study from the points of view of those concerned with their matters and a summary of what was written about them in documented sources and references. Data and information collection tools were also used in the study including: questionnaires delivered by post consisting of a large number of open questions about geographical, population, economic and social data on the studied states and the status of juvenile justice systems within them. They also include available sources such as national and international reports reflecting the general development of the studied states and the conditions of children within them, the performance of those responsible for children's legal affairs, semi-structured interviews with those concerned with juvenile justice affairs in the studied states, and intentional and unintentional observation of the contents of activities such as workshops and regional forums.

3. Arab Juvenile Justice Systems from a Scientific Research Perspective:

Arab juvenile justice systems have been subjected to scientific studies. These studies have revealed their levels of efficiency and effectiveness, components and obstacles, and positive and negative points. Among the most recent studies dealing with Arab juvenile systems from a comprehensive perspective are:

- a. The Ratrouf (2013) Study on "Evaluation of Juvenile Justice Systems in Arab States" in which he used the system analysis method. Results revealed the weakness of Arab juvenile justice systems as they follow a criminal style with many negative outcomes. They have numerous old and conflicting legislations with national rather than international dimensions. Their police institutions are based on contrasting legal and administrative references and suffer from domination, intervention and unclear roles, as well as many rotations in leading positions. Their detention facilities are run by various bodies and are dominated by violence and dissatisfaction among service providers and recipients alike. They are also unable to connect strongly between preventive, treatment and development approaches to the phenomenon of child delinquency. They suffer from the effects of poverty, school dropout, gender inequality and poor health etc. These effects can be treated by adopting the United Nations Millennium Declaration or the Rio+20 Declaration. Methods used by Arab states to fill the gaps in their juvenile justice systems were also evident. Those means were outlined in the Second Arab Decadal Plan for Childhood (2014-2015), which lacked an environmental analysis based on evidential outcomes, as well as a control and evaluation system. The Arab Strategy for the Prevention of Juvenile Crime and Delinquency and its executive plan were systematically weak as they lacked analysis based on quantitative and qualitative evidence and also lacked a timeframe to achieve their non-smart goals.
- b. The Penal Reform International Study on "Juvenile Justice Systems in Jordan, Algeria, Egypt, Morocco and Yemen: Current Status and Development Opportunities" (Ratrouf, 2011). The study's results revealed that juvenile justice systems under study have been and continue to be subjected to changes resulting from their environments signifying positive change and improvements in their general performances. Areas of improvements to the Jordanian juvenile justice system include forming a strategic framework from a gender perspective to limit juvenile crimes before, during and after they are carried out. The juvenile law must also be amended from a justice reform perspective and must include explicit provisions on the roles and procedures of concerned institutions. The penal law in effect should also be amended regarding its article related to abuse, as the enactment of this law supported by legal medical reports results in the majority of juveniles being referred to rehabilitation and care homes. The Child's Rights Law should also be issued and applied to child cases in need of protection and care. The Family Protection Law No. 6 of 2008 should also be revised



and developed. Its regulations in general and its regulation related to family welfare in particular should be issued, especially those that could contribute to limiting rates of female juvenile delinquency. Criminal age should be raised from 7 to 12 years or more. Databases of bodies concerned with juvenile cases should be developed and connected electronically. Performance distinction of institutions concerned with juvenile cases should be promoted. A judicial system specialized in juvenile justice should be established and its staff's capabilities should be built. The juvenile police department capacity should be enhanced and training requirements of its staff should be met. Finally, a volunteering civil monitor for juvenile rights should be established and an early warning community system should be designed to deal with juvenile issues. Scopes of improving the Algerian juvenile justice system include the issuance of a child protection law, connecting databases of concerned parties (police, gendarmerie, Ministry of Justice and Ministry of National Solidarity), building the capacity of the Ministry of Solidarity, Family Affairs and Women in dealing with juvenile issues and providing care for children, and creating an award for performance distinction among penal institutions and allowing the participation of concerned institutions in it. Scopes for improving the Egyptian juvenile justice system include establishing custody sections in police departments and training police staff on children's rights. Also, enhancing judicial supervision and inspection of such departments and holding abusers legally accountable in cases of violation of children's rights. Police departments should stop the policy of cuffing juveniles. Juvenile police departments should be established in all governorates to prevent noncommissioned officers and police officers from dealing with juveniles. Juvenile prosecution judges should be trained on referral and non-detention measures, juvenile judges should also be trained on juvenile reform justice to enable them to practice their powers of supervision and inspection of juvenile care centers. Judicial control and inspection of juvenile detention centers should be enhanced. The efficiency and effectiveness of care homes should be improved. Juvenile control services should be improved and their procedures should be administered according to human rights principles and principles of wisdom. A strategic framework should be designed to limit juvenile crimes before, during and after they happen. Committees should be formed for juvenile community support. Capacities of juvenile justice bodies in areas of criminal statistics and databases should be built and databases should be interconnected. Cooperation and coordination between parties in control of juvenile care homes (Ministries of Interior and Social Solidarity) should be enhanced in light of their roles stipulated in concerned legislations. Scopes of improvement of the Moroccan juvenile justice system include setting a strategic framework from a gender-based perspective to limit juvenile crimes before, during and after they are carried out. A child protection law should be issued. Detention of juveniles should be restricted to child protection centers to prevent the existence of juvenile sections annexed to prisons and to decrease numbers of children locked up in them. Pressures on child detention centers should be lifted through expanding the Moroccan judicial system's use of referral and non-detention measures. Databases of parties concerned with juvenile issues should be developed and connected electronically. Institutional performance distinction methods should be promoted among institutions dealing with juvenile issues. Legislations regulating juvenile rights should be adhered to. A social early warning system for juvenile matters should be designed. Social services offices for juveniles at police centers and departments should be developed, and a project for parent awareness and communication with their male and female teenagers should be implemented and evaluated. Scopes of improving juvenile justice systems in Yemen include developing the registration process of newly born children as this helps in putting a limit to the death of some delinquent children who may receive the death penalty. A strategic framework from a gender-based perspective should be set to limit juvenile crimes. Juveniles between the ages of 15 and 18 should not be detained in wards annexed to normal prisons. The policy of referring juveniles from correctional social homes to juvenile prison wards in cases where they become older than 15 years should be lifted. Police custody of juveniles should be provided in governorates lacking social correctional homes and special prison wards for juveniles. A complete database of juvenile cases connecting all parties concerned with their judicial affairs should be developed. Criminal statistics should be united in one source and published in a language that takes into consideration gender and juvenile justice (both criminal and reformative). Efforts to raise the age of criminal accountability of juveniles to 10 years should be enhanced. Nondiscrimination between juveniles during judicial processing of their cases should be observed as juveniles below 15 years of age are subjected to specialized juvenile justice, whereas, those aged 15 to 18 are dealt with



by the normal judiciary. Social correctional homes programs should be reviewed and developed based on their recipients' requirements, and human, material and financial capabilities should be provided to implement, follow up and evaluate such programs. Control and inspection procedures of juvenile detention facilities should be activated regardless of the sectors they belong to. This should be carried out from human rights and total quality management perspectives towards control services. Finally, a follow up and evaluation system of the outputs and outcomes of the reports of the Yemeni NGO Coalition for Children's Rights should be structured.

In addition to the two above-mentioned studies, other modern studies have dealt with specific juvenile justice systems. For example, a study conducted by Khitam Al Shneikat (2017) titled "Rates of detained juveniles in Jordan both before and after the enactment of the Juvenile Law No. 32 of 2014" uses multiple research methods such as the system analysis method based on sources of verification and performance indexes. It included the inputs, operations, outputs and feedback on the Jordanian juvenile justice system. It reveals that this system lacks a strategic plan and database and fails to deal with the radical reasons behind children's acts according to their social conditions. Also revealed was that referral rates are low and detention rates of juveniles, depression among them and abuse towards them are all high.

A field study was conducted jointly between Penal Reform International and UNICEF (2017) to determine areas of improving interaction between interveners in delinquent children cases in Tunisia based on best international practices in the area of child justice. It was revealed that expected improvement areas include the need for judiciary police officers to carry out their tasks in settling children's cases of violations and misdemeanors as is the case in both Jordan and Morocco. A judiciary police department concerned with children should be established by law as is the case in Jordan, Morocco, Iraq and other countries. Lawyers should be allowed to defend children during the phase of general prosecution intervention as is the case in Algeria. A post for punishment executant judge should be developed as is the case in Jordan to guarantee the level of quality of judicial judgments. The posts of child protection officer, child consultant and constrained freedom officer should be merged into one occupational post (social specialist) as the tasks and roles of these three jobs are similar. Institutional references of observational and reform centers at the Ministry of Justice should be united. Children's wards in prisons should be closed and their service recipients should be referred to Ministry of Justice reform centers. Preventive detention at judiciary police stations should be replaced with preventive detention in reform centers. The child consultant should participate during the judiciary police intervention stage as there could be a need for a social field study. Interaction between child consultants, constrained freedom officers and social specialists should be enhanced in observation and reform centers to unite their professional efforts by adopting one of their reports (such as that of the consultant) and building upon the data in that report. Continuous education of interveners in delinquent children cases should be enhanced. Institutional capacities of actor parties in delinquent children's cases should be developed. Actors in children delinquency cases should participate in total quality management awards. Finally, a department for children justice at the Ministry of Justice should be formed and should include the membership of all parties acting in delinquent children cases. This should help set the policies for the children's justice sector and coordinate between the efforts of its actors and institutions.

In a study conducted by (Ratrouf and Dabwan, 2014) titled "The Extent of Application of Restorative Justice to Cases of Children and Juveniles Accused and Convicted of Violating the Law in Some Yemeni Governorates", the study revealed that the extent of implementation of the studied method by official and unofficial institutions concerned with law enforcement is high. This method was found to be successful and widespread and more evident in female cases rather than male ones. The reason for this outcome is its practice by tribal leaders and neighborhood elders to a larger level than police officers and court judges.

Practical Framework

1- Study Justifications, Importance, Objectives, Research Problem and Methodology:

a. Study Justifications:

1. The absence of applied studies on the standard path of intervention of actors in cases of children accused and convicted of violating the law from a children's rights perspective in Arab states. This requires the availability of this study to benefit from its lessons for practical reasons for the interest of delinquent children, their service providers and researchers concerned with their affairs.
2. The varying intervention paths of actors in the affairs of children accused and convicted of violating the law in Arab states. This requires building a comprehensive model from a children's rights perspective for guidance in levels of application, control and evaluation.



3. The implicit knowledge of workers in the field of child justice, which needs to be transformed into explicit practice through documenting it in the form of a system or direction.
4. The enactment of the practical requirements of Comment No. 10 issued by the Committee on the Rights of the Child in 2007.

b. Study Importance:

The study's importance stems from its key output: the model path for the intervention of actors concerned with cases of children accused and convicted of violating the law from a child's rights perspective in Arab states. This output could benefit the following parties:

1. National institutions (Council of Arab Ministers of Justice at the Arab League of Nations) and (Qatari Ministries of Justice and Social Affairs and the Council for Family Affairs) concerned with juvenile services and policies in the Arab World. The system under study could help through its implementation, control and evaluation in winning institutional distinction awards and improving the positions of Arab states before the International Committee on the Rights of the Child through implementing Comment No. 10 of 2007.
2. Institutional development units of police, judicial and social institutions concerned with the management of services and operations related to children accused and convicted of violating the law.
3. Academic researchers interested in applied studies in the area of juvenile justice systems.
4. Trainers interested in preparing training materials in the area of juvenile justice systems.

c. Study Objectives:

The study has one objective, which is to answer its key question: What is the model path for intervention of actors in cases of children accused and convicted of violating the law from a children's rights perspective in Arab states?

d. Study Problem:

Children violate or break the law or become in conflict with it due to many factors differing in their sources, sizes, relationships and effects. Children's violation of the law leads to them being held accountable for their actions in light of their minimum and maximum ages set by their judicial systems, which differ from one state to another. Holding children, whose ages are equal or above the minimum criminal age of their countries, accountable leads to them going through the process of their countries' judicial systems. Such systems may have a penal or reformatory nature or both simultaneously. The conditions of these systems in Arab countries indicate the absence of a unified model from a children's rights perspective. This study came to prepare such a model, or in other words, to answer its key question mentioned in its Objectives item.

e. Study Methodology:

The study has its study population consisting of juvenile justice systems in Arab states. It also made use of a number of research methods as follows:

1. Analysis of document content. These documents include official documents such as national and international legislations, reports on research studies, reports on professional forums and total quality management samples at the levels of operational and services management.
2. Case studies of all Arab juvenile justice systems in light of internal and external data.
3. Standard comparisons between the statuses of Arab juvenile justice systems and expectations from them according to best international principles and standards.
4. Individual interviews with some of those concerned with delinquent children such as juvenile police and judges and social specialists.

2- Study Outcomes:

A best path to deal with delinquent children has been developed to implement Arab legislations concerned with delinquent children's cases, to conform to international standards related to child justice, to enhance the response of law enforcement institutions and their representatives towards the requirements of total quality management and governance, to solidify participation and sharing approaches between actors in delinquent children cases, and to adopt best international practices in the area of child justice. This direction consists of three key stages, each containing a group of sub factors. They all reflect the actual and expected roles and tasks of interveners in delinquent children cases. These stages and their sub factors are as follows:

1. Dealing with a Delinquent Child during the Preliminary Investigation Stage:



When a child commits any act violating the law, the first party to deal with the case is the police, which has been granted by the legislator the authority to investigate the crime, collect evidence and search for perpetrators. However, in consideration of the special case of dealing with children, many Arab states have developed departments for juvenile police. The role of this department is to investigate cases of children accused of breaking the law. The first procedure a juvenile police officer should follow is to call the juvenile prosecutor and to inform him of the issue to receive required instructions. Such instructions would ensure the child's rights at this stage.

- 1.1 The Child's Right to Remain within his Family Surroundings:** The first right stipulated by the legislator is that the child accused of the crime shall remain in his natural surroundings while investigating with him, or at least within similar surroundings ensuring his liberty, good treatment and care. The police officer, under the supervision of the general prosecution, shall refrain from keeping the child in police custody unless investigation requirements and the child's safety require this as in cases where the alleged crime is of large severity. Nonetheless, the child's rights mentioned in the law shall be upheld.
- 1.2 The Right Not to Be Abused:** The police officer shall commit to good behavior towards the child and shall refrain from abusing him verbally or physically. He shall take all measures to prevent the child's abuse and shall ensure that the child is not in contact with any object that may harm him or which he may use to harm himself. Should the child bear any injuries such as cuts, bruises or a certain disease, the police officer shall refer him to the doctor for medical attention after informing the general prosecutor of this. Also, a special record for the child held in custody shall be prepared and numbered by page and affixed with the signature of the general prosecutor. This record shall include the identification information of the held child, reasons for holding him, the time the custody began and ended, the hearing duration, resting hours, the child's physical and medical conditions, the food provided to him, and the day and hour custody was lifted and in which he was referred to general prosecution. This record shall be signed by both the child in custody and the juvenile police officer carrying out the custody process when its duration is over. Should the child be unable to sign or fingerprint or refused to do so, the police officer should mention this in the record. Such records shall be referred to the prosecutor general for viewing, supervision and approval at least once a month. Juvenile police officers shall also file to the general prosecution a daily list of the children held in custody during the prior 24 hours period.
- 1.3 The Right to Inform Parents:** As soon as a police officer receives a report about a child's case, he shall immediately inform the child's parent, guardian or one of his relatives by any means possible in preparation of listening to the child in the presence of any of them. The officer shall mention this in his report.
- 1.4 The Right to Call Parents:** When the child is being heard, his parent, guardian or one of his relatives shall have the right to attend the hearing session. Also, should there be an order for placing the child under temporary protection or custody during preliminary investigation, his parents shall be entitled to call him upon the approval of the general prosecution. The juvenile police officer shall prepare a special place for this call ensuring the required empathy between the child and his parent, guardian or relative. However, the officer from a distance shall regulate this call.
- 1.5 The Right to Call a Lawyer:** Among the basic assurances authorized by the legislator for children during the preliminary investigation stage is the right to appoint a lawyer to defend the child upon a decision by the prosecutor general if the child has not appointed a defense lawyer. As in the case of the parent's call to the child, the juvenile police officer shall provide suitable conditions for the child to call his lawyers while regulating the call from a distance.
- 1.6 The Right to Confidentiality:** Preliminary investigation procedures should be completely confidential. The only exception to this authorized by the legislator is ensuring the child calls his parents and lawyers. However, the legislator ordered those parties not to disclose anything said during the call with the child before the preliminary investigation is over.
- 1.7 Hearing a Delinquent Child:** Among the most important procedures carried out by the authorized police officer during a preliminary investigation is the process of hearing the child's story and the conditions behind the acts he is accused of after informing him of these acts in the presence of his parents and lawyers. Child communication techniques should be taken into consideration when hearing a child. In addition, the police officer may not use any means of



intimidation, coercion and lure to force him to confess, whether these methods are verbal such as insults and warnings or physical such as violence and torture. It should be known that such methods are illegal and should they be proven against a perpetrator, he shall be subjected to punishment by law. Although legislations have stipulated that a child shall be heard in the presence of his parent or lawyers, the general prosecution must make sure that the police officer has actually performed this procedure. Should he have failed to do so, he shall be held accountable before the law. Should the child speak a language or dialect un-understood by the police officer, the latter shall use a translator. Should the child be deaf or dumb, the police officer shall seek the assistance of anyone who can communicate well with him. The officer shall mention the name of the translator or the person helping to communicate in his report and shall sign the report.

1.8 Referring the Case, if it is within the Category of a Violation or Misdemeanor, to the Behavioral Supervisor or Child Protection Officer: After hearing the child and the victim, signs of conciliation may appear between them. This requires the police officer to refer them to the behavioral supervisor or child protection officer to mediate in writing a conciliation agreement. The prosecutor general shall be informed of this and directions on the matter shall be obtained from him.

1.9 Writing the Report: In addition to hearing the child, the juvenile police officer shall carry out all searches and investigations required for the case. He shall listen to witnesses and everyone connected to the case, especially the victim. He shall then write a report including everything he saw and heard, as well as operations he carried out. He shall take into consideration all set conditions and formalities while doing so. As soon as he has finished preparing the report, he shall send it along with two authorized copies of the original and all other documents related to the case to the prosecutor general.

2. How the General Prosecution shall Deal with Delinquent Children:

The general prosecution has the obligation of visiting the police and detention facilities once a week or at any time it sees necessary to confirm the legality of detaining a child. It also has the obligation of ensuring respect for the child's rights during the preliminary investigation and takes the role of investigating the child's case after the report is referred to it.

2.1 Receiving the Delinquent Child and Ensuring his Safety: The prosecutor general receives the report, studies it and then receives the child accompanied by his parent and in the presence of the behavioral supervisor or the child consultant. Should the child be accompanied by a lawyer, interrogation takes place. The first step to be taken by the general prosecution, the behavioral supervisor or the child consultant should be to make sure the child is well. Should the child carry any clear effects of violent behavior or should he complain from violence being carried out against him, the general prosecution representative shall refer him to medical examination before interrogation takes place. The child and his lawyer may also file a request to undergo this examination and the prosecutor general must comply to this request.

2.2 Activating Discretion to Achieve the Best Interests of the Child: After studying the case, should the general prosecution find no grounds for proceeding, it shall order the report to be put aside. It may also order for the report to be put aside in based on the authority granted to it by law. Such a power is an effective means to save a child from judicial procedures and the negative impacts they may leave on him. This is the case especially with minor crimes, poor evidenced crimes or crimes of clear doubt. However, should the report include strong evidence of crime being committed, the general prosecution may refer the case to an investigative judge or a juvenile judge, each according to his specialization, to look into it according to the law.

2.3 Activating Conciliation and Stopping Public Prosecution Procedures for the Best Interests of the Child: In cases of children committing crimes categorized as violations or misdemeanors and upon the agreement of the child, his legal guardian and the victim, the general prosecution may apply the option of conciliation. In such cases, the general prosecution shall play a positive role and should seek such a solution for the best interests of the child. Such a solution would prevent the child from experiencing judicial proceedings, which may affect him negatively. If the conciliation attempt succeeds, the prosecutor general shall refer the parties to the case to the behavioral supervisor or the child protection officer to sign the conciliation papers through mediation and then authorize them. Should the attempt fail, the prosecutor general shall decide to continue with the trial. However, as the legislator is keen to protect the child from judicial trial, the power to reattempt conciliation remains in the hands of the general prosecution even after the public prosecution is resumed. Therefore, it may at any point during the trial, provided a final judgment



has not been issued, file a request to halt the public prosecution should the the victim withdraw his complaint or abandon it.

2.4 The Specializations of the General Prosecution in Following up the Child: Since the legislator limited a child's follow up to the prosecution only, therefore the prosecution is authorized to refer the child to an investigative judge or a juvenile judge and is also authorized to prevent measures or decisions leading to detention, similar to those related to adults. General prosecution procedures differ according to the category of the crime, whether it is a felony, a misdemeanor or a violation.

a- For Felonies: After the child and the report are referred to the prosecutor general, the latter has no option but to request an investigation into the case according to preliminary investigation principles and collection of social studies on the case. Hearings are held in the presence of the child's guardian, lawyer and child consultant. Investigation is obligatory in all cases of child felonies.

b- For Misdemeanors: If an offense is punishable with less than two years imprisonment, the prosecutor general shall follow up the child and refer him to the juvenile judge to decide on the case after its sessions are held in the presence of the child's guardian, lawyers and child consultant. If the misdemeanor is punishable with a more severe punishment, the general prosecution shall follow up the child and refer his case to a juvenile judge requesting him to take suitable measures. Should the juvenile judge find the case ready and not in need of investigation, he shall refer the case to a group committee headed by him personally to decide on the case in the presence of the child's guardian and lawyers. However, should the general prosecution find that the case is still vague, it shall file a request for investigation and shall appoint the investigative judge to carry out the investigation.

c- For Violations: The prosecution shall suggest to the child and his guardian to resort to conciliation with the victim and to head to the child protection officer. Should the child or his guardian not wish to do so, the case shall then be referred to a juvenile judge to decide on it through sessions attended by the child's guardian, lawyers and the child consultant.

3. Court Treatment of Delinquent Children:

3.1 Specialized Judiciary: Legislations have developed agencies specialized in juvenile cases. These agencies not only apply general principles related to session proceedings but also provide a group of assurances and rights for children. Such rights ensure achieving the goals and objectives of setting a judicial system especially for this age group. The legislator has declared the desired goal of enacting special principles for children. This goal is to protect delinquent children and correct their behavior in the aim of reintegrating them into their societies. To achieve such objectives, the legislator has adopted principles of fair trial acknowledged globally such as: no crime no punishment without law, assumption of innocence, the right to be informed of the charges, the right to be heard, the right of appeal and other rights.

3.2 The Rights of a Delinquent Child during Trial: The legislator has been keen on ensuring a group of rights for a delinquent child when his case is being dealt with by the law. He has taken into consideration the end to which juvenile justice has been established, which is to achieve the best interests of the child. These rights can be summarized as follows:

- a. The right to inform the child's parents.
- b. The right of an attorney's support.
- c. The right of conducting a social study.
- d. The right of a medical examination.
- e. The right of confidentiality.
- f. The right to be protected from the media.

4. The Directional Principles of Juvenile Justice Measures:

These principles will achieve the special objectives of enacting a juvenile justice system. They are as follows:

4.1 Principle of Proportionality: This can be summarized as the proportionality between the reaction and the conditions surrounding the crime, the crime's severity, the conditions and needs of the child and the needs of the society. The legislator has derived this principle from measures stipulated in legislations. For example, in the case of the intervention of the prosecutor general, an act attributed to a child may shift from a higher degree to a lower one such as transforming a felony into a misdemeanor or turning a misdemeanor into a violation. The same can take place in cases of intervention of the investigative judge. The measure taken could also involve handing over the child temporarily to his parents, custodian, a trusted person or an institution or organization concerned with education, vocational training or treatment and authorized for such purposes by the concerned authorities. When needed, temporary sponsorship can take



place within the supervision system of the behavioral supervisor or the constrained freedom system for a defined period capable of extension or by a reformatory center. In the stage of intervention by the juvenile judge in misdemeanor cases, the judge may scold the offender or inform him that he has carried out a sin or place him under the supervision of the behavioral supervisor or the constrained freedom system. Considering proving the acts attributed to the child, the juvenile judge or juvenile court may make a reasoned decision leading to one of the following measures: The child may be handed over to his parents, custodian or trusted person. He may be referred to a family judge who places him in a public or private institution prepared and equipped for educational purposes and vocational development. He may be placed in a medical or medical educational center prepared for such a purpose. He could be placed in a reformatory or concerned institution. If all of the above cannot be done, he shall be placed in a children's ward in prison.

4.2 The Supervision System of the Behavioral Supervisor or Constrained Freedom System: It is the most important system enabling the rehabilitation of the child within his natural surroundings. Its types are original, temporary or supplemental measures. Its nature is that it is an educational measure and not a penal one. Its advantages include that when a child is protected and corrected within his natural environment, this forms a means of individual treatment allowing the use of treatment methods suitable for the child's conditions. This treatment is not limited to the child but extends to his surroundings (family, school, work etc.). It is also a low cost system compared to educational and reformatory centers and can be applied with other systems and educational measures simultaneously.

4.3 The Principle of Not Resorting to Arrest: Whereas resorting to referral to educational institutions is an exception, resorting to detention and imprisonment is an exception of the exception. Therefore, a child shall not be placed in prison, even temporarily and regardless of the crime. A child held away from his family has the following rights:

- The right to be treated humanely. This leads to a number of sub rights such as: no child shall be subjected to torture or other cruel, inhumane or offending forms of treatment and punishment. No handcuffs or other forceful means shall be used for whatsoever reasons. No weapons shall be used with children. No physical punishment shall be used or placement in dark cells, and no confinement in narrow or solitary cells shall take place. Other rights include:

- The child's right to be separated from adults.
- The child's right to remain connected to his family.
- The child's right to education, vocational training and work.
- The child's right to consequent care.

4.4 Principle of Maintaining the Child's Best Interests: A child's best interests involve everything that helps in his treatment, growth and rehabilitation in the framework of complete respect of his rights stipulated in the law. Such practices would ensure his dignity. Therefore, any measures taking the mentioned goals into consideration would achieve the child's best interests. In addition, methods to maintaining these interests differ from one case to another and are governed by a group of conditions and factors, which should be left for the judge's consideration when taking measures.

5. The Principle of Discretionary Power when Taking a Measure: This principle is evident in reports presented to the investigative judge, juvenile judge or juvenile court by reformatories, behavioral supervisors or constrained freedom officers. These bodies, as well as other specialized parties, help the judge to reach the opinion to use his discretionary powers to achieve the child's best interests. This perspective is based on an integral relationship between the juvenile judge and all interveners and actors involved in a child's case. Therefore, cooperation and coordination should be strong between the juvenile judge and the various interveners. Should discretionary authority be used, it should be highlighted in decisions, rulings and orders and it should be justified so as not to be used arbitrarily.

6. Follow up Principle: Decisions, judgments and orders issued by various judicial agencies investigating a child's case do not close the file. A child's file remains open and the investigative or juvenile judge follows up the degrees of implementation of measures taken and their effectiveness in correcting the child's behavior. A number of measures and mechanisms exist to allow following up of children, most importantly:

- a. Periodic visits by the investigative and juvenile judges to detained children to view their conditions and make sure they are well.
- b. The possibility of changing the measure taken in the detained child's case because of viewing his condition.

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