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Procedural Individualization in Omani Legislation: A Comparative Study

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ABSTRACT
Procedural individualization is a set of specific procedural rules for prosecution, investigation, trial, and methods of appeal that are applied in certain cases, as a departure from general rules for justifications based on objective or personal considerations. Although this individualization is a departure from the general rules of criminal procedure, it does not differ from them in the goal it seeks to achieve. Procedural individualization is inseparable from punitive individualization; it is an extension of it, and without it, punitive individualization would be futile. This close connection between the two types of individualization stems from the relationship between substantive penal rules and procedural penal rules, which are responsible for moving the substantive rules from a state of inertia to a state of motion and application.
Furthermore, while procedural individualization is a departure from general rules, its theoretical basis is almost the same as the foundations of general rules in criminal procedure. It is based on the principle of balance between public rights and interests and private rights and interests. It also relies on the principle of proportionality in its general concept, which governs all procedural rules and requires that the procedural sanction be proportionate to the extent of the violation of the procedural rule, and proportionality in its specific concept within the scope of procedural individualization as a relationship between the gravity of the crime and the nature of the measures taken against it.
Of course, procedural individualization is included in all modern procedural legislations, but with varying plans and methods. We have examined the applications of this individualization in Omani legislation, in comparison with other legislations, in order to evaluate the soundness of this plan.

KEYWORDS
Principle of Proportionality, Principle of Balance, Procedural Restrictions, Delinquent Minor, Care Measures, Reform Measures, Procedural Sanctions, Complaint, Civil Claim, Penal Orders, Statute of Limitations, Waiver, General Amnesty.

1. Introduction

Equality is one of the most important foundations and principles of justice. According to this principle, the penalty for a crime should not differ with the identity of the perpetrator. However, equality in laws, especially penal laws, is not a mathematical equality, but rather an objective equality based on a set of foundations and considerations related to the offender's personality, the gravity of the crime, and the surrounding social factors and circumstances. Accordingly, the penalty for the crime of murder—for example—is the death penalty if committed intentionally, absolute imprisonment if committed unintentionally, temporary imprisonment if accompanied by a mitigating circumstance, a misdemeanor if it was not intentional, and it may be completely justified if it is accompanied by a ground of justification, such as legitimate self-defense. This is known as punitive or substantive individualization.

As for the individualization that is the subject of this research, although it is very similar to substantive individualization in terms of the foundations and considerations on which it is based, it is different in nature from punitive individualization because it relates to the procedures of prosecution, investigation, trial, and methods of appealing judgments; that is, it is an individualization related to the formal or procedural penal rules.

Procedural individualization is recent compared to punitive individualization, which began early with Islamic law, and then later in Europe at the end of the eighteenth century under the influence of books, doctrines, and penal schools. It then appeared timidly in the thought of the modern traditional school, and then began to appear strongly starting from the positivist school, taking its full scope in the thought of the social defense school. This is in contrast to procedural individualization, specifically in its aspect related to the management of criminal litigation, such as the penal order and reconciliation... It appeared at a later time, and its spread is still limited.

Procedural individualization has multiple forms and foundations that all have in common that they are a departure from the traditional general rules rooted in the management of the criminal case and established in the systems of criminal procedure. However, they do not deviate from the goal that these systems seek, but on the contrary, they may be more effective in achieving their goals.

Study Significance

Perhaps there is no difficulty in researching the topics of substantive individualization due to the abundance and diversity of references in this regard. However, the matter is different with regard to procedural individualization, which we believe has not received sufficient foundational and applied studies. In addition to that, there is another importance for the research that stems from the nature of the organic relationship that links the rules of substantive criminal law to its procedural rules. Substantive individualization will be more capable of achieving its purposes if it is combined with procedural individualization, or in other words, substantive individualization will not be able to achieve its goals, and may be useless, unless it is combined with appropriate procedural individualization. Therefore, procedural individualization must keep pace with substantive individualization.

Study Problem

Procedural individualization—in most of its forms—is a Most of its forms are a violation of the general rules of criminal procedure, especially the rules of prosecution, investigation, trial, and appeal of judgments, and the principle of judicial punishment, and the principle of publicity... etc. If this is the case, what are the controls for this departure? On the other hand, the Omani legislator has applied procedural individualization in the Criminal Procedure Law and the Juvenile Accountability Law, according to a specific plan that the research will address to study the extent of this plan's suitability and its keeping pace with the development in procedural individualization.

Research Methodology

There is no doubt that the nature of any research is what determines its method of treatment and its methodology. Since this study aims to study the plan adopted by the Omani legislator in procedural individualization, by analyzing the relevant texts within the context of the philosophy of procedural individualization and its goals, this requires the use of the analytical method. In addition, evaluating the Omani legislator's plan in procedural individualization requires comparison with other legislations, in order to judge the soundness of this plan and the extent to which it keeps pace with development, and this requires the use of the comparative method.

Research Plan

Procedural individualization has several forms through which it appears, and this is a matter that no procedural legislation is without. This individualization can be divided, in terms of the criteria and considerations on which it is based, into two types: material individualization derived from objective considerations, and personal individualization derived from personal considerations. The following is a study of these two types of individualization in the following two chapters:

Chapter One: Material Procedural Individualization.

Section One: Material Procedural Individualization in the Rules Related to Prosecution.

Section Two: Material Procedural Individualization in the Rules Related to Investigation, Trial, and Appeal.

Chapter Two: Personal Procedural Individualization.

Section One: Personal Procedural Individualization in Juvenile Cases.

Section Two: Personal Procedural Individualization in Adult Cases.

2. Chapter One

Material Procedural Individualization

Criminal procedural systems have followed diverse policies and plans regarding material procedural individualization, in terms of the scope of its application and the number of crimes it includes. There appears to be no disagreement among these systems regarding the criterion on which the boundaries of this individualization are drawn and the crimes it addresses. This criterion is derived from the nature of the crime, whether in terms of its gravity, its danger, or the harm resulting from it. In light of this criterion, we will attempt to present the applications of material procedural individualization in Omani legislation, which appear in their most prominent forms in the rules of prosecution and the rules of investigation and trial, which we present in the following two sections:

Section One - Material Procedural Individualization in the Rules Related to Prosecution:

The rules of prosecution are the rules that regulate society's right to claim its right to punishment for a crime, Al-Saifi, A. F. (2010). which arises immediately upon the crime's occurrence. They specify the competent authorities, their powers, and the restrictions on these powers. Prosecution—as a general rule—is a power vested in the Public Prosecution on behalf of society for all crimes, in all modern procedural systems. However, there are exceptions derived from individualization considerations, where this power is restricted by limitations that prevent its exercise, and thus the Public Prosecution is unable to exercise its discretionary and suitability authority in prosecution, unless this restriction is removed. Among these restrictions in Omani legislation are the complaint and the request in some crimes, where prosecution depends on the will of the victim.

In addition to the aforementioned procedural restrictions, there is another type of restriction, which is the statute of limitations on the public case. This restriction does not differ from the other restrictions in that it prevents the Public Prosecution from exercising its discretionary powers to initiate the public case if it has not already been initiated, nor does it differ from them in its cause and nature, as it is also an individualization derived from objective considerations. However, it differs from them in terms of its source; it is—in terms of source—a restriction derived from the law, unlike the complaint and procedural immunities, which are derived from the will of the victim or the authority specified by the law. Accordingly, these restrictions can be divided by their source into voluntary procedural restrictions and legal procedural restrictions.

Branch 1 - Voluntary Procedural Restrictions:

These are restrictions derived from the will or desire of the victim to initiate a public case and punish the perpetrator, in cases where the legislator has estimated that the victim is more capable of assessing the suitability of initiating the case than the Public Prosecution. The majority of procedural systems have approved these restrictions as a type of procedural individualization derived from substantive rules related to the gravity of the crime and the resulting harm, or the nature of the relationship between the perpetrator and the victim, or its need for protection. These restrictions are an exception to the general rule and therefore should not be expanded upon or analogized to. The following is a study of these restrictions to shed light on them from the perspective of procedural individualization.

1 - The Complaint:

Article 4/1 of the Criminal Procedure Law stipulated the complaint as a condition for prosecution and bringing a public case in some crimes. A complaint is a report of a crime submitted by the victim to the competent authority, in which he requests that legal actions be taken. Al-Ani, A. A. I. (n.d .The Public Prosecution in Omani legislation has broad discretionary authority to initiate a public case or archive the papers, but the legislator has restricted this authority in certain crimes, so that the Public Prosecution is prevented from exercising its discretionary authority and initiating the case unless the victim submits his complaint among the crimes for which the Omani Penal Code required a complaint as a condition for initiating a public case are the crime of adultery stipulated in Article 259, the crime of committing lustful acts stipulated in Article 262, the crimes of intentional misdemeanor assault stipulated in Articles 308-309, the crime of unintentional assault stipulated in Article 312, the crime of using a vehicle owned by another without the owner's permission stipulated in Article 315, the crimes of theft and fraud between ascendants, descendants, and spouses stipulated in the first and second chapters of the eleventh section, which includes property crimes, check crimes, breach of trust crimes, crimes of violating the sanctity of homes, and the crimes of threat, insult, and defamation, Article 334... etc.

The reason for procedural individualization in these crimes is due to the nature of the harm resulting from them, which is that the private harm is more apparent than the public harm, as is the case in the crime of violating the sanctity of homes and simple assault, or to the nature of the special relationship that links the perpetrator and the victim, which can lead to negative consequences affecting family unity and cohesion if the case is initiated, as is the case in the crimes of theft and fraud between ascendants, descendants, and spouses, and the crime of adultery.

To show the features of the plan that the Omani legislator followed regarding the complaint, a distinction must be made between the effects of the necessity of the complaint, the effects of its submission, and the effects of its waiver.

The Effects of the Necessity of a Complaint

The requirement of a complaint to initiate public prosecution in certain crimes is one of the manifestations of procedural individualization in most modern procedural legislations, though there is a difference in the scope of this condition regarding the number of crimes that require a complaint. Consequently, prosecution is prohibited before a complaint is filed.

The Egyptian legislator went even further, prohibiting the taking of any investigatory measures before a complaint is submitted Sultanate of Oman. (1999).Despite the clarity of this provision, some jurists believe that it does not preclude the taking of preliminary inquiry measures, on the basis that the complaint is a restriction on the lawsuit that prevents its initiation. However, preliminary inquiry measures precede the lawsuit and are not part of its procedures, and thus there is nothing to prevent them .Hosni, M. N. (2011).

As for the Omani legislator, the situation is clearer. Article 47 of the Code of Criminal Procedures prohibits the arrest of a suspect in a state of flagrante delicto (in the act) if the crime is one that requires a complaint, unless the person entitled to file the complaint explicitly authorizes it. This also implies a prohibition on a search, because under Article 46 of the Code of Criminal Procedures, a search is linked to an arrest. Where there is no arrest, there can be no search.

However, there is no prohibition on taking other preliminary inquiry measures, even if a complaint has not been filed. In other words, the Omani legislator permits, for crimes that require a complaint, the taking of preliminary inquiry measures that do not involve a direct infringement on individuals, even without a complaint, in order to preserve evidence.

Although the Omani Code of Criminal Procedures does not contain an explicit text on the limits of judicial police officers' authority in crimes that require a complaint outside of a state of flagrante delicto, we can conclude, by inference and a fortiori reasoning, that since the legislator prohibited taking measures that involve direct infringement on individuals in a state of flagrante delicto (arrest and search), then a fortiori, it is not permissible to take any measures before a complaint is filed in crimes that require one, whether those measures are intrusive to individuals or not.

The penalty for violating the rule of the necessity of a complaint is nullity, and this nullity remains and is not remedied by a subsequent filing of a complaint. This means that filing the complaint later does not correct the nullity of the measure that was taken before it was filed. Jokhdar, H. (n.d.).

2- Effects of Filing a Complaint

The filing of a complaint in crimes that require it does not compel the Public Prosecution to initiate public proceedings. Rather, the effect of filing it is limited to the removal of the restriction that prevented the Public Prosecution from initiating them [1]. Syrian Code of Criminal Procedure, art. 1(2). Egyptian Code of Criminal Procedure, art. 232. The Omani legislator has acknowledged a role for the victim or injured party in criminal proceedings through the institutions of civil claims and complaints. However, this role is very limited, as neither compels the public prosecution to initiate proceedings. This contrasts with most legislations that grant the victim a greater role, whereby the victim's claim obliges the prosecution to initiate proceedings and grants them the right to pursue direct prosecution in all crimes. See Article 1(2) of the Syrian Code of Criminal Procedure, or Article 232 of the Egyptian Code of Criminal Procedure regarding felonies and misdemeanors. Consequently, the discretionary power vested in the Public Prosecution in other crimes, whether to initiate the case or close the file, is restored. The approach of the Omani legislator regarding the effects of the necessity of a complaint and its submission does not differ from the approaches followed by the majority of Arab legislations . Hosni, M. N. (2011).

3- Effects of Withdrawing a Complaint

If the withdrawal occurs before public proceedings are initiated, the Public Prosecution is prohibited from initiating them and must close the file. However, if the withdrawal occurs after the proceedings have been initiated, Article 15 of the Code of Criminal Procedures specifies the legal effect resulting from this withdrawal, which is its termination . Sultanate of Oman. (1999). This means that the withdrawal has no effect unless it is submitted before a final judgment is rendered in the case, and it has no value thereafter. The Omani legislator stipulated this in Article 10 of the Code of Criminal Procedures Sultanate of Oman. (1999). although we believe this provision is unnecessary as it is a meaningless redundancy, since the termination of a case cannot be applied to a case that has already been terminated by a final judgment, and thus a subsequent withdrawal would be ineffective.

However, the Omani legislator departed from this rule and recognized the effects of a withdrawal after a final judgment has been rendered in some crimes, but with different effects. At times, the effect of the withdrawal is limited to the suspension of the execution of the penalty only, as is the case in the crimes of adultery and lewd acts stipulated in Articles 259 and 262. At other times, it results in the suspension of the execution of the judgment, as is the case in intentional and unintentional misdemeanor assault crimes, and crimes of theft and fraud between ascendants, descendants, and spouses. Of course, there are fundamental differences in effect between the suspension of the execution of the penalty and the suspension of the execution of the judgment. The first merely prevents the execution of the penalty, while the judgment remains effective with all its consequences related to recidivism and suspension of execution, and these effects continue unless rehabilitation is granted. The second is broader and more comprehensive than the first, leading to the termination of the penalty and stripping the judgment of all its effects.

It seems that this distinction in the effects of withdrawing a complaint between the suspension of the execution of the penalty and the suspension of the execution of the judgment was intended by the legislator. We see it as a form of procedural individualization derived from the nature and seriousness of the crime. The seriousness of crimes that require a complaint is not uniform, and therefore a distinction must be made in the effects of withdrawing the complaint, such that the effect is commensurate with the seriousness of the crime. Thus, this effect is limited to the suspension of the execution of the penalty only in serious crimes, and it is broadened to become a suspension of the execution of the judgment in less serious crimes.

Finally, we note that the legislator went so far as to make a complaint a condition in some cases, but did not specify the effect of its withdrawal. This is the case in the crime of using another's vehicle without the consent of its possessor or owner, where the legislator required a complaint to initiate the case, but was silent on the effects of withdrawing this complaint. This raises the question of the legal effect of withdrawing the complaint in this type of crime: is it the termination of the public proceedings, the suspension of the execution of the penalty, or the suspension of the execution of the judgment? We believe that the legislator's silence on specifying the effects of the withdrawal is interpreted as a reference to the general principle or rule of withdrawing a complaint, which is specified in Article 15 of the Code of Procedures, which stipulates that the termination of public proceedings is the effect of withdrawing a complaint. Consequently, the withdrawal has no effect if it occurs after a final judgment has been rendered in the case, in accordance with Article 20 of the Code of Criminal Procedures.

Secondly - The Request:

This is a document issued by an aggrieved administrative authority, expressing its intention to inform the competent authorities of a crime that has affected its interests Muhammad Sobhi Najm, (1998).

The Omani legislator has only required a request for the crimes stipulated in Articles 184-185 of the Income Tax Law issued by Royal Decree No. 28/2009. In these crimes, public proceedings may not be initiated except with the approval of the Minister of Finance (Article 186 of the aforementioned law) [6]. Public proceedings may not be initiated for the crimes stipulated in this chapter except with the approval of the Minister. The General Secretariat must coordinate with the Public Prosecution when initiating public proceedings arising from these crimes.

The request does not differ from the complaint in terms of the effects of its necessity and its filing. However, regarding the effects of its withdrawal, there is a difference between it and the complaint. The effects of withdrawing a complaint can be varied: termination of public proceedings, suspension of the execution of the penalty, or suspension of the execution of the judgment. The effect of withdrawing a request, however, is limited to the termination of public proceedings only, according to Article 15 of the Code of Criminal Procedures, which is the general effect that results from withdrawing a complaint or request in cases where the legislator is silent on specifying other effects. Consequently, the withdrawal of a request must be made before a final judgment is rendered in the case.

We believe that the rationale for procedural individualization and the departure from the general rules of prosecution in requiring a request to initiate public proceedings in certain crimes is due, on the one hand, to their less serious nature—they are misdemeanors punishable by imprisonment for no more than one month or a fine—and on the other hand, to the special nature of these crimes, in which the administrative authority with the power to request is better able than the Public Prosecution to assess the appropriateness of initiating public proceedings in this specific type of crime.

Branch 2 - Legal Procedural Limitations (Statute of Limitations)

Some legislations have defined the start of the statute of limitations as the day the crime occurred. Article 16 of the Omani Code of Criminal Procedures stipulates: "Public proceedings shall be terminated by the lapse of 20 years in felonies punishable by death or life imprisonment, ten years in other felonies, three years in misdemeanors, and one year in violations, all starting from the day the crime occurred..." And in the same vein, Article 15 of the Egyptian Code of Criminal Procedures states [1]. Which states: "Criminal proceedings in felony matters are terminated by the lapse of ten years from the day the crime occurred, in misdemeanor matters by the lapse of three years, and in violation matters by the lapse of one year, unless the law provides otherwise

These texts are limited to one form of the statute of limitations, which is the limitation that takes effect before public proceedings are initiated. On this basis, some have defined the statute of limitations as the lapse of a legally specified period of time from the date the crime occurred without any procedural steps being taken in the case Hosni, M. N. (2011).

However, there is another form of the statute of limitations, which occurs after the case has been initiated. While this may be difficult to imagine, it can happen if the authority in charge of the case neglects to take any action for a period sufficient to trigger the limitation. In this case, this limitation will also have its effect. Some legislations have recognized this and have provided for two types of statutes of limitations: the first is the statute of limitations on the crime, which takes effect before initiating the case, thereby forfeiting society's right to prosecution. It begins immediately upon the crime's occurrence and constitutes a restriction that prevents its initiation. The second is the statute of limitations on public proceedings, which takes effect after the case has been initiated and leads to its termination [3]. Article 437 of the Syrian Code of Criminal Procedure and Article 338 of the Jordanian Code of Criminal Procedure state: "(1) The public right and the personal right lawsuit shall be forfeited by the lapse of ten years from the date of the felony's occurrence if no prosecution has been initiated concerning it during that period. (2) The aforementioned lawsuits shall also be forfeited by the lapse of ten years from the last action if the lawsuit was filed and investigations were conducted but no judgment was issued in it."

In any case, the Omani legislator and similar legislations, although not explicitly stating the second type of statute of limitations, have implicitly provided for it. This is clear from Article 18 of the Omani Code of Criminal Procedures, which states: "The period by which public proceedings are terminated shall be interrupted by investigative, accusatory, or trial procedures, as well as by a penal order or preliminary inquiry measures taken against the accused or when officially notified. The period shall run anew starting from the day of interruption. If the procedures that interrupt the period are multiple, its running shall commence from the date of the last procedure." This is because the investigative, accusatory, and trial procedures mentioned in the article imply that the intended statute of limitations is the one that occurs after the case has been initiated, as these procedures can only happen after public proceedings have commenced.

The procedural individualization in the statute of limitations, in both its forms—whether it takes effect before initiating the public proceedings, thereby forming a procedural restriction that prevents its initiation or any action in it Hosni, M. N. (2011).. or after its initiation, leading to its termination—is derived from the seriousness of the crime. This is evident in all forms of procedural individualization related to the statute of limitations, and its manifestations include the length of the limitation period and the exemption of certain crimes from the principle of the statute of limitations.

Firstly - The Limitation Period:

Here, we distinguish between two types of statutes of limitations:

1. General Statute of Limitations: Its duration is proportionate to the gravity or seriousness of the crime. It is 20 years for felonies punishable by death or life imprisonment, ten years for other felonies, three years for misdemeanors, and one year for violations. This is the approach followed by most legislations

This form of individualization is an extension of substantive penal individualization, which uses the gravity of the crime as a basis for determining the punishment. Furthermore, this individualization is consistent with the idea of forgetfulness, which is one of the most important justifications for the statute of limitations. Serious or grave crimes, such as felonies, are difficult to forget or, at the very least, require a longer time for their effects to fade from memory, unlike crimes of moderate seriousness, such as misdemeanors, or minor ones, such as violations, which are forgotten in a short time.

2. Special Statute of Limitations: Some legislations have departed from the general rules concerning the determination of limitation periods and their start date and have set special periods for certain crimes. These periods run differently from the general rules, which we consider a special form of individualization within the framework of the statute of limitations on public proceedings. The most prominent examples of this individualization appear in crimes that require a complaint and some crimes committed by public officials.

A. Crimes that require a complaint: The Omani legislator, along with other legislations like the Egyptian and Jordanian ones, has set a short period of three months from the date the victim becomes aware of the crime. If this period lapses without the complaint being filed, the right to file it is forfeited Some have denied the character of a statute of limitations for this period and considered it a preclusion period, and thus the reasons for interruption and suspension do not apply to it Hosni, M. N. (2011). We disagree with this view, as long as the effects resulting from its lapse are the same as those resulting from the statute of limitations. The rationale for this individualization is to ensure that this right is used for the purpose for which it was legislated and to prevent the complaint from being exploited as a weapon for extortion against the victim. Therefore, the legislator estimated that this period is sufficient for the victim to decide whether to file a complaint or not.

Contrary to the general rules for the start of the statute of limitations in instantaneous, formal, continuous, successive, and habitual crimes, the statute of limitations for crimes requiring a complaint begins to run, in most legislations, from the date the victim acquires definite knowledge of the facts constituting the crime and its perpetrator Dr. Dawood bin Suleiman Al Kharousi (2023).. However, we believe that the duration of this limitation can in no case extend beyond the maximum limit of the limitation period prescribed for the crime itself. Otherwise, it would contradict the rationale or purpose that led the legislator to determine its duration in this manner. Consequently, the victim's knowledge of the crime more than three years after its occurrence in misdemeanors that require a complaint does not give the victim the right to complain.

B. Some crimes committed by public officials: These are specifically the crimes stipulated in Articles 156-161 of the old Omani Penal Law, which correspond to the crimes of bribery (Articles 207-208), the crime of subsequent reward (Article 209), the crime of embezzlement (Article 213), and the crimes of officials exceeding the limits of their duties and negligence in performing their duties (Articles 194-195) in the current Penal Law. In all these crimes, the statute of limitations does not begin to run until the employee's service ends or their status is removed. The rationale for individualization in these crimes is clear, relating to their seriousness and the difficulty of uncovering them as long as the employee is still in office and has the ability to conceal them.

Secondly - Exemption of Certain Crimes from the Statute of Limitations

Due to the extreme gravity of certain crimes and their resistance to being forgotten, some legislations have exempted them from the principle of forfeiture by the lapse of time or the statute of limitations, in both its forms: the limitation on the lawsuit and the limitation on the penalty. In Omani legislation, these crimes include espionage, rebellion, insurrection, sedition, genocide, crimes against humanity, and war crimes as stipulated in this law Sultanate of Oman. (2022). 3.They also include crimes against antiquities and trafficking in them, all forms of torture, forced displacement, violations of personal freedom and privacy, and interference with justice Arab Republic of Egypt. (2019).

Part 2 – Material Procedural Individualization in the Rules Related to Investigation, Trial, and Appeal

Investigation and trial have general rules based on the principle of balancing the interest of society—represented in the prosecution of crimes and preventing impunity, which entails investigation, arrest, custody, pre-trial detention, and search, among other things, to arrive at the truth—with the interest of individuals in protecting their personal rights and freedoms. Within this framework, procedural legislations have established a set of guarantees that ensure fair trials and judgments based on conclusive evidence. However, for objective reasons related to the nature or seriousness of certain crimes, legislations have departed from these rules, which is a form of procedural individualization. This individualization is generally derived from considerations related to the gravity or seriousness of the crime. Below is a presentation of the manifestations of this individualization in the stages of investigation, trial, and appeal.

First Branch – In Investigation and Trial

Investigation and trial are two stages of public proceedings in most criminal cases. The features of individualization are clear in the approaches followed by legislations regarding the rules governing them. Perhaps the most prominent manifestation of this individualization is the principle of mandatory investigation, which makes investigation a requirement in felonies. Additionally, there are features of individualization in the trial stage that are derived from the seriousness of the crime. We will discuss the features of this individualization in these two stages.

Firstly - In Investigation:

Investigation has two types that differ in nature and purpose. The first precedes the initiation of public proceedings and is called the preliminary investigation or preliminary inquiry stage. The second follows the initiation of public proceedings and is called the primary investigation stage. In both types, there are rules derived from considerations of material individualization, which we detail below.

1. In the Preliminary Investigation:

This stage is handled by judicial police officers and aims to secure sufficient evidence and information related to the crime and its perpetrator, which enables the Public Prosecution to exercise its discretionary authority to initiate public proceedings or close the file Sultanate of Oman. (n.d.). Procedural individualization at this stage is based on two criteria:

- The first relates to the manner of crime discovery (in flagrante delicto or not): Based on this criterion, the powers and authorities of the judicial police officer vary. Their powers are narrow and limited in ordinary circumstances, confined to investigating and collecting evidence without infringing upon the suspect or restricting their liberty, except for temporary custody Sultanate of Oman. (n.d.). However, in a state of flagrante delicto, these powers expand significantly, allowing the judicial police officer to exercise some of the Public Prosecution's authorities, such as arrest, custody, issuance of a summons, search, and preventing those present from leaving, and so on Sultanate of Oman. (n.d.). The reason for restricting the hands of judicial police officers in ordinary circumstances and releasing them in a state of flagrante delicto is the fear of error, deviance, and abuse of power in the first case, which poses a threat to the public rights and freedoms of individuals. This risk is largely absent in a state of flagrante delicto due to the presence of tangible, live evidence Hosni, M. N. (n.d.).
- The second relates to the gravity of the crime: This is evident in the conditions for a judicial police officer's exercise of their powers of arrest and search in a state of flagrante delicto. Legislations have stipulated that for these powers to be exercised, the crime must be a felony or a misdemeanor punishable by imprisonment, in addition to the availability of strong evidence of the crime's commission Sultanate of Oman. (n.d.).It is also stipulated that the misdemeanor must be punishable by imprisonment for a period of more than three months in the case of arrest by ordinary individualsSultanate of Oman. (n.d.) The rationale for this individualization is to protect individual rights and freedoms, and that less serious crimes (violations or misdemeanors not punishable by imprisonment) do not justify sacrificing these rights. The exercise of arrest and search in these crimes would violate the principle of balancing the public interest and the private interest, as explained previously Sorour, A. F. (2002).

2. In the Primary Investigation:

This stage is the purview of the Public Prosecution or the investigating judge in some procedural systems. The manifestations of individualization in this stage are clear in:

- The principle of mandatory investigation in felonies but not in other crimes, because they are serious crimes that require a minimum of sufficient evidence to substantiate the accusation before referring it to the felony court.
- Pre-trial detention, which is applied to serious crimes. This is evident in most legislations, which require the crime to be a felony or a misdemeanor punishable by imprisonment Sultanate of Oman. (n.d.). This is because pre-trial detention is an exception to the presumption of innocence and therefore must be used in the narrowest of limits. Consequently, it is not justified to use it in less serious crimes, as this would violate the principle of balance, which is one of the most important foundations of procedural systems Sorour, A. F. (1985).
- The duration of pre-trial detention, which is commensurate with the seriousness of the crime, being longer for felonies than for misdemeanors Hosni, M. N. (n.d.).
- Finally, the exemption of certain crimes from release, which are extremely serious crimes that some legislations have limited to crimes punishable by death or life imprisonment, where pre-trial detention continues until a final judgment is issued Sultanate of Oman. (n.d.).

Secondly - Trial:

This is the final stage, in most cases, of litigation, where the fate of the public and associated civil proceedings is decided, and the legal positions of the parties are determined in light of the final judgment on the matter. Legislations have enacted a set of procedural rules to regulate this stage and provide it with sufficient guarantees. These rules are not without manifestations of individualization derived from the seriousness and nature of the crime. The procedures for litigation in felonies differ from those in misdemeanors and violations, being stricter and more complex, especially concerning the rules of attendance and the consequences of the defendant's absence Syrian Arab Republic. (n.d.).

Perhaps the most prominent manifestations of procedural individualization in Omani legislation are penal orders and summary procedures in check crimes.

1. Penal Orders:

This system, adopted by the Omani legislator in Articles 150 and following of the Code of Criminal Procedures, allows the Public Prosecution and the competent court to settle the public and associated civil proceedings without following traditional litigation procedures. This is applicable to less serious crimes, which the Omani legislator has limited to all violations and misdemeanors punishable by a maximum of three months' imprisonment or a fine with a minimum limit exceeding 100 rials Sultanate of Oman. (n.d.).

The penal order is issued by the competent court at the request of the Public Prosecution, but the court is not bound by this request and has the authority to refuse to issue the penal order if it deems that the case cannot be settled without an investigation or a hearing, or that the act warrants a more severe penalty Sultanate of Oman. (n.d.).The Public Prosecution also has the authority to issue a penal order in the aforementioned crimes, provided there is no civil plaintiff, as the Public Prosecution is not authorized to rule on compensation, restitution, or expenses under the penal order system (Art. 145). Consequently, if there is a civil plaintiff, the Public Prosecution's only option is to request that the competent court issue the order. As for the penalty, the maximum penalty that a penal order can include is a fine not exceeding 100 rials.

Finally, the legislator has permitted challenging the penal order. This can be done by the parties to the case if it is issued by the Public Prosecution, and by the Public Prosecution and the other parties if it is issued by the court. The effect of the challenge is that the order is considered as if it never existed, and the case is reheard through ordinary procedures. However, if the appellant fails to appear, the penal order regains its executive force and becomes final and enforceable Sultanate of Oman. (n.d.).

Although the penal order system is one of the important alternatives to public proceedings and helps alleviate the burden on the criminal justice administration—which is consistent with modern trends in criminal policy at the procedural level Jalal, M. T. (n.d).it involves a departure from the general rules of trial. On the one hand, it allows the court to issue the order without a hearing and based on the preliminary inquiry report, meaning without summoning the parties and hearing their pleas. This violates the principles of publicity and confrontation, which is considered a breach of the guarantees of defense. On the other hand, it gives the Public Prosecution the authority to issue the penal order, even though it is a party to the case. Consequently, when issuing the penal order, the Public Prosecution combines the functions of prosecution, investigation, and trial, which are different in nature. This is considered a breach of the principle of functional separation and the principle of the judicial nature of punishment Jalal, M. T. (n.d.).

However, this can be justified by the low seriousness of the crimes and the penalties for which it is issued, which are limited to a fine not exceeding 100 rials. The fact that the order may include a judgment for compensation, restitution, and expenses does not detract from this, as long as it is subject to challenge, and this challenge has the effect of nullifying it and leading to a retrial through traditional procedures. This is considered a form of procedural individualization derived from the nature of the crime.

2. Summary Criminal Procedures for Check Crimes:

These procedures, introduced by the Law issued under Royal Decree No. 125 of 2020, apply to pure check crimes—that is, those not associated with other crimes. These procedures are in line with the philosophy of the check as a payment instrument and in appreciation of the important role it plays in economic transactions. This requires providing more criminal protection for the trust in this instrument to ensure its effectiveness, which necessitates a special procedural individualization to achieve these goals. This is the approach taken by the aforementioned decree through its approval of simple and swift procedures. This is demonstrated through:

- Trial duration: Which may not exceed 30 days, extendable once, unless there is a challenge of forgery or a claim of theft of the check (Art. 23). This is the same period in which the judgment must be issued in the event of an appeal or opposition.
- Judgment filing: A copy of the judgment signed by the judge and the court secretary must be filed within 7 days of its issuance, contrary to the period specified for all other judgments, which is 15 days, as stipulated in Article 222 of the Code of Criminal Procedures.
- Court's obligation to rule on the civil case: The court is obliged to decide on the civil case if it convicts the defendant. It may not refer the civil case to another court for a decision (Art. 23) Sultanate of Oman. (n.d.).
- .
- Second Branch - Procedural Individualization in the Rules Related to Appeal
- Most modern procedural systems adopt the principle of two-tiered litigation as one of the guarantees of a fair trial. A key premise of this principle is the existence of methods of appeal that ensure the transfer of a case from a lower stage to a higher one. The fundamental rule is that appealing judgments should be guaranteed for all judgments and according to specific rules that apply equally to everyone. However, procedural legislations have departed from these rules for objective considerations derived from the principles of procedural individualization, which takes several forms, including:
- Shortening appeal periods in certain cases: The Omani legislator has followed this approach with regard to check crimes, by making the appeal periods for opposition and appeal against judgments issued in check cases shorter than those set for other crimes. This is based on considerations derived from the seriousness of these crimes and their breach of the trust that a check, as an instrument of payment, must have in order to perform its designated role in serving society.
- Limiting the methods of appeal for judgments: The Omani legislator has also followed this approach with regard to check crimes, by closing the door to appealing judgments issued by the Court of Appeal to the Supreme Court and limiting appeals to opposition and appeal only. This is for the aforementioned considerations.
- Departing from the principle of the suspensive effect of an appeal: Under this principle, judgments are not executed as long as an appeal is possible or pending. All procedural legislations have adopted this principle, but to varying degrees. Some have adopted it absolutely, such as the Syrian legislator in all methods of appeal Code of Criminal Procedure. (n.d.).while other legislations have adopted it to a limited extent, such as the Omani legislator who adopted it—as a general rule—in Article 284 of the Code of Criminal Procedures Code of Criminal Procedure. (n.d.). but made exceptions to its scope and mandated the execution of the following judgments despite their appeal:
    - Appeals before the Supreme Court, except for appeals against death sentences, do not prevent the execution of the judgment, unless the court decides otherwise (Art. 256 of Procedures).
    - Judgments issued with a fine and expenses.
    - Judgments of imprisonment for theft or against a repeat offender or a defendant with no known place of residence in the Sultanate.
    - Imprisonment sentences unless the convicted person provides a guarantee that if he appeals the judgment, he will appear at the session and not evade the execution of the judgment that is issued.

Finally, the legislator has allowed the court to order the provisional execution for the civil plaintiff when a judgment for compensation is issued in their favor, even if the judgment is appealed, provided a guarantee is provided. The court may also exempt the judgment-holder from the guarantee (Art. 284 of Procedures).

Part 2 - Personal Procedural Individualization

This is individualization derived from a specific status of the offender, which is manifested through a departure from the general rules of prosecution, investigation, case disposition, trial, and appeal of judgments. This is evident in juvenile cases and crimes committed by certain adult groups in society, such as judges, members of the legislative authority, officials, and military personnel. This study will cover this by examining individualization in juvenile cases and individualization in adult cases in the following two branches.

Part 1 - Personal Procedural Individualization in Juvenile Cases

- The phenomenon of juvenile delinquency has received significant attention at both the international and national levels. The result has been the emergence of a wide system of international treaties and agreements that have formed an important framework and source for national legislations regarding both types of individualization United Nations. (1985). United Nations. (1989).. United Nations. (1990).
- on reform measures as an alternative to punishment for most criminal acts committed by juveniles, and using mitigated penalties only in the narrowest of circumstances State of Kuwait. (2015)..and procedural individualization, which is a set of special procedural rules for the prosecution, investigation, trial, and execution of judgments issued against delinquent juveniles.

National legislations have responded to this on varying levels through special laws for juveniles, which are predominantly procedural. These laws show features of procedural individualization derived from society's interest in providing procedural protection for the juvenile. This is an extension and support for the punitive individualization stipulated in the substantive rules, which makes it more capable of achieving its purposes. We will attempt below to study the Omani legislator's approach to this type of procedural individualization to highlight the features of this approach in the procedures followed in juvenile cases and the extent of its response to the standards and guarantees approved by international treaties and conventions.

First Branch - Individualization Rules Related to Prosecution

We will cover the set of procedures related to the initiation and termination of the case, investigation, and its disposition.

Firstly - Rules for Initiating Public Proceedings:

Article 1 of the 1989 International Convention on the Rights of the Child defined a child as: "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier." In a similar way, Article 1/d of the Omani Juvenile Accountability Law issued by Decree 30/2008 defined a delinquent juvenile as: "one who has reached the age of nine but not eighteen and has committed an act punishable by law." It is noted that the aforementioned convention was content with defining the maximum age for childhood without the minimum, contrary to Omani law, which defined both the maximum and minimum age for juvenility as reaching the age of nine. This can be interpreted as Article 1/d of Omani law regulating the provisions of criminal responsibility for the delinquent juvenile. The delinquent juvenile, in the specific meaning of this text, is one who has reached the age of nine but not eighteen and has committed an act punishable by law. The aforementioned convention, on the other hand, defined a child in general terms; that is, a child who has not committed a criminalized act. Thus, the Omani legislator has set the age of criminal discernment at reaching the age of nine Kuwait. (2015).

Syria. (1974).

Perhaps this is confirmed by the text of Article 49 of the Omani Penal Code, which states: "A person who has not reached the age of nine at the time of committing the crime shall not be held criminally responsible..." This provision may, on its face, seem to not allow the prosecution of a juvenile who has not reached the age of nine, or the initiation of a public case against them if they commit a criminalized act. However, Article 18 of the Juvenile Accountability Law dispels this understanding, because it allows for the imposition of one of the care measures specified in paragraphs A-B of Article 15 on a juvenile at risk of delinquency, who is defined in Article 3/z as a juvenile who has committed an act that constitutes a felony or misdemeanor and was under the age of nine. This indicates the possibility of prosecuting a juvenile who has not completed the age of nine and initiating a public case against them, because the imposition of care measures is within the jurisdiction of the Juvenile Court (Art. 1/w), and this court cannot impose any measure, penalty, or procedure unless the public case is pending before it.

Based on this, it can be said that being a minor or not reaching the age of nine is not an impediment to initiating a public case and imposing certain measures in Omani legislation, unlike other legislations that prohibit the prosecution of a juvenile and the imposition of any measure if they have not reached the age of criminal discernment Syria. (1974). We believe that the approach taken by the Omani legislator, which is based on distinguishing between accountability and prosecution, is closer to the requirements of procedural individualization for juvenile cases, because prosecuting a juvenile for crimes they commit before reaching the age of nine and imposing the care measures stipulated in the Juvenile Law is an opportunity that should not be missed to treat the juvenile's delinquency at an early stage before it escalates and becomes more serious. This is taking into consideration that the special nature of the measures prescribed for juveniles, in their variety, are rehabilitative means and not punishments aimed at inflicting pain, which undoubtedly achieves a direct interest for this juvenile and an indirect interest for society.

However, despite the absence of a specific text, we believe that the rule of prosecuting a juvenile for crimes they commit before reaching the age of nine is not absolute. It is not reasonable for the legislator to accept prosecuting a juvenile who is five, six, or younger, because care measures have specific goals and purposes, and imposing these measures at a very early age would be misplaced and would not achieve its purposes, due to the lack of sufficient awareness and understanding of the meaning and goals of these measures on the part of the juvenile at a very early age. Therefore, we believe that despite the absence of an explicit text, a juvenile who has not completed seven years of age at the time of committing the crime cannot be prosecuted and have any measures imposed on them. This is the age of civil discernment adopted by most legislations with regard to civil liability

Kuwait. (2015.

Qatar. (1994).

because this age is the dividing line between discernment and its absence, and prosecuting an indiscriminating juvenile would not be effective, and the lack of discernment here is a legal presumption that cannot be rebutted.

In any case, one of the most prominent features of procedural individualization in prosecution in juvenile legislations is the principle of specialization in prosecution. For example, Article 6 of the Omani Juvenile Accountability Law, which designated a special police force for collecting preliminary evidence in juvenile cases and arresting those who are delinquent or at risk of delinquency, and Article 7 of the same law, which stipulated that the investigation procedures in juvenile cases and the initiation of public proceedings before the court shall be handled by specialized members of the Public Prosecution.

Secondly - Rules for the Termination of Public Proceedings in Juvenile Crimes

Public proceedings generally terminate due to the death of the accused, a general pardon, withdrawal of a complaint, and the statute of limitations.

1. Death: Its effects in juvenile cases do not differ from those in adult cases, as it is a cause for the termination of the proceedings in all circumstances.

2. Pardon: Some legislations have explicitly excluded the effects of a pardon from the scope of juvenile cases, specifically regarding the measures prescribed in juvenile cases, but not the punishments, unless the legislator explicitly states otherwise Syrian Arab Republic. (1949). The Omani legislator does not differ from other legislations in excluding the effects of a pardon on measures and limiting it to punishments only. This is explicitly stated in Article 52 of the Penal Code, which provides: "A general pardon shall be issued by a Royal Decree and shall erase the crime and its effects, and shall terminate all original, dependent, and complementary punishments." However, regarding the effects of the pardon on the crime or the public proceedings, although

it is intended to erase the crime and its effects and terminate the public proceedings, this does not include juvenile cases. This is implicitly understood from the text of Article 52 of the General Penal Code, which defined the effects of a general pardon, and our evidence for this is:

- Acts of delinquency are not necessarily crimes or acts punishable by law. Article 3 of the Omani Juvenile Accountability Law provides for a set of behaviors and acts that label the juvenile who commits them as a "juvenile at risk of delinquency," and exposes them to the care measures stipulated in Article 15 of the mentioned law, even though most of them are not crimes in the legal sense Syrian Arab Republic. (1974).
- Consequently, the effects of a pardon apply to crimes, and these acts are not crimes, so the effects of a pardon do not extend to them.
- Acts punishable by law and committed by juveniles cannot be described as crimes in the first place, because the description of a crime is a value judgment on acts punishable by law and committed by adults who have sufficient mental capacity and discernment for criminal responsibility. Therefore, even though these acts are punishable by law, the effects of a general pardon do not extend to them because they are not crimes.

Based on this, we believe that a general pardon—to begin with—does not terminate public proceedings in cases where a judgment can only be issued with one of the legally prescribed measures, such as when a juvenile under sixteen commits a crime Syrian Arab Republic. (2021).

or in cases where both a punishment and a measure can be imposed. In such instances, the effect of the pardon will be limited to the punishment only, not the measure, due to the nature of measures being different from punishments. Measures do not involve inflicting pain; rather, they are therapeutic means for the juvenile's rehabilitation Jawkdar, H. (n.d.).

Exempting them from these measures is not in the juvenile's interest. On the contrary, their implementation benefits the juvenile by rehabilitating them and preventing them from future delinquency. Additionally, the imposition of measures is not necessarily linked to the commission of a crime, as there are cases where a measure is imposed on a juvenile at risk of delinquency, and the acts that place the juvenile at risk of delinquency are not crimes in the first place Sultanate of Oman. (2014).

3. Withdrawal: A distinction should be made between withdrawing the civil lawsuit and withdrawing the complaint. Withdrawing the civil lawsuit is not even conceivable in legislations that do not accept civil lawsuits before juvenile courts, such as Omani legislation Sultanate of Oman. (2014). However, we note here that not accepting a civil lawsuit before the juvenile judiciary does not—in our opinion—mean not accepting a complaint, because a complaint differs from a civil claim in nature, capacity, and purpose Sultanate of Oman. (1999).. But in our belief, the withdrawal of a complaint will not lead to the termination of public proceedings, even in crimes that require a complaint, for the same reasons we detailed earlier regarding the effects of a pardon. As for other legislations where a civil lawsuit is accepted before juvenile courts, such as the Syrian Juvenile Law, withdrawing the civil lawsuit or the complaint also, in our view, does not affect public proceedings, for the reasons we have previously explained.

4. Statute of Limitations: Some legislations have established special rules for the statute of limitations on punishable acts committed by juveniles. Article 55 of the Syrian Juvenile Law No. 18 of 1974 reduced the statute of limitations periods, for both public proceedings and penalties, to half the periods prescribed for adult crimes Sultanate of Oman. (2014). As for crimes committed against juveniles, other legislations, such as Moroccan and Algerian law, in their efforts to provide more protection for juveniles, went even further by deciding to postpone the start of the statute of limitations until after the victim reaches the age of majority Zeino, S. M. (2018).

The French legislator did not stop there, but also approved longer limitation periods for public proceedings in some crimes committed against a juvenile, extending them to 10 years for misdemeanors and 20 years for felonies French Republic. (n.d.).

We, for our part, believe that the eagerness of these legislations to provide more protection for juveniles is not sufficient and does not justify what they have done, because postponing the start of the statute of limitations and extending its duration conflicts with the most important rationales for the statute of limitations, which is based on forgetfulness due to the passage of time, which makes prosecution futile, and thus burdens the criminal justice system with lawsuits that are often not worth pursuing. Similarly, the argument that these juveniles are unable to defend themselves due to their youth, or the absence of a legal representative, or a conflict of interest between them and their legal representative, is not sufficient—in our opinion—to justify the approach taken by these legislations. These obstacles can be overcome by giving the Public Prosecution the right to represent them and initiate the case on their behalf, an approach adopted by some legislations Sultanate of Oman. (1999).

Thirdly - Investigation of the Case: Juvenile legislations agree on the principle of specialization in investigation, limiting it to specific members of the Public Prosecution or investigating judges, but they differ on the necessity of investigation. Some juvenile legislations have permitted resorting to investigation in all criminalized acts committed by juveniles, whether they are felonies or misdemeanors Sultanate of Oman. (2014). while other legislations have limited the scope of investigation to felonies and some misdemeanors Syrian Arab Republic. (1974).Despite the limited use of imprisonment penalties in juvenile legislations, these legislations permit pre-trial detention in the narrowest of limits, as a last resort, for a short period, and in specialized places Sultanate of Oman. (2014).while providing the necessary care and protection for the juvenile United Nations. (1985).

Fourthly - Disposition of the Case: This is usually done by closing the file, terminating the investigation, or referring it to the competent juvenile court, whether the crime was committed by one juvenile or several. The disposition of the case in this situation does not raise any notable issues, as it is done according to the general rules. However, the problem arises in cases where a juvenile commits a crime with adults. Juvenile legislations have differed in how they address this, taking one of two approaches:

- The first: This approach adopts the principle of the absolute jurisdiction of juvenile courts. Under this approach, a distinction is made between the contributors to the crime: the juveniles are referred to the competent juvenile courts, and the adults are referred to their competent courts. This approach is credited with preserving the guarantee that comes from a trial before a judiciary specialized in juvenile cases. Its drawback, in our opinion, is that separating the contributors to a single crime leads to a violation of the principle of the indivisibility of the criminal incident, which requires a single judicial authority to hear the case, regardless of the contributors, to ensure that the judgments are not contradictory Syrian Arab Republic. (1974).
- The second: This is the mixed approach, adopted by the Omani legislator, which uses the juvenile's age as a criterion to determine jurisdiction regardless of the type of crime (felony or misdemeanor). Accordingly, if the age of the juvenile who contributed to the crime is under 16, a distinction is made between these contributors, and the juvenile is referred to the juvenile judiciary, while the adults are referred to their competent judiciary. However, if the juvenile's age is over 16, they are referred with the other contributors to the court competent to try adults, provided that this court applies the Juvenile Accountability Law to the crime attributed to the juvenile. The approach followed by the Omani legislator in this regard is distinguished by the fact that it avoids the flaws of the first approach. While it involves a breach of the principle of the indivisibility of the incident, this is harmless as long as this separation between the juvenile and the rest of the adult contributors occurs at a stage before the age of sixteen, and all crimes committed by the juvenile during this period are met with measures Sultanate of Oman. (2014). and no punishments can be imposed. On the other hand, even if the court to which the case is referred is competent to try adults, it is obligated to apply the Juvenile Accountability Law and all the guarantees stipulated in that law.

Second Branch - Rules of Procedural Individualization Related to Trial and Appeal

At this stage, the features of personal procedural individualization become clear through the special rules for trial and appeal, which we will highlight in turn.

Firstly - Trial Rules:

Most juvenile legislations tend to assign the function of judgment in juvenile cases to specific courts within the judicial framework. This is due to the special nature of these cases, which, in addition to professional legal qualifications, requires sufficient scientific qualifications in sociology, education, and psychology to understand the juvenile's psychology and the causes of their delinquency Sultanate of Oman. (2014). This has led some legislations to go further by adopting a mixed judiciary that combines legal qualifications with scientific expertise. The Syrian legislator has adopted this approach in the formation of juvenile felony courts, which are presided over by a judge and include two members with postgraduate degrees nominated by the ministries of education, social affairs, and labor Syrian Arab Republic. (1974). Some have criticized this approach, viewing it as a diminishing of the guarantee of a community-based judiciary because the non-judge members of these courts lack sufficient legal experience and knowledge, thus placing the burden of legal aspects on the presiding judge Al-Hunais, A. J. (2012).It seems that some legislations have recognized this problem and have adopted a mixed composition for the juvenile judiciary, where juvenile courts are composed of a number of judges in addition to a number of social experts. This ensures a combination of the guarantee of a community-based judiciary and the guarantee derived from specialization in social sciences State of Kuwait. (2015).

Other features of individualization at this stage include the confidentiality of trial sessions, the prohibition of publishing trial proceedings, and the invitation of the juvenile's guardian to attend the trial sessions with the juvenile, with the exception of the judgment pronouncement session Syrian Arab Republic. (1974).)and the exemption of the juvenile from attendance, fees, and expenses.

Secondly - Appeal Rules:

Juvenile legislations are keen on the swift execution of judgments containing care and reform measures because any delay in their execution diminishes their value and misses their purpose, given the rapid changes and developments that occur in a juvenile's personality. Therefore, a measure suitable for a juvenile at one point in time may not be so at another. Achieving this goal requires narrowing the scope of appeal, which juvenile legislations have followed in different ways, including:

- Excluding opposition to in-absentia judgments issued in misdemeanors and violations committed by juveniles who have not reached the age of sixteen. This is the approach taken by the Omani legislator, and the reason is undoubtedly that the only penalty in this case is one of the care or reform measures (Art. 27). It would have been better if the Omani legislator had limited the penalty in all misdemeanors and violations committed by a juvenile—whether they have reached sixteen or not—to care and reform measures Syrian Arab Republic. (1974).
- Disregarding the principle of the suspensive effect of appeals: This is especially true for judgments containing measures. These measures, according to Article 42 of the Omani Juvenile Accountability Law, are mandatory to be executed as soon as the judgment is issued, and an appeal to the Court of Appeal or the Supreme Court does not suspend their execution.
- Disregarding the principle of res judicata, which a judgment acquires after exhausting or missing the prescribed methods of appeal. This is evident in judgments that include measures. Most juvenile legislations agree that a judgment becoming final does not prevent the court that issued it from re-examining it for annulment or amendment Syrian Arab Republic. (1974).

Part 2 - Personal Procedural Individualization in Adult Cases

Procedural systems have followed a specific approach in the prosecution and trial of crimes committed by certain groups in society. This is based on special personal considerations derived from the nature of the function they perform, which requires special rules for prosecution and case initiation, as seen in procedural immunities. In addition, there are crimes committed by other groups that require special rules, not only in prosecution but also in investigation, trial, and all procedures, as seen in military justice laws that contain special rules for prosecution, investigation, trial, court formation, etc., which this study will address.

First Branch - Procedural Immunities

These are restrictions on the Public Prosecution's freedom and discretionary authority to initiate public proceedings in some crimes committed by certain state officials. They prevent their prosecution unless permission is issued by the competent authority.

The principle is that individuals are equal before the law, and there should be no discrimination in prosecution. Despite this, the majority of legislations have departed from this rule and have granted procedural immunity to certain individuals for considerations derived from the public interest, which requires protecting them from malicious lawsuits or being influenced, so that they can perform their duties in the optimal and desired manner.

Procedural immunities are divided into four types: parliamentary, judicial, administrative, and diplomatic immunity. Individualization for these categories is limited to prosecution only. Otherwise, they are subject to the general rules of investigation, trial, and methods of appeal followed in all crimes. The Omani legislator has regulated the provisions of these immunities within rules that we summarize below:

Firstly - Parliamentary Immunity:

This is the immunity granted to the members of the Council of Oman, including both the State Council and the Shura Council, by virtue of Articles 28-29 of Royal Decree No. 7 of 2021. This immunity is of two types: substantive, stipulated in Article 28, which prevents holding a member criminally or civilly accountable for opinions or statements they express before the Council, its office, or its committees on matters within the Council's jurisdiction Sultanate of Oman. (2021)..and procedural, which—in cases other than flagrante delicto—prevents the prosecution of a member or the taking of any criminal procedures against them without a special permission issued by the Council during its sessions, or by its president outside of its sessions Sultanate of Oman. (2021).

Secondly - Judicial Immunity:

This is the immunity granted to judges by virtue of Articles 87-88 of the Judicial Authority Law issued by Royal Decree No. 90 of 1999, and Article 9 of the Public Prosecution Law issued by Royal Decree No. 92 of 1999. This immunity includes all judges of all ranks and all members of the Public Prosecution, except for assistants Sultanate of Oman. (2011).

Judicial or parliamentary immunity is linked to the status, existing with it and ceasing without it. As long as a person holds parliamentary or judicial status, they enjoy immunity, regardless of the date the crime was committed. If the crime was committed before acquiring the status and was discovered after acquiring it, prosecution is not permitted. Conversely, if the crime was committed while holding the status, there is nothing to prevent prosecution after the status has lapsed or ceased, unless the case has terminated due to one of the reasons for termination, such as the statute of limitations or a pardon. This is because the purpose of judicial and parliamentary immunity is to protect the member from any influence or threat that prevents them from performing their work. If their mission ends or their status ceases, this immunity ends, and it is no longer justified, and prosecution is permitted.

It should be noted, however, that the Omani legislator, in the context of judicial immunity, has followed a different approach from its approach to parliamentary immunity. The scope of substantive immunity is more comprehensive than the scope of parliamentary immunity. Judicial immunity covers all crimes, whether in a state of flagrante delicto or in ordinary circumstances. In a state of flagrante delicto, the immunity is limited to the matter of pre-trial detention only. Article 87 of the Judicial Authority Law permitted the arrest and detention of a judge in a state of flagrante delicto, provided that the matter is referred to the Supreme Judicial Council within the following twenty-four hours. The Council, after hearing the judge's statements, can either decide to release him on bail or without bail, or to continue his detention for a specified period Sultanate of Oman. (1999). In ordinary circumstances, the immunity is comprehensive, covering all procedures, especially the initiation of a lawsuit, which cannot be taken before a permission is issued by the Supreme Judicial Council. This is unlike parliamentary immunity, which is limited to crimes not in a state of flagrante delicto. We consider this to be a special form of individualization within the framework of procedural immunities granted to members of the legislative and judicial authorities. It is an individualization derived from the needs of each type of immunity and the degree of protection required for each.

Thirdly - Administrative Immunity:

This is the immunity granted to public officials for crimes related to their job with a causal link, where it is proven that the official would not have committed the crime had it not been for the job Jawkdar, H. (n.d.).

This immunity restricts the Public Prosecution in initiating a public case, but within a limited scope of job-related crimes, unlike judicial and parliamentary immunities, which cover all crimes, whether job-related or not. However, it does not differ from them in its nature and rationale. It is a procedural individualization derived from objective considerations related to the public interest, which requires granting the administration the discretion and authority to decide on the suitability of initiating a lawsuit in crimes committed by an employee, as it is more capable of doing so than the Public Prosecution.

The Omani legislator first introduced this immunity under Royal Decree No. 69 of 2022, which amended some provisions of the Code of Criminal Procedures. The scope of this immunity is limited to the crime of deliberately refraining from or obstructing the execution of a judicial judgment, decision, or order as stipulated in Article 230 of the Penal Code only Syrian Arab Republic. (n.d.).As for the officials, this immunity is limited to the heads of administrative units of the state and other public legal entities. Under this, a lawsuit cannot be initiated against them without permission from the competent authority. The permission is issued by the Council of Ministers for the heads of the administrative units of the state, and the request for permission is submitted by the Public Prosecutor based on a request from the aggrieved party, accompanied by supporting documents Syrian Arab Republic. (1990).

Second Branch - Individualization in Crimes Committed by Military Personnel

The idea of a separate law for military personnel has sparked intense debate. Some argue that this specialization contradicts the principle of equality, which opposes distinguishing a certain group with its own special rules. Others believe that a special criminal law for military personnel is justified by the unique nature of the military institution, which is fundamentally based on obedience and discipline. This requires swift resolution of cases to achieve both general and specific deterrence, thereby maintaining discipline. A third view supports the idea of a special law for military personnel only during wartime.

It appears that the debate over a special law for military personnel has been settled in favor of the second opinion, establishing military criminal law as a significant part of any legal system.

Countries have adopted different approaches to organizing the rules of military criminal law. Some have gone too far with the idea of specialization, not only subjecting all military personnel to a single law but also enacting separate military laws for ground forces, naval forces, and air forces. This was the situation in French legislation until the Military Justice Law No. 65/542 of 1965, which established a unified legislation to be applied to the ground, naval, and air forces. This is the approach adopted by most contemporary legislations.

Finally, some legislations have enacted two military laws: one substantive, which covers crimes against the security and order of the armed forces and their prescribed punishments, and a second procedural law, which includes the necessary procedures for prosecution, investigation, trial, etc. The Iraqi legislator followed this approach in Laws 13 of 1940, which includes the Military Penal Code, and Law 44 of 1941, which includes the Code of Military Procedures, as did the Libyan legislator in Laws 49 and 50 of 1956. In contrast, the majority of legislations have followed a plan based on combining the substantive and procedural rules for military crimes in a single codification. This is the approach followed by the French, Egyptian, Lebanese, Syrian, and Omani legislators in the Military Justice Law issued by Royal Decree No. 87 of 2022.

With the exception of jurisdiction rules, the procedural rules included in this law do not differ much from those included in the Code of Criminal Procedures in terms of litigation stages, methods of appeal, and the execution of judgments. This law refers to the Penal Code and the Code of Criminal Procedures for anything not specifically addressed. As for the jurisdiction rules, the legislator has followed a specific plan under which the jurisdiction of the military judiciary—as a general rule—is limited to the trial of military personnel and those treated as such, and the trial of civilians in the narrowest of limits. This makes this law closer to specialization than to exceptional justice, on the one hand, and consistent with the principle of the natural judge, which guarantees the accused's right to be heard by their natural judge, on the other hand, because the military judiciary is the natural judge for the military class. This is evident in the general and special jurisdiction rules included in this law, which show the features of procedural individualization that we detail below.

Firstly - General Jurisdiction Rules:

The general jurisdiction of the Omani military judiciary is determined based on one of two criteria:

1. The Personal Criterion: Under this criterion, the military judiciary has general authority over the categories subject to this law in all crimes stipulated in the Military Justice Law. Article 14 of the Military Justice Law specified these categories, stating: "The following categories shall be subject to the provisions of this law, even if they leave the service, whenever the crimes, at the time or place of their occurrence, fall within its jurisdiction, or are related to job secrets, unless the statute of limitations has passed:

1. Members of the Armed Forces and security forces, including officers, other ranks, civilians, and students of military colleges, institutes, and training centers.
2. Retired officers, other ranks, and civilians.
3. Reserve forces as soon as they are called up for military service.
4. Volunteers for military service.
5. Prisoners of war.
6. Members of friendly or allied forces, or those on secondment or sent for training or contractors, if they are on the territory of the Sultanate of Oman, unless an agreement concluded otherwise provides.

2. The Substantive Criterion: This is specified in Article 15 of the Military Justice Law and includes:

1. The crimes stipulated in this law. These are the crimes specified in Part Two of Section Three of this law, Articles 84 and following Syrian Arab Republic. It is noted that these crimes are not of a single nature. Some are purely military crimes—that is, they cannot be committed by non-military personnel, such as crimes of rebellion and disobedience. Others are mixed crimes—that is, they can be committed by military and civilians alike, such as war crimes, genocide, abuse of authority, and dereliction of duty. For these crimes, jurisdiction falls to the military judiciary if the perpetrator is from the military category. If the perpetrator is a civilian, jurisdiction is held by the ordinary judiciary. This was confirmed by Article 15 of this law, which states: "Without prejudice to the provisions of Article (14), the military courts alone shall have jurisdiction to consider the following crimes...," and Article 14 limited the jurisdiction of the military judiciary to military personnel and those treated as such.
2. Crimes stipulated in the Penal Code or any other law, which are committed in camps or other military or security areas.
3. Crimes committed because of or during the performance of official duty.

4. Crimes affecting state security from within or without, as stipulated in the Penal Code, committed by military personnel. Deputy Prime Minister. (2025).

Secondly - Special Jurisdiction Rules:

The Omani legislator in the Military Justice Law has departed from the general rules of jurisdiction, which are limited to military personnel, by extending its jurisdiction to the trial of civilians in two cases:

1. Comprehensive Jurisdiction: This applies when a state of emergency or general mobilization is declared. Article 16 of this law permits the Commander-in-Chief to refer the perpetrator of any crime to the military judiciary, even if they are not subject to the provisions of this law.

2. Partial Jurisdiction: This applies in the case of joint commission of a crime by a civilian and a military person. However, the jurisdiction of the military judiciary in this case is limited to investigation only, not trial. This means that when the investigation is concluded, a distinction is made between the civilian and the military person. The civilian is referred to the competent ordinary criminal judiciary, and the military judiciary continues the procedures and trial against the military person Syrian Arab Republic. (n.d.).

The legislator's plan in this regard undoubtedly guarantees the accused's right to be heard by their natural judge, but on the other hand, it leads to the fragmentation of the incident, which may result in contradictory judgments.

3. Conclusion

In this research, we examined the topic of procedural individualization, including its nature, concept, definition, importance, and historical context. We then presented the criteria for procedural individualization and its most significant applications in Omani and comparative legislation. The research has yielded several findings and recommendations, which we summarize as follows:

4. Findings

- Procedural individualization is an integral part of punitive individualization; in fact, it is an extension of it, and without it, punitive individualization would not be able to achieve its goals.
- Although procedural individualization is a departure from the general rules of criminal procedure, its ultimate goal is the same. It achieves the same objectives but through different means.
- In Omani legislation, the part of procedural individualization related to prosecution, investigation, trial, and appeal keeps pace with developments in modern legislations. However, the part related to the management of public proceedings still lags. The Omani legislator remains at the stage of the penal order as an alternative to a lawsuit, and even then, within very narrow limits, while some legislations use multiple alternatives, such as criminal mediation, reconciliation, and the use of administrative sanctions.
- The withdrawal of a complaint in crimes that require it has different effects in Omani legislation. As a general rule, the legislator requires the withdrawal to occur before a final judgment is issued, in which case it results in the termination of the public proceedings. However, in certain crimes, the legislator recognizes the effects of the withdrawal even if it occurs after a final judgment has been issued, sometimes resulting in the suspension of the execution of the penalty and at other times the suspension of the execution of the judgment. This variation in effects is a specific form of individualization within the general framework of complaints.
- The role of the victim or the injured party in public proceedings is very limited. They cannot compel the Public Prosecution to initiate public proceedings, even in crimes that require a complaint from the victim to initiate the proceedings.
- In cases of joint criminal participation, the Omani legislator has adopted the age of the juvenile as a criterion for procedural individualization related to the distribution of jurisdiction between juvenile courts and ordinary courts. This is in contrast to the criterion of individualization related to jurisdiction in some other legislations, which is based on the principle of the absolute jurisdiction of the juvenile judiciary over all juvenile crimes.

- A general pardon has no effect on public proceedings and the measures prescribed in the Juvenile Accountability Law.
- The Omani legislator's approach to military justice is closer to the idea of functional specialization than to exceptional justice. This approach generally guarantees the accused's right to be heard by their natural judge.

5. Recommendations

- Adopt other alternatives to public proceedings in addition to penal orders, such as mediation and administrative sanctions imposed by the administration, especially for violations and misdemeanors. This would alleviate the burden on the criminal justice administration, allowing it to focus on more important cases, which in turn would positively affect the quality of its performance.
- Enhance the role of the victim or the injured party by giving them the right to direct prosecution before the competent authority and compelling the Public Prosecution to initiate public proceedings, while preserving its discretionary power in the disposition of the case. This would provide a form of oversight over the Public Prosecution's performance and ensure that the rights of crime victims to receive compensation are upheld.
- Separate the functions of prosecution and investigation in public proceedings, either within the Public Prosecution itself or through a system of an investigating judge. We favor the latter system because it is an important guarantee of the right to defense and is followed in many legislations.
- Adopt the principle of comprehensive jurisdiction for the juvenile judiciary, so that it covers all juvenile cases regardless of the juvenile's age.

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