

RESEARCH
ARTICLE**The Legal Way to Integrate the Juvenile Delinquent into Society. «Criminal Rehabilitation»**

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Criminal rehabilitation ; juvenile delinquents ; social reintegration ; criminal record sheet.

Abstract

The criminal rehabilitation system and social reintegration of convicted juvenile delinquents is one of the most important issues affecting human rights in general, and the juvenile category in particular. The criminal rehabilitation system is considered one of the means of aftercare for released juveniles, since the effects of punishment extend to the judicial criminal record sheet, and it is considered a system necessary for achieving justice and the objectives of modern penal policy based on reforming juvenile delinquents and correcting their behaviour. In addition, it is considered one of the most important theories on which the philosophy of modern criminal penalties is based. On this basis, the Algerian legislature has adopted it in the Code of Criminal Procedure and the Child Protection Law (Law 15-12) to devote criminal justice to juveniles.

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Introduction

After leaving the penal institution, convicts face stigma offence which still haunts them and prevents them from integrating into society because it is considered an additional punishment in itself. This may close the doors of hope to them and may also be the reason for their return to the world of criminality¹.

There is no doubt that the category of children represents the first and basic building block in society. Through them, a strong foundation is formed for society, if we aspire to develop society. From these children the men of the future are made². The involvement of children in crime affects the nature of social existence and threatens it as well³. Therefore, the aftercare of released juveniles is based on protecting society from the danger of deviant behavior for this group by sparing them the so-called — release crisis — since those released face difficulties and harsh conditions that prevent them from adapting to the new conditions in society⁴.

To apply the idea of aftercare for convicts and remove the effects of convictions from them in the future, criminal legislation influenced by modern criminal policy has adopted a system based on erasing the effects of convictions and placing the convicts in the position of those who had not been convicted before. This system is called "criminal rehabilitation", which in modern criminal policy is an indispensable means, as its main goal is to rehabilitate convicts and restore their social status, especially if the conviction is a custodial sentence. Thus, the resulting social and personal stigma constitutes a big obstacle to their rehabilitation, reform and reintegration⁵. Given the specificity of the juvenile category, these effects are more severe on them and constitute an obstacle to their reintegration into society and their non-acceptance as valid members.

The importance of this study is evident in the role played by the criminal rehabilitation system in achieving the objectives of modern penal policy based on the reintegration of juvenile delinquents into society. Therefore, the research problem revolves around the following question:

- Is the criminal rehabilitation mechanism sufficient to enable juvenile delinquents to integrate into society after punishment and prevent them from committing future crimes ?

To identify the most important points in this study, we relied on a research methodology based on pairing descriptive aspects, while being careful not to prolong the analytical aspect, by mentioning and analyzing the relevant legal texts. In order to address the issues in the best way and reach the desired results, this study is divided into two sections. In the first section, we discuss the position of the Algerian legislator on criminal rehabilitation, while the second section deals with the impact of criminal rehabilitation on the right of juvenile delinquents to social integration.

Section One: The Position of the Algerian Legislator on the Criminal Rehabilitation System

The criminal rehabilitation system is considered one of the systems adopted by most legislations, including Algerian legislation, which would guarantee the right of juvenile delinquents to integrate into society after serving their sentences. Accordingly, in this section, we will discuss, first, the concept of criminal rehabilitation; second, an explanation of its types; and third, the resulting effects.

First: The concept of Criminal Rehabilitation

In this part we discuss the definition of criminal rehabilitation, determine its legal nature, and then its rationale, as follows:

1- Definition of Criminal Rehabilitation:

By referring to the Algerian Code of Criminal Procedure, Order N° 66-155, article 676, which stipulates that it is permissible to rehabilitate every natural person convicted of a felony, misdemeanor or violation by an Algerian judicial authority, and that rehabilitation erases all traces of punishment in the future, and the consequent deprivation of eligibilities. Thus, we find that the Algerian legislator has adopted the system of criminal rehabilitation ⁶.

Rehabilitation is defined as the legal means that removes the stigma and future effect of conviction from the date of rehabilitation. It is also a means of supporting other reasons for the expiry of the sentence while the conviction remains, which is the pardon of the sentence. The statute of limitations on punishment leads to the rehabilitation of honour by erasing the conviction, which represents a stigma in the life of the convict⁷.

Jurisprudence also defines rehabilitation as the removal of a conviction in the future, so that all its effects disappear and expire. The convicted person shall have, starting from the restoration of his reputation, the status and position of deficiency for which he was not previously convicted and sentenced⁸. Consequently, criminal rehabilitation is the restoration of the rights and powers of the convicted person⁹.

2- The Legal Nature of Criminal Rehabilitation:

Based on the rules and provisions of the rehabilitation system, we find that it is considered a reason for the expiry of the criminal punishment. However, it should be noted that rehabilitation does not actually lead to the expiry of the penalty. The latter is found to be terminated whether by execution, pardon or statute of limitations. Nevertheless, after the expiry of the sentence, its effects remain and will only disappear by criminal rehabilitation. Therefore, rehabilitation is considered a reason to erase the effects of the punishment and not a reason for the expiration of the penalty itself, given that the effects of the penalty are considered a type of punishment even though they are not criminal penalties specified in the texts of the Criminal Code. The convict cannot join public employment until a period of time has elapsed after serving the sentence, in order to restore their reputation¹⁰.

3- The Reason for Criminal Rehabilitation:

Socialization and rehabilitation are systems that reform people who have fallen into crime, by enabling them to reintegrate into society once they show improvement in their behavior and prove it through their good behavior for a period of time¹¹.

The rehabilitation system is linked to the specific purpose of punishment. In the past, punishment sought to achieve the desire of revenge for the victim and his family. But now, its purpose has become the rehabilitation and reform of the offender¹², and enable him to regain his position and status in society as an honorable citizen. It also requires the convict to be re-granted the rights and benefits resulting from the conviction, rather than being deprived of them. In addition to recognizing his legitimate place within society and erasing the stigma of conviction and criminality from him. This allows the convict to actively contribute to the prosperity of society in the usual and natural way. This is the essence of the criminal rehabilitation system in achieving this. This makes this system a collective recognition of the offender's goodness and conversion from the path of crime¹³.

Second: Types of Criminal Rehabilitation

The Algerian legislator has regulated the provisions of rehabilitation in articles 676 to 693 bis 1 of the Algerian Code of Criminal Procedure 18-06. Extrapolating from these articles, we find that the Algerian legislator has adopted two types of rehabilitation, namely legal rehabilitation and judicial rehabilitation.

1- Legal Rehabilitation:

It is the procedure that is carried out by force of law without the need for judicial intervention, where the convict inevitably acquires rehabilitation whenever its conditions are met and without the need to take any action to announce or report it. This contributes to avoiding the complicated and lengthy procedures necessary for legal rehabilitation because it does not require a request, investigation or judgment of any kind or nature whatsoever. Thus, it shall be determined by force of law after the lapse of a specified period of time after the expiry of the penalty. It benefits those who behave well without the need for an investigation and an assessment of whether they are entitled to rehabilitation, which is inevitable and cannot be denied if it is established that a period of time

has passed without a sentence being handed down. When the conditions related to either the convict, the term or the penalty are met¹⁴.

On the basis of article 677 of the Algerian Code of Criminal Procedure, we find that the Algerian legislator has adopted a system of legal rehabilitation, and the text came in absolute terms and was not restricted, so that anyone convicted of a misdemeanor or violation may be rehabilitated. Therefore, in this context, both adults and convicted juveniles alike benefit from this system, whether the punishment is restrictive to liberty or financial, as the article specified the periods of legal rehabilitation¹⁵.

2-Judicial Rehabilitation:

It is available to anyone who has been convicted of a felony or misdemeanor, regardless of whether the penalty imposed was a felony or misdemeanor. It does not matter whether the penalty is deprivation of liberty or a financial penalty, nor the type of crime, a felony or a misdemeanor, both are included in judicial rehabilitation¹⁶.

In order to achieve judicial rehabilitation, a set of conditions must be met, some of which relate to the execution of the penalty and some to the duration and request.¹⁷

Referring to the Algerian legislator, we find that the provisions for judicial rehabilitation were contained in articles 679 et seq. of the Code of Criminal Procedure. The articles referred to persons entitled to request judicial rehabilitation, as well as deadlines for submitting a request for judicial rehabilitation, in addition to the competent authority, as well as adjudication of a request for judicial rehabilitation¹⁸.

Third: Effects of Criminal Rehabilitation

Since criminal rehabilitation is an opportunity for those with a criminal record, including juvenile delinquents, to regain their place in society and reintegrate them, Articles 675 bis, 676 of the Algerian Code of Criminal Procedure stipulates the effects of criminal rehabilitation¹⁹.

We will address these effects from both criminal and civil perspectives:

1. From a Criminal Point of View:

Rehabilitation is a system that focuses on removing the effects of a criminal judgment for the future rather than the past. Thus, it is different from an amnesty system that prevents the execution of the penalty but does not remove its effects. However, we find that the system of rehabilitation, whether legal or judicial, is based on removing the effects of criminal punishment regardless of whether it is implemented immediately or not²⁰.

The rehabilitation process leads to the erasure of the conviction in the future, as well as the removal of all consequences that have resulted from it, such as deprivation of rights, lack of qualifications, and other criminal implications. Moreover, the judgment is not considered a precedent, so that the beneficiary of rehabilitation is in the same legal status as those who have not been convicted of any criminal convictions²¹.

2. From a Civil Point of View:

Rehabilitation may not be used as a means of depriving others of the rights stipulated in the judgment of conviction with regard to compensation and restitution of rights²². All rights related to third parties are not exhausted by rehabilitation, but rather expire in accordance with the controls and rules stipulated in the Civil Code, since the primary objective of rehabilitation is to erase the criminal effects of the conviction. Since the penalty of fine becomes a debt owed by the convicted person, rehabilitation does not exempt the convict from paying part of the fine that he could not pay²³.

Section Two: The Impact of Criminal Rehabilitation on the Right of the Juvenile Delinquent to Social Integration

It has previously been said that the Algerian law has explicitly adopted the system of criminal rehabilitation as a goal for the rehabilitation and reintegration of convicted persons in general and the juvenile category in particular. Accordingly, we will first discuss in this section the international and national standards from which the juvenile delinquent derives his rights to social integration. Second, mentioning the criminal record sheet as an obstacle to integration. And third, addressing the procedures for the criminal rehabilitation of the released juvenile, in brief to avoid repetition and redundancy :

First: International and National Standards for the Reintegration of Released Juveniles

The researcher must first address the legal basis on which released juveniles rely on the right to social integration into society through the relevant international standards, and second, the interest of the national legislator as follows:

1. Relevant International Standards and Rules:

The attention of the international community may focus on the rights associated with adults. However, those working in this field did not care about securing and protecting children until the second half of the twentieth century, because children are the nucleus of the future and need special care. On this basis, many international organizations have worked to develop legal texts, whether general or special, that relate exclusively to children by providing them with special protection²⁴.

We find that international law took into account the category of minor children by establishing distinct rights, taking into account the child's needs for special protection by conducting agreements that include clauses and provisions that regulate the status of this category and preserving their rights through them²⁵. Fundamental caveats and general restrictions have been established that every national legislation must abide by to regulate the legal status of juveniles in its domestic legislation²⁶.

Consequently, international conventions deal with guarantees and rights for juveniles in the event of their prosecution in accordance with the law that so provides. Given the classification of juveniles as a category of vulnerable group, the legislator must pay special attention to individualizing their treatment which differs from the treatment of adult individuals, from the standpoint of justice and fairness, as well as the individualization of criminal treatment. Public international law has allocated special rules to the category of juvenile delinquents to protect them through the adoption of unified international rules related to juvenile justice. Among the most important of these rules are the following²⁷ :

The United Nations Rules for the Protection of Juveniles, which are specifically designed for the protection of juveniles as well as the prevention of juvenile delinquency and the administration and organization of juvenile justice facilities. These include the United Nations rules for the protection of juveniles deprived of their liberty (Havana), 1990, as well as the United Nations Guidelines for the Prevention of Juvenile Delinquency under the Riyadh Principles, 1990, and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), 1985²⁸. It is clear from the foregoing that the right to include a juvenile is based on clear and explicit provisions in international conventions.

2. The Algerian Legislator's Interest in the Delinquent Child:

We find that the Algerian legislator has issued many legislations for this purpose, including treating and combating juvenile delinquency and deviation, which was influenced by the idea of social defense²⁹. On the other hand, some legislations resort to the issuance of laws on the special treatment of juveniles, including Egyptian legislation. However, some legislations simply include texts related to provisions on the treatment of juvenile delinquents in both the Penal Code and the Penal Rehabilitation Procedures. The Algerian legislator adopted

this system through the third book, entitled "Special Rules for Juvenile Offenders", within the Code of Criminal Procedure, where it stipulates special provisions and rules for the trial of juveniles in articles 442 to 494. Likewise, the Penal Code stipulated Articles 49 to 51, which stipulate special measures and reduced penalties for juvenile delinquents. However, in 2005, the Ministry of Justice formed a committee to prepare a draft law related to the child in accordance with law 15-12 on the protection of the Algerian child, which includes 150 articles³⁰. It should be noted that these procedural texts were repealed according to this law, which combined all the scattered provisions related to child protection into one law, one article of it 149 stipulates the repeal of all provisions violating this law³¹.

Believing in criminal justice and from the standpoint of considering punishment as a means of reform, rehabilitation and reintegration, the Algerian legislator has endeavored to consolidate principles based on a reformist outlook for prisons issuing the Order No.72 - 02 including the law organizing prisoner re- education. This was a starting point for Algeria to engage and adopt various modern universal humanitarian principles in the field of prison reform and the treatment of prisoners. Since reform is a necessary requirement in the life of people, it was necessary to consider all shortcomings that marred the matter that marred the Order No. 72-02 in line with the modern trends of the state in the field of penal policy. Therefore, Law 04-05 was issued on prison organization and social reintegration of prisoners, to which the previous order was canceled, as it stipulated the establishment of modern punitive rules and principles based on the idea of social defense, which made punishment a means of protecting society through reeducation and social integration³², stated in its fifth chapter a title "Re-education and Integration of Juveniles", and included regulations specific to juveniles and their status, as well as framing activities for re-education of juveniles and their social integration. Accordingly, it is clear that the Algerian law has established special guarantees and procedures for the category of juvenile delinquents through its adoption of various legal texts that have formed an integrated legislative and legal structure.

Second: The Criminal Record Sheet as an Obstacle to Integration

After the juvenile delinquent has served the term of his sentence and has finally left the penal institution or the specialized center and headed back to social life and facing the outside world, he encounters a group of obstacles that prevent his integration, including the criminal record sheet. On this basis, we will discuss its definition and hence the impact of the criminal record sheet on the integration of juvenile delinquents as follows:

1. Definition of the Criminal Record Sheet:

The idea of the criminal record sheet was established by M. de Bonneville de Marsangy, a Versailles magistrate who first, in 1848, had the idea to propose "the location of judicial information at the Registry of the native district", and the creation of a record in the offender's name for each conviction for a felony or misdemeanor, as well as its submission at the Court of First Instance Registry³³.

It can be defined as a document issued by the judicial authority that includes judicial precedents, i.e. convictions related to a particular person who was subject to them, in addition to decisions issued by the judicial authority or an administrative authority whenever it results in the deprivation of eligibility³⁴.

We find that the Algerian legislator has stipulated the criminal record sheet in chapter five of book VI in Articles 618 to 675 bis of the amended and supplemented Code of Criminal Procedure. Article 619 stipulates that at the level of each judicial council, there is a department specializing in the Judicial Record Sheet, which is managed by the secretary of that council under supervision of the general attorney³⁵ and extrapolating from articles 624, 630 and 632 of the same law. There are three vouchers labeled one, two, three, and in each voucher there is a statement of judgments issued by one of the judicial authorities in the Republic³⁶.

2. The Impact of the Criminal Record Sheet on the Reintegration of Juvenile Delinquents:

The released prisoners experience a crisis in their social relationships, which is manifested in the state of loss they face after their release. and when resuming their normal lives from by not benefiting from work or job

that protects them from unemployment, and the resulting social consequences due to the criminal record sheet that is required in every work file, whether in the public or private sector. As a result, they are rejected due to mistrust and doubts about their honesty and integrity, which hinders those released from social participation, which is the basis of social integration³⁷. Depriving the convict of his rights to work despite the existence of many international conventions as well as national constitutions that confirm this right for every individual without discrimination for any reason. However, if the criminal record of the convicts contain judicial precedents, it constitutes an obstacle to access the world of work according to their specialization³⁸.

The effects of stigmatization are also represented in the convict's right to social integration, where the convict re-evaluates himself again, based on the specifications set by the society. The convict believes that he is a criminal and this quality remains inherent in him as long as society is unable to forget his criminal record sheet. On the other hand, we find that society has nothing to gain from the reaction of the convict, as the latter will inevitably return to the detriment of his interest, as long as the doors remain closed to him. Here, we find ourselves in the midst of an ongoing conflict between the convict and society. This makes the process of stigmatizing the convict turn into a new punishment, more severe than the custodial punishment to which he was subjected. Stigma becomes a tool of social and hostile harassment against the convicted person as long as his judicial precedents are kept in his criminal record. Therefore, there will be no benefit from any attention to his aftercare or subsequent reintegration after release into society³⁹.

Referring to the Algerian Code of Criminal Procedure, we find that the Algerian legislator has remedied these effects by stipulating them in article 675 bis of Law 06-18: "The penalties recorded in the criminal record sheet cannot constitute in any way an obstacle to the employment of persons..."⁴⁰. It is clear from this article that, in order to achieve the objectives of the modern penal policy based on social reintegration, this article expressly stipulates in the midst of the new amendments that the penalties provided for in the criminal record sheet cannot constitute an obstacle to the employment of such persons if the offence committed is incompatible with the exercise of the position to be filled.

Third: Procedures of the Criminal Rehabilitation for the Released Juvenile Delinquent

To achieve the purpose of criminal rehabilitation in the reintegration of juvenile delinquents after release in society, the Algerian legislator has approved guarantees and procedures for determining the judicial authority competent to implement the procedures for the criminal rehabilitation of juvenile delinquents, and then discussing the steps followed, as follows:

1. The Competent Authority to Implement Procedures for the Criminal Rehabilitation of Juvenile Delinquents:

With reference to the United Nations Standard Minimum Rules "The Beijing Rules" in article 21, which stipulates that records of juvenile delinquents must be kept strictly confidential and prohibited from being accessed by others. Access to such records shall be limited exclusively to persons directly concerned with the disposition of the case in question or other duly authorized persons. The second paragraph of this rule also stipulates that the use of juvenile delinquent records in proceedings is not permitted to be used in related adults procedures in subsequent cases in which the same delinquent is involved. By commenting, this rule attempts to achieve a balance between conflicting interests related to records or files on the part of the police, public prosecution and other authorities that are keen to improve monitoring, and on the other hand, the interest of juvenile delinquents (see also Rule Eight). While the term "other duly authorized persons" generally includes researchers, for example⁴¹.

As for the Algerian legislator, and in line with what was stated in article 21 of the Beijing Rules, the legislator approved the protection of the juvenile delinquent in Article 106 of the Algerian Child Protection Code 12-15 with regard to the restriction of sentences, which stipulated the following: "Judgments and decisions issued by the juvenile judicial authorities shall be recorded in a special register maintained by the session clerk"⁴². It is clear from the article that the legislator has recognized the confidentiality of these records.

Rehabilitation of juveniles in accordance with article 108 of Law 12-15 in Its second paragraph specified the competent authority to implement the procedures for the criminal rehabilitation of juveniles delinquents, represented in the following:

- The court before which the criminal prosecution was originally presented.
- The court of the place of domicile of the current juvenile, i.e. his place of residence or place of birth⁴³, and therefore the rehabilitation of the delinquent juvenile falls within the jurisdiction of the juvenile judge.

2. Steps Taken for the Juvenile Delinquent's Criminal Rehabilitation:

Based on the text of article 107 of Law 12-15, which stipulates that sentences and decisions issued by judicial authorities relating to juveniles that include measures of protection and discipline, in addition to those containing penalties imposed against a delinquent child, shall be restricted in the criminal record sheet. However, it is only indicated in voucher number two (2) that is delivered to the judicial authorities⁴⁴.

Whenever the juvenile shows his final inclusion, after a period of three years after the execution of the sentence, it is permissible to the Juvenile division in the juvenile court with its full composition to order the destruction of this voucher⁴⁵, according to Article 108 of Law 12-15, which stipulates that if the person concerned provides guarantees of his suitability, the juvenile department may, after a period of three years, from the day of expiry of the protection and discipline measure, the application for criminal rehabilitation shall be submitted by a petition from the person concerned, the public prosecution, or on its own initiative to cancel the voucher number one (1) referred to in the measure.

The court before which the prosecution was originally filed or the court of the current domicile or place of birth of the person concerned shall have jurisdiction over this, and the order issued shall not be subject to any means of appeal. And, if the revocation order is issued, the voucher number one related to this measure shall be destroyed⁴⁶.

Therefore, one of the conditions for a juvenile delinquent is that he must provide solid guarantees that his condition has improved, and this is a condition that the juvenile judge must verify in his personal capacity. The juvenile can also provide evidence that his behavior has improved⁴⁷.

Accordingly, the purpose of recording measures or penalties in the criminal record sheet is not to take the past of the juvenile into account as an aggravating circumstance, as it happens with adult criminals, but rather its purpose is to inform the judicial authorities of the past of the juvenile delinquent in order to take the most appropriate measures for his protection and re-education, thus reintegrating him into society.

In all cases, the measures taken in this regard shall be repealed by force of law from the criminal record sheet, in addition to the penalties carried out upon reaching the age of criminal majority⁴⁸.

Conclusion:

Based on the foregoing, it can be concluded that criminal rehabilitation has the effect of restoring the juvenile delinquent's social status after the end of the sentence period, which is the most difficult stage in the social reintegration policy by erasing the effects of the stigma of crime borne by this special and sensitive group. Accordingly, the Algerian legislature has regulated the criminal rehabilitation system and has made it a means of ridding juvenile delinquents of the effects of conviction, in accordance with specific conditions and procedures. Thereby helping to improve the social behaviour of the juvenile delinquent, in addition to providing him with job opportunities, as well as providing him with social and psychological support. Thus, it reduces the likelihood of committing future crimes. Criminal rehabilitation is therefore considered an effective mechanism and approach to reintegrate juvenile offenders into society and to achieve the objectives of punishment and its philosophy based on the rehabilitation of the offender.⁴⁹

Results:

- Algerian lawmakers adopted a system of criminal rehabilitation for juvenile offenders, considering it a means of reintegrating them into society, as it helps erase the legal effects of criminal convictions and ensures that juvenile offenders can adapt to society without the stigma of a criminal record.
- Algerian lawmakers have established criminal treatment for juvenile offenders, focusing on their rehabilitation.
- Criminal rehabilitation frees juvenile offenders from the psychological and social effects of criminal convictions.

Recommendations:

- Speed up procedures and reduce the time required for the restoration of the juvenile offender's criminal record.
- Link the system for restoring the criminal record of juvenile offenders to social reintegration programs.
- Harmonize procedural standards for restoring the criminal record of juvenile offenders at the international and national levels.

Conflict of statement

Author declares that there is no any conflict of interest

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40. ³⁹ Iman, Hamoud Suleiman ,Ibid, pp. 148-149

41. ⁴⁰ Article 675 bis of Law No. 18-06 on the Code of Criminal Procedure, amended and supplemented.
42. ⁴¹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), promulgated by the United Nations General Assembly on 29/11/1985.
43. ⁴² Article 106 of Law No. 12-15 of June 15, 2015, containing the Child Protection Code, Algerian Official Gazette No. 39, 2015.
44. ⁴³ Ibid, Articles 108 of Law No. 12-15.
45. ⁴⁴ Ibid, Article 107 of Law No. 12-15.
46. ⁴⁵ Hammou, Ibrahim Fakhra, op. cit, p. 438.
47. ⁴⁶ op. cit, Article 108 of Law 15-12.
48. ⁴⁷ Farida Loony, op. cit, p.104.
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