

Mechanisms to protect children victims of digital drugs in Algeria

آليات حماية الطفل ضحية المخدرات الرقمية في الجزائر

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Abstract:

The technological development has had a positive role in improving the level of economic, cultural, social and health of human beings, at the sometime, this technological evolution has revealed its negative ideas such as the apparition of many dangerous crimes. That may devastate entire generations. Among these crimes “digital drugs”, which have begun to be easily accessible especially by innocent children. This is what pushed us to ring the alarm bells in order to identify and combat these crimes and explain its mechanisms to protect this weak creatures.

key words: Child - digital drugs - danger - protection - criminalization .

المخلص :

إن التطور التكنولوجي الرهيب الذي عرفته البشرية كان له دور إيجابي في تحسين المستوى الإقتصادي والثقافي والإجتماعي والصحي للإنسان. وفي نفس الوقت كان لهذا التطور دور سلبي إذ تطورت الجريمة وظهرت جرائم خطيرة قد تعصف بأجيال بأكملها من بين هذه الجرائم " المخدرات الرقمية " التي بدأت تنتشر خاصة بين أيدي البراءة. وهذا ما دفعنا كباحثين لدق ناقوس الخطر والتعريف بالجريمة وإبراز آليات مكافحتها وذلك لحماية هذا الكائن الضعيف.

الكلمات المفتاحية: طفل - مخدرات رقمية - خطر - حماية - تجريم.

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Introduction:

Technology is a tool that may be used positively benefiting humanity and may be used negatively and destroying it. One of the famous sayings of a modern-day scientist and expert in technology and digitization is Bill Gates¹ in which he stated that “technology is just a tool. With regard to motivating children and making them work together, the teacher is the most important. ”

The great technological development that humanity has known, especially after the advent of the Internet, has contributed to the development of traditional crime and has become an old crime of a new nature, the emergence of electronic prostitution and theft of accounts to other electronic crimes, and reached the limit to the point of the emergence of digital drugs, which is low cost from the rest of the drugs for easy access as all it takes to get a computer or a smartphone and internet.² Criminals have used it as an alternative to traditional drugs, because of the ease of using them through this transcontinental web without accountability, and more seriously, their targeting of children, and here is the importance of the subject, since today's child is the man of tomorrow, who needs to be protected from this forgotten crime to protect future generations.

Digital drugs first appeared in German jails and were first discovered by a German scientist of Armenian origin Heinrich Wilhelm Dove (1803–1879)³. Currently it is being circulated over the Internet⁴ and spread at lightning speed and became available to all where it can be downloaded via smartphones, a study was conducted in Saudi Arabia on digital drugs and the study concluded to consider it as a real danger and threat to Arab societies as called in this study in the recommendations made on the need to raise awareness and the formation of specialist doctors to study the phenomenon and combat it⁵, It should be noted that there is a link between digital drugs and the recruitment of children. Drugs of all kinds are an indispensable resource for terrorist groups⁶.

It is to highlight that, the most of the international conventions⁷ and legislation, both Arab and Western, have criminalized the promotion of traditional drugs and tightened penalties for anyone who promotes drugs, especially for children. We may ask what is the position of Algerian legislation on digital drugs intended for children and what are the preventive and deterrent mechanisms for protecting the innocence from digital drugs?

In this research, we have adopted a descriptive and analytical approach, with little comparison, especially with Egyptian legislation.

In response to our problem, we divided the subject of the research into two subjects that exposed us in the first topic to the basic concepts, and the second topic exposed the mechanisms of protection of child victims from digital drugs.

Section I: Basic concepts

Digital drugs are one of the most serious indirect wars against innocence that threaten the future of entire generations, and we will first try to identify the drug and child drug addicts, and then the danger of digital drugs to children:

A) what is meant by child and digital drugs:

To delve deeper into the topic, we have to start defining the child in positive law in the first section, and then to define the concept of digital drugs in second section:

1- Child Definition:

Before determining the position of Algerian and the comparative law of what is meant by children, we must look for the concept of children under international conventions (1.1) and then we will address its concept in Algerian law and some comparative laws (1.2):

1.1- The concept of the child under international agreements:

The 1989 Convention on the Rights of the Child defined in Article 1 of the Child that 'for the purposes of this convention the child means every person under the age of 18, unless he reaches the age of majority before that under the applicable law'⁸.

. Also The convention prohibited the worst forms of child's labour defined it in the Article II as: 'The term child's expression in the concept of this convention applies to all persons under the age of 18'⁹.

After we have been introduced to the child in international conventions, we will address the definition of children in Algerian law and some other laws.

1.2- The child is meant in Algerian law and some comparative laws:

The child is defined in Algerian law as every person under the age of 18, and the Algerian legislator defined him in the Children's Law N° 15-12 according to article 01 of the Convention on the Rights of the Child of 1989. According to the same opinion was passed by the Egyptian legislator and set the age of childhood under the age of 18 in the Egyptian Children's Law¹⁰, while French law considered that the child was all those under the age of 15 years of age in general¹¹. Once we have identified what is meant by the child, we will then address the definition of digital drugs in the next section.

2- Concept of Digital Drugs:

Before addressing the definition of digital drugs, we need to define a brief definition and evolution of traditional drugs '1.1', and then define digital drugs '1.2':

1.1: The definition of traditional drugs:

Traditional drugs are scientifically defined as chemicals that cause drowsiness, sleep and lack of awareness, leading to a health and psychological impact on their users¹².

Legally, the Algerian legislator introduced the definition of traditional drugs in the Law on The Prevention of Drugs and Psychotropic Substances and Suppression of Illicit Use and Trafficking¹³, which is found in the first paragraph of article II of the law, which states: "The concept of this drug law means every natural or artificial substance in schedules I and II of the Only Drug Convention of 1961 as amended under protocol 1972. The second paragraph of the same article defines psychotropic substances as follows: 'Each substance, natural or artificial, or every natural product included in Schedule I, II, III or IV of the 1971 Psychotropic Substances Agreement'¹⁴.

It should be noted that Algeria ratified the only drug agreement under Presidential Decree 02-61 on 05 February 2002. Among the known drugs included in the tables are cannabis, cannabis gum, coca, poppy and opium, an additional to hallucinogenic drugs.

Based on the above, it is noted that the international agreements ratified by Algeria and the reference to the classified tables of drugs contained in the only drug agreement of 1961, amended by the Protocol of 1971, which referred to the first and second paragraphs of Article II of the Law on The Prevention of Drugs and Psychotropic Substances 04-18, that until we are writing these lines, digital drugs have not been classified as an anesthetic, which has made us sound the alarm.

To delve deeper into the topic, we will try to introduce this serious electronic pest in the next section.

1.2: Digital Drugs:

At first, the process of circulating songs over the Internet and claiming to be music that might make a person feel sensations that could reach ecstasy, these songs had a wide echo and a great debate among the specialists.

Until the release of a report by British scientists who confirmed that this music is a digital drug and their argument was by experimenting with this music on several people, by using this experience by the technic of binaural beats where

a certain frequency tone is played in one ear and a tone in a different frequency in the other ear, That's what made the brain, according to scientists, try to regulate the two tones at an equal frequency¹⁵, creating a third tone that a person focuses on called delta entrainment¹⁶, this difference provides the speakers with confused sounds and the sound force is less than 1000 to 1500 Hertz. The drug side in these tones is by providing the speakers with two different degrees of sound frequencies and the difference between them is 30Hz, so the promoters of this audio drug are advised to buy high quality casque headphones and stereo type and the difference between the two hearing aids is what determines the dose that causes some kind of orgasm¹⁷.

Dr. Mohamed Kunduz, director of the Hospital of Mental Illness in Charqa, Algeria, has identified the concept of digital drugs as "waves and electrical frequencies pumping into the cerveau brain in order to get a trance, even temporary."¹⁸.

Once we have been exposed to the definition of digital drugs in the first requirement, we will identify the threat of digital drugs to children..

B) The danger of digital drugs to children:

Digital drugs are dangerous to the child in all respects and we will try to determine the seriousness of the child from a health and psychological point of view in '1', and then we will be exposed to the danger of digital drugs in the course of their life within the family and society in '2'.

1- The danger of digital drugs to a child's health and psychology

Digital drugs, like all types of drugs, affect human health in general, and the child in particular, as the child is still in the stage of development. Among the effects that result from listening to narcotic music or sound drugs are complications, including heart problems as a result of hallucinations that cause an acceleration in the heart beat that may lead to a heart attack for the child as a result of fatigue, especially if the child is listening to this music at night¹⁹, as it affects the brain, nerve cells and the medulla Spinal.²⁰

In addition, these digital drugs pose a danger to the child's psyche, as they may encourage him to discover new and more effective drugs, and even digital drugs open the way for children to enter the world of drugs and crime.

The use of digital drugs may cause the child psychological effects as a result of his isolation for long periods, and he is at risk of autism.

2- : the danger of digital drugs on the child's life path inside and outside the family

In fact, whatever the drug gives the child, it will have severe effects on his life inside and outside the family, as among the expected results about addiction:

- The addicted child becomes a burden in the family, as it requires extensive care and funds to be presented to specialized doctors for treatment.

- Child addiction may lead to a family rupture and create several problems. The child may resort to stealing money from his parents to buy technological tools for the purpose of using them, such as mobile phones, etc., which leads to the depletion of family funds.

- A child may commit crimes to obtain digital drugs, such as promoting digital drugs, or addiction can force them to violently assault people because of the effect of these substances on their nerves.

- Digital drugs may also cause a child to think about suicide as a result of depression²¹.

- Also, this type of drug may lead to destabilization of the victim's personality lack of self-confidence and an inability to form a clearly defined personal identity and a sense of inferiority²².

After examining the basic concepts related to the subject, we will be presented in the following topic: Mechanisms for protecting children from digital drugs.

Section II: Child protection mechanisms victim of digital drugs

Algeria has always been among the countries that are striving to the judicature of drug, the drug trade in all its forms. Moreover, it enacted a special law related to the prevention of narcotic drugs and psychotropic substances. The suppression of illegal use and trafficking, which is Law 04-18, despite drug technology, we, as researchers, favored keeping up with development by introducing known mechanisms in drug control Within the development of mechanisms to keep it up to date to be more effective, Among the mechanisms to fight this type of drug, we find two types of mechanisms. Obstructive mechanisms we will address in the 'A', and preventive mechanisms we will address in the 'B'.

A) Obstructive mechanisms:

Obstructive mechanisms manifested in criminalization and punishment, Which we will address in "1", As well as in the judicial seizure specialized in cybercrime, and we will address it in the "2":

1- Criminalization and punishment:

In fact, music is a special thing and it is one of the arts that most societies interact with, and there is nothing legally prohibited to listen to²³. However, due to the terrible technological development that humankind has known, this art has been exploited by some weak souls and criminals for immoral purposes. It becomes a threat to innocence. Moreover, this vulnerable segment has become a target especially that it is easy to deal with technology.

All Arab and Western legislation criminalized the child's use of traditional drugs, among them is the Algerian legislation, but we refer to these laws, including the Algerian legislation. We have not found any text that criminalizes the use of digital drugs. Besides, we refer to the opinion of doctors and specialists that assent this music represents a danger, we tried to give a legal adaptation based on which it will be able to follow the promoters of digital drugs, whether in Algeria or the rest of the countries. The closest legal adaptation to protect children who are victims of digital drugs is the crime of pushing a child into drug use, which is stipulated by Algerian law in Article 13 of Law 04-18. But before diving into crime, it is worth noting that, by referring to Law 04-18 related to the prevention of drugs and psychotropic substances, we find that the Algerian legislator did not classify them as an anesthetic in Article two, which included the classes of drugs, and he did not address it, given that the crime was a novelty that did not exist at the time. This makes us say that, and according to the principle of the legality of the criminal law, which was confirmed by Article 1 of the Penal Code.

We could apply this topic the text of Article 13 of Law 04-18 only after amending the text of Article 2 of the same law by recognizing digital drugs by including the following suggested phrase : "Digital drugs: are all types of acoustic drugs that are engineered electronically and that affect the brain through electrical waves and frequencies that are pumped into the brain in order to obtain a temporary or even ecstasy."

This proposal to amend this article aims to enhance protection for the child from these electronic toxins that threaten entire generations. We will be exposed to the definition of this crime "1", and its elements "2" ,and the punishment "3" in the following:

1-Definition of the crime:

Most legislations have criminalized all forms of encouraging children to consume drugs, and the Algerian legislator has followed the same approach as stipulated in Article 13 of the Law on the Prevention of Narcotic Drugs and

Psychotropic Substances and the Suppression of Unlawful Use and Trafficking in it, as follows: Legitimate narcotic or psychotropic substances for others for personal use.

The maximum penalty shall be doubled if drugs or psychotropic substances are delivered or offered according to the conditions specified in the previous paragraph for a minor ... " .

Likewise, The Egyptian legislator also criminalizes the use of traditional drugs in article 34 of the 1989 Drug Law No. 122, which reads: "Punishable... If the offender presents the substance, delivers the drug to a person under the age of 21 AD, or induces him to use it by any means of coercion, fraud, solicitation, inducement or facilitation." ²⁴

In order for us to be more aware of the crime, we must, after the definition of the crime, mention the elements of the crime and then define the punishment.

2- Elements of the crime:

The pillars of the crime we're studying are:

-Assumed pillar:

The assumed pillar is the occurrence of a criminal act on a minor child, and by referring to the text of Article 13 of Law 04-18 we find that no specific age has been set, and this is what prompts us to say that the age can be determined according to the general rules stipulated in Article 49 of the Penal Code which stipulates the age in which a person is considered a minor and specified by less than 18 years, as referred to in Article 442 of Q.C. and setting the age of criminal majority at 18 years. It should be noted that the Child Law explicitly stipulated in the first paragraph of Article 2 of Law No. 15-12.Dated July 15, 2015, relating to the protection of the child, stating that: "The child is every person who has not attained the age of eighteen.

-criminal act:

The criminal act of the crime is available by facilitating the child obtaining the drug, handing it to him, or motivating him to buy it or taking him to buy it, whether by forcing him to use it or just by inciting him to use it. In a digital drug crime, it is sufficient for the perpetrator to grant the child websites to download music that is used to nerve anesthesia, or to give him a flash disk containing narcotic music, or to help him purchase specialized headphones casque stereo .It is in this case that the crime is complete. By browsing through the search site "google" by writing the phrase "digital drugs downloaded mp3", thousands of websites and forums, some of which are free and others that are not free, allow us to download these types of music, for example, Amazon Sales website²⁵ .

-The mental element:

the mental element is achieved in this case by achieving the knowledge and the will of the perpetrator with the elements of the crime, and towards his will to push the minor child to consume this type of drug.

3-Punishment:

The Algerian legislator punishes the offense of delivery or display of narcotic drugs or psychotropic substances to a minor child who is not 18 years old in the text of article 13 of the prevention of narcotic drugs and psychotropic substances stipulated in the text: " Is punishable by imprisonment of two (2)ten years (10) years and a fine of 100,000 DA to

500,000 DA, the one who illegally sells or offersnarcotics or psychotropic substances to a person for personal consumption.The maximum penalty is doubled when the narcotics or psychotropic substances are offered or disposed, under the conditions set out in the previous paragraph, to a minor, a disabled person or a person in rehab detoxification or in educational centres, education, training, health, social or socialpublic bodies.

As for the Egyptian legislator, he was also on the lookout, and he punished the perpetrator who drove the child to use drugs by death, according to the provisions of Article 34 of the Drug Law No. 122 of 1989. It is noted that the Egyptian legislator gave special criminal protection and extended the age to 21 years, as he was more deterrent to everyone who begged himself He pays innocence for drug use.

2- The judicial police specialized in electronic crime

The widespread crime and targeting of criminals to the vulnerable group of society prompted the security establishment to stand as a deterrent in the face of all who begged to exploit the patent and attack it by creating police specialized in combating cybercrime.

We will try to explain the role of the security establishment in the fight against digital drugs by highlighting the most important tasks assigned to the police specialized in combating cybercrime, which is as follows:

1-Identify drug-promoting websites:

The security establishment plays a major role in combating cybercrime, including drug crimes. It has created cybercrime teams in all state security headquarters and plays a significant deterrent role by arresting and bringing to justice the perpetrators if the perpetrator lives in Algeria. If the criminal resides abroad, then the INTERPOL Police, in coordination with the National Police²⁶, arrest the perpetrator and bring him to justice. The INTERPOL Police has

launched a project to combat drugs and transcontinental organized crime called oasis Africa²⁷.

2- Collecting sufficient information and coordinating with Algeria Telecom to block websites promoting digital drugs.

3-Develop a website dedicated to citizens, to report any website or link that contains narcotic songs.

Among the challenges facing the security and judicial authorities in arresting criminals is the problem of the perpetrator's presence in another country. Countries must cooperate in arresting criminals by concluding agreements between countries and in coordination with Interpol.

B) subtitle: preventive mechanisms to protect the child from digital drugs:

Preventive mechanisms are manifested in the following:

- The national bodies concerned with childhood protection, which we are not exposed to as "1", as well as the family, which we will describe in the "2". Also, associations and the press are an important preventive mechanism, and here we will separate it in the "3":

1- The role of the national bodies for the protection and promotion of childhood in combating digital drugs:

The national bodies specializing in childhood protection play an important role in the fight against drugs aimed at children, whether they are traditional or novel, and their role is demonstrated by the powers that each body possesses, which we will address in the following:

-The National Commission for the Protection and Promotion of Childhood:

Created under the Child Protection Law 15-12, which is a national organization based in the city of Algiers, charged with ensuring the protection of the child and the promotion of his rights, currently chaired by a national commissioner, Ms. Maryam Sharafi.

So that this Commission has the moral personality and financial independence, and it has all the human and material means to achieve its goals and carry out its tasks according to specific conditions through the organization. Its duties are defined by Executive Decree No. 16-334, which sets out the conditions and modalities for the organization and functioning of the National Authority for the Protection and Promotion of Childhood. The law related to the protection of the child stipulated a set of tasks assigned to the authority to implement them, in order to protect and promote childhood from any danger to which it is exposed. These tasks are:

- Protecting the child by examining every situation that violates his rights, whether in his health, morals, upbringing or security, is at risk or vulnerable to him, or his living conditions or behavior are at risk, or that he is in an environment that jeopardizes his physical, psychological, or educational safety at risk, Whether you viewed it or reported it, except for cases before the judiciary.

- The authority also undertakes the promotion of children's rights in coordination with various public bodies and departments, as well as persons in charge of child care.

- Promotion of international cooperation in the field of children's rights, specifically with the United Nations Organizations, specialized regional institutions and national institutions for the rights of the child in other countries, as well as cooperating with International non-governmental organizations, and with the various associations and bodies active in the same and related field.

- The commission may seek the assistance of any body or person to assist in its tasks.

The Article 15 of Law 15-12 on the protection of the child stipulates: "The National Commissioner for the Protection of the Child shall be notified of every child, his legal representative, or every natural or legal person regarding the violation of the rights of the child²⁸.

And based on the powers that this body possesses, it can play an effective role in protecting the child victim of digital drugs by pressing the legislator to criminalize digital drugs, as well as coordinating with the police to combat all kinds of drugs aimed at children based on notifications sent by citizens.

-Open environment services

The role of the interests of the open environment services is centered on following up the situation of children in danger, ensuring them, and helping their families. A rate of one service is established in each of the 48 Algerian states, but in the densely populated states such as Algiers, Oran and Constantine, several services are created according to the provinces and new cities in them, Each within its jurisdiction.

However, it is worth noting that no services can refuse to sponsor a child residing outside its territorial jurisdiction, but it can request assistance from the regionally competent authority in the place of residence of the child or transfer it directly to it²⁹.

These services can play a major role at the local level to combat the exploitation of children in various types of drugs by sponsoring children who are victims of digital drugs by presenting them to specialists in psychology and

nerves. These services can also request the intervention of the public prosecutor and juvenile judge to investigate in case of necessity which is provided for by the legislator. In the text of Article 23 of the Child Law.

2- The role of the family and the school:

The family and the school play a major role in educating the child and in combating all forms of drugs directed against children, and this is what we detailed in the following:

2.1-Family as a preventive mechanism to combat digital drugs:

The family plays a major role in educating the child through preventive and proactive protection as its role in combating the digital drug dilemma is demonstrated in the following:

- Raising the child on the Islamic religion, which prohibits all forms of alcohol and drugs.
- Monitoring the child during his spare time, especially when using the Internet.
- Providing a calm family environment based on dialogue without the use of violence, which may make the child take revenge on himself by resorting to digital drugs.
- Caring for the child in the event of the separation of the spouses by intensifying mutual visits and continuous monitoring inside and outside the family.
- Make sure to choose the child's friends to avoid bad friends.
- Constant monitoring of the child's phone.
- Fill in the child's spare time so that he does not exploit him in unethical matters³⁰.

After examining the role of the family in combating digital drugs, we will then explain the role that the school plays in combating this type of drug.

2.2-The school as a preventive mechanism for digital drug control

The school plays an effective, influential and preventive role by raising the child on sound foundations that protect him from all deviations, and that is through his education and the consolidation of religious and moral principles and his awareness of the dangers of drugs.

3-. The role of associations and the press:

Among the effective preventive mechanisms in combating various types of drugs, we also find civil society and the press, which is discussed in the following:

1.1-Civil society as a digital drug control mechanism:

Associations are the major force and their role in protecting and promoting children's rights is evident. Their contributions may include awareness-raising programs about the dangers of the Internet, as well as research aimed at curbing the spread of the digital drug phenomenon.

Civil society organizations can educate the community by holding meetings and organizing gatherings aimed at reducing these crimes. They can also confront politicians and urge them to protect this vulnerable group. Organizations can also contribute to creating a world fit for children by monitoring procedures and proposing programs for the government, collecting data on shortcomings, and launching campaigns on changing laws and political programs³¹.

1.2-The press as a preventive mechanism of digital drug control:

The media plays a fundamental role in protecting children from various crimes, and given that these media devices are among the most important institutions affecting public opinion, their media products must be directed to raising awareness of the dangers of the Internet, and they must play an influencing and influencing role, and that is through:

- Creating TV and comic programs to get close to the child while at the same time making him aware of the dangers of digital drugs.
- Publishing social programs about the danger of digital drugs to children.
- Hosting doctors and specialists to uncover this new type of drug and to educate parents about how to monitor their children.

Conclusion:

After medical scientists confirmed that digital drugs are real drugs, This is what made us, as researchers, sound the alarm against this scourge that may afflict entire generations.

It is noted that, based on the previous study, we found the lack of an explicit text to criminalize this act, and from the recommendations that we provide:

- The necessity of amending Law 04-18 related to the prevention of drugs and psychotropic substances and the suppression of unlawful use and trafficking by adding digital drugs in the text of the second article thereof and considering them as an anesthetic like the other drugs stipulated in the same article.
- Establish a national observatory to combat cybercrime directed to children.

- Parents need to educate the dangers of digital drugs on their children and urge them to constantly monitor them when they use the Internet.
- Ensure that parents are advised not to buy stereo headset headphones, as this is one of the methods used to listen to narcotic music.
- Intensify efforts to publicize crime through the media, in cooperation with associations and schools.
- Coordination between the security and judicial departments with the Algerian telecommunications company providing the Internet to block every website that promotes digital drugs for minors with their legal prosecution.

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