

Comparison of Individualization Policy of the Welfare Model in the Penalization of Juvenile Delinquency: a Comparison of the International Human Rights System and Iranian Rights

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Abstract

One of the fundamental principles of observing the best expedient in penalization of juvenile delinquency is adherence to the welfare model. The welfare model emphasizes the reconstruction of the behavioral state/characteristics and desirable social receptivity with the aim of reforming. The requirement of commitment to this model is to pay attention to the legal/clinical dimensions. The legal aspects include the commitment to individualize the responds through the application of the modified approach, maximum and de-incarceration. The provisions of international documents indicate the acceptance of these dimensions and the normality of the welfare discourse in sentencing as a requirement or guidance; In this way, the commitment to modified punishment, the use of clinical variables, the avoidance of incarceration and the pluralism of alternatives to incarceration as indicators of individualization in this document observed. Iranian laws are faced with various legal inadequacies in the application of these dimensions. Emphasis on the severity of the crime, weakening of the minimalist approach to deprivation of liberty, the heterogeneity of the adjusted nature of responses, and the priority of guaranteeing the right over security are among these objections. The way out of these ambiguities is to de-authenticize non-clinical variables, determine the punishment based on the clinical situation, avoid the focalization approach and pay attention to the balanced criminal justice approach.

Key words: welfare model; penalization; individualization; legal dimensions; criminalization; international documents; juvenile crimes.

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