

Islamic Republic of Afghanistan

Ministry of Justice

Official Gazette

Law on Juvenile Rehabilitation and Correction Centers

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Decree
Of
President of The Islamic Republic of Afghanistan
On Endorsement of the Law on Juvenile Rehabilitation and
Correction Centers

Number: (141)

Date: 11/01/2009 (22/10/1387HS)

Article 1:

Following Article No. 79 of the Afghan Constitution, I sign/approve The Law on Juvenile Rehabilitation and Correction Centers consisting 6 Chapters and 42 Articles, which is confirmed by Afghanistan Council of Ministers' Resolution No. 41 dated 01/12/2008 (11/09/1387HS),

Article 2:

The Minister of Justice and The State Minister in Parliamentary Affairs are assigned to present this Decree to the National Assembly within 30 days from the first meeting of the National Assembly.

Article3:

This Decree is enforced since the approval/ signing date and should be published in the official gazette, attached with the Law.

Hamid Karzai,

President of the Islamic Republic of Afghanistan,

In the Name of Allah, the Most Merciful and the Most Compassionate

Law on Juvenile Rehabilitation and Correction Centers

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Law on Juvenile Rehabilitation and Correction Centers

Chapter 1 General Provisions

Basis

Article 1:

This Law , considering Article 54 of the Afghan Constitution and the International Convention on Rights of the Child , is enacted, in order to rehabilitate suspected, accused, and confined¹ juvenile , and in order to secure their rights in the Juvenile Rehabilitation and Correction Centers.

Keeping the Suspect, Accused and Sentenced Children

Article 2:

- (1) Suspect and accused children are kept only in the Juvenile Rehabilitation and Correction Centers, until the completion of investigation and trial.
- (2) Sentenced children are only kept in the open or close centers of the Juvenile Rehabilitation and Correction Centers according to the situation/status , unless The Law

¹ The original Dari word, hajz , translates literally as “detained for rehabilitation “. To avoid cumbersome language in this translation we have used confined throughout the document. Reader should note the settle inference.

Keeping and Confinement

Article 3:

- (1) Suspected and accused children are detained in Juvenile Rehabilitation and corrections centers only by stipulation of the prosecutor's order, or by decision of the authorized court.
- (2) Children shall be confined to either open or closed center within the Juvenile Rehabilitation and Correction Centers, based on final decision of the authorized court.
- (3) The Ministry of Justice is the agency responsible for implementing the provisions and order of Paragraphs (1&2) of this Article.

Respect for Human Rights

Article 4:

- (1) The Juvenile Rehabilitation and Correction Centers staff, prosecutors, judges, and other people who, in any way, deal with suspected, accused and confined children, are responsible for respecting the Islamic and human rights principles in the course of their duties, and treating the mentioned children impartially, free of any kind of discrimination.
- (2) The Juvenile Rehabilitation and Correction Centers authorities shall provide living conditions for suspected, accused and confined children that are free of psychological harm, and do not cause violation of their rights and deprivation of their liberty.

Restrictions of Rights

Article 5:

- (1) The rights granted to suspected, accused and confined children, according to the provisions of this law, may not be restricted or divested by the Juvenile Rehabilitation and Correction Centers staff, unless there is a risk that discipline and security of the Juvenile Rehabilitation and Correction Centers could be compromised. In such circumstances, the Minister of Justice shall temporarily suspend the rights. The reasons for suspension of the rights shall be recorded in the relevant files.
- (2) In exceptional circumstances, authorities of a Juvenile Rehabilitation and Correction Center shall take precautionary measures in order to prevent possible dangers and assure discipline, and within 24 working hours, shall obtain confirmation from the General Director of the Juvenile Rehabilitation and Correction Centers and the approval of the Minister of Justice; and the provincial governor shall be informed simultaneously.
- (3) The authorities of the Juvenile Rehabilitation and Correction Centers are also responsible for informing the relevant attorney general's office regarding the enforcement of Items 1 & 2 of this Article.
- (4) If the conditions referenced in Paragraphs 1 & 2 of this Article are removed, the rights and liberties mentioned in this Law shall be reinstated to suspected, accused and confined children.

Employees Behavior with Confined Children:

Article 6:

- (1)The juvenile rehabilitation and correction centers staff are responsible for treating the suspected, accused and confined children in such a proper way that after release they can be reintegrated into society as a law abiding citizen.
- (2) For better usage of the legal rights, the authorities of the juvenile rehabilitation and correction centers are responsible to categorize the suspected, accused and confined children into separate groups based on the manner of offenses , characteristics, habits , and common feelings.

Chapter 2

Centers of the Juvenile Rehabilitation and Correction Centers

Centers

Article 7:

- (1)The Juvenile Rehabilitation and Correction Centers have two Centers:
 - 1- **Open Center:** It is the place where children in conflict with the law shall be kept during the day, trained and rehabilitated, They will be submitted to their parents or legal guardians for night care after provision of a mentioned guarantee to assure the daily summoning.

2- **Close Center:** It is the place where children in conflict with the law shall be kept day and night in order to train and rehabilitate.

(2) The way of keeping children mentioned in Item (1) of this Article shall be managed according to arranged procedure approved by The High Council of Juvenile Rehabilitation and Correction Centers.

Transfer to the Open Center

Article 8:

In case of positive and observable changes in the behavior of the confined juvenile in the close center, the authorities of the Juvenile Rehabilitation and Correction Centers can transfer them to the open center, by the permission of the relevant court.

Circumstances not to Use the Open Center:

Article 9:

Juvenile shall not be transferred to the open center if:

1. Juvenile who needs special care and safeguarding/security, according to the verdict of the court,
2. juvenile who recurrently offended the law,
3. The juvenile in conflict with the law who had already escaped from the Juvenile Rehabilitation and Correction Centers,
4. The juvenile whose parents or legal guardian does not provide the guarantee for daily summoning,

5. Child committed to crimes such as murder, kidnap and drug trafficking,
6. Other cases proposed by authorities of the Juvenile Rehabilitation and Correction Centers, Attorney General's Office, and recommended by the authorized court,

Separate Keeping of Female Juvenile from Male Juvenile

Article 10:

The suspected, accused and confined male and female juvenile are kept separately in both open or close juvenile rehabilitation and correction centers.

Chapter 3

Regulating the Juvenile Rehabilitation and Correction Centers

Establishment of Juvenile Rehabilitation and Correction Centers

Article 11:

- (1) The juvenile rehabilitation and correction centers shall be established including two open and closed centers, in each province.
- (2) Ministry of Justice is authorized for establishment or closing the Juvenile Rehabilitation and Correction Centers.

- (3) The juvenile rehabilitation and correction centers shall be constructed, taking into consideration the Islamic values and international standards.
- (4) Ministry of Justice is responsible to adjust the existing buildings of the Juvenile Rehabilitation and Correction Centers with taking into consideration of the Islamic values and UN standards.

Keeping the Suspected, Accused and Sentenced Juveniles

Article 12:

- (1) The suspected, accused and confined children shall be kept in the provincial Juvenile Rehabilitation and Correction Centers where their cases are proceeding.
- (2) Sentenced children are kept in the provincial Juvenile Rehabilitation and Correction Centers where is close to the residential area of their families.
- (3) Considering the Provisions of the Law, the juvenile mentioned in Items 1 & 2 of this Article can be accepted in the Juvenile Rehabilitation and Correction Centers only based on official documents.
- (4) The accused children whose cases, according to the Law, can not be completed within the specific time, the authorities of the Juvenile Rehabilitation and Correction Centers is responsible to officially inform the relevant attorney general's office and court 15 days prior to completion of the specified date. In case of no response, the authorities of the Juvenile Rehabilitation and Correction Centers

release the accused / suspected child and submit him/her to his/her parent or legal guardian.

The High Council of the Juvenile Rehabilitation and Correction Centers

Article 13:

(1) To assure the rights of suspect, accused and confined children, effectively implement the Juvenile Code, assess and improve the activities of the Juvenile Rehabilitation and Correction Centers , and taking the necessary relevant decisions, the High Council of the Juvenile Rehabilitation and Correction Centers shall be created , composing of the following members:

1. Minister of Justice as the Head of Council.
2. Representative of the Supreme Court as member.
3. Deputy Attorney General as member.
4. Deputy Minister of Interior Affairs as member.
5. Deputy Minister of Education as member.
6. Deputy Minister of Public Health as member.
7. Deputy Minister of the Women Affairs as member.
8. Deputy Minister of Labor and social Affairs, Martyrs and Disables as member.
9. Deputy Minister of Pilgrimage (Hajj) and Religious Affairs as member.
10. Deputy Minister of Culture and Information as member.

11. Representative of the Afghan Independent Human Rights Commission as member.
 12. Representative of the Civil Society selected by Ministry of Justice as member.
 13. The General Director of the juvenile Rehabilitation and Correction Centers as member and secretary.
- (2) The representatives from national and international NGOs who work for improvement of rehabilitation and correction of the juveniles, can attend the meetings of the High Council of Rehabilitation and Correction Centers, as observers, if invited.
 - (3) The High Council of Juvenile Rehabilitation and Correction Centers presents the suggestions on improvement of juvenile rehabilitation and correction, to the relevant authorities.
 - (4) In order to coordinate the activity of the Juvenile Rehabilitation and Correction Centers at provincial level, the High Council of Rehabilitation and Correction Centers can create sub committees consisting of the representatives from the agencies mentioned in the Item 1 of this Article.
 - (5) Tasks and the term of reference of the High Council of Juvenile Rehabilitation and Correction Centers shall be regulated by separate policy.

Sessions/Meetings of the High Council of the Juvenile Rehabilitation and Correction Centers

Article 14:

- (1) The normal meetings of the High Council of the Juvenile Rehabilitation and Correction Centers shall be conducted every three months, and the extra ordinary meetings shall be held either on decision of the Head of Council, or by the suggestion of 1/3 of the Council's members.
- (2) In the meetings of High Council of the Juvenile Rehabilitation and Correction Centers, the decisions shall be made based on majority of the votes of the present members.

Suggestion for Adjustment and Enactment of Legislative Documents

Article 15:

- (1) The High Council of Juvenile Rehabilitation and Correction Centers can propose/ suggest required adjustments in this Law.
- (2) In order to better implement the Provisions of this Law, the High Council of Juvenile Rehabilitation and Correction Centers can propose/ suggest the regulations, enact and approve the policies and procedures.

Provision of Security in the Juvenile Rehabilitation and Correction Centers

Article 16:

- (1) Ministry of Interior Affairs provides the security of the juvenile rehabilitation and correction centers.
- (2) During the duty, the guards are not allowed to carry weapons inside the Juvenile Rehabilitation and Correction Centers. In exceptional and dangerous conditions, the authorities of the Juvenile Rehabilitation and Correction Centers can allow carrying of weapons inside the center, and submit the report along with justifications to the General Directorate of Juvenile Rehabilitation and Correction Centers.

Chapter 4

Provision of Services in the Juvenile Rehabilitation and Correction Centers

Livelihood

Article 17:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to furnish/equip the relevant open and close centers with proper health materials and keep its environment clean and hygiene.

- (2) The authorities of the Juvenile Rehabilitation and Correction Centers shall provide separate beds for each of suspected, accused, and confined children.
- (3) Ministry of Justice in cooperation with Ministry of Public Health and other relevant agencies shall take the necessary decisions on accommodation, area, light, ventilation, and heating systems in the Juvenile Rehabilitation and Correction Centers.

Sustenance

Article 18:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers shall provide healthy food and clean water free of charge to suspect, accused, and confined children considering their age, health conditions, and season.
- (2) A menu according to Item (1) of this Article shall be developed in consultation with Ministry of Public Health, approved by Council of Ministers, and its the quality and quantity shall be monitored by the relevant medical team.

Health Services

Article 19:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers, in cooperation with Ministry of Health, are

responsible to provide free health services, to suspected, if accused and confined children.

- (2) If the sick child mentioned in Item (1) of this Article can not be treated in the Juvenile Rehabilitation and Correction Centers, the authorities of the correction centers\ shall transfer him/her, recommended by the responsible doctor, to a proper hospital outside the center and inform the relevant Attorney General's Office on their taken action. The authorities of the juvenile correction center are responsible to undertake necessary precautionary measurements, in cooperation with police to ensure the security of the sick child.

Respecting the Health Regulations

Article 20:

- (1) To respect the health regulations and sanitation, the assigned doctor in the Juvenile Rehabilitation and Correction Centers is responsible to control the daily food, check the living rooms and provided services of the suspected, accused and confined children at least twice week.
- (2) The contagious diseases sick patients shall be kept in the special areas, separated from other children.

Providing Opportunities for Work, Education, Training, and Prayer

Article 21:

The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to establish equipped library, provide the opportunities for prayer, study, work, education, vocational training and cultural and entertainment activities as well as other required facilitates, with collaboration of Ministry of Education and Ministry of Social Affairs, in both open and close centers.

Chapter 5

Spending of Sentenced Period

The Case Filling

Article 22:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to prepare the file of suspected, accused and confined children's cases including his/her personal records/ history, health and check ups records, and other relevant information.
- (2) Children mentioned in Item (1) of this Article, shall be categorized based on recorded/wrtitten information in their files.

Necessary Communication in Special Conditions

Article 23:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to notify/ inform the parents or legal guardian the of suspected, accused, and confined children about their admission or transfer to the juvenile rehabilitation and corrections centers.
- (2) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to inform the suspected, accused, and confined children, if they receive information, about the death or chronic devastating illness of their relatives. Relatives mean the child's father, mother, brother, sister, grand father and grand mother.

Family Contact

Article 24:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to facilitate the family contact of suspected, accused and confined children through visit, post and other tools, which does not ??? the order/ discipline of the centers.
- (2) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to monitor the family visits of children, mentioned in Item (1) of this Article, and inspect their correspondences, according to the Provisions of this Law.

Burial

Article 25:

If the suspected, accused and confined child passes away, the corpse shall be sent to the forensic medicine for autopsy, in order to specify the cause of death, based on agreement of the relatives or recommendation of the authorized court., after the comment from ???, the body shall be submitted to the relatives., if the relatives are unavailable or rejecting to receive the body, the management of the juvenile rehabilitation and correction centers shall shroud and burry the corpse.

Leave

Article 26:

- (1) To maintain better relationship between confined child and his/her family, environment and community outside the Juvenile Rehabilitation and Correction Centers, and to ??? the obey of law in and outside the Juvenile Rehabilitation and Correction Centers, considering the situation and duration of sentence in close Juvenile Rehabilitation and Correction Centers, up to twenty days' leave shall be granted.
- (2) Following the conditions mentioned in Item (2) of Article 23 of this Law, the relevant prosecutor is authorized to grand up-to seven days leave for the confined juvenile to attend the funeral or visit the sick relatives, based on request from the authorities of the Juvenile Rehabilitation and Correction Centers. The way of usage of this

leave shall be specified by the prosecutor, according to the situation.

- (3) If the confined child offends the limitations mentioned in Item (2) of this Article specified by the prosecutor, the authorities of the Juvenile Rehabilitation and Correction Centers are authorized to dismiss the permission and inform the relevant prosecutor.
- (4) The period of leave mentioned in Items (2&3) of this Article shall be included/ counted in the period of sentence.
- (5) The mode of using the leave mentioned in Item (1) of this Article shall be managed by regulation.

The Obligations of the Sentenced Children

Article 27:

- (1) The suspected, accused and confined children are obliged to respect the internal order and discipline in the juvenile rehabilitation and correction centers, according to the relevant policies.
- (2) The suspected, accused and confined child who intentionally damages the movable and immovable properties of the Juvenile Rehabilitation and Correction Centers, is obliged to compensate the damage according to the Provisions of the Law.

The extent of damage shall be determined by the technical team, and the suspected, accused, and confined child, his/her parents, and guardian shall be informed. If the damage is not compensated voluntarily, the court shall take necessary decision according to the provisions of the Law.

Isolation (Quarantine)

Article 28:

The suspected, accused, and confined children shall be isolated if:

1. Affliction to communicable diseases or chronic health problems,
2. causes ??? and continuous riot that prevents the legal performance of the juvenile rehabilitation and correction centers staff.
3. The child is under investigation,
4. Other conditions anticipated in the relevant policies and procedures.

Searching

Article 29:

- (1) The authorities of the Juvenile Rehabilitation and Correction Centers are responsible to search the suspected, accused, and confined children while entering to and exiting from the correction centers, in a way which does not hurt their prestige and dignity.
- (2) The search shall be carried out by the same sex authorized staff.

Encouragement

Article 30:

The suspected, accused, and confined children who properly respects the order and discipline of the class, workshop, library, entertainment time, and participate the ??? and educational affairs, and have good behavior,

shall be encouraged ??? by the juvenile rehabilitation and correction centers, through:

1. praising orally,
2. imprinting his/her name on the honoring board,
3. granting a gift,
4. giving priority in taking leave

Punishment

Article 31:

(1) If the suspected, accused, and confined children do not respect the order and discipline of the juvenile rehabilitation and correction centers, they shall be punished by the Juvenile Rehabilitation and Correction Centers through:

1. Individually warning,
2. Warning in public,
3. prevention of family contacts,
4. Deprivation of leave,

(2) The inhuman punishments, detrimental and other actions which ??? the psychological and physical health of the suspected, accused, and confined child, is prohibited.

(3) The group punishment of the suspected, accused and confined children in cases mentioned in Item (1), is not allowed.

Recording of the Encouragement and Punishment in the File

Article 32:

The complete records of encouragement and punishment of suspected, accused and confined children, including the reasons, shall be recorded in the file and kept.

Complaints/ Grievance

Article 33:

- (1) The suspected, accused and confined children have the right to present oral or mentioned complaint to the authorities of the Juvenile Rehabilitation and Correction Centers, the General Director of Juvenile Rehabilitation and Correction Centers, the Attorney General's Office, Minister of Justice, Afghan Independent Human Rights Commission and National Council through their parents or legal guardians.
- (2) The complaints and applications which relate to the Attorney General's Office, courts or other governmental agencies, shall be sent to the relevant agencies confidentially, by the Juvenile Rehabilitation and Correction Centers within 24 hours.,
- (3) The agencies mentioned in Items (1&2) of this Article, are responsible to take necessary decisions to address the complaints according to the Law Provisions.

Chapter six

Final Provisions

Transfer

- (1) The confined children can not be transferred from one center to another center of the Juvenile Rehabilitation and Correction Centers, without the permission of the authorities mentioned in this Law.
- (2) The confined child who completes the age of eighteen years, according to the Criminal Code, shall be transferred to the prisons.
- (3) The authorities of Juvenile Rehabilitation and Correction Centers are responsible to inform prosecutor, relevant court, the child's parents/ guardians, regarding the transfer of the child to prison.
- (4) The authorities of Juvenile Rehabilitation and Correction Centers are responsible to transfer the files, records, health certificates, and child's other materials as well.
- (5) The way of transfer of suspected and accused child to the Attorney General's Office, Juvenile Court or prisons shall be regulated by a separate policy.

The Release of Accused Child

Article 35:

- (1) the accused child shall be released if:
 - 1- The prosecutor issues the order of his/her release,

2- The court issues the order of ???,

3- Conditioned to Item (4), Article 12 of this Law,

(2) To implement the Provision mentioned in Item (1) of this Article, the copy of ??? of the prosecutor's office or ??? announcement shall be submitted to the Juvenile Rehabilitation and Correction Centers.

The Release of the Sentenced Child

Article 36:

(1) The confined child shall be released if:

1. completing of his/her confined period.

2. individual or general forgiving.

3. the final decision of the court is dismissed based on revising of decision, in a way which lead to ??? or punishment without confined that the period has already been completed in the juvenile rehabilitation center.

4. conditioned release,

5. Other conditions anticipated by the Law,

(2) To implement the Provisions mentioned in Item (1) in this Law, the copy of releasing letter shall be officially submitted to the Juvenile Rehabilitation and Correction Centers.

(3) The authorities of the Juvenile Rehabilitation and Correction Centers are not authorized to keep the confined child over the confined periods.

(4) The authorities of Juvenile Rehabilitation and Correction Centers are responsible to inform police departments and the Attorney General's Office, prior to release of the child.

Monitoring of the Juvenile Rehabilitation and Correction Centers

Article 37:

(1) The Attorney General's Office is the authorized agency to oversee/ monitor the implementation of the law and control the ??? of human rights in the Juvenile Rehabilitation and Correction Centers.

(2) The authorities of Juvenile Rehabilitation and Correction Centers are responsible to observe all the demands of the prosecutor and ??? of human rights, and act accordingly.

The Monitoring Committee

Article 38:

(1) to monitor/ supervise the internal discipline in the juvenile rehabilitation and correction centers, and to supervise monitor the behavior of relevant staff with suspected, accused and confined children, the monitoring committee shall be created in the center and provinces, consisting of:

1. The in-charge/ head of Juvenile Rehabilitation and Correction Center as the head.,
 2. The representative of the Attorney General's Office as member.
 3. The training manager of the Juvenile Rehabilitation and Correction Centers as member.
- (2) The committee mentioned in Item (1) of this Article visits relevant the Juvenile Rehabilitation and Correction Centers every two weeks and officially submits report to the General Directorate of the Juvenile Rehabilitation and Correction Centers.
- (3) The General Directorate of the Juvenile Rehabilitation and Correction Centers compiles/ coordinates the received reports and submits to the Minister of Justice, for legal decisions.
- (4) The Minister of Justice can forward/ send the whole or a portion of the report to the High Council of the Juvenile rehabilitation and correction centers, for legal decisions.

Entrance to the Juvenile Rehabilitation and Correction Centers

Article 39:

- (1) No body is allowed to enter the juvenile rehabilitation and correction centers, without the permission of the Ministry of Justice. Authorities and assigned people including prosecutor and relevant defense lawyer are exceptions.

(2) The below people can enter the Juvenile Rehabilitation and Correction Centers, without perior permission:

1. President, his/her deputies, Ministers,
2. Director and members of the Supreme Court,
3. Chairmen and deputy chairmen of the National Assembly,
4. Members of the National Assembly, Chairmen of Provincial Councils, and relevant Provincial Governors can enter their relevant provincial juvenile rehabilitation and corrections centers..
5. The Attorney General,
6. Head of Afghanistan Independent Human Rights Commission,
7. Members of High Council of Juvenile Rehabilitation and Correction Centers for Juvenile,

Rule of the Civil Society

Article 40:

- (1) The NGO's, and social organizations offering social services can have activities in the Juvenile Rehabilitation and Correction Centers, conditioned that the activities are for the benefit of the accused and confined children, and not opposing the Islamic provisions.
- (2) In situation mentioned in Item (1) of this Article, prior mentioned permission from Ministry of Justice is an obligation.

(3) The manner of organizations activities mentioned in Item (1) of this Article shall be specified by the authorities in the Juvenile Rehabilitation and Correction Centers, after consultation with the relevant Attorney General's Office.

Making Video and Preparing Report

Article 41:

Without the permission of the centers authorities, and suspected, accused and confined children, preparing sound report, taking photo, and making video from juvenile rehabilitation and correction centers and the suspected, accused and confined children, by media and correspondents, are prohibited.

Enforcement

Article 42:

This Law shall be enforced since the approval/signing date and published in the official gazette.