



- 8) Lebanon Law on the Protection of Juveniles in Violation of the Law or Those at Risk, No. (422) of 6/6/2002, published in the Official Gazette No. (34/2) of 13/6/2002.
- 9) Iraqi Juvenile Care Law, No (76) year 1983 issued in 20/7/1983 published in Official Gazette in 1/8/1983.
- 10) The Qatari Child Law, No. (1) Of 1994 issued on 29/1/1994, published in the Official Gazette No. (2) Of 1994.
- 11) The Delinquent Juvenile Law at UAE, Act No. (1/1994) issued in 29/1/1994, published in Official Gazette No. 2/1994.
- 12) Ministerial Resolution No. (100/2008) dated in 27 September 2008.
- 13) Public Prosecutor Resolution No. (47/2011) dated 4 April 2011.
- 14) Jordanian Juvenile Law, No (32) for year 2014 in 2/10/2014.
- 15) Penal Law, issued by the Sultan Decree No. (7/2018) dated 11/1/2018, published in Official Gazette No. (1226) dated 14/1/2018.

- Interviews and Field Visit:

- 1) A field visit by the researcher to the Juvenile Police Unit dated 27/12/2018.
- 2) Interview with head of public prosecution/ Khawlah binti Mohammad Alkhateriah (The Juvenile Cases Management at Muscat) in 10/7/2018.
- 3) Interview with judge/ Saif bin Abdullah bin Saif Al-Husani (Judge of the Primary Juvenile Court in Muscat) on 28/5/2018.



- 7) Ramadhan Omar Alsaeed, Criminal Proceedings Act, Darul Nahdha Arabia, Cairo, (1988).

- Articles and Academic Studies:

- 1) Alsaifi, Abdul Fattah Mustafa, General Provisions of the Penal System, Publications King Saud University, Riyadh, (1995).
- 2) Attalib, Alsaniyyiah Mohammad: "The Procedures of Prosecuting Juvenile in Algerian Legislation", a study to get Master's Degree in laws from faculty of law, Mohammad Khudhair Baskarah, for the academic year 2013/2014.

- Laws:

- 1) Criminal Procedure Law, issued by Sultan Decree No. (97/99) dated in 1/12/1999, published in Official Gazette No. (661) in 15/12/1999.
- 2) Egyptian Child Law, No. (12) Amended by Law No. (126/2008).
- 3) Syrian Delinquent Juvenile Law, issued by resolution No. (18/1974) dated in 30/3/1974.
- 4) Tunisian Journal for Protection of Children, No. (92/1995) dated 9/11/1995, published in the Official Gazette No. (90) at 10/11/1995.
- 5) Juvenile Liability Act, issued by the Sultan Decree No. (30/2008) dated 9/3/2008, published in Official Gazette No. (859) dated 15/3/2008.
- 6) Kuwaiti Juvenile Law, No (3) for the year 1983.
- 7) General Prosecution Act, issued by Sultan Decree No. (92/99) dated in 21/11/1999, published in Official Gazette No. (660) dated in 1/12/1999.



- The researcher recommends that juvenile judges do not make a public appeal to a juvenile offender, and that he shall not ask him about his personal information to confine his case file, to confront the juvenile in a manner which is consistent with his age, and not merely admit a juvenile to court and to proceed with the rest of the evidence in order to reach a full conviction or to be convicted. Finally, to have recourse to questioning only if called upon by a need for a final investigation, and to allow a juvenile delinquent and his defense to be given full comfort.

Sources and References:

- Books:

- 1) Alabajy, Maha, Crimes and the Trial of Children in Arabic Legislations, Maktabatul Alwafaa Alkanuniah, Alexandria, (2017).
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- 4) Owain , Zainab Ahmed, The Juvenile Court, Darul Thaqafah for publishing, 1st ed., Amman, (2009).
- 5) Qahwagi, Ali Abdul Qadir, Explanation of the Criminal Procedures Law, Dar Aljamiah Aljadidah, Alexandria, (2012), Book1.
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Authority during the process of collecting evidence to carry out the studies and research necessary to indicate the causes, and motives of delinquency of the delinquent juvenile and to develop separate places for adults comprising of the community staff of the Social Authority and the Juvenile Police Unit.

- In order to make the public prosecution investigate the juvenile cases without relying on prior proceedings, the researcher recommends to add an article (7 bis) to the Juvenile Liability Act, which reads as follows: "The public prosecution of felonies and misdemeanors must carry out a primary investigation with the juvenile delinquent and not to be content with the work of collecting previous evidence".
- The researcher recommends that the medical examination of a delinquent juvenile be conducted early in his criminal proceedings, at the stage of collecting evidence and not to wait for this procedure until the case is heard before a juvenile court.
- To identify serious lawyers to defend juvenile delinquents when a juvenile court is assigned to one of them, the researcher recommends that they should be given an advantage to encourage them to bear the burden of defending a juvenile and to represent their case properly.
- The researcher recommends that the judicial institution, represented by The Council of Administrative Affairs for the Judiciary, should provide rehabilitation and continuous training for juvenile judges, to be always fit and appropriate for their responsibilities.



represented in the juvenile police unit and the social authority.

- The Juvenile Police Unit is not deployed in all regions of the Sultanate. Furthermore, the Social Authority does not have any tasks at the collection of evidence stage.
- Preliminary investigation is considered an intermediate stage between the collection of evidence and the final investigation by a Juvenile Court, which is intended to examine the incident of delinquency attributed to a juvenile and to collect evidence about it. A specialized department of the Public Prosecution handles this task.
- The trial is the final and decisive stage of the proceedings of a delinquent juvenile. The Omani law has created a specialized court for juvenile delinquents under the Penal Court, which in practice applies procedural protection to the trial of a delinquent juvenile but there is deficiency in some aspects of protection and this is due to administrative matters that are related to executive authorities and the lack of competences of juvenile judges.

Recommendations:

- The researcher strongly recommends that the Royal Oman Police make substantial adjustments to the Juvenile Police Unit by providing specialized and trained staff to deal with juveniles and to deploy their units within the purview of all juvenile courts in order to fulfill their role as intended by the Omani legislature.
- The researcher recommends that the executive authorities in the Sultanate of Oman strengthen the role of the Social



the opportunity to present the evidence, whether by hearing witnesses, providing counter-expertise, conducting a survey or other proceedings, and the court must consider his appeal if it is in the interests of the investigation⁽⁷³⁾. The court should always leave a chance of a final word for the juvenile, his counsel, as the case may be, before uttering decisive words in the proceedings.

Essentially, a juvenile judge must always endeavor to achieve the best interests of a juvenile. He must seek out the circumstances that led the juvenile to delinquency in order to deal with and treat them. The juvenile judge has to act as a loving father to a juvenile, seeking to reform and rectify him by treating the reasons of his delinquency rather than being interested to inflict pain and punishment.

Conclusion:

Through the previous discussion, the researcher reached a number of results and recommendations which are as the following:

Results:

- The stage of collecting evidence is the first stage of the trial of juvenile delinquents and is carried out by a judicial inspector, who is responsible for proving a crime, searching for perpetrators and collecting evidence around it. The Omani legislature has created specialized judicial inspectors

⁽⁷³⁾ Criminal Procedure Law, Section 194.



legislature has allowed the juvenile to be excused from attending the trial as provided.

Questioning of a Juvenile Delinquent: After reviewing the evidence of a case and hearing whomever he considers to prove a charge, the judge may then cross-examine the accused juvenile on details on the evidence to obtain a juvenile's answers for each⁽⁷¹⁾. The questioning is a legal means of confronting the accused with the evidence presented during the final investigation and knowing his response.

Although interrogation is a legitimate legal instrument, the researcher considers that a juvenile judge should only resort to it when it is absolutely necessary as it has a negative effect on a juvenile when he is surrounded by evidence and shown to be a hardened criminal. Actually, his delinquency may be often a result of poor family or social circumstances and not for an inherent criminal tendency. Thus, reviewing previous evidence may be enough unless such questioning is in the interests of the juvenile delinquent to prove his innocence.

Defense and Exculpatory Evidence: After a review of the proof of evidence, the law gives a juvenile and other defendant the right to defend himself or to hire a lawyer to do so. The parents, guardians or trustees of a juvenile must have a lawyer to defend him or the court will assign a lawyer to take over the task⁽⁷²⁾.

The juvenile court must allow a juvenile delinquent, his lawyer or his counsel to provide the defense in full to avoid future defame of the juvenile if convicted. They must be given

(71) Ibid., Section 193.

(72) Juvenile Liability Act, Section 39.



Although the general rules allow a judge - in the event of a confession by an accused - to convict an accused on the basis of that confession without the need to conduct further investigations, the researcher suggests that it would be better in the trial of a delinquent juvenile if a judge proceeds with the rest of the investigation proceedings from hearing witnesses, experts and displaying other evidences, exploring the opinions of the social observer to know the causes and motives of delinquency, to be fully convinced that the confession made by the juvenile corresponds with the reality of the facts presented by the other evidence in the proceedings.

If a juvenile chooses silence, the court must not tempt him to confess or extract it with frequently asked questions. It is established that the silence or commission of an accused is not to be construed as an acknowledgement of anything. He must not be forced to take an oath, and he might not be punished for perjury of statements where he denies the charge on himself⁽⁶⁹⁾. If these rules are prescribed for adults, they necessarily should be observed in the cases of juvenile delinquents.

Hearing of Evidence: For an investigation of proceedings and for an examination of their documents, it is necessary for a juvenile judge to hear witnesses or experts confirming the facts and he must do what is necessary to examine and discuss the evidence in the order prescribed by the court⁽⁷⁰⁾. This happens in front of delinquent juveniles, their counsel and the lawyer. So that, they are aware of the evidence brought before a court to uphold a conviction once a charge is established. The Omani

⁽⁶⁹⁾ Ibid., Section 189.

⁽⁷⁰⁾ Ibid., section 193.



alleged criminal acts to report to court whether he or she has done them. The confronting by court is done by reading the committal order, part of it or its contents to reveal the offence for which the juvenile is tried and the legal article that criminalizes the act instructing him that he is not bound to speak or answer⁽⁶⁶⁾. Such a procedure cannot be ignored as it is a fundamental measure that may lead to the nullity of trial proceedings, but the manner in which the judge confronts a juvenile and brings his attention to the fact that the answer is not obligatory may play an important role in reassuring him and instill calmness in his heart. For example, instead of asking him directly: Do you confess to the crime you did? He can ask him in an indirect way in the form of a query as if he is asking him: explain to us how it happened? Or what exactly happened? Or what is the true reality that happened?

The Confession or Denial of the Crime: If a juvenile, after confrontation, admits to what is imputed to him, juvenile judge must hear his statement in detail and discuss it in a judicious manner so that he can be fully assured of the integrity of a confession and its sufficiency in proving the charge⁽⁶⁷⁾. He must also be sure that the confession was made explicit and categorical in the commission of the crime and is not likely to be construed or interpreted, and that it came through freewill and full understanding⁽⁶⁸⁾.

(66) Section 188 of the Criminal Procedure Law provides that "the court shall confront the accused with reading and clarifying it and then asking whether he is guilty or not highlighting him that he is not obliged to speak or answer".

(67) Criminal Procedure Law, Section 190

(68) Ibid., Sections 191, 192.



For further clarification, the researcher stands on some of these procedures to determine what a juvenile judge should do in light of the practical experience gained by the researcher through his work in the juvenile courts.

The Call for a Juvenile Delinquent Case⁽⁶⁵⁾: It is advisable that the appeal against a juvenile's case should not be made in a public manner. A secret fence must surround the trial of a juvenile and this contradicts public appeal. Although secrecy is aimed at the trial proceedings themselves, not public appeal, but the concept that should go on with all the procedures as far as possible in order to preserve the reputation of a juvenile and protect him from negative influences. The researcher therefore proposes to organize the appeal so to not disclose the name of a juvenile, or to replace it with a numbering system that makes each case a number without reference to the juvenile.

Asking a Juvenile Delinquent about his Personal Information: Judges used to ask the accused - at the first hearing and before charging - about his name, surname, age and place of residence to verify that the person before them is the accused. But this procedure is not necessary because it is not prescribed by law and all the data needed by the judge are mentioned in the case file with the documents affixed. Moreover, the presence of a public prosecutor ensures that the defendant is the juvenile himself, and therefore the researcher considers that this procedure is not necessary.

Confronting the Juvenile Delinquent: One of the basic principles in criminal trials is to confront an accused with

⁽⁶⁵⁾ The appeal against the regulatory acts required by the trial, as referred to in the Criminal Procedure Law in section 167.

independent of premises and away from an ordinary judiciary, an aspiration that is prevented by a lack of financial capabilities. Nevertheless, it remains a hope for modern criminal policy in the treatment of juvenile delinquents.

Until we can achieve this, the court must proceed in the same halls where adults are being tried, but the proceedings must be mitigated when a juvenile is tried. The juvenile should not enter the dock as in the case of adults, but rather he should just stand before a bench. To make matters better, a special hall within each juvenile court - primary or appellate - is to be prepared for this purpose without a dock and equipped with all the means to instill reassurance and a sense of calmness in the trial of juvenile delinquents. This proposal can be applied on the ground, as it does not result in a financial burden.

● **Proceedings for the Hearing of Juveniles.**

When a juvenile delinquent is brought before a juvenile court in the presence of relevant parties, the court should proceed with the final investigation. It should also investigate the reasons for juvenile delinquency and his/her motives in order to take an appropriate measure in light of the recommendations made by the social observers.

Although a juvenile judge proceeds to hear the juvenile on the same pattern as prescribed in the general articles for procedures for hearing a case before court⁽⁶⁴⁾, but the way in which these procedures should follow, must be different from those taken in cases of the adults, except for the special procedures mentioned exclusively in the Juvenile Liability Act.

(64) Criminal Procedure Law, Sections 173-203.



with great regret⁽⁶²⁾- which is why the researcher urges the judicial institution represented by The Council of Administrative Affairs for the Judiciary to rehabilitate juvenile judges and continuously train them to be fit and appropriate for their responsibilities .

- **Courtroom Conditions:**

Juvenile delinquents are being tried in the Omani judicial system in the same halls designed to try adults in because of the unavailability of juvenile court rooms. The trials of juveniles require a relaxed and reassuring atmosphere which inculcates calmness and tranquility in the heart of a juvenile. This is not available in adult trial rooms that are designed to try various criminals, including more serious ones. In these situations, some researchers have advised to try a juvenile in a judge's room or in a deliberation room⁽⁶³⁾, but the researcher does not support this opinion, as the trial of juvenile requires pleading, the hearing of witnesses and the presence of experts, which is similar to that required in the courts of adults. Furthermore, there is a requirement for others to attend proceedings such as parents or guardians of juveniles, social observers, and authorized lawyers. The judge's office or a deliberation room cannot accommodate all of that.

The view advocated by the researcher is to dedicate juvenile court rooms designed in juvenile courts, which must be

⁽⁶²⁾ Interview with judge/ Saif bin Abdullah bin Saif Al-Husani (Judge of the Primary Juvenile Court in Muscat) on 28/5/2018.

⁽⁶³⁾ Gideon, Najat Gerges, *Juvenile Crimes in International and National Law*, Zain Legal Publications, Beirut, (2013), p.621.



protection for the trial of juvenile delinquents, although there are shortcomings in certain aspects of protection, due to administrative matters that are vested in the executive authority and are outside the competences of juvenile judges.

Section II: Practical Procedures for a Delinquent Juvenile's Trial:

• The Special Character of a Juvenile Trial:

The handling of a juvenile delinquent during the hearing of a case must be in accordance with the objectives of establishing a juvenile court. Thus, a judge's skill, experience and expertise in managing hearing, dealing with juveniles and taking appropriate action have a fundamental role to play in reassuring the atmosphere of tranquility in a trial and alleviate the fear of being presented before court for a juvenile, despite the adoption of similar procedures assigned for adults.

It is important to note that the skills and experience of a juvenile judge do not come easily, but they need means to achieve it, such as training, continuing education, access to specialized research and studies, as well as the examination of different judicial experiences in this field. Although some of these means refer to the very personality of a judge, but most of them are due to the role of a judicial institution which he is affiliated with. In view of the practical reality, the researcher finds extreme deficiency in the application of these methods -



brought to justice. Juvenile judges shall apply this protection in a practical manner when a juvenile's presence is harmful for his interests. The researcher advises juvenile judges to use this legal license frequently , since it has a positive effect on a juvenile by removing him from the complexities and complex methods of a trial, unless he considers that his presence is necessary for the achievement of justice or that his presence has positive aspects of goodness and integrity.

(12) The juvenile court is exclusively responsible for the signing of care and reform measures⁽⁶⁰⁾: The measures are alternatives to traditional punishments, as they are designed to rehabilitate juvenile delinquents by corrective means away from institutions that deprive his/her freedom. The juvenile courts have a full application of this protection in a manner that in most cases, a delinquent juvenile returns to the right path.

(13) Give the juvenile court jurisdiction to amend the judgment by order of one of the legally prescribed measures by terminating or modifying it⁽⁶¹⁾: The Juvenile Liability Act gave the juvenile judge the power to amend the sentence against the juvenile delinquents in light of the improvement in their personality. The task of the juvenile judge does not end once the sentence has been rendered, but his supervision continues until the social reform of the juvenile is found to be fruitful. The juvenile courts in the Sultanate of Oman fully implement this protection.

The researcher concludes from the above that the juvenile court in the Sultanate of Oman in practice applies procedural

⁽⁶⁰⁾ Ibid., Sections 14, 15, 20.

⁽⁶¹⁾ Ibid., Section 43.

burden of defending a juvenile and properly representing his case. For example, a provision may be stipulated in the Bar Law (Law of Lawyers) stating that a lawyer can be transferred to a higher class only after submitting proof that he has actually pleaded for a juvenile without charge.

(9) Non-application of the provisions of recidivism and repetition⁽⁵⁷⁾: What distinguishes the protection is that a juvenile delinquent does not face criminal precedents if future circumstances lead him to commit another crime, thereby he may avoid being vulnerable to a state of recidivism which may lead to a consequent tightening of his sentence. The juvenile judges in the Sultanate of Oman apply these protections fully.

(10) Informing the parents of a juvenile, his guardians, trustees or custodians, about the case, with the actions taken against a juvenile⁽⁵⁸⁾: The purpose of this procedure is to protect a juvenile delinquent from any legal consequences he or she may bear without knowledge or awareness of its consequences. Therefore, the Omani legislature has ensured that the proceedings of the judiciary are under the hearing and sight of those who are responsible for juvenile delinquents. Through field access, the researcher finds that this protection is fully applicable in Omani juvenile courts.

(11) The juvenile is not obliged to attend court hearings; only his parents, guardians or custodians must be present⁽⁵⁹⁾: The protection of the juvenile delinquent is intended to keep him away from the negative effects of a trial and the fear of being

(57) Ibid., Section 10.

(58) Ibid., Section 38.

(59) Ibid., Section 40.



(7) The juvenile must be medically examined if the court considers that his or her physical or mental state is in a case that justifies the trial to be suspended until the examination is complete.⁽⁵⁵⁾ These medical examinations are of great importance to determine the physical, mental and psychological health state of a juvenile, to determine the reasons for delinquency in order to take appropriate judicial decisions suitable for a juvenile's health. As the researcher is aware of the practical reality of this protection through his practice, he finds an adequate application of that, but he wishes a legislature imposes such protection early in the trial of a delinquent juvenile, at the stage of gathering evidence and not to delay this procedure until the case of hearing before a juvenile court.

(8) A lawyer must be present to defend a juvenile⁽⁵⁶⁾: The juvenile must not be alone before the courts. Omani law states that a lawyer should be appointed for a juvenile, whether through his or her guardians or the court. The researcher experienced that the court's assignment of a lawyer of the juvenile to defend a delinquent juvenile faced practical problems because the lawyers who donated their time for the cases were limited or they apologized for not being available because they were engaged in their own business. In cases where some lawyers donated their time to a juvenile, the issue of the juvenile was not given their utmost concern because there was no financial return from the case. This requires the competent authority represented in The Council of Administrative Affairs for the Judiciary to find alternatives, such as payments to lawyers representing juveniles, or providing incentives for them to encourage them to bear the

⁽⁵⁵⁾ Ibid., Section 41.

⁽⁵⁶⁾ Ibid., Section 39.



(5) A juvenile's trial may be attended only by his father, guardian, trustee, lawyer, witness or social Observer⁽⁵³⁾: This protection is based on the principle of secrecy of a delinquent juvenile's trial, which aims to prevent the presence of the public in the conduct of proceedings and to give the right to present exclusively for certain persons in legally defined cases. Through the practical application of this procedure, the researcher noted a clear contravention of what was prescribed by law because there are not separate buildings for juvenile courts. The researcher recommends that the executive, represented on The Council of Administrative Affairs for the Judiciary, pays attention to this measure for the creation of separate premises for juvenile courts or at least for the creation of adequate conditions for the independence of a trial.

(6) It is prohibited to publish the name of a juvenile, his photograph, the proceedings of a trial , or even the summary of a judgment or its wording in books, media, audio or video, or in any other means, except without the permission of the juvenile court⁽⁵⁴⁾: The legislature has endeavored to provide maximum protection for the private life of a delinquent juvenile, since publication of such information has a negative effect on the psychology and reputation of a juvenile as well as the reputation of his family. These matters may impede his rehabilitation and reform and damage his future. This measure is an extension of the principle of the secrecy of a delinquent juvenile's trial, which is fully applied in the Omani judicial system.

(53) Juvenile Liability Act, Section 40.

(54) Ibid., Section 12.



the juvenile court requests further research and further inquiry into the social status of the juvenile as needed.

2) No acceptance of a civil lawsuit before a juvenile court⁽⁴⁹⁾: The legislature intended to avoid procedures that would delay the adjudication of a juvenile offender's case, to enable the juvenile court to examine the case thoroughly and to complete its social function, which is fully applied in practice in juvenile courts.

(3) The juvenile is not obliged to pay any judicial fees or charges⁽⁵⁰⁾: The preventive protection is that a delinquent juvenile is not charged with financial burdens resulting from criminal proceedings, which may be overburdened at an early age, since a juvenile offender is not an earning employee, a procedure fully applicable in juvenile courts in Oman.

(4) No financial fine to be imposed on a juvenile⁽⁵¹⁾: A juvenile delinquent does not usually have a source of income. Therefore, putting financial burdens on him is incompatible with the requirements of justice. The fine is in fact a corrective sanction, which is imposed on a person of a civil nature to endure, with intentional pain intended to balance the interests breached by the commission of the offence⁽⁵²⁾. This is not applicable in relation to a delinquent juvenile, because of the lack of financial capacity. The practical reality of Omani juvenile courts shows a full application of that.

⁽⁴⁹⁾ Ibid., Section 36.

⁽⁵⁰⁾ Ibid., Section 11.

⁽⁵¹⁾ Ibid., Section 10.

⁽⁵²⁾ Alsaifi, Abdul Fattah Mustafa, General Provisions of the Penal System, Publications King Saud University, Riyadh, (1995), p. 483.



expanded the proceedings of the juvenile court. As well, the Lebanese Juvenile Act⁽⁴⁷⁾ went the same way.

In the opinion of the researcher, it is necessary to have a special law for juvenile trial procedures, or at least the Juvenile Liability Act should elaborate on the procedural articles for the protection of juveniles, as was done in Jordanian and Lebanese juvenile' laws. Juveniles need special treatment during trials to protect a juvenile, which the researcher proposes to the Omani legislature.

● Protection Measures for Juvenile Trials:

A juvenile court is characterized by certain special protections provided by the Juvenile Liability Act, distinguishing it from the proceedings followed in adult courts in order to achieve a fair trial, that is more calendar-and reform-based rather than pain and deterrence. It can be summarized as follows:

1) The social observer must attend court hearings⁽⁴⁸⁾: The presence of a social observer is to present his social report on a delinquent juvenile, where he shows all the factors that have led to a delinquency. In his report, he provides proposals for correcting and reforming him. Through the researcher's study of the practical practices of this procedure, he found an obligation of social observers to attend trial sessions and submit social reports, although some of them contain shortcomings. However,

(47) Lebanon Law on the Protection of Juveniles in Violation of the Law or Those at Risk, No. (422) of 6/6/2002, published in the Official Gazette No. (34/2) of 13/6/2002, Sections 30-50.

(48) Juvenile Liability Act, Section 40.



the prescribed rules of procedures. Consequently, the general origin of the proceedings before a juvenile court is the same as that followed before adult criminal courts. Nevertheless, the Juvenile Liability Act states that, "the rules and procedures laid down in the Criminal Procedure Law are applicable to the (juvenile) court in respect of which no special provision is made in this Act"⁽³⁹⁾.

In comparison, the majority of juvenile legislations have followed the same pattern. The Egyptian Children's Act stipulates, "The rules and procedures established in criminal offences shall be followed in all circumstances by a juvenile court, unless otherwise provided by law"⁽⁴⁰⁾. Indeed, Kuwaiti⁽⁴¹⁾, Bahraini⁽⁴²⁾, Iraqi⁽⁴³⁾, Qatari⁽⁴⁴⁾ and Syrian⁽⁴⁵⁾ juvenile laws have followed the same act.

On the other hand, a number of legislation systems have further elaborated on the articles of the protection procedures of juveniles in juvenile laws rather than in reference to the general articles in the criminal procedure law. A good example of this is the Jordanian Juvenile Act⁽⁴⁶⁾, which has separated and

⁽³⁹⁾ Juvenile Liability Act, Section 9.

⁽⁴⁰⁾ Egyptian Child Act, Section 124.

⁽⁴¹⁾ Kuwaiti Juveniles Act, Section 3.

⁽⁴²⁾ Bahraini Law on Juveniles, No. (17) In 1976 issued on 28/3/1976, Section 27.

⁽⁴³⁾ The Iraqi Juvenile Act, Section 108.

⁽⁴⁴⁾ The Qatari Child Law, No. (1) Of 1994 issued on 29/1/1994, published in the Official Gazette No. (2) Of 1994, Section 4.

⁽⁴⁵⁾ Syrian Juveniles Act, Section 39.

⁽⁴⁶⁾ Jordanian Juveniles Act, Sections 4 – 23.



trial protective measures of juvenile delinquents, as well as the practical procedures for the conduct of the trials.

Section I: Prosecution of Juvenile Delinquents and Their Protective Measures.

● Trials in Juvenile Cases.

The trial is the final and decisive stage in the course of a public proceeding; it is also called the Final Investigation Stage. The purpose of this stage is to examine and evaluate the evidence of the case definitively with a view to reach a factual reality. The law is then adjudicated on the subject of a judgment of acquittal or conviction.

While a significant number of statutory legislations on juveniles has omitted the pre-trial stage in terms of identifying certain points of special authorities to deal with juveniles at the stage of evidence collection and the stage of a preliminary investigation. In contrast, this research has found that, these legislations have paid special attention to the juvenile trial stage.

This concern or attention by the legislations is constituted in the appointment of special authorities to hear cases of juveniles, which is different from ordinary criminal courts in terms of their composition, jurisdiction and the manner in which a trial is conducted. They are also interested in the social search of a juvenile during a trial as an important element of the determination of a sentence and the measure that suits a delinquent juvenile.

● Proceedings Followed up by the Juvenile Court:

There is not a special regulation of juvenile criminal procedures, and the Juvenile Liability Act does not contain all



(B) Final Filing: In cases, the facts attributed to the accused are not valid or not punishable by law; the public prosecutor or his or her substitute must issue criminal offences. The prosecutor shall also keep the final investigation, despite the existence of a crime and the sufficiency of its evidence if it is found to be irrelevant to the offence or the circumstances are justified if there is no civil plaintiff.

5) Committal Order: If the prosecutor considers after investigation that the incident constitutes a felony, misdemeanor or infraction, and that the evidence against the accused is sufficient, he must bring the case before a competent juvenile court by virtue of a committal order containing the data of the accused, the crime assigned to him in all its constituent elements as well mitigating or aggravating excuses of the penalty and the applicable articles of law⁽³⁸⁾. A delinquent juvenile and his/her custodians are assigned to appear before a court which carries out a final investigation, and the juvenile judge then makes a judgment of acquittal or conviction including an appropriate measure or punishment.

Third Chapter: Procedural Protection at the Trial Stage.

Since juvenile cases are considered to be social type issues more than criminal and thus, are very sensitive, it is natural that the policy of juvenile prosecution should be based on principles and norms that are different from those in the prosecution of adults. The research on the subject requires insight and focus on

(38) Ibid., Sections 129-130.



has no defined place of residence or where the crime is in flagrante delicto. The arrest warrant includes the assignment of police officers to arrest a juvenile offender which will be brought before a member of the public prosecution if he voluntarily refuses to appear immediately⁽³⁵⁾.

Although the law has given this authority to a member of the Public Prosecution, but practically, it is only resorted to in cases of extreme necessity⁽³⁶⁾ after notification of a juvenile's parents, guardians or trustees, as the case may be, to appear before a public prosecutor. If the juvenile or his or her guardians refuses to attend, then an arrest warrant is permitted to be issued.

3) Placement Order in the Juvenile Observation Home⁽³⁷⁾: A member of the Public Prosecution may order the juvenile delinquents to be kept in a Juvenile Observation Home if the investigation process or the interest of a juvenile delinquent requires that.

4) A case Filing Order: After completion of a preliminary investigation, a member of the public prosecutor must take action on the investigation either by making a file or referral. The filing shall be of two types:

(A) Temporary Filing: In the event that the accused is unknown, or the evidence of guilt is insufficient.

⁽³⁵⁾ Criminal Procedure Law, Section 72.

⁽³⁶⁾ Interview with the Head of the Public Prosecution/ Khawla Bint Mohammed Al-Khatiri (Juvenile Cases Management in Muscat) on 10/7/2018.

⁽³⁷⁾ The Juveniles Observation Home is the home established by the Juvenile Police Unit and juvenile delinquents are placed in custody pending trial. Juvenile Liability Law, Section 1/i.



of the law by members of the public prosecution for juvenile cases was right, since all the protective measures for juveniles were fully applied. Although there were some lapses due to competing work in some cases, this certainly did not affect the proper functioning of the primary investigative body. Moreover, the juvenile court usually corrected those lapses until the proceedings were on track. The researcher therefore commended the work of the prosecution team and its observance of the procedural protection of juveniles during criminal proceedings.

● **Orders Issued by the Juvenile Public Prosecutor**

The Omani legislature gave the investigating authority the power to issue a series of temporary orders during the preliminary investigation stage, which are of a punitive nature. These orders were issued to juveniles, as it was with adults, but it differed in certain protective aspects in recognition of the situation of a juvenile, as follows:

1) **Summons:** The Juvenile Public Prosecutor may order the presence of a juvenile offender if the interest of investigation requires it, in accordance with section (69) of the Criminal Procedure Law. The order is to be issued directly to the person required to be present or in his place of residence by the police, but the parents, guardian or trustee of a juvenile should be notified as the case may appear before a public prosecutor. If the juvenile or one of his or her responsible fails to attend, then a warrant is issued.

2) **Arrest Warrant:** The primary investigative authority may issue an arrest warrant against juvenile delinquents in the event of failure to attend or if his/her responsible fail to attend a hearing without an acceptable excuse, or if he or she is afraid or



(8) To record all proceedings of the preliminary investigation by the writer of an investigation⁽³²⁾, since recording is the only evidence before a competent court, and any action that not recorded is considered null.

(9) The presence of a public prosecutor in the composition of a judicial commission is essential, since his presence is mandatory in all criminal cases, whether the accused is an adult or a juvenile⁽³³⁾.

(10) The public prosecutor has the same role as a juvenile judge with regards to field surveillance of specialized houses and wards in which juvenile delinquents are placed, and the law empowers the prosecution to take legal action in respect of irregularities in any of these places⁽³⁴⁾.

From the above, it appears that the public prosecution for juvenile cases carries out serious and rigorous tasks in establishing the criminal acts committed by juvenile. This calls for more care, caution, research and investigation into inner factors of such acts and their validity so that appropriate decisions are taken. This naturally calls the members of a prosecution team to be of rich experience and knowledge of legal aspects and have psychological and social knowledge. The onus is on a responsible body to select, qualify and train specialized judicial components of those functions.

Through the work of the researcher at the juvenile court and his knowledge of a number of cases, it was noted that the application

(32) Many sections of the Criminal Procedure Law referred to the need to codify e.g., Sections 69, 91, 106 and 114.

(33) Criminal Procedure Law, Section 178

(34) Juvenile Liability Act, Section 45



(2) To conduct a field inspection in accordance with article (76) of the Criminal Procedures Law in order to establish the material consequences of a crime and to establish the status of the premises, objects or persons involved in a crime and to prove the means used and the place it occurred.

(3) The inspection shall be carried out in accordance with the provisions of articles (77-86) of the Criminal Procedure Law in order to find documents or objects that may be useful to disclose the truth.

(4) To seize the objects and documents that may be deemed useful for revealing the truth or may be considered harmful if exposed to the proceedings of an investigation, whether with a juvenile offender or otherwise as required by the provisions of articles (88 – 98) of the Criminal Procedure Law.

(5) To hear for witnesses who are either requested by litigants or assumed to be necessary to establish or lead to a crime and its circumstances, to determine if it should be attributed to a delinquent juvenile or to acquit him/her from it in accordance with Articles (104-113) of the Criminal Procedure Law.

(6) To question a delinquent juvenile and register his/her statements in accordance with articles (114-115) of the Criminal Procedure Law.

(7) To apply judicial experience to assess the technical issues encountered in the course of the proceedings, as provided in article (116-120) of the Criminal Procedure Law.



place importance on the matter which requires more proof and review for the protection of a delinquent juvenile. In order for this to be a reality, the researcher proposes to add an article (7 bis) to the Juvenile Liability Act, which reads as follows: "The public prosecution of felonies and misdemeanors shall conduct a preliminary investigation of a juvenile offender and shall not confine him/her to previous proceedings of collecting evidence."

Section II: Functions and Work of the Public Prosecution of Juvenile.

- The Functions and Work of the Juvenile Cases Management at the Public Prosecution Office.

In examining the articles of the Juvenile Liability Act and the decision to establish the management of juvenile cases, the researcher concludes that public prosecutions of juvenile case management functions are:

1. The investigation of juvenile cases.
2. Taking public action against juveniles and initiation before a court.
3. Follow up of the enforcement of sentences for all offences committed by juveniles, which are punishable by law⁽³¹⁾.

Based on these tasks, the public prosecutor for juvenile cases must undertake a series of detailed work in the course of his preliminary investigation, as follows:

- (1) To verify the age of a juvenile offender in order to determine suitable court to hear the case, to save a lot of legal hardship later on.

(31) Juvenile Liability Act, Section 7; Criminal Procedure Law, Section 285.



investigation. Once the investigation proceedings are complete, the public prosecutor may either file the case or initiate and direct it to the court in accordance with criminal procedures established by law⁽²⁹⁾.

According to general procedural rules, a member of the public prosecution for misdemeanors and infractions may rely on the findings of collecting previous evidence if he or she considers that the case is valid to initiate to the court without further investigation, and the accused is obliged to appear before a competent court⁽³⁰⁾.

A question arises here: is the public prosecution obliged to reinvestigate juvenile cases or can he just rely on previous proceedings?

Observing the Omani legislation, the researcher finds no answer to this question in the Juvenile Liability Act, except for the fact that the public prosecution is responsible for the investigation of juvenile cases, and the initiation and defence of public lawsuits before the court. In cases where there is an absence of express provision, there are general rules authorizing initiating proceedings without further investigation by the public prosecution.

The Omani legislature should have provided an explicit article to state that in cases of crimes and misdemeanors committed by juveniles, the public prosecution should investigate without relying on prior proceedings. This would

⁽²⁹⁾ Penal Law, issued by the Sultan Decree No. (7/2018) dated 11/1/2018, published in Official Gazette No. (1226) dated 14/1/2018, Sections 121-136.

⁽³⁰⁾ Ibid., Section 4.



decision from the public prosecutor as required. The authority of this administration shall cover all parts of the Sultanate. The general directors and managers of public prosecution in the governorates and the regions must refer any case related to juvenile offences to the Juvenile Cases Management team⁽²⁷⁾.

This shows that departments specialized in investigation into juvenile cases must be in the jurisdiction of each juvenile court in order to take over a preliminary investigation. This is the practical reality of preliminary investigation proceedings, as observed by the researcher through his field visits and meetings with members of the public prosecutor⁽²⁸⁾, a situation that is consistent with what is prescribed by law. The researcher did not record any illegal offences.

It goes without saying that the allocation of specialized departments for the investigation of juvenile cases is one of the means of procedural protection established by the Omani legislature, a privilege that deserves to be applauded in view of the reassurance that the specialization provides to the litigants, who are called upon to achieve the highest degree of justice.

● **How Compulsory the Preliminary Investigation is in Juvenile Cases**

The preliminary investigation stage comes after the evidence-gathering stage. After arresting a juvenile offender committing an unlawful offence and after finishing the procedure of collecting evidence by the Juvenile Police Unit, an offender is brought before the Public Prosecution for an

(27) Public Prosecutor Resolution no (47/2011) dated 4 April 2011.

(28) Interview with head of public prosecution/ Khawlah binti Mohammad Alkhateriah (The Juvenile Cases Management at Muscat) in 10/7/2018.



investigators and members of judicial inspection officers under the supervision of investigating judges⁽²³⁾.

On the other hand, other sections assigned this authority to prosecutors whose task is mainly to raise charges and defend it in court⁽²⁴⁾.

The Omani legislature has opted for a system of integration between the two branches of authorities, where a public prosecutor is responsible for a preliminary investigation, declares the charges and defends against a court⁽²⁵⁾.

Article (7) of that Juvenile Liability Act stipulates, "The procedures of investigation in juvenile cases and the initiation of public proceedings before the court shall be carried out by members of the Public Prosecutor"⁽²⁶⁾.

Through previous provision, it was observed that the Omani legislation has created a specialized department in juvenile cases, called "Juvenile Cases Management". This department is under the Public Prosecutor's command, related directly to the Attorney General and headed by one of his assistants. This assistant must be assisted by a sufficient number of prosecutors to administer juvenile cases, and they will be nominated by a

⁽²³⁾ See: Iraqi Juvenile Care Law, No (76) year 1983 issued in 20/7/1983 published in Official Gazette in 1/8/1983, Section 49; Syrian Law for Juvenile Delinquent, Section 35; Tunisian Journal for Protection of Children, Chapter 85.

⁽²⁴⁾ See: Egyptian Child Law, Section 120; Jordanian Juvenile Law, No (32) for year 2014 in 2/10/2014, Section 7; Kuwaiti Juvenile Law, No. (3) for the year 1983, Article 1/w.

⁽²⁵⁾ Owen, Juvenile Court: Comparative Study, p.104; General Prosecution Act, issued by Sultan Decree No. (92/99) dated in 21/11/1999, published in Official Gazette No. (660) dated in 1/12/1999, Section 1.

⁽²⁶⁾ Juvenile Liability Act, Section 7.



form in order to scrutinize evidence, uncover the truth about a crime committed and then examine it to ascertain whether it is sufficient to bring an accused to trial⁽²²⁾. Thus, a preliminary investigation is considered to be an intermediate stage between the collection of evidence and the final investigation by a juvenile court. Although the primary basis for an investigation is to investigate the incident of delinquency attributed to a juvenile and to collect evidence about it, the investigation of juveniles is characterized by the idea of caring for a juvenile, his/her motives and the circumstances that led to him/her committing the criminal act. This is the fundamental difference between a juvenile and an adult investigation.

In view of the importance of the primary investigation stage with a juvenile offender, and with the emergence of specialized juvenile courts, several trends have emerged regarding the identification of a body to carry out primary investigations of juvenile delinquents. These trends came about because of the disparity in legal schools in this area and their dispute on the authority responsible for carrying out a preliminary investigation. There are legislations that adopt the idea of separating the authority of a primary making investigation from the authority of a prosecution or indictment. It can be seen that a few sections of these legislations assigned the authority of investigation to investigating magistrates and their aides of

(22) Rabie, Hasan Mohamad, Procedural Aspects of the Delinquency of the Juvenile and the Cases the Expose Delinquency: Comparative Study, Darul Nahdha Arabia, Cairo, (.w.d.), p.109; Ramadhan Omar Alsaed, Criminal Proceedings Act, Darul Nahdha Arabia, Cairo, (1988), p.349.



absence of specialization. Furthermore, juveniles are dealt with in the same locations that adults are dealt with. As a result, the researcher proposes that the executive authority in the Sultanate of Oman to take necessary measures to strengthen the role of the Social Authority Board during the process of gathering evidence.

The aim is to allow them carry out required studies and research to identify the causes and motives of delinquency of juvenile delinquents. The researcher also suggests to create separate places for juveniles which are far from adults, where staff of the Social Authority Board and the specialized Juvenile Police Unit may carry on with cases, as required by law.

Second Chapter: Procedural Protection at a Primary Investigation Stage.

After the evidence-gathering stage, there is the primary investigation stage, which is considered to be the first stage of judicial proceedings. Research on the subject requires the examination of the concept of a preliminary investigation, the body that undertakes it and the extent of its enforceability. It also deals with the functions, work and orders issued by the primary investigation body.

Section I: The Concept of a Primary Investigation, the Body to Undertake and the Extent of its Enforceability:

- **The Concept of a Primary Investigation and the Body Responsible for it**

A preliminary investigation means a set of proceedings conducted by an investigation authority before the commencement of the trial stage which is in a legally prescribed



- (a) To implement the requirements of the probation service and, in this regard, to visit delinquent juveniles in their residence or work place to provide advice and counselling to solve their problems.
- (b) To implement any other measures decided by the juvenile court.
- (c) To implement social research requirements.
- (d) To implement the requirements for a conditional release.
- (e) To provide periodic reports once a month on the situation of delinquent juveniles. The observer has the authority to request for termination of the measures imposed or to suggest for amendments, replacements or any other measures to add⁽²¹⁾.

A social observer is a staff member of the Department of Juvenile Affairs, and has significant importance for the serious functions he has responsibility for. He assumes the status of judicial enforcement inspector and undertakes most of the functions of the Juvenile Affairs Department mentioned in the Juvenile Liability Act, also detailed in the resolution issued to establish it. Nevertheless, current practices reflect a clear violation of this. In reality, the power of judicial enforcement is in the hands of police officers.

They take the lead starting from collecting evidence and dealing with juvenile delinquents until handing over juvenile delinquents to the public prosecution without any clear role for the Social Authority Board. It was previously shown that the Juvenile Police Units are unable to play an active role in the

(21) Ibid., Section 5.



- Supervising and implementing the requirements of judicial proportion and final release⁽¹⁹⁾.

Through the previous presentation, it is clear that the work of a social authority covers various areas. It contains the function of administrative work managing, operating and supervising the role of guidance and reform and the consequent provision of various care services for juveniles, as well as the judicial aspect of assigning a group of members to hold the function of judicial officers called by the law as "Social Observers".

- **Judicial Inspector from the Social Authority Board:**

The judicial inspectors working in the Social Authority Board are selected from the staff of the Department of Juvenile Affairs. The inspectors who are appointed by the Ministry of Social Development will have the right of judicial seizure in respect of juvenile offences and cases of delinquency. It is assumed that this group of officers must have a degree of specialization that allows them to estimate the circumstances of a juvenile considering that juveniles are a special category that needs to be treated differently, unlike adults.

Omani law has named the group of judicial enforcement inspectors coming from the Social Authority Board as "Social Observers". They are defined as follows: "He/she is an employee appointed by the decision of the Minister of Social Development to carry the status of judicial enforcement to apply the provisions of the Juvenile Liability Act"⁽²⁰⁾. The law has given the Social Observers the following authorities:

⁽¹⁹⁾ Juvenile Liability Act, Section 4.

⁽²⁰⁾ Ibid., Section 1/L.



represented in the Department of Juvenile Affairs is responsible for the following functions:

- Sheltering and caring for juveniles in accordance with the law.
- Technical and administrative supervision of the Juveniles Guidance Home and the Juveniles Reform Home.
- Securing the needs of juveniles in the Juveniles Guidance Home and the Juveniles Reform Home in terms of health, education, rehabilitation, psychological, social and sporting services and care in coordination with relevant authorities.
- Coordination with relevant stakeholders regarding the implementation of the Juvenile Liability Act.
- Follow-up on the implementation of juvenile justice procedures in Juvenile Courts.
- To re-establish and rehabilitate the personality of a juvenile on a sound scientific basis with a view to his/her re-engagement and integration with his/her family and society.
- Conducting studies and research to identify the causes of juvenile delinquency and propose recommendations for avoidance.
- Spreading necessary awareness pertaining to juvenile care and upbringing as well as the problem of delinquency, prevention and treatment.
- Holding seminars, conferences and lectures to address the problem of juvenile delinquency
- Subsequent follow up for delinquent juveniles.



procedural protection established by law for juvenile delinquents.

In the same vein, the Omani legislature has created a department for juvenile affairs under the Ministry of Social Development, called the “Department of Juvenile Affairs”, which is responsible for examining and reporting cases of delinquency or on the way to delinquency. It also supervises and implements the requirements of judicial probation, conditional release, final release and aftercare procedures, as well as other competencies assigned to it by the minister⁽¹⁷⁾.

The Department of Juvenile Affairs, as indicated in its resolution of forming it, aims to rehabilitate, prepare and care for juveniles who are exposed to delinquency and delinquents, and to find ways to raise their proper upbringing, to give care and education according to their abilities and aptitudes to make optimum use of their leisure time, achieve integrated personalities and orient them to the destination that conforms to the interests of the community to enable them to return back as reformed individuals⁽¹⁸⁾.

Through the researcher's extrapolation of the Juvenile Liability Act and the resolution of establishing the Department of Juvenile Affairs, it is obvious that the social authority

⁽¹⁷⁾ Juvenile Liability Act, Section 4. Based on this section, Ministry of Social Development has issued Ministerial Resolution No. (100/2008) dated in 27 September 2008 to establish Juvenile Affairs Department under General Directorate of Social Care.

⁽¹⁸⁾ Juvenile Liability Act, Section 4; Ministerial Resolution No. (100/2008).



therefore will not be able to give certain issues the attention, care and good conduct it deserves.

The discussion above is at a theoretical level. On a practical level, a Juvenile Police Unit does not actually exist within the jurisdiction of each juvenile court as prescribed by law. Indeed, there is only one unit within the jurisdiction of the Juvenile Courts in Muscat. In other regions, a juvenile delinquent is treated by ordinary police⁽¹⁶⁾ who are not qualified to deal with juveniles.

The situation with the Juvenile Police unit contradicts the law and constitutes a clear violation of the procedural protection planned for juvenile delinquents. This is a matter which has resulted in the researcher making strict recommendations to concerned authorities, especially to the Royal Oman Police, to make substantial modifications to the Juvenile Police Unit and to assign to it specialized and trained personnel to deal with juveniles and the deployment of its units within the jurisdiction of all juvenile courts, to play the role intended by the Omani legislature.

● **The Social Authority Board:**

Dealing with delinquent juveniles or those who are exposed to delinquency requires a lot of skills and accurate knowledge in social, psychological and educational sciences. Therefore, many legislatures have created a social board comprised of people with certain specializations in the area of juvenile affairs to help courts with delinquent juveniles or to protect juveniles from delinquency. It constitutes one of the guarantees of

⁽¹⁶⁾ A field visit by the researcher to the Juvenile Police Unit dated 27/12/2018.



accordance with the procedures prescribed by law⁽¹⁵⁾. It appears from the previous definition that the juvenile police unit's work is restricted to two areas:

First: Evidence collection in juvenile cases: it is defined as establishing the facts concerning the crimes committed by juveniles or complaints against them.

Second: Seizure of delinquents or those who are at risk of delinquency: this means to capture and seize juveniles, detain them, and track the runaways from reformatory institutions.

It should be noted that Omani law has indicated that the two functions of juvenile police are carried out in accordance with legally established procedures, but there are no criminal proceedings for juveniles except for some procedural rules mentioned in the Juvenile Liability Act. Therefore, the Omani legislature must specify rules which guide juvenile policemen. Thus, the issuance of a special law in that matter, or extension of procedural rules in the Juvenile Liability Act is a necessary task, which is proposed by the researcher to the legislative institution in the Sultanate of Oman.

There is no doubt that the allocation of a special police for juveniles to carry out required procedures before trial creates a protective procedure for delinquent juveniles during criminal proceedings, and will lessen the negative effects that may be caused by parties who are not specialized or dedicated and

⁽¹⁵⁾ Juvenile Liability Act, issued by the Sultan Decree No. (30/2008) dated 9/3/2008, published in Official Gazette No. (859) dated 15/3/2008, Section 6; based on this section the Inspector General for Royal Oman Police issued the resolution No. (53/2008) dated in 29/July/2008 to establish Juvenile Police Unit.



the rank of policemen, officers of public security, and other official ranks starting with the rank of soldiers, governors, and their deputies as well as those who are authorized by the laws⁽¹⁴⁾. Nevertheless, the inquiry and investigation into juvenile crimes has been assigned to certain categories and are not handed to all judicial inspection officers. Indeed, it is only handed to jurisdictions who are specialized in these issues, and thus there is no disagreement that the specific jurisdiction is an example of procedural protection which was established by the legislature to new juvenile defenders for their protection from any potential negative aspects that might affect them or may be caused by a non-competent party dealing with juvenile cases.

To sum this up, the Omani Judicial System has given the role of law enforcement to two authorities; first: the juvenile police unit as a general judicial enforcement warden who undertakes the tasks of judicial enforcement within his area of responsibility according to specific authorities for all crimes. Second: staff appointed by the Ministry of Social Affairs, who represent the social authority. They are judicial inspection officers with special competencies to carry out the responsibilities of judicial control functions for crimes related to their line of duties. It is necessary now to further explore and have a discussion on the two authorities.

- **Juvenile Police Unit:**

The Omani legislature was keen to allocate a special police force for juveniles called the "Juvenile Police Unit". This unit is responsible for collecting evidence in juvenile cases, and seizing delinquents and those who are at risk of delinquency in

(14) Criminal Procedure Law, Section 31.



description of seized items as well as statements of the accused. This should be sent to a public prosecutor.

If a judicial inspector does not follow rules strictly, i.e. the legal rules established in the collection of evidence procedures, this could lead to the validity of his work becoming invalid. Thus, this requires that a judicial inspection officer be fully aware that actions are taken according to the law.

Section II: Working Forces in Collecting Evidence:

• Specialized Authorities for Collecting Evidence:

Due to the need to deal with delinquent juveniles in a way which is suitable for the nature of their composition according to the policy aiming at protecting and reforming them, some legislations have chosen to allocate special judicial inspections for juvenile. For example, it was found that the juvenile laws in UAE,⁽¹⁰⁾ Egypt,⁽¹¹⁾ Syria,⁽¹²⁾ and Tunisia⁽¹³⁾, as well as Omani legislatures have followed suit and assigned judicial inspections in to two sections: the Juvenile Police Unit and the Social Department.

Omani Criminal Procedure Law has generally given the title of judicial inspection officers to certain bodies such as prosecutors, police officers and other official ranks, starting with

⁽¹⁰⁾ The Delinquent Juvenile Law at UAE, Act No (1/1994) issued in 29/1/1994, published in Official Gazette No. (2/1994), Section 5.

⁽¹¹⁾ Egyptian Child Law, No. (12) Amended by Law No. (126/2008), Section 117.

⁽¹²⁾ Syrian Delinquent Juvenile Law, issued by resolution No. (18/1974) dated in 30/3/1974.

⁽¹³⁾ Tunisian Journal for Protection of Children, No. (92/1995) dated 9/11/1995, published in the Official Gazette No. (90) at 10/11/1995, Chapter 36.



Second: Investigating complaints and gathering of information⁽⁶⁾: once a judicial inspection officer learns about an incident, he should directly check the validity of this information and obtain all the necessary clarifications. He should begin his investigations by any means he sees fit, as long as the means are not contrary to law, his actions do not involve breaking the law or harms individuals or restricts their freedom. In order to achieve this, he can hear the statements of those who have information about a crime and its perpetrators and can ask accused person involved in a crime. He should also seek help from doctors and other experts. It is not permissible for witnesses or experts to give statements under oath unless it is feared that their testimony under oath cannot be heard later⁽⁷⁾.

Third: Conducting inspections and maintaining evidence of crimes⁽⁸⁾: the incident requires moving to a place where it occurred to see it first hand and then a judicial inspector has the burden of keeping the evidence until they are in the presence of a prosecutor.

Fourth: Preparing a record of the evidence collection tasks⁽⁹⁾: a Judicial Inspector should prepare a record of all his work relating to the collection of evidence. This record includes a summary of the claims or the complaints and their dates, as well as a record of the inspection procedures and keeping evidence of a crime which indicates the time of doing a task. The record also includes statements of witnesses and experts heard including a

⁽⁶⁾ Ibid., Section 33.

⁽⁷⁾ Ibid., Section 34.

⁽⁸⁾ Ibid., Sections 30, 33.

⁽⁹⁾ Ibid., Sections 30, 37.



competent and aware of the nature of the juveniles and their environments⁽⁴⁾.

This stage is also important in preparing true or false evidence and facilitating primary investigations which may reveal the truth. This stage also allows the preservation of complaints and claims, where there is an investigation which doesn't prove a crime and leads to a decision by the Public Prosecution that there is no need to bring the case to court, as it will result in the accused being acquitted at the trial stage.

It is no secret that the presence of persons who are qualified enough to perform this daunting task is the axis of procedural protection, and this must be observed at this crucial and sensitive stage of the process of the liability of juvenile delinquents. Nevertheless, preparing them for that task must encompass all aspects of their knowledge and skills.

● Evidence Collection Tasks.

Omani Criminal Procedure Law does not specify the tasks of collecting evidence exclusively but it has been mentioned in several articles, and was summed up in the following acts:

First: Receiving claims and complaints⁽⁵⁾: the responsibility rests on the shoulders of everyone who witnesses a crime or was aware of it, to inform judicial inspection officers or the prosecution of the crime. This includes public servants or persons obliged to carry out certain public services.

⁽⁴⁾ Owain , Zainab Ahmed, The Juvenile Court, Darul Thaqaafah for publishing, 1st ed., Amman, (2009), p.108; Debissy, Medhat, Child's Court and Criminal Treatment of Children, New University Office, Alexandria, (2011), p.111.

⁽⁵⁾ Criminal Procedure Law, Sections 28, 29, 33.



interrogation⁽¹⁾. This definition shows that this stage is not a stage of criminal prosecution despite its importance, but it is a preparatory stage for a legal prosecution. The task of collecting the evidence of crimes is undertaken by a "Judicial Inspector"⁽²⁾.

This is a responsibility which is given by virtue of law to certain persons who are called Judicial Inspection officers. Their original job is to search for crimes and offenders, as well as collect evidence needed for prosecution. They also carry out interrogations to facilitate the incidents reported. They also take all precautions to keep the evidence of crimes. The work of a judicial inspector falls under the supervision of the public prosecution⁽³⁾.

The importance of this stage lies in the fact that it is the first step that a juvenile faces when they are delinquent. The judicial process of the juveniles is the most effective step in reforming them, leading them to the right path and rehabilitating them. It is the first effective factor on their young personality. This step will not be successful unless a judicial inspection officer is

⁽¹⁾ Qahwagi, Ali Abdul Qadir, Explanation of the Criminal Procedures Law, Dar Aljamiah Aljadidah, Alexandria, (2012), Book1, p.308; Alabajy, Maha, Crimes and the Trial of Children in Arabic Legislations, Maktabatul Alwafaa Alkanuniah, Alexandria, (2017), p.234.

⁽²⁾ Attalib, Alsaniyyiah Mohammad: "The Procedures of Prosecuting Juvenile in Algerian Legislation", a study to get Master's Degree in laws from faculty of law, Mohammad Khudhair Baskarah, for the academic year 2013/2014, p.72; Criminal Procedure Law, Issued by Sultan Decree No. (97/99) dated in 1/12/1999, published in Official Gazette No. (661) in 15/12/1999, Section 31.

⁽³⁾ Criminal Procedure Law, Section 32.



a final interrogation and gives a legal order. Therefore, the study of procedural protection for the criminal proceedings of juvenile delinquents under Omani Law requires a classification into three chapters;

First Chapter: procedural protection during the stage of collecting evidence.

Second Chapter: procedural protection during the stage of a primary investigation.

Third Chapter: procedural protection during the trial stage.

First Chapter: Procedural Protection during the Stage of Collecting Evidence.

The criminal proceedings are preceded by a general stage of collecting evidence that confirms the occurrence of a crime and the search for criminals. This stage is called the “Evidence Collection Stage”. Research here requires an explanation of the concept of collecting evidence, its importance, requirements and the responsible authorities according to Omani Law.

Section I: Collecting Evidence; Concept, Importance and Requirements

- **Definition of Collecting Evidence:**

Evidence collection (evidence-gathering) means a set of procedures, carried out outside public prosecution and before the commencement of proceedings which aims to confirm the occurrence of a crime, the search for criminals, and the collection of evidence and items necessary for an



2. Aims of the Study:

The research objectives include : exploring the procedural protection of juvenile delinquent at the different stages of the criminal proceedings under Omani legislation, discovering the legal lacunae in it – and if found – demonstrating the practical experience of juvenile delinquent criminal proceedings through field interviews and scientific experience acquired by the researcher while working in juvenile courts. Moreover, the researcher sought to provide an explanation of the theoretical and practical reality and suggested what should be applied to achieve fair justice for a juvenile delinquent.

3. The Hypothesis of the Study:

The study hypothesizes that there were certain legislative defects in Omani legal provisions that dealt with procedural protection during the criminal proceedings of a juvenile delinquent. This defect needs to be highlighted to propose suitable corrections. The study also hypothesizes that the presence of discrepancies between theoretical legislation and the practical application of it in the Omani Legal System evoked a real fear about the fairness of a juvenile delinquent criminal proceedings which also negatively affected their development.

4. Study Content Plan:

It was noticeable that the criminal proceedings of juvenile delinquents began from the moment of committing a crime. Judicial inspection officers collect evidence which is then followed by an interface by a prosecution to adjust the legal situation together with the stage of collecting evidence. The prosecution then calls the charges and the last crucial stage introduces the charges in front of a specialized juvenile court for



Introduction:

Juveniles are the pride of human civilizations as they are the future creators for nations, the fortune from which a nation derives its strength, and the anticipated hope which a nation aspires to achieve its civilizational progress and development. Therefore, they are the focus of interest of every nation which looks forward towards a bright future. Based on this, legislation used to be significantly interested in securing all procedural protection tools for juveniles, especially when they went astray during their juvenility and committed crimes, which were punishable by law. The crimes they committed were mostly the result of difficult social and familial circumstances, not due to latent criminal tendencies. This fact required their criminal proceedings to be protected to maintain their dignity and to save them from any negative influences which motivated them to rehabilitate and return to the community reformed.

1. Problematic of the Study:

Prima facie, it seems that Omani legislation has dealt with this fact as an axiom; however the practical application of procedural protections for juvenile delinquents demonstrates many problems. Therefore, the research problem was to determine the extent of comprehensiveness of the legal provisions of Omani legislation to cover all aspects of procedural protection of juvenile delinquents and to discover the extent of compatibility between theoretical legislation and the practical application of procedural protection for juvenile delinquent criminal proceedings in Omani legal system.

الحماية الإجرائية للحدث الجانح في المراحل المختلفة من الإجراءات الجنائية بموجب القانون العماني: الواقع والتطلعات المخلص:

يتمتع الحدث الجانح في القانون العماني بجملة من إجراءات الحماية عند اتخاذ الإجراءات الجزائية ضده، بهدف المحافظة عليه من التأثيرات السلبية على نفسيته، نظراً إلى حداثة عمره؛ إلا أن هذه الحماية تبقى مجرد كلام نظري إن لم تكن مطبقة على أرض الواقع، وعليه فإن هذه الدراسة تهدف إلى عرض الجوانب النظرية للحماية الإجرائية لمعاملة الحدث الجانح جنائياً، كما وضعها القانون العماني، وبيان الواقع التطبيقي لهذه الحماية على ضوء المقابلات الميدانية والخبرة العلمية التي اكتسبها الباحث، واقتراح المعالجات القانونية والعملية للثغرات التي تعترض التطبيق.

وتكمن إشكالية الدراسة في تحديد مدى شمولية النصوص القانونية في التشريع العماني لتغطية كافة جوانب الحماية الإجرائية للحدث الجانح، وكشف مدى التوافق بين التشريع النظري والتطبيق العملي للقانون في سلطنة عمان في مجال الحماية الإجرائية لمحاكمة الحدث الجانح، وتأخذ الدراسة بالمنهج الاستقرائي والمنهج التحليلي والمنهج المقارن، وقد اشتملت الدراسة على ثلاثة مباحث تتحدث عن الحماية الإجرائية لمعاملة الحدث الجانح جنائياً ابتداءً من مرحلة جمع الاستدلالات ومروراً بمرحلة التحقيق الابتدائي وانتهاءً بمرحلة المحاكمة.

وقد خلصت الدراسة إلى نتيجة حاصلها أن القانون العماني اشتمل على جملة ثغرات قانونية في الجانبين النظري والتطبيقي، يلزم معالجتها عن طريق إجراء تعديلات تشريعية ومعالجات عملية؛ لأجل تحقيق حماية إجرائية كاملة للحدث الجانح تضمن له محاكمة عادلة.

الكلمات المفتاحية: حماية إجرائية - إجراءات جزائية - حدث جانح - قانون عماني.



Procedural Protection of Juvenile Delinquents at the different Stages of the Criminal Proceedings under Omani Law: Reality & Expectations

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Abstract:

A juvenile delinquent has, under Omani law, a number of protection procedures during their criminal proceedings in order to protect them from negative psychological influences. However, this protection remains theoretical as long as it is not applied. Thus, this study aims to show the theoretical aspects of procedural protection for juvenile delinquent at the different stages of the criminal proceedings as stipulated by Omani law and explores the application of this protection according to field interviews and scientific experience acquired by the researcher. The study allowed the researcher to recommend legal and practical solutions for the lacunae in this area that hinder the application process. The research problem was to determine the extent of comprehensiveness of the legal provisions in Omani legislation to cover all aspects of procedural protection of juvenile delinquents and to discover the extent of compatibility between theoretical legislations and the practical application of procedural protection of juvenile delinquent criminal proceedings in Oman. The research methodology included inductive, analytical and comparative strategies as well as three chapters about the procedural protection for juvenile delinquent criminal proceedings starting from the stage of collecting evidence, followed by a primary investigation and ending with the trial stage. The results of this study concluded that Omani legislation has a legal lacuna from both theoretical and application aspects which has to be resolved by the correction of legal procedures and practical actions to achieve total procedural protection for juvenile delinquents to ensure a fair trial.

Keywords: Procedural Protection - Criminal Proceedings - Juvenile Delinquents - Omani Legislation.

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