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TITLE

Safeguarding children's rights in the criminal procedure as offenders: Whether the Armenian legislation provides enough guarantees for the protection of juvenile offenders' rights

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List of Abbreviations

RA- Republic of Armenia

UN- United Nations

CRC- Convention on the Rights of the Child

CC- Criminal Code

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Introduction

In our society children[1] are considered as one of the vulnerable social groups, moreover, in many situations, unfortunately, they are the most defenseless mankind. Not every child has a shaped personality in his early ages and not every child can understand the real danger of his steps. In this kind of situations, as we know, the assistance of the elders plays a vital role. Children committed a crime, cause harm to not only the object of the crime, but also themselves, entering not the best life that could have been created for them. To solve this huge problem, we need to make improvements in the legislation of Republic of Armenia (hereinafter referred to as "RA"), as the law amendments play the core role to tackle the issue we have currently.

In this thesis paper we are going to concentrate mainly on the punishment measures imposed on the minors, the legal aid, criminal rehabilitation and social reintegration issues, discussing the shortcomings in the RA legislation regulating the listed issues and suggest improvements to guarantee more effective approaches. The paper consists of an introduction, two chapters, conclusion and bibliography. The chapter 1 is consisted of two subchapters, first of which is going to be dedicated to the effectiveness of certain punishment measures defined by law, the negative sides of the deprivation of liberty with suggestions on improvements in the legislation, in order to refrain from unnecessary imposition of punishments related to the deprivation of liberty of the minor. The second subchapter is designed to suggest efficient ways of legal aid for minors. The Chapter 2 will touch upon matters such as the rehabilitation techniques as part of juvenile justice system, juvenile offenders' observation as victims, legislation regulations regarded the psychological aid and activities addressed on identifying possible problems in terms of psychological state of children deprived of their liberty.

Although, there is an obvious legislative progress in this field, however, we still need to do more to protect children's rights in the criminal justice system and to prevent any kind of violation against child offenders in all the phases of criminal justice. Thus, the significance of the topic is an eye-catching fact. As it is stated in the Article 1 of United Nations (hereinafter

[1] All the references to children in this paper is in accordance with the UN Convention on the Rights of the Child, "every human being below the age of eighteen years."

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referred to as "UN") Guidelines for the prevention of Juvenile Delinquency (hereinafter referred to as "The Riyadh Guidelines"), "*The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes*."[2]

For the further research, it is important to understand the meaning of juvenile delinquency, which in the sense of Criminal Code (hereinafter referred to as "CC") of RA is any type of conduct disorder of a child stipulated in the CC of RA. The Article 24 (1), (2) provides that

"*1. The person who reached the age of 16 before the commitment of the crime is subject to criminal liability.*

2. The persons who reached the age of 14 before the commitment of the crime are subject to criminal liability for murder, for inflicting willful severe or medium damage to health, for kidnapping people, for rape, for violent sexual actions, for banditry, for theft, for robbery, for extortion, getting hold of a car or other means of transportation without the intention of appropriation, for destruction or damage of property in aggravating circumstances, for theft or extortion of weapons, ammunition or explosives, for theft or extortion of narcotic drugs or psychotropic substances, for damaging the means of transportation or communication lines, for hooliganism.[3]

As we can conclude from the logic of the legislative body, 16 years is prescribed as a person who can understand and control the nature of his conduct and bear the liability for an unlawful act. Whilst, children under 14 years old can be considered as people understanding and controlling only certain types of criminal acts, which are clearly stated above.

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[2] UN Guidelines for the prevention of Juvenile Delinquency (The Riyadh Guidelines), adopted and proclaimed by General Assembly resolution 45/112 of 14 December, 1990
available at https://www.ohchr.org/EN/ProfessionalInterest/Pages/PreventionOfJuvenileDelinquency.aspx (last visited March 24, 2020)

[3] Իրտեկ իրավական տեղեկատվական կենտրոն , Հայաստանի Հանրապետության Քրեական օրենսգիրք , *available at* http://www.irtek.am/views/act.aspx?aid=150015 (last visited March 24, 2020)

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In general, the legal definition of "juvenile delinquency", as defined in statutes and codes, is criminal or quasi-criminal conduct performed by persons of a certain age.[4] From the psychological perspectives juvenile delinquency is considered to be a “mode of expression of internal conflicts” by the juveniles. It describes the juvenile delinquency from the perspective of the individual.[5] Although the legal and psychological definitions vary slightly in terms of determining who is a juvenile and what constitute delinquent behaviors, the two professions actually work collaboratively in dealing with juvenile delinquents and the wider problem of juvenile delinquency.[6]

Also, it is important to reveal who is the delinquent, thus, what means “child” in the context of this thesis. Etymologically, the term “child” comes from the latin “infants”, which means “the one who does not speak”. For the Roman, this term designates the child from its birth, up to the age of 7 years.[7] Under the UN Convention on the Rights of the Child (hereinafter referred to as “CRC”), “*…a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*”[8] However, there is not any international legal act prescribing the united minimum age for the children to be sentenced to punishment for delinquency. Under the logic of CC of RA child is a person under 16 years, despite the fact, that in Armenia the adulthood begins from the age of 18 and the differentiation between adults committed crime and children under the 18 years is demonstrated in limited cases in the criminal legislation of Armenia.

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[4] M. C. Bassiouni & Alan F. Sewell, Scientific Approaches to Juvenile Delinquency and Criminality, 23 DePaul L. Rev. 1344 (1974), p. 1346 , *available at* https://pdfs.semanticscholar.org/e066/a8b28273058a4ebc6ae2b70671b6a28a80bf.pdf (last visited March 11, 2020)

[5] Ibid. at page 1379

[6] Maznah Baba, Sa’odah Ahmad, Juliana Rosmidah Jaafar,
Sa’odah Ahmad, Ph.D
Juvenile Delinquency: Definition, Trends And Governmental Efforts To Curb The Problem, 2007, page 3, *available at* https://www.researchgate.net/publication/301543703_ (last visited March 11, 2020)

[7] Humanium, The meaning of the “child” and the rights of the children, *available at* https://www.humanium.org/en/child-rights/ (last visited March 11, 2020)

[8] United Nations Convention on the Rights of the Child, Nov. 20, 1989, *available at* https://www.ohchr.org/en/professionalinterest/pages/crc.aspx

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The necessity of defining similar age of criminal responsibility is represented in the 4.1 rule of UN Standard Minimum Rules for the Administration of Juvenile Justice (hereinafter referred to as "The Beijing Rules"). According to it, *"In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity."*[9] Moreover, the commentary for this rule gives more detailed explanation for the rule mentioned above, stating that *"…Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally."*

Despite of the requirement of this rule about defining a unified reasonable age, the minimum age of criminal liability differs from State to State highly. To be specific, according to the monitoring held by "Child Rights International Network" international network in United Kingdom, similar results with Armenia have Belarus, Ukraine, Azerbaijan, Moldova, Russian Federation.[10] In these countries, the criminal responsibility is allowed at the age of 16 with the exceptions at the age of 14 for a number of criminally punishable actions clearly stated by the law of each country. The legislations of Denmark, Finland, Norway, Czech Republic, Iceland and Sweden assert that a person can be held criminally responsible from the age of 15. A decreased age of criminal responsibility have Belgium, Netherlands, San Marino and Turkey, where persons aged 12 or more can be sentenced to criminal responsibility. Notable results are recorded in the United Kingdom. Specifically, under the juvenile justice system of Northern Ireland, Wales and England, children can be subjected to criminal responsibility from the age of 10. Quite controversial results are shown concerning the United States. 33 States set no minimum age of criminal liability, giving the courts a huge discretionary power and allowing a child to be sentenced to criminal responsibility at any age.[11]

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[9] United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), adopted by General Assembly resolution 40/33 of 29 November, 1985, *available at* https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf (last visited March 26, 2020)

[10] "Child Rights International Network" international network, Minimum Ages of Criminal Responsibility in Europe, *available at* https://archive.crin.org/en/home/ages/europe.html (last visited March 25, 2020)

[11] "Child Rights International Network" international network, Minimum Ages of Criminal Responsibility in the Americas, *available at* https://archive.crin.org/en/home/ages/Americas.html (last visited March 25, 2020)

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This figure shows the fluctuation between the minimum ages set in different countries. Although the results record distinguished picture in the abovementioned countries having not only grave prescription of minimum age (10), but also high age defined by law (15), however, in comparison, Armenia is considered to have more mitigated approach rather than the most countries listed above.

Concerning the causes of juvenile misbehavior, it is fundamental to claim that the main causes bringing children into criminal activities include poverty, lack of proper education, peer pressure, lack of parental support and guidance, mental illnesses, broken homes or homelessness, which results in perception of prisons by minors as social protection, violence, abuse and exploitation.

According to the data revealed by the Statistical Committee in Armenia, 41.9% of children live in poverty conditions and 4.9% survive an extreme poverty.[12] These kinds of living conditions affect child's perception of the world and, finally, result in criminal behavior, particularly, in theft and robbery.

The absence of parental guidance may be considered as the most spread and serious reason for misbehavior by juniors. The child who is abandoned and is not provided with parental care is very likely to have wrong attitude to the world. Under the Article 11 of the Riyadh Guidelines, "*Every society should place a high priority on the needs and well-being of the family and of all its members.*"[13] Moreover, the Articles 12-19 of The Riyadh Guidelines are also dedicated to the matter of proper treatment by the parents for providing social care for children.[14] It is worth mentioning also the Article 1.1 of the Beijing Rules, which provides that "*Member States shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family*."[15] So, the factor of the family plays principal role in the matter of preventing juvenile delinquency taking into consideration children's interests and rights.

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[12] Humanium, Realizing Children's Rights in Armenia, available at https://www.humanium.org/en/armenia/ (last visited March 11, 2020)
[13] See footnote 2.
[14] See footnote 2.
[15] See footnote 9.

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Violence, abuse or exploitation towards children are one of the big pests in the world. Violence provokes violence. Thus, only tolerance and care towards children can bring the preferable results in the fight against the principal causes of juvenile delinquency.

In order to eliminate the issues and shortcomings related to juvenile justice system in RA, it is necessary to find out relevant survey statistics in this sphere, which is the key answer to the question which issues particularly it is vital to be focused on. So, below, we are going to show statistical data based on the statistics by Statistical Committee of RA during 2019.

As the detention is one of the root causes for concerns about whether juveniles' rights and interests are protected properly, it is significant to pay attention on the criminal cases resulting in the detention of minors by the decision of the court. The data by Statistical Committee of RA shows the cases of juvenile detention during 2019. 17 cases of detention have been brought to the court by investigative bodies for examination. As a result, 14 have been approved by the court, and 3 have been rejected respectively.

Also, it is worth determining which criminal offenses are widely spread among youngsters. Taking into account the data provided by the Statistical Committee of RA regarding the cases examined in the court, the figure is the following: during 2019 one minor was engaged in murder, 15 children were engaged as defendants in the crime of intentionally causing severe damage to health, the crime of violent actions of sexual nature were examined with the engagement of only 1 child, the figure dramatically increases when speaking about theft, 71 children were in the status of defendant in the cases concerning the theft, 1 in banditry case and 3 in the cases concerning robbery. All the other crimes altogether were examined by the courts with the engagement of 18 children.

According to the data provided by the Statistical Committee of RA, the overall figure reveals that during 2018, in Armenia were recorded 359 cases of crimes committed by minors or with their engagement. 167 out of the 359 cases have taken place in Yerevan. This number has been raised during 2019, reaching a result of 400 cases of violation of criminal jurisdiction. Nearly half of 400, 213 cases, have taken place in Yerevan. As we see, although difference is not

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significant, nevertheless, this picture shows that we need to change our approach to this matter and pay more attention on children being on higher risk of committing criminal offenses to prevent the further engagement of children in any criminal activity.[16]

Chapter 1: *Fair juvenile justice in terms of punishing measures and legal aid*

1.1 Punishment imposed on minors

A very significant side of this field worth to be discussed is the matter of punishments applied for juvenile offenders, which has always been in the center of attention by many lawyer-scientists.

As it is stated in the introduction of this thesis, the definition of “children” can be explained as every individual under 18 years old. Thus, when discussing the criminal punishment compliance issue, it is necessary to note that the analysis is going to be designed about minors under 18 years old. As this part of society is among the most vulnerable ones, the state should focus on the legal, social and psychological grounds when defining certain types of punishments for juvenile delinquents and the approaches should be mitigated, as the claims that there is a very high risk of possibility for the children not to understand and control thoroughly the results of his or her conduct is justified psychologically.

The Article 86 of The CC of RA provides the types of punishments assigned in relation to minors, providing 4 types of punishments including fine, public work, arrest and imprisonment for a certain period.[17] The purposes of punishment should be the following three factors: to restore the social justice, to prevent the commitment of new crimes and to implement rehabilitation actions for the person who has committed the crime (Article 48, CC of RA). Concerning the matters related to the juvenile offenders, one more significant feature has to be

[16] Հայաստանի Հանրապետության ազգային վիճակագրական ծառայություն, սոցիալ-ժողովրդագրական հատված , Իրավախախտումներ , Հանցագործություններ, *available at* https://www.armstat.am/file/article/sv_01_20a_550.pdf (last visited March 13, 2020)

[17] See footnote 3.

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considered: every decision made by the judicial bodies should reflect the best interests of the child. So, one of the vital purposes should become safeguarding children’s rights in the all phases of criminal justice. As provided in the rule 1 of UN Rules for the Protection of Juveniles Deprived of their Liberty, “*The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.*” [18] Therefore, we may come up with the idea that the first and foremost task has to be understanding whether the punishments related to the deprivation of liberty lead to the complete realization of these three purposes of punishment and serve to the realization of the best interests of the child.

Emphasizing the importance of revealing practical issues in RA, it is vital to discuss the statistics held by the Judicial Department of RA.[19] According to that annual report, during 2019, punishment has been imposed on 46 children: 11 are in the group of 14-16 years old minors, 35 children are aged at 16-18. A fact worth to be underlined is that 14 out of 46 minors have been uneducated and have not worked. A very significant fact is that 33 children have been sentenced to punishment related to the deprivation of their liberty, and only on 13 minor offenders have been imposed other punishments defined by law. Punishment has not assigned conditionally in relation to 16 minors. Amnesty has been applied in relation to 19 children. And a quite undesirable data revealed from the report is the low rate of children subjected to the enforced disciplinary measures defined by the court. As opposed to the data showing the number of children deprived of their liberty (46), these characteristics are quite unhopeful.

Taking into consideration the abovementioned data, it is necessary to discuss the real reasons of such high results of cases leading to deprivation of liberty, revealing the effectiveness of each type of punishment defined by law applicable in relation to the minors.

[18] United Nation Rules for the Protection of Juveniles Deprived of their Liberty, adopted by General Assembly resolution 45/113 of 14 December ,1990, available at https://www.ohchr.org/EN/ProfessionalInterest/Pages/JuvenilesDeprivedOfLiberty.aspx, (last visited March 16, 2020)

[19] Հայաստանի Հանրապետության դատական իշխանություն, 2019 թվականի հաշվետվություն ՝ անչափահաս դատապարտյալների վերաբերյալ, available at http://court.am/hy/statistic-inner/185 (last visited March 16, 2020)

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According to the CC of RA, fine can be imposed only in case of the existence of an autonomous earning of the minor or in case of property that may be seized. As minors do not earn money in the RA, as a rule, and have not any property to be seized, the court always tries to find alternative types of punishment, imposing sanctions related to the deprivation of liberty. Thus, the regulation prescribed by the CC of RA, loses its efficiency in terms of implementation. Therefore, from some aspects, it becomes an odd point in the Article defining the fine as a punishment for the juvenile offenders.

The next sanction defined by law that can be imposed on children committed as crime is the public work. It is remarkable that the CC of RA does not prescribe a distinct duration of public work for adults and minors. The Article 54 of CC stipulates 270 to 2200 hours as a general range of duration for public work.[20] More justified approach would have been to limit this duration when it comes to the minors and stipulate a shorter number of duration for public work. Although the judge has the discretion to choose a shorter duration for minors, nevertheless, a distinct duration is necessary to be defined in order not to give the judges a large discretion allowing them to impose 2200 hours of public work on minors, for instance. We believe that it is fundamental not to rely on the discretion of the judge, but to define lower minimum and maximum threshold for minors in the legislative level. This differentiation is vital in terms of guaranteeing children's rights and their best interests in Armenia.

One more quite problematic regulation in the CC of RA is provided in the Article 54 (4): *"Public work is not imposed on first or second degree disabled, persons under 16 at the time of sentencing, pension-age persons, pregnant women and drafted servicemen."*[21]

It becomes clear from this definition that the public work sanction cannot be imposed on the 14 and 15 years old minors, which limits the possible punishment alternatives' imposition by the court. Moreover, the Article 32 of the UN CRC provides that "*States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is*

[20] See footnote 3.
[21] See footnote 3.

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likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."[22] This norm is a basis to claim that the public useful work imposed on the minor should be equivalent to the child's successful socialization requirements, should not affect negatively on the child's physical, mental, spiritual, moral development. It should be adequate and comply with the crime resulted by criminal conduct of the children. Furthermore, it should be not only useful for the public, but also should guarantee the child's further development and affect positively on the child's rehabilitation process.

So, it could be concluded that public work punishment can be implemented in relation to 14 and 15 year old children also, matching the specially chosen work with the requirements needed for this framework of society. It is more than rational for the juveniles under 16 to be sentenced to a public work punishment when the court finds that the enforced disciplinary measures are mild measures for a concrete crime, and the punishments related to the deprivation of liberty are graver and unjustified in that particular case. This would help the court to determine the most applicable and appropriate measure of punishing in order to reach the implementation of the punishment purposes, simultaneously, taking into account the juvenile offenders' rights and interests.

The other two punishments stipulated in the CC of RA, are related to the deprivation of liberty of the child. According to the Article 88 of CC of RA "*Arrest, for the period from 15 days to 2 months, is assigned in relation to a minor who has reached the age of 16 years at the moment of sentence.*" The Article 89 provides the imprisonment requirements, stating that "*1. Imprisonment can be assigned in relation to a minor only for the committal of medium-gravity, grave or particularly grave crime. 2. Imprisonment in relation to minors is assigned: 1) for medium-gravity crime, a term up to 3 years; 2) for grave or particularly grave crime, committed*

[22] See footnote 8.

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under 16 years of age, a term up to 7 years; 3) for grave or particularly grave crime, committed at the age of 16 to 17 years, a term up to 10 years." [23]

Firstly, we need to determine in what cases the child is considered to be deprived of his or her liberty. According to the Manual for the measurement of juvenile justice indicators by the UN Office on drugs and crime, "*A child is deprived of liberty where he or she is placed in any form of detention or imprisonment in a public or private setting, from which the child is not permitted, by order of any competent authority, to leave at will.*"[24]

As it is defined in the Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures , rule 9, " *Sanctions or measures shall be implemented without undue delay and only to the extent and for the period strictly necessary (principle of minimum intervention)*". It is also necessary to mention the rule 10 of the above mentioned Recommendation, which clearly establishes that "*Deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts must be undertaken to avoid pre-trial detention.*"[25] An additional useful statement exists in the UN CRC. The Article 37 states that "(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time". This means that if there is a possibility to ensure the implementation of the purposes of punishment without imposing sanctions related to the deprivation of liberty, the court should take into consideration the priority of imposing the mildest type of punishing measure. This is a basis for the courts to consider juvenile imprisonment as the last resort, an extreme necessity.

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[23] See footnote 3.

[24] Manual for the measurement of juvenile justice indicators , UN Office on drugs and crime, 2006, p. 28, *available at* https://www.un.org/ruleoflaw/files/juvenilejusticeindicators.pdf (last visited March 17, 2020)

[25] Recommendation CM/Rec (2008) 11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures, adopted by the Committee of Ministers on 5 November, 2008 at the 1040th meeting of the Ministers' Deputies , *available at* https://www.unicef.org/tdad/councilofeuropejjrec08(1).pdf (last visited March 17, 2020)

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For the successful implementation of the aim of minor offenders' protection, numerous supportive norms are contained in The Beijing Rules. To be specific, the rule 5.1 notes the following: *"The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence."* [26] Moreover, this statement is supported also by another rule defined in the Beijing Rules. The rule 19.1 stipulates that "*The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.*" [27] Another useful rule is the rule 17.1, which defines that *"The disposition of the competent authority shall be guided by the following principles:*

(a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;

(b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;

(c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response;

(d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case."[28]

So, it is clearly stated that the gravity of the crime shall not be the only basis for the determination of the sanction by the court. In the line of many other circumstances prescribed in the CC of RA, a necessary basis shall serve also the needs of the juvenile offender, which will pave the way for their socialization and further effective development, not being depended of the fact of commitment of the crime.

[26] See footnote 9.
[27] See footnote 9.
[28] See footnote 9.

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As we discussed above, the fine is not as applicable as the other 3 punishment types, so, the court is limited by the boundaries stipulated by the legislative body, as the only sanction that can be imposed on the juvenile offenders of 14 and 15 years aged is the imprisonment. Therefore, a notable fact is that this regulation worsens the state of the juvenile offenders not giving the court the opportunity to impose an appropriate measure of punishment in relation of children committed a crime.

Here, arises the following question: Whether it is justified to create set of norms by the legislative body, which worsens the state of minor offenders. This statement is supported by the following: the abovementioned discussion clearly shows that the fine is not applicable to the minors in practice, particularly minors under 16. The other form of sanction, public work, is not applicable to the minors under 16 under the CC of RA. Another sanction applicable to the minors is the arrest, which is permitted to impose only on the minors from 16 years. Here, we come up with a situation, when the legislative body worsens the state of the minors of 14-16 years old, giving the court a limited opportunity to impose on this kind of minors only the sanction of imprisonment. It gets obvious that the legislative body gives the priority to the imprisonment for up to 7 years, not allowing the courts to impose milder sanction, which in this case is the arrest from 15 days to 2 months duration. The 1.5 rule of UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) supports this view, stating that "*Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.*"[29]

In the light of the existing international standards, we should establish that the legislative amendments in this field are inevitable to ensure the best interests of the child and not giving priority to the sanctions related to the deprivation of liberty.

[29] UN Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), adopted by General Assembly resolution 45/110 of 14 December, 1990 , *available at* https://www.ohchr.org/Documents/ProfessionalInterest/tokyorules.pdf (last visited March 26, 2020)

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The data by the Council of Europe Annual Penal Statistics (SPACE) on 31st January, 2018, shows the characteristics of the prisoners held in the European penal institutions, finding out that from 1,229,385 inmates in the penal institutions of the 44 Council of Europe member states only less than one per cent of the inmates are minors.[30] Such low results are quite hopeful, however, the real problems with juvenile justice system appear when studying the field in more detail. Hence, there is still need to determine solutions addressed on tackling the problems of the juvenile justice system in all over the world.

The CC of RA (Article 85, 2) provides disciplinary measures as punishment for minors who committed a crime. Article 91 prescribes the 4 types of disciplinary measures, noting the following measures:

1) warning;

2) handing over for supervision to the parents, persons replacing the parents, local self-government bodies, or competent bodies supervising the convict's behavior for up to 6 months;

3) imposing an obligation to mitigate the inflicted damage, within a deadline established by the court;

4) restriction of leisure time and establishment of special requirements to the behavior, for up to 6 months.[31]

However, based on the CC requirement stated in the Article 91, it is worth noting that to assign enforced disciplinary measures in relation to a minor, the crime should be committed by a child for the first time and should hold a not grave or medium-grave nature only.

An obvious fact is that enforced disciplinary measures are milder and can be more effective from many aspects than punishment measures, specifically related to the deprivation of liberty of

[30] Aebi, M. F. & Tiago, M. M. (2019). Prisons and Prisoners in Europe 2018: Key Findings of the SPACE I report. Strasbourg: Council of Europe, *available at* http://wp.unil.ch/space/files/2020/02/Key-Findings-2018_190615.pdf (last visited March 25, 2020)

[31] See footnote 3.

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the child. A rule regarding the abovementioned is stipulated in the Recommendation CM/Rec (2008) 11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures. According to the rule 23.2, *"Priority shall be given to sanctions and measures that may have an educational impact as well as constituting a restorative response to the offences committed by juveniles."*[32] Interpretation of this rule allow us to conclude that the court should give the priority to the enforced discipline measures when it founds that the purposes of the punishment can be implemented without imposition of sanctions.

Another matter worth to be discussed is the measures of punishment implemented by several other countries. UN CRC (Article 37 (a)) stipulates an obligation for member states to exclude capital punishment or life imprisonment without possibility of release in relation to persons under 18 years old.[33] As opposed to the RA, there are still countries, which provide life imprisonment as a punishment measure toward the minors. To be specific, Cyprus, for instance, allows life imprisonment sentencing for children.[34] In Great Britain (England and Wales) life imprisonment, detention at Her Majesty's pleasure and indeterminate detention for public protection can be applied to persons under the age of 18. In Scotland, children can be detained without a limit of time, as well. Northern Ireland is not considered to be an exception, as sentences are often treated as life sentences. In the United States life imprisonment with and without parole are lawful sentences for crimes committed under the age of 18.[35] Canada is also in the list of countries permitting life imprisonment as a penalty for offenses committed by juveniles.

In 1994, Italian Constitutional Court abolished the possibility of life imprisonment in relation to minors by the decision. Also, France abolished life imprisonment penalty for children only on

[32] See footnote 25.
[33] See footnote 8.
[34] "Child Rights International Network" international network, Life Imprisonment of Children in Europe, *available at* https://archive.crin.org/en/home/campaigns/inhuman-sentencing/problem/life-imprisonment/life-imprisonment-children-europe.html#sdfootnote40anc (last visited March 25, 2020)
[35] "Child Rights International Network" international network, Life Imprisonment of Children in the Americas, *available at* https://archive.crin.org/en/home/campaigns/inhuman-sentencing/problem/life-imprisonment/life-imprisonment-children-americas.html (last visited March 25, 2020)

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October, 2016.[36] Presently, only one person is serving a life imprisonment for a crime committed while being a minor.

Regarding the types of measures implemented in relation to juvenile offenders, broad opportunities for the courts are provided by the German legislation. It provides not only punishing and disciplinary measures, but also supervisory measures in relation to children allowing the courts to define milder measures rather than depriving of liberty. Such alternative solutions help to achieve the desired results and aims stipulated by law with justified methods. Under the Section 17 of the German Youth Courts Law, *"(1) "Youth penalty" shall mean deprivation of liberty in a facility provided for its execution. (2) The judge shall impose youth penalty if, as a result of the harmful inclinations demonstrated by the youth during the act, supervisory measures or disciplinary measures are not sufficient for the purposes of supervision or if such a penalty is necessary given the seriousness of the youth's guilt."*[37] So, the German legislation considers the implementation of penalty as a last resort, giving priority to the other two milder measures. One more factor of high significance is the provision provided by the German Youth Courts Law Section 90: *"Execution of youth detention should be structured in an educational manner. It should help the youth to overcome those difficulties which contributed to his commission of the criminal offence."* The key word here is the "help", from which it gets clear that the measures are aimed at not punishing a child, but only fulfilling a successful rehabilitation for the child.

This kind of restorative approach is justified from many aspects, which are already discussed above. Hence, it would be one more improvement to borrow the German criminal justice policy in this field, defining similar balanced and restorative regulations in Armenian juvenile legislation. It would help to overcome the issues we have raised, partly.

[36] "Child Rights International Network" international network, France: Life Imprisonment Sentences for Children Abolished, *available at* https://archive.crin.org/en/library/news-archive/france-life-imprisonment-sentences-children-abolished.html (last visited March 25, 2020)

[37] German "Youth Courts Law" , in the version of the promulgation of 11 December, 1974 , *available at* https://germanlawarchive.iuscomp.org/?p=756#17 (last visited March 25, 2020)

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1.2 Legal aid of juvenile offenders

To start with, an undeniable fact is that the opportunity of getting proper legal aid is considered as one of the root guarantees for each defendant, especially when it comes to juveniles' interests and rights. A very general rule is provided in the Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures. Rule 120.3 states that *"The state shall provide free legal aid to juveniles, their parents or legal guardians when the interests of justice so require."*[38] More detailed regulation is prescribed in the Riyadh Guidelines, the 19 rule of which defines that *"In ensuring the right of the child to proper socialization, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and customs are no longer effective, they should also provide and allow for innovative measures."*[39]

The Criminal Procedure Law of the RA provides a regulation guaranteeing the proper legal aid for juveniles. This is regulated in the Article 69 (1), according to which, *"the participation of the defense attorney in the proceedings of the criminal case is obligatory when…5) the suspect or*

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[38] See footnote 25.

[39] See footnote 2.

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accused had been minor at the moment of commitment of the crime"[40] Moreover, under Article 441 of the Criminal Procedure Code of RA *"The legal representative and defense attorney participate in the investigation of cases concerning the crimes of the minor accused or the suspect."* Nevertheless, there is an exception from this rule, which is prescribed in the Beijing Rules. According to the 15.2 rule, *"The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile."*[41] Hence, it is important to give the priority to the best interests of the child in each case.

Legal aid includes free legal advice, representation and any other support for the case, such as the appointment of experts. From our point of view, only lawyers who have professional training on children's rights and experience commensurate with the juvenile justice can be appointed to represent children. Children also have the right to a state-funded lawyer of their own choosing.[42] Under the rule 22.1of The Beijing Rules, *"Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases."*[43] Defense attorneys engaged in the protection of juvenile offenders and dealing with juvenile justice, should take courses in sociology, psychology and juvenile justice system to maintain proper skills in the communication with the children. A basis for this statement is the fact that the defense attorney should have the skills for building trust. In such cases juveniles start to demonstrate indifferent attitude towards their rights and interest. To avoid such situations, it is significant to conduct the conversation with the minor offender in a serious level. It is necessary to point out the positive sides of the child not trying to blame him in any way or use slang expressions. In order to feel the honesty and the willing to help by the side of the attorney, the

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[40] Իրտեկ իրավական տեղեկատվական կենտրոն , Հայաստանի Հանրապետության Քրեական դատավարության օրենսգիրք , *available at* http://www.irtek.am/views/act.aspx?aid=150022 (last visited March 22, 2020)
[41] See footnote 9.
[42] "Child Rights International Network" International Network, "Eutopian State" Report, *available at* https://archive.crin.org/sites/default/files/a2j_eutopian_report_0.pdf (last visited March 18, 2020)
[43] See footnote 9.

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conversation should not be held in an official manner. Only in case of clear and friendly conversation the child can feel a real interest in his or her fate and desire to help.[44]

To recapitulate the above mentioned, in order to ensure effective legal assistance for children offenders, Armenian legislation should provide norms concerning the mandatory courses of sociological, psychological and communicational skills based on the characteristics of the minors. There is need in specialized attorneys dealing with juvenile cases. Appropriate certificate should be submitted when dealing with each case regarding juvenile justice, so that not every attorney having the right to deal with the criminal cases could interfere also with juvenile criminal cases.

Chapter 2: *Criminal rehabilitation and social reintegration*

Criminal punishment has always been considered to be repressive control over people committed an anti-social act. Nowadays, punishment is gradually starting to be considered as a rehabilitation measure for people affected by the environmental influence, often. Especially, when it comes to children, criminal punishment term starts to be understood as rehabilitation, an implementation of certain rehabilitation strategies, such as assisting the juvenile offenders by giving them the opportunity to live a crime-free life. It is undeniable that the living and development conditions of the children in the prisons are dramatically different from children growing up in the caring and child-friendly environment in their families. Sometimes the children entered the system with relatively few problems, leave the system much worse off.[45] Not to allow this happen, moreover, for ensuring the opposite picture for children to show successful rehabilitation results, it is vital to note the significance of the following statement by UN CRC (Article 20): *"1. A child temporarily or permanently deprived of his or her family environment,*

[44] Цубин А.И., Особенности ведения защиты по делам несовершеннолетних (заметки о научно-практической конференции в Ленинграде), updated version: 19.12.2003, ¶ 9, available at http://www.law.edu.ru/article/article.asp?articleID=188493 (last visited March 20, 2020)

[45] John A. Winterdyk , Juvenile Justice. International Perspectives, Models and Trends, 2015, p. 306, *available at* https://books.google.am/books?hl=ru&lr=&id=v-usBAAAQBAJ&oi=fnd&pg=PP1&ots=zkKQxVC1Rr&sig=BnaJMIWq-D8XHXC26IbtQe7EPzo&redir_esc=y#v=onepage&q&f=false (last visited March 20, 2020)

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or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State".[46] The special protection and assistance ways should be prescribed by national jurisdictions, ensuring the proper fulfillment of the Article.

According to Article 68 (2) of the RA Penitentiary Code, *"minors are detained separately from adults..."*[47] Although, this is a strong guarantee for ensuring healthy and secure environment for juvenile offenders, the penitentiary station of RA for the children, is not always able to provide a proper assistance to juveniles by all the means, unfortunately. Very often, the consequences of deprivation of liberty do not affect positively on the child's development, psychological recovery and social reintegration. The core reason for this is the isolation from the family, consequently, the existence of anxiety, fear and suicidal thoughts.[48] Hence, there should be regulation in the legislation which may allow the children to feel the support and care from people whom they trust. Under the Penitentiary Code of RA, Article 56 (3), *"Once a month, juvenile convicts shall be granted an up to four-hour short visit with parents or other legal representative."* The justification of this kind of few number of visits is absent, from our point of view. This view is supported by the following justification: it is important that children not be cut off from the outside world, especially from visits from their relatives and friends. This limits any poor treatment and will help to reintegrate them back into society upon their release. Exclusion from the society can lead to the deep depression of the child, improper mental and psychological development and, finally, result in repeated delinquent behavior in the future. Interference of the family could help the parents to engage in the disciplinary and educational process of their children and fill in the gaps the past shortcomings. Hence, the limit of visits prescribed by the law should be broaden, taking into account the significance of the fact that the often visits of the parents cannot represent a danger anyhow, it is full of only positive effects for the child. Also, another point to be amended in the Article 56 (3) regulation, is the word "parents", which limits

[46] See footnote 8.

[47] Իրտեկ իրավական տեղեկատվական կենտրոն , Հայաստանի Հանրապետության Քրեակատարողական օրենսգիրք , *available at* http://www.irtek.am/views/act.aspx?aid=150027# (last visited March 23, 2020)

[48] Humanium , Detained Children, available at https://www.humanium.org/en/detained-children/ (last visited March 22, 2020)

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the scope of the communication with the external world. It could be suggested to replace the word "parents" with the "members of the family" phrase. Furthermore, a rational decision could be also adding relatives in the list of the people visiting the child offender in the detention center.

Under the Article 17 (1) of the Penitentiary Code of RA *"The main measures of rehabilitation of a convict shall be the established procedure and conditions for executing and serving sentences, the social, psychological, and legal activities carried out with the convict, the convict's engagement in work, education, culture, sports, and other similar occupation, as well as the social influence. Certain types of correctional measures shall be mandatory for juveniles."* [49] This is a quite general and superficial mention by the Code about psychological care of the convicts. Furthermore, there is not any regulation dedicated to the psychological aid of the children. The living conditions in the penitential stations often are not sufficient for proper maintenance of mental, psychological and physical health of the children. The given assistance is often inappropriate. There is need of supplementary regulation in the Penitentiary Code of RA about psychological aid for the children, especially for those, who are more vulnerable. In case of the existence of even slight possibility of suicidal thoughts of the child, the state should take appropriate measures to prevent the tragic course of events. What is significant, before preventing the suicidal attempt, psychologists should be appointed to take professional rehabilitation measures, trying to change the attitude of the child. The stable interference of psychologists could be one of the root guarantees for successful fulfillment of rehabilitation process. Under the UN Beijing Rules (13.5 rule), *"While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality."*[50] Furthermore, the commentary of Article 26 of the Beijing Rules defines that *"Medical and psychological assistance, in particular, are extremely important for institutionalized drug addicts, violent and mentally ill young persons."*[51]

[49] See footnote 47.
[50] See footnote 9.
[51] See footnote 9.

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Another important guarantee regarding the medical and psychiatric services is defined in the Standard Minimum Rules for the Treatment of Prisoners. Rule 22 (1) provides the following: *"At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality."*[52] Hence, one of the directive obligations of penitentiary stations should be the provision of proper medical and psychological assistance for the children. The role of the forensic juvenile psychology is ignored in RA. There is no any Article in the Criminal legislation or a single document on the forensic psychological rehabilitation and social reintegration for the child while being in the custody and after serving the sentence. There should be clearly stipulated guarantees for the prevention of harmful consequences for the child, as an eye-catching fact is that the conditions in the prisons affect negatively the physical, mental, psychological and emotional development of the child. So, RA should implement all the possible measures to develop the successful fulfillment of the psychological and medical care in the penitentiary stations, to ensure crime-free and safe life for the children not allowing the environmental causes that could be brought by the prison to make the children continue their anti-social behavior after returning to their freedom. This is one of the fundamental and efficient ways to protect juvenile offenders from being emotionally unstable, uneducated and isolated from society.

Another significant factor regarding the protection of the juvenile offenders in the prison is the victimization of the children by negative treatment by the other inmates and officers of the penitentiary station. In this kind of institutions, children become more vulnerable and are tend to become victims of cruel, degrading or other inhuman treatment. The rude, aggressive or poor treatment can make the children to be inclined to aggression. In this kind of situations victims often become repeat offenders, which fully contradicts the aims of the punishment defined by

[52] Standard Minimum Rules for the Treatment of Prisoners ,
adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July, 1957 and 2076 (LXII) of 13 May, 1977, *available at*
https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf
(last visited March 25, 2020)

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criminal law. Children should not be faced with arbitrary punishment, especially, while serving their sentence in the prisons. To exclude any form of inhuman treatment in relation to juveniles by the officers in penitentiary station, it is important to have appropriate regulations in the criminal jurisdiction, such as regulations concerning the requirements of the officials working in the stations where children are deprived of their liberty. Such requirements could include participation in trainings and classes regarding the right treatment of children. Also, a preventive measure for violence could be the quite regular control in the penitentiary station by state bodies responsible for it, such as the Human Rights Offender's office and prosecutors. This should include also revealing such problems by talking to minors personally.

For the successful social reintegration of the child, one precondition is quite fundamental.in the investigative phase, while the examination of the case in the court, while serving the sentence and after release. It is considered to be the social attitude towards the child offender. It plays significant role in the rehabilitation and reintegration process of the child. According to the Beijing Rules (8.1) *"The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labeling."*[53] Labeling affects negatively on the psychological state of the child hindering the process of reintegration. It makes directive pressure on the child forming inner belief in the child about his or her characteristics given by the mass media, court and other sources. One of the efficient ways of decreasing the rule-violating behavior of the children is to inspire faith and willing in the child, showing the positive sides of his or her personality and explaining the benefits of the positive social behavior. Hence, very important reintegration method is the environment-based social treatment of the child. After the release of the child served his punishment in the penitentiary station, public response should be absolutely adequate. Instead of blaming glances full of apathy toward a child previously conducted a criminal behavior, society should refrain from being judgmental.

[53] See footnote 9.

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Recommendation No R (87) 20 on social reactions to juvenile delinquency recommends the governments of member states to review, if necessary, their legislation and comply with the statements defined. [54] Rule 16 requires *"in cases where, under national legislation, a custodial sentence cannot be avoided…to provide educational support after release and possible assistance for the social rehabilitation of the minors"*. As a rule, children inclined to criminal behavior, are not interested in educational process and mental self-development. One of the tasks of the penitentiary station should be to foster the significance of education generating a desire in the child to be educated and become useful individual for the society after the release. Concerning the educational issues, the UN Standard minimum Rules for the Treatment of prisoners (The Nelson Mandela rules) provides regulations. In particular, rule 104 (1), (2) states that *"1.Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration. 2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty."*[55]

As regards to the education, RA Legislation provides guarantees to meet the educational needs of the juvenile prisoners. Under the 89 (1) Article of the Penitentiary Code of RA, *'The administration of the correctional institution shall take measures to organize the secondary education of the convict, his or her higher and post-graduate professional education by distance learning"*.[56] Furthermore, according to the Article 90 (1) of the Penitentiary Code of RA *"Primary vocational education (handicraft education) to convicts may be provided in the correctional institution. Vocational education shall, to the degree possible, be such as to ensure*

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[54] Recommendation No R (87) 20 Of The Committee Of Ministers To Member States On Social Reactions To Juvenile Delinquency, adopted by the Committee of Ministers on 17 September, 1987 at the 410th meeting of the Ministers' Deputies, *available at* http://archivio.transnazionalita.isfol.it/file/CoE_Rec_R87-20%20Eng.pdf (last visited March 25, 2020)

[55] The UN Standard minimum Rules for the Treatment of prisoners (The Nelson Mandela rules), adopted by the UN General Assembly on 17 Dec., 2015, *available at* https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf (last visited March 23, 2020)

[56] See footnote 47.

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that the performance of work supports maintaining or improving the convict's abilities to make a living after release from the sentence." The right to education of children deprived of their liberty is stipulated in the RA Law on the Rights of the Child. Under the Article 32, *"In the disciplinary or medical preventive or psychiatric institution, the child has the right to respectful treatment, health, proper educational and professional training…"*[57] Despite of this regulations in the RA legislation, there is still need of enhancing the guarantees defining regulations regarding particularly the juvenile offenders' education. The penitentiary Code of RA fails in providing norms regarding the education of the school-age children (usually children aged at 14-16), especially, the detailed measures and ways of implementation of the educational process for juveniles. The mandatory stipulation of the school education for the child would lead to positive rehabilitation fulfillment of the child allowing the criminal jurisprudence achieve its goals concerning the purposes of the punishment. Furthermore, for the purpose of teaching children who have the desire of being educated, there should be encouragement measures, such as additional leisure time or visiting time with the family. This could make the child to set goals for the future and work for their successful implementation, which could allow decrease the social negative attitude towards them.

One of the significant rehabilitation techniques is boosting the level of legal awareness among the juvenile offenders. A nihilistic attitude towards law prevails among Armenian society.[58] In terms of the prevention of juvenile crime it is vital to raise the legal awareness, which considers awareness of legal norms and the desire and ability to behave in the manner as prescribed in that norms. [59] Thus, education in the penitentiary stations should include legal awareness courses for children, particularly. Every child should have the opportunity of standing in the right way and be explained of bad consequences of anti-social conduct legally and morally.

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[57] Հայաստանի Հանրապետության իրավական տեղեկատվական համակարգ, Երեխայի իրավունքների մասին ՀՀ օրենք, *available at* https://www.arlis.am/DocumentView.aspx?docID=69115 (last visited March 25, 2020)
[58] Габузян А.А., (2007) Проблемы преступности в Республике Армения в переходный период, , p. 187, *available at* http://ysu.am/static_f/82.pdf (last visited March 26, 2020)
[59] Ibid. at page 221

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In the process of improving the rehabilitation and reintegration system in RA, many practical issues are in need of tackling. Firstly, it is necessary to improve the living conditions in the "Abovyan" penitentiary station (the only juvenile penitentiary station in RA), where the children offenders are deprived of their liberty. The clean rooms with adequate conditions for living could raise the possibility for the child to remain healthy. Secondly, penitentiary station's stuff should provide the child prisoners with the child-friendly, kind and caring environment. All the administration and workers of the station should have the ability to communicate with the children in the psychologically right manner, periodically boost their awareness regarding the rights of the child and enhance the scope of their knowledge about the main characteristics of the juvenile justice system. Thirdly, high significance has the issue of psychological aid of the children prisoners while being deprived of their liberty and after their release. This should be regulated by the criminal legislation of RA. By implementing strong system of psychological assistance, the criminal rehabilitation process of the juveniles could record desirable results.

The problem of the social reintegration of children prisoners after release is out of the attention of non-governmental organizations and state institutions. Social, educational and psychological assistance should be provided to the children after release. As far as we are concerned, more than fundamental is the caring attitude towards the released children not only by their families, but also by the side of the organizations, as the kind, caring and helpful attitude generates kind attitude towards the world by the children, as well.

Overall, in terms of strengthening the criminal rehabilitation and social reintegration processes in RA, the first and foremost guarantee should be additional statements and improvements in Armenian criminal legislation based on the abovementioned discussion.

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Conclusion

To recapitulate the thesis paper, it is necessary to state that Juvenile Crime Rates show that the investment and development of new methods is more than required in RA. Here are the main suggestions based on the whole discussion of the paper:

1. Armenian Criminal Legislation is tend to be subject to improvements defining more mitigated approaches and taking into consideration the best interests of the child when applying punishing measures for minors. There are some shortcomings and unjustified strict regulations regarding the punishing measures for the children aged at 14-16 years, especially. The discussion of this matter shows that the international standards and regulations defining the deprivation of liberty of the child as a last resort are not reflected in the Armenian legislation, properly.

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2. Another problem in need of settlement is the proper professional and psychological trainings of defense attorneys, judges and all the personnel dealing with the juvenile cases. Refresher courses should be held to ensure the maintenance of legal and psychological competence. The conduct of such trainings should be stipulated by law.

3. The other matter to be regulated by law is the engagement of psychologists during all stages of juvenile criminal procedure. Furthermore, principal attention should be drawn for the effective psychological aid of children during the implementation of sanction, especially, when it comes to the sanctions related to the deprivation of liberty.

4. Also, the aim of punishment should be rehabilitation, which in his turn, should directly be reflected by the penitentiary station and other correctional institutions. Legislative amendments in the Penitentiary Code of RA may become big advancement in the process of making efforts for reducing recidivism by juvenile offenders. Penitentiary station policy is in need of improvement, based on the changes made at the legislative level. As opposite to retributive approach, rehabilitation process seeks other attitude adopting softer policy and emphasizing the significance of the treatment of offender. It aims at taking steps for the accomplishment of the treatment process of children in conflict with the law. To be specific, organizing more efficient and mandatory educational program, providing longer leisure time, larger opportunity for networking with family members and relatives impacting positively on the child would lead to rational and desirable results. Hence, reformation and improvement of such guarantees in the legislation of RA would have been huge progress in the Armenian criminal justice system. The discussion of the Second Chapter of the thesis reveals the failure of Armenian legislation to ensure enough rehabilitation and reintegration guarantees for the efficient treatment methods for the child offenders. The existence of such regulations would lead to the prevention of reoffending and successful fulfillment of the purposes of punishment.

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Although much has been done to reduce juvenile delinquency and to throw out the retributive justice approach to crime in general, youth crime and especially violence is still very real in our society.[60] There is still a need in RA to replace the retributive approach by the balanced and restorative approach in the sphere of juvenile justice. In the balanced approach, the traditional individual treatment agenda is replaced by a broader emphasis on the goal of competency development which requires that offenders “exit the system more capable of being productive and responsible in the community”.[61]

So, this thesis paper serves as a basis to claim that it is necessary to have additional regulations and amended statements in the RA legislation to provide enough guarantees in the juvenile criminal justice.

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