

Review of the Law No. 14 of 2018 for the Reform of Prisoners and Inmates (Published in Iraqi Legalization Journal, no (4499 on July 16, 2018).

By

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Abstract

Law No. 14 of 2018 for the reform of prisoners and inmates, published in Iraqi Legalization Journal a No. (4499 as of July 16, 2018).

The law included (66) Articles, some of which were subdivided into more than one article, and those articles included fifteen chapters as follows:

1. Objectives and validity (Articles 1-4).
2. Authority and responsibilities (Article 5).
3. Appointment of keepers (Articles 6-7).
4. The affairs of prisoners, inmate and detainee (Articles 8-10).
5. Health care services of prisoners, inmate and detainee (Articles 11-16).
6. Education of prisoners and inmate (Articles 17-19).
7. Employment of prisoners and inmate (Articles 20-25).
8. Visiting of prisoners, inmate and detainee (Articles 26-29).
9. Home leave (Articles 30-33).
10. Other rights of prisoners and inmate (Articles 37-34).
11. Discipline of prisoners and inmate (Articles 38-44).
12. Inspection (Articles 45-47).
13. Financial Resources (Articles 48-49).
14. Provisions (Article 50).
15. General and Final Provisions (Articles 51-66).

Through a careful reading of these articles and their sub articles, some observations were recorded, reaching (56) notes, and the importance and usefulness of this research is evident when the decision-makers (Council of Representatives of Iraq) and (the Ministry of Justice) acquaint themselves with these notes and their alternatives may be made on it some amendments that are appropriate and alternatives to those notes that will be more useful to the prisoners, inmate and detainee, and of course that will be after its publication by sending a copy of the research to the two above.

Keywords: Prisoners, Inmate, Rehabilitation, Juvenile, Young people.

Introduction

The name of the law as (Law No. 14 of 2018 for the reform of prisoners and inmates) was unsuccessful, and inappropriate for what were included in some phrases and texts, for the following reasons:

1. It contains terms, some of which are repeated dozens of times, such as:

- A. The term "prisoner" is repeated (87) times
- B. The term "prisoners" is repeated (85) times

- C. The term “inmate” is repeated (88) times
- D. The term “inmates” is repeated (79) times
- E. The term “detainee” is repeated (43) times
- F. The term “detainees” is repeated (41) times
- G. The term “detention” is repeated 28 times

Some of them are repeated a few times, such as:

- a. The term “detentions” is repeated (9) times
- b. Term “female prisoners” repeated (4) times
- c. The term “female inmates” repeated (3) times
- d. The term “deportation” is repeated (3) times
- e. The term “detention centers” were repeated (3) times
- f. The term “female prisoner” is repeated (2) twice
- g. The term “female inmate” is repeated (2) twice
- h. The term “female detainees” is repeated (2) twice
- i. The term “female detainees” is repeated (1) once
- j. The term “detention in police station” is repeated (1) once

The terms (prisoner, prisoners, detention, detentions, detentions at police station, etc.) were repeated so many times, so it would have been better to name the law (Law No. 14 of 2018 on Rehabilitation and Reform of Prisoners, Inmates, and Detainees).

- 2. (Article / 2 / first) and (Article / 2 / second / a - d), related to the entities that are linked to the Ministry of Justice, we did not find anything that indicates or states that (the detentions) are related to the Ministry of Justice, knowing that it has stated that Liaison of the Iraqi Reform Departments and Reform of Events and all its affiliated departments.
- 3. (Chapter Four - Chapter Eleven) and within (Articles / 8-44) that came under the heading of (Prisoners, Inmates, and Detainees Affairs), it branched into sub-headings, and all of this should be included within (***The Rights of Prisoners, Inmates, and Detainees***), as well as confirmed by the repealed Prisoners and Inmates Reform Law (No. 104 of 1981), and therefore the (repealed) law was more conciliatory and clear than the law in force (***Prisoners and Inmates Reform Law No. 14 of 2018***).
- 4. The law included four main headings, which were divided into other sub-headings, according to the following:

a. Headings for prisoners and young inmates only, subdivided into

- (* Powers and tasks (Article 5).
(Article 5), with its (fourteen) paragraphs, (second) and (third) paragraphs, none of them touched upon (detainee, detainees and detainees centers), which may mean that the powers and duties of the Minister of Justice do not include those terms.
- (* Teaching prisoners and inmates the Articles (17-19).
- (* Employment of prisoners and inmates the Articles (20-25).
- (* Home Leave Articles (30-33).
- (* Discipline of prisoners and inmates Articles (38-44).

b. Headings for the three categories (prisoners, inmates, and detainees), subdivided into

- (* Affairs of prisoners, inmates, and detainees Articles (8-10).
- (* Health care for prisoners, inmates, and detainees Articles (11-16).
- (* Visiting prisoners, inmates, and detainees Articles (26-29).

c. General headings, which included the three categories, subdivided into

- (* Objectives and Validity Articles (1-4).
- (* Material Inspection (45-47).
- (* Financial Resources Articles (48-49).
- (* Allocations Article (50).
- (* General and Final Provisions Articles (51-63).

d. Specific headings to prisoners and young inmates, but also included detainees, such as:

- (* ***Other rights of prisoners, inmates, and detainees Articles (34-37).***

From all of the foregoing, the previous opinion (that the naming of the law was unsuccessful and inappropriate) is confirmed by what the law contained in some texts. Accordingly, the alternative name could be (*Law No. / 14 of 2018 for the rehabilitation and reform prisoners, inmates, and detainees*)

Rehabilitation is preparing prisoners, inmates, and detainees to live a life free from crime after their release. Preparations would be by programs applied to them, some of these programs are applied on prisoners and inmates but not on detainees, such as (classification, internal and external employment, and home leave), and those programs are:

- A. Examination.
- B. Classification.
- C. Education.
- D. Health.
- E. Internal and external employment.
- F. Home leave.
- G. Visiting.
- H. Correspondence inside and outside Iraq.
- I. Care after release.

All of these programs positively affect their behavior, and then we arrive at the reform process, which consists in moving away from deviant behavior and adhering to proper behavior.

Through the new reading of the law, more than (50) fifty notes were recorded, which will be addressed later.

Finally, this research consisted of two sections, the first dealt with (a look at prison laws in Iraq) within two demands, the first demand dealt with the repealed prison laws - which are four laws - and the second demand dealt with the Law of Reforming prisoners and inmates No. 14 of 2018 / Valid.

As for the second section, it dealt with (the affairs of prisoners, inmates, and detainees and other remarks). With two demands, the first one dealt with the affairs of inmates, depositors, and detainees, while the second demand dealt with other remarks.

The first topic: a look at prison laws in Iraq

The first demand / repealed prison laws

Prison legislation has occurred in Iraq since (1924), namely:

First / Prisons Act of 1924 (It was published in Iraqi Legalization Journal, No. (169 on May 18, 1924) (*) (repealed), and it states:

1. The law did not include legal articles, but rather numbers for paragraphs (1-25).
2. The Minister of Interior is responsible for managing prisons and reform schools (**Paragraph (2)**)⁽¹⁾.

3. The law classifies prisoners into five categories:
 - a. Convicted of hard labor.
 - b. Those sentenced to severe imprisonment.
 - c. Those sentenced to simple imprisonment.
 - d. Those sentenced to imprisonment in the reform school, and this category is specific to juveniles.
 - e. Convicts for a civil debt (**Paragraph (7)**)⁽²⁾.

The law did not specify what is meant by (paragraphs /a-e) above, and the law did not include any reformatory rehabilitation programs for prisoners.

Second / Prison Administration Law No. (66 of 1936 / Repealed) (**Published in Iraqi Legalization Journal, No (1513 on 9/5/1936)**)^(**):

1. The law included (twenty-seven articles).
2. The first article included: eight definitions, including: the prisoner, inmate, and the detainee.
3. The law deals with the penalties imposed on prisoners, such as (detention in isolation for a period not exceeding six months, with or without restraint) (**Article (seventh/c)**)⁽³⁾.
4. The law referred to (flogging with a whip or a stinger, provided that the number of lashes does not exceed twenty) (**Article (seventh / d)**)⁽⁴⁾, but this punishment (flogging) does not apply to females (**Article (Seven/2)**)⁽⁵⁾, and the punishment of flogging is governed by the doctor's approval that the convict bears the flogging (**Article (fifteen/1)**)⁽⁶⁾.
5. The law did not include any correctional rehabilitation programs for prisoners and inmates.

Third / Prison Authority Law No. (151 of 1969) (**Published in Iraqi Legalization Journal, No. (1788 on 9/10/1969)**)⁽⁷⁾ (Repealed):

1. The law included (seventy-seven) articles.

2. The first article included (fifteen) definition of (the prisoner, inmate and the detainee).

- a. A prisoner is every person against whom a judgment has been passed to place him in prison by an authority legally competent to issue it.
- b. A detainee is every person against whom a decision or order has been issued to arrest him from an authority legally competent to issue it.
- c. The prison is the place in which prisoners are detainees and includes the detainee centre.

3. The Prisons Authority Board of Directors in terms of its composition and functions (Article (sixth - eleventh))⁽⁸⁾.

4. The Technical Committee and its Duties (**Article (twelfth - twenty-fifth)**)⁽⁹⁾.
5. The Authority's funds and its financial system (**Article (Twenty sixth - Thirty)**)⁽¹⁰⁾.
6. Classification of prisoners (**Article (thirty-one-fourty one)**)⁽¹¹⁾.
7. Behavioral, cultural and professional rehabilitation (**Article (forty-two - fifty-first)**)⁽¹²⁾.
8. Disciplinary penalties for prisoners (**Article (fifty second)**)⁽¹³⁾.
9. Treatment of political prisoners and detainees (**Article (fifty third - sixty-seven)**)⁽¹⁴⁾.
10. Various provisions (**Article (sixty eighth – seventy-seven)**)⁽¹⁵⁾.

This law is more advanced than the previous two laws (**The Prisons Law of 1924, and Prison Administration Law No. 66 of 1936**)⁽¹⁶⁾.

Fourth / Law of Reform of Inmates and Depositors No. (104 of 1981) (**Published in Iraqi Legalization Journal No. (1981)**)⁽¹⁷⁾ (Repealed):

The name of this law when it was issued was (The Public Institution for Social Reform

Law No. 104 of 1981), and in Article (1/First and Second) of Law No. (22 of 2002) regarding the second amendment to the Institution Law, it states:

First/ The name of the Public Institution for Social Reform Law No. (104) for the year 1981 is repealed and replaced by the following name: Law of Reform of Inmates and Depositors No. (104) of 1981.

Second/ The phrase reform of prisoners and inmates shall replace the phrase (social reform) wherever it appears in the Law (**And Law (2002)**⁽¹⁸⁾, therefore:

Prisoners: They are of both genders who have completed eighteen years of age, who have been judged with a freedom deprivation penalty and who have been assigned to a social reform department (prison).

Inmates: They are juveniles of both genders, who have completed nine years of age but not yet eighteen, who have been judged with a freedom deprivation penalty, and placed in a juvenile rehabilitation school, which serves as prisons for juveniles.

The prisoners and inmates Reform Law No. (104 of 1981) included (54) articles and dealt with

1. Objectives (**Article (2) has been amended**)⁽¹⁹⁾.
2. The Board of Directors, its formations, meetings, terms of reference, duties and powers of the Chairman of the Board (**Article (3-7). Articles (3, 4, 5, and 7) have been cancelled, and Article (6) has been canceled and has been amended**)⁽²⁰⁾.
3. Divisions of the institution (**Article (8) is cancelled**)⁽²¹⁾.
4. Service in the institution (**Articles (9-13)**)⁽²²⁾.
5. Financial provisions (**Articles (14, 15)**)⁽²³⁾.
6. Technical Committees (**Article (16) has been canceled and amended**)⁽²⁴⁾.
7. Classification (**Article (17)**)⁽²⁵⁾.
8. The rights of prisoners and inmates (Articles /18-38), which are as follows:
 - a. operating (**Articles (18-22). Article (19) has been canceled and amended**)⁽²⁶⁾.
 - b. education (**Articles (23-27)**)⁽²⁷⁾.
 - c. visit (**Articles (28-31)**)⁽²⁸⁾.
 - d. health care (**Articles (32-34)**)⁽²⁹⁾.
 - e. home leave (**Articles (35-38)**)⁽³⁰⁾.
9. Other rights (**Articles (39-42)**)⁽³¹⁾.
10. Discipline of prisoners and inmates (**Articles (43-45)**)⁽³²⁾.
11. Final Provisions (**Articles (46-54)**)⁽³³⁾.

The Second Demand / Law of Reform of Prisoners and Inmates No. (14 of 2018)

Prisoners and Inmates Reform Law No. (14 of 2018) (**Published in Iraqi Legalization Journal, no (4499 on 16/7/2018)**)⁽³⁴⁾ (valid) contained (66) articles in fifteen chapters, as follows:

1. Objectives and validity (Articles 1-4) (Chapter One).
2. Powers and tasks (Article 5) (Chapter Two).
3. Appointment of guards (Articles 6-7) (Chapter Three).
4. The affairs of prisoners, inmates and detainees (Articles 8-33) (Chapter Four) to (Chapter Nine), which are:

- a. Health care for prisoners, inmates and detainees (Articles 11-16) (Chapter Five).
 - b. Education of prisoners and inmates (Articles 17-19) (Chapter Six).
 - c. Employment of prisoners and inmates (Articles 20-25) (Chapter Seven).
 - d. visiting prisoners, inmates and detainees (Articles /26-29) (Chapter Eight).
 - e. Home leave (Articles 30-33) (Chapter Nine).
5. Other rights of prisoners and inmates (Articles /34-37) (Chapter Ten).
 6. Discipline of prisoners and inmates (Articles 38-44) (Chapter Eleven).
 7. Inspection (Articles 45-47) (Chapter Twelve).
 8. Financial Resources (Articles 48, 49) (Chapter Thirteen).
 9. Allocations Article (50) (Chapter Fourteen).
 10. General and Final Provisions (Articles 51-66) (Chapter Fifteen).

Through careful reading of the law, the following observations can be recorded:

1- Legislation of Law

It seems that the contributors to the legislation of the law were not among them specialists in the affairs of prisoners and inmates (juveniles who have been sentenced and placed in their rehabilitation schools, which are like prisons), the jurisdiction of the law alone is not sufficient.

2- Naming the law

From the name of the law we understand that it is for prisoners and inmates, but we find between the law and in many of its articles and paragraphs terms such as (detainees centers), (deportation), (detention in police stations), (detainees or detainee), and other terms, and through a simple arithmetic process, it turns out that these terms were repeated more than (one hundred and thirty times), although the Ministry of Justice most closely related to the law was not some of those terms within its responsibility or subordination such as (deportation and police stations), it is known and known that those terminology goes back to the Ministry of the Interior. It is also known that the detainee is accused and the accused is innocent until proven guilty.

Notes on the law

[1] In Article (1/ Fourth) the phrase (Juvenile Welfare Law), and the correct one is (Juvenile Welfare Law No. 76 of 1983).

[2] Within Article (1) of Terminology, Paragraph (Fifth) stated:

“The Juvenile Reform Department, which is an entity with an independent legal personality, in which juveniles are deposited according to a judicial decision” should add the following:

(Negative of freedom / imprisonment of both types and imprisonment of both types), because the judicial decision is diversified, so it must be determined.

[3] The same applies to paragraph (sixth) of the same article, which states:

The Iraqi Reform Department.a body with an independent legal personality, in which prisoners who are subject to judicial rulings are deposited...” should add the following:

(Deprivation of freedom / imprisonment of both types and imprisonment of both types). The Law of Reform of Inmates and Depositors refers in more than one article to the (reform departments), that is, of inmates and depositors (Article (35 / first and second) and (36 / first) ⁽³⁵⁾.

[4] In Article 1/Seventh, the definition of (detainees) came to mean people under arrest in police stations, prisons, or transfers.

It is known about prisons that they include people who have been sentenced by competent authorities and have been imprisoned, and prisons do not include the category of detainees, and it is known that detainees are included in the police stations and transfers

affiliated to the Ministry of Interior.

- [5] In Article (1/8) the phrase (to receive prisoners or detainee.). It must be (to receive prisoners or detainees.) As long as prisoners are in the plural form, (the detainee) must be in the plural.
- [6] In Article 1/ Ninth, the phrase (which follows to study the status of the prisoner and know.) should be (which follows to study the status of the prisoner or inmate and know.).
As for the classification referred to in the same paragraph, it is applied in terms of gender (separating males from females) within the three categories (prisoners, inmates, and detainees). As for classification based on age, punishment and type of crime, it cannot be applied due to the severity of overcrowding.
- [7] In the same paragraph came the phrase (with each class of prisoners isolated from others.). It must be (with the isolation of each class of prisoners or inmates from others.).
- [8] In the same paragraph came the phrase (and the type of crime for each prisoner and the extent of his readiness.) It should be (and the type of crime for each prisoner or inmate and the extent of his readiness.).
- [9] In Articles (1/Ninth), (11/First/B), (16/Fifth), (44/Fourth, Fifth, Sixth, Seventh), (45/Third), (46/First) and (49 / first and second) and (62 / first and second) and others in which the terms (prison and prisons, and the prisoner) are mentioned, it is necessary to replace (prison with the social reform department), especially since the law is (the law of reforming prisoners and inmates), and the term (houses and schools for rehabilitation) should adopted for juveniles.
- [10] Article (2 / First) and (2 / Secondly A-D) concerning the bodies associated with the Ministry of Justice, we did not find any reference to the detainee or detainees, especially since this article in its paragraphs goes back to the title (Objectives and Applicability).
The same Article (2) in Paragraph (B) stated that the rehabilitation homes for homeless juveniles should be attached to the Department of Welfare for People with Special Needs in the Ministry of Labor and Social Affairs.
There is no objection to her being attached to the Ministry of Labor and Social Affairs, but her placement in the Department of Welfare for People with Special Needs is not acceptable, because each category is different from the other. Juveniles who are homeless and deviant in behavior are governed by Article (24) and Article (25) of the amended Juvenile Welfare Law No. (76 of 1983), and their rehabilitation home is (Juvenile Rehabilitation Home) in accordance with the amended Paragraph (Fifth) of Article (10) of the Juvenile Welfare Law (76 for the year 1983).
- [11] Among the objectives of the law (Article 3/fourth), it stated that “not to distinguish between detainees, prisoners, or inmates for any reason.”
This is not permissible because one of them is distinguished from the other in the first place, so the prisoners who are not inmates and who are not detainees, and so are the rest of the groups, then the detainees are either pending investigation or pending trial, or after a period that may be short and they are released.
- [12] Article (4) stated: “The provisions of this law shall apply to prisoners and those placed in the Iraqi reform departments and the Juvenile Correctional Department, and those detained in detention and deportation centers.”
Expatriations belong to the Ministry of Interior, and the Ministry of Justice has no authority over them.
- [13] Article (5) First, with its fourteen paragraphs (from A - N) and two other paragraphs (Second and Third) and under the title of the powers and tasks of the Minister, we did not find any of those paragraphs that dealt with the detainee or the detainees, nor the detention centers.
- [14] Article (6) stated that “Whoever is appointed as a correctional guard in the Iraqi reform

and juvenile reform departments...” ” Adding the phrase "men and women" is considered a reformist guard.

[15] Article (6/Fourth), and within the conditions for appointing guards, stated that. He\ she must be married, and the minister may exempt the applicant for appointment from this condition.

The exception here is not possible, it is preferable to cancel this exception, as marriage is important, especially the guardians handling of minors.

The second topic / the affairs of prisoners, inmates, and detainees, and some notes

(It is preferable to replace the word affairs with the word rights) and when it is rights, the administration must achieve those rights

The first demand: the affairs of prisoners, inmates and detainees

[16] Article (8 / First) stated: “A special place shall be allocated in each of the Iraqi rehabilitation and Juvenile rehabilitation Departments, known as the Reception, Examination, Classification and Computer Center.

The computer centre is not located with the reception, examination and classification center, but its place may be more appropriate in the administrative or legal department.

[17] Article (8/Second) stated: “No prisoners, inmates and detainees in the reception, examination and classification center shall be handed over.”

The detainee has nothing to do with the reception, examination and classification center.

[18] Article (8/fifth) stated: “The interview of prisoners, inmates and detainees shall take place at the reception, examination and classification center.”

The Reception, Examination, and Classification Center is located in both the Iraqi reform and juvenile departments. As for the detainee, he\ she is interviewed in police stations or detention centers affiliated with the Ministry of Interior and not in the Reception, Examination and Classification Center.

[19] Article (9) stated: “prisoners, inmates and detainees are categorized...”.

The classification does not include detainees because they are in detention centers (police stations) and because the detainee is innocent until proven guilty, and perhaps after a short period of time he will be released.

[20] Article (9/Third) stated: “prisoners, inmates and detainees shall be separated.”, preferably the text as follows (Separation shall be made between prisoners and inmates on the one hand, and detainees on the other hand.).

[21] Article (9/Fourth) stated: “prisoners who have reached the age of (18) eighteen years shall be deposited in a separate section from adult prisoners who have reached the age of twenty-two (22), and the phrase (keep prisoners) which is intended to be (keep inmates).

The prisoners who have completed their age (18), were before their completion (18 years) they were in the juvenile rehabilitation school, and when they complete the eighteen they are transferred to the school for young adults which is (one of the schools prepared for placing those who have completed the eighteen years of the students in the rehabilitation school for juvenile or whoever he\ she has completed eighteen years of age at the time of his\ her judgment, to work on his\ her vocational or academic rehabilitation and to re-adapt him\ her socially) (Article (10/4) of Juvenile Welfare Law (1983) ⁽³⁶⁾

Juvenile Welfare Law No. (76 of 1983) stated that juveniles be placed in rehabilitation schools according to their age groups: “If the juvenile put in the youth Rehabilitation School completes fifteen years of age, he\ she must be transferred to the youth Rehabilitation School to complete his/ her sentence” (Article (82/first) of the same law)⁽³⁷⁾, and “If the inmate

completes an eighteen-year-old who is put in the youth' Rehabilitation School, he/she must be transferred to the Young Adult School to complete his/ her sentence.” (Article (82/Second) of the same law)⁽³⁸⁾ If the inmate in the Youth School of twenty-two years of age has completed his/ her sentence, he/ her must be transferred to the Adult Correction Department to complete his/ her sentence” (Article (82/Third) of the same law)⁽³⁹⁾. The prisoners, inmates, and detainees' issues are as follows:

First / health care

[22] Article (11/first/b) adding the term (and inmates) to become the sentence (physical, mental and psychological health of prisoners and inmates).

[23] Article (11/Second) stated: “The tasks of... shall be determined by instructions issued by the Minister of Health.” Preferably, the text should be as follows: “The tasks issued by the Minister of Health, in cooperation with the Minister of Justice, are determined.” Because hospitals and health centers will be located within the institutions of the Ministry of Justice.

[24] Article (12/Second/B) stated: “It is stipulating in the food of the prisoner and inmate.”, that the term (and the detainee) must be added so that the text is (required in the food of the prisoner, inmate, and the detainee.).

[25] Article (14/first) states: “If they are distributed in the form of rooms for one person, each prisoner should occupy a room alone during the night. in the temporary overcrowding in the prison.” This idea is applied in the solitary system followed in some prisons, where each prisoner or inmate is in a room equipped with all the needs. Therefore, this idea is not applicable in Iraq because most of its rehabilitation institutions apply the collective system, which allows mixing day and night.

[26] Article (14/fifth) stated: “. provides the opportunity to shower at least once a week for all prisoners, inmates and detainees...”. Preferably, the text should be as follows: “. provides the opportunity to take a shower at least once a week for each prisoners, inmates and detainees during winter and three times during summer...”.

[27] Article (14/seventh) stated: “A bed shall be provided to every prisoner, inmate and detainee.”

Overcrowding in detainees and police stations, it is not possible to prepare a bed for every detainee.

[28] Article (16/First) stated: “. that health centers and medical clinics be in prisons and detention.”.

(There is no such medical thing in detentions.)

[29] Article (16/fifth) stated: “The doctor in charge of the hospital, health center, or medical clinic shall examine prisoner, inmate and detainee as soon as possible after his/ her admission to the prison or detainee....”

It is preferable to add the phrase (or rehabilitation home for juveniles) after the term prison.

Second / Education of inmates and depositors

[30] Article (17/Second) stated: “.to open public and vocational schools in both departments.

Article (17/third) also stated: “Public and vocational schools are opened at all stages within the reform sections in these two departments.”

Opening schools with these formulas cannot be applied because those schools are wide and complex, and because it was a primary school in Hilla prison in the first years of its opening and then converted into a sleeping hall for prisoners due to overcrowding, how does the law want us to open public or vocational schools (agricultural, industrial and commercial) in all their stages?

[31] Article (18) stated that “the prisoner and inmate teaches his/ her colleagues within the Iraqi

Reform and Juvenile Reform Departments.”

It is preferable to give the teaching persons wages in return to encourage them, as was the case in the previous law (See: Article (24) of the Law of Reforming prisoners and inmates (1981) ⁽⁴⁰⁾.

Third / employment of prisoners and inmates

[32] Articles (20-25) related to the employment of prisoners and inmates did not address the method of distributing external operating fees, as defined by the previous instructions, and as follows:

10% of the wages shall be deducted for the account of the department and is recorded as revenue for it. 30% of the wages shall be deducted for the guest or depositor daily when he performs his work.

60% is paid to his/ her account with a savings book, and he/ she is not allowed to dispose of it except after his/ her release, as it is paid to him/ her at the end of his/ her sentence and his/ her release (See: Instructions No. (3 of 1982) ⁽⁴¹⁾.

Those wages were modified and made inside and outside the social reform departments, that is, an addition (work within the social reform departments), but the percentages did not change (See: Instructions (2 of 1985) ⁽⁴²⁾.

It was also amended again, but in other proportions, with the work remaining inside and outside the social reform departments, and as follows:

20% of the wages are for the department's account and are recorded as revenue for it.

50% of the wages are recorded in the savings books for the account of the prisoners and inmates.

30% of wages to prisoners and inmates directly from the establishments in which they work (See: Instructions (9 of 1988) ⁽⁴³⁾.

That is, the amounts that are provided for the prisoners and inmates have been reduced from (60%) to (50%), and it is preferable to return them to the first division because it will increase the amounts that the prisoner or inmate will collect, which will help them solve their problems after their release.

It was modified again as follows:

20% of the wages are allocated to social and cultural activities and assistance to prisoners.

50% of the wages are recorded in the savings books for the account of the prisoners and inmates.

30% is paid to prisoners and inmates directly by the establishments in which they work (See: Instructions (7 of 1989) ⁽⁴⁴⁾.

[33] Article (20/Second) stated: “Establishing and providing workshops, laboratories, facilities, and decent work requirements appropriate for prisoners and inmates.”

This could not be provided due to the severe overcrowding, which negatively affected many rehabilitation programs.

[34] In Article (24/Third) related to excluding convicts from external employment, it is preferable to add the paragraph (crimes affecting the internal or external security of the country) and take the sequence (g). And add a paragraph (not to be a repeat offender) and take the sequence (h).

[35] Paragraph (fourth) of Article (24) regarding home leave, should be moved to paragraphs or articles (30-33) related to home leave, and its summary (that he is not a repeat offender).

Fourth: Visiting prisoners and inmates

[36] Article (26/first) stated: “The prisoners and the detainee may receive his/ her visitors and his/ her family at least once a month for each of them...”

Adding the term (and inmate) to become (for the prisoner, inmate, and the detainee), and also requires an increase in the number of visits that will further consolidate the relations between the prisoners and inmates with their families and relatives, because one visit per month is not enough.

[37] Paragraph (fourth) of Article (28) should be move to Chapter Nine (the home leave Article / 30) because it is related to the home leave, and its location within the visit of prisoners and inmates is not appropriate.

Fifth, home leave

[38] The home leave has been in work since 1972 in Iraq, and thus Iraq is the first country in the Middle East to apply that experience (The Public Institution for Social Reform: The Experience of Home Leave for Prisoners in Iraq, Baghdad, 1981) ⁽⁴⁵⁾.

[39] Article (30) of the law stated: “The Director General of the Iraqi Reform and Juvenile Reform, after the approval of the competent minister, may grant a home leave permit .”.

It is preferable to delete the phrase (after the approval of the competent minister and limiting the leave to the director general), because the minister’s concerns are many, the prisons are many, and the prisoners are even more. As for the reform of adults (Law of Reform of prisoners and inmates No. (104 of 1981), Article (35) ⁽⁴⁶⁾, as well as for the Juvenile Reform Department (Same source: Article (38 / First)⁽⁴⁷⁾.

[40] In the same article, Article (30) the leave period was (five days) every (three months), except for travel days for Iraqis.

It is preferable to limit the travel days to two or three days, for example, and not to remain open and become subject to diligence.

[41] Adding a condition (that he/ she does not have another unresolved case) to the conditions of Article (30/First) and the sequence (g) of the home leave.

[42] The law, in particular Article 31, did not mention the case of a prisoner or inmate escaping after the end of the period of home leave, and it is preferable that it be as follows:

(When he/ she does not join - escape - after the end of the period of the home leave, he/ she is arrested and prosecuted for the crime of escape, and he/ she is put in the rehabilitation institution to serve the penalty of escape and the remaining penalty of his/ her previous crime.

Sixth: Other rights of prisoners and inmates

[43] Delete Paragraph (Second) of Article (35) because its content is similar and identical to the text of Paragraph (**First**) of the same Article (**35**), and because this last text includes prisoners and inmates in the reform department.

The second demand / other notes

First: Discipline of prisoners and inmates

[44] Article (40/First) specified the prohibited materials within paragraphs (A-H), and Article (42/First) stipulated the punishment of the prisoner and inmate who obtained what was stated in paragraphs (B, C, D, and F), and in Article (42/Second) It punished the prisoner and the inmate who obtained what was stated in paragraphs (a, e), but did not refer to the punishment of the prisoner and inmate who obtained what was stated in paragraphs (g, h), related to (substance that threatens security and safety) and (medical drugs with dual-use).

[45] Article (43 / second) stated cash prizes for prisoners and inmates, while (cash) was prohibited from entering the prisoners and inmates reform departments, Article (40 / First / B) and because of the importance of cash for prisoners and inmates in fulfilling some of their needs. The prohibition on money stated in Paragraph (b) of Article (40 /

First), and the prohibition remains only on jewelry.

[46] Paragraph (c) of Article (44/sixth) stated: “By order of the director of the prison or detention, if other control methods fail to prevent the prisoner, inmate, and detainee from harming themselves. The text must be as follows:

By order of the director of the reform department, the director of the station, or the director of the juvenile rehabilitation school, if other control methods fail to prevent the prisoner, inmate, or detainee from harming himself/ herself. The same applies to Article (44/seventh).

[47] Article (45/Third) stated: “... headed by the public prosecutor and the membership of the director of prison and director of the reform department...”.

Delete the phrase (prison and director) to read (. headed by the public prosecutor and the membership of the director of the reform department), because the term prison means the reform department.

[48] Paragraph (33) is similar to what was stated in Paragraph (Seventh) of Article (44), which states:

The prison administration or the detention center must provide the prisoner, the inmate, and the detainee upon entering the prison or the detention center, with written information."

The text should be as follows:

“The administration of the reform department and the director of the juvenile rehabilitation school or the detention center must provide the prisoner, the inmate and the detained person upon entering the reform department or one of the juvenile rehabilitation schools written information...”

Secondly, financial resources

[49] Article (49/First) stated: “.the workshops, laboratories, halls belonging to prisons and detention centers was supplied in accordance with specifications and scientific methods...”.

This is a dream that does not come true even in the long run, especially in detention centers, because detention centers do not accommodate the people in them, so where do we put the workshops and laboratories? Some of them are soon released.

[50] Article (49/second) stated: “The competent ministry and the governorates shall coordinate among themselves to establish prisons and detention centers in all governorates for the purpose of providing appropriate spaces.”

A modern prison was built in the province of Babylon, on the road leading to the shrine of Zaid bin Ali (peace be upon them) and on the Hilla-Kifl road, in the hope that all prisoners would be transferred from Hilla prison and some other prisons, and in the hope of opening it more than a year ago, but this was not done due to some deficiencies in it.

Third, with regard to inmates

[51] As long as the law is specific to prisoners and inmates, however, the share of prisoners was the largest, and legislators had to address (homes and rehabilitation schools) for juveniles (inmates), which was stated in the Juvenile Welfare Law No. (76 of 1983) and according to the following:

- a. Observation House: A place where the juvenile is kept by a decision of the court or the competent authority, in which he/ she is examined physically and mentally, and his/ her personality and behavior is studied by the personality study office in preparation for his/ her trial (Article (10/First) of Juvenile Welfare Law No. (76 of 1983) ⁽⁴⁸⁾.
- b. Juveniles' Rehabilitation School: one of the reform schools designed to deposit the juvenile (The boy: a juvenile who has completed nine years of age and has not yet

fifteen (Article 3/third)⁽⁴⁹⁾ for the period specified in the ruling, to work on re-adapting him/ her socially and providing means for his/ her vocational or academic rehabilitation(Article (10/Second)⁽⁵⁰⁾.

- c. School for Rehabilitation of teenagers (The boy: a juvenile who has completed fifteen and has not yet eighteen (Article 3/fourth)⁽⁵¹⁾: One of the reform schools prepared to place the teenagers for the prescribed period of judgment to work on his/ her social re-adaptation and to provide the means for his/ her professional or academic rehabilitation (Article (10/third) of the same law)⁽⁵²⁾.
- d. School for Young Adults: One of the schools prepared for the placement of a person who has completed his/ her eighteen years of age, who is placed in a school for the rehabilitation of teenagers, or who has completed his eighteen years of age at the time of sentencing to work on his professional or academic rehabilitation and social rehabilitation (Article (10/4) of the same law)⁽⁵³⁾.
- e. Juvenile Rehabilitation Home (modified): A place where a juvenile who is vagrant or deviant in behavior is deposited by a decision of the Juvenile Court until he reaches the age of eighteen, and the ward of young adults is attached to it, where the homeless or deviant young woman is kept, or whose period of admission has expired and who has lost family care until she reaches (22) year, or until a solution to her problem is found, either through marriage, or by handing her over to her relatives, or finding a suitable way of work for her (Article (10/5) of the same law, amended by Law (76 of 1988)⁽⁵⁴⁾.

From paragraphs (A-E), it can be said that the Iraqi legislator has begun applying rulings to juvenile delinquents according to their age groups, and according to the following:

- a. The judgment issued for a juvenile who has completed nine and is not fifteen years old is filed in the Boys juveniles' School.
- b. When the juvenile (inmate) reaches fifteen, he is transferred from the juvenils Rehabilitation School to the teenagers Rehabilitation School.
- c. When the juvenile is 18 years old, it is transferred from the teenagers Rehabilitation School to the Youth Adult School. If the inmate in a youth school has completed twenty-two years of age, he/ she must be transferred to the adult reform department to complete his/ her sentence See: Article (82/First-Third)⁽⁵⁵⁾.

Note that a kid is a person who has not yet completed nine years of age (Article (3/first)⁽⁵⁶⁾, meaning that no criminal case is instituted against a person who at the time of the commission of the crime was not yet nine years old (Article (47/First)⁽⁵⁷⁾.

[52] Finally, the law did not refer to the food brings into the Iraqi Reform Department and the Juvenile Reform Department – houses and schools of rehabilitation - is it among the forbidden items that came in Article (40 / First) and in Paragraphs (A – H), or not?

Note that the Ministry of Justice contracted with a company on (1/8/2014) to provide the reform department in Babylon with food, three meals per day for each inmate at a cost of (8.870) Iraqi dinars (eight thousands and eight hundreds and seventy Iraqi dinars) per prisoner per day, and the duration of the contract is one year. With a description of the food served to the prisoner for each meal.

Fourth / General and Final Provisions

[53] Delete the first paragraph of Article (54), because it is repeated in Article (44 / VI / A-C) and has been clarified in sufficient detail.

[54] Article (58/Third) stated: “The Ministry of Labor and Social Affairs shall establish a shelter center for the aftercare of the juvenile, the inmate, the deposited and the

detained.” This text is missing the term (prisoner), so the text becomes as follows (The Ministry of Labor and Social Affairs must establish a shelter center for the aftercare of the juvenile prisoner, the inmate, and the detained.), and because the aftercare includes all of these categories.

[55] Article (59) stated: “The Department of Social Research in the Departments of Adult Reform and Juvenile Reform shall follow up and provide aftercare for prisoners and inmates.”

The text did not address (female prisoners, inmates, and detainees), as in Article (58/Third) and because the aftercare includes all those categories.

[56] Article (59/5) stated: “Coordination between the Departments of Adult Reform and Juvenile Reform and civil society institutions in implementing the objectives of post-care for the released by providing training and appropriate work for them and providing them with financial aid and shelter for those in need.”

No civil society institution is able to do this coordination, regardless of its ability. Can these institutions provide the released: training, appropriate work, financial aid, or shelter (housing)? Certainly can't, because this is within the competence and tasks of the government, which has capabilities, capabilities and capabilities that double what civil society institutions possess, but with this the government cannot.

Conclusion

The research (Law No. 14 of 2018 for the reform of prisoners and inmates), published in Iraqi Legalization Journal a No. (4499 as of July 16, 2018), and it came as an alternative to the previous law with the title (Law No. 104 of 1981 for the reform of prisoners), published in Iraqi Legalization Journal a No. (2852 on October 5, 1981).

Law No. (14 of 2018) contained (66) articles in fifteen chapters, and some of those articles were divided into more than one paragraph, and since the law falls within the researcher's specialization, he read its articles and paragraphs, constructively reading with his critic, and each observation, and every article or paragraph that the researcher believes is tainted by some ambiguity or deficiency, and the researcher has found the alternative text for it, and these alternatives can be as proposals to amend, cancel or add what needs to be done. By comparing some articles or paragraphs of Law (14) with their counterparts in Law (104), it became clear that some of what was stated in Law (104) was more correct and appropriate to the conditions of prisoners, inmates and detainees.

Margins

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- (18) concerning the second amendment to the Law of the Public Institution for Social Reform was published in Iraqi Legalization Journal No. (3936 on 06/24/2002).
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- (41) paragraph (Third / 15). Published in the Iraqi Legalization Journal No. (2905 on 10/11/1982).
- (42) Published in the Iraqi Legalization Journal No. (3063 on 16/9/1985).
- (43).
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- (45), p. 6.
- (46).
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- (48).
- (49) of the same law.
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- (54) the third amendment to the Juvenile Care Law, published in Iraqi Legalization Journal No. (3209 on 7/4/1988).
- (55) of the same law.
- (56) of the same law.
- (57) of the same law.

References

First\ the laws

- 1- Prisons Law of 1924 (published in Iraqi Legalization Journal No. 169 on May 18, 1924).
- 2- Prison Administration Law No. 66 of 1936 (published in Iraqi Legalization Journal No. 513 on 5/9/1936).
- 3- Law of the Prisons Authority No. 151 of 1969 (published in the Iraqi Legalization Journal No. 1788 on October 9 1969).
- 4- Law of Reform of prisoners and inmates No. 104 of 1981 (published in Iraqi Legalization Journal No. 2852 on 10/5/1981).
- 5- Juvenile Welfare Law No. 76 of 1983 (published in Iraqi Legalization Journal No. /2951 on 1/8/1983).
- 6- Law No. 76 of 1988, the third amendment to the Juvenile Welfare Law No. 76 of 1983, published in Iraqi Legalization Journal (No 3209 on October 11, 1988).
- 7- Law (22 of 2002) regarding the second amendment to the law of the Public Institution for Social Reform, published in Iraqi Legalization Journal, No (3936 on 06/24/2002).
- 8- Law of Reform of Inmates and Depositors No. (14 of 2018), published in Iraqi Legalization Journal No. 4499 on 7/16/2018

Second / Instructions (according to previously issued)

- 1- Instructions No. (3 of 1983) published in Iraqi Legalization Journal No. (2905 on October 11, 1982).
- 2- Instructions No. (2 of 1985) published in Iraqi Legalization Journal No. (3063 on 9/16/1985).
- 3- Instructions No. (9 of 1988) published in Iraqi Legalization Journal No. (3199 on 4/25/1988).
- 4- Instructions No. (7 of 1989) published in the Iraqi Legalization Journal No. (3251 on 4/17/89).