DOCTOR OF PHILOSOPHY

Minors' crimes in Saudi Arabia

Analytical thematic study on Saudi juveniles' system

Alotaibi, Hajed Abdulhadi S

Award date:
2018

Awarding institution:
Bangor University

Minors' crimes

in Saudi Arabia

Analytical thematic study on Saudi juveniles' system

By

Hajed Abdulhadi Alotaibi

Thesis submitted in fulfilment of the requirement for

the degree of Doctor of Philosophy

School of Philosophy and Religion

Bangor University

March 2018

Table of Contents

List of tables

Abstract

As a paralegal in Saudi Arabia for some years, I observed a number of thematic problems related to the Saudi Arabian juveniles' system. These problems concern the lack of codification/consolidation or Tadwin, unclear determination of the age of puberty, misclassification of juveniles' crimes and gross inconsistency in the penalties meted out. This study employs a mixed methodology which involves analytical and statistical approaches to the problem. Judicial applications from three courts in Riyadh were examined to clarify the traditional classification for juveniles' crimes (i.e. Hudud, Qisas and Ta'zir crimes). Specifically, under the Hudud crimes, I investigate four crimes: adultery, drugs and alcohol offences, Hirabah (armed robbery), and theft. Additionally, details of 271 cases within the period from June 2010 until about June 2015 were gathered.

The purpose of this research is to identify the extent to which the Saudi juveniles' justice system recognises minors at the courthouse. In so doing, it identifies four substantial problems: the codification of the Saudi juveniles' system, determining the age of criminal liability, categorisation of juveniles' crimes, and inconsistency in punishment. The results show some important outcomes. First, cases of Zina (adultery and fornication) are unclearly archived under the term "Fahishah" in a number of verdicts of my records. However, the term Fahishah is used interchangeably in these cases to indicate Zina (adultery), Liwa't (homosexuality) or prostitution in general. This means that there is no quality control over the classification of crimes. Similarly, the term Hirabah (highway/armed robbery) involved many sub-types that are classified Hirabah without any specific criteria given. The researcher found just 17 types already titled as Hirabah crimes. Consequently, misclassifying juvenile and punishment can be one reason for mixing juveniles' and adults' legal affairs, such as when juveniles' cases are transferred to the general or criminal courts without logical reason.

Secondly, none of the laws pertaining to juveniles in Saudi (namely, the law requiring the provision of social observation houses for boys and care institutions for girls that was passed in 1975), has addressed the problem of the codification of the juveniles' system. The judges in juveniles' cases have never depended on the alleged juveniles' Nizam (i.e. law), let alone their irrelevance to juveniles' legal and judicial matters. Therefore, some juveniles were subject to capital punishment, as occurred at least three times in 2014. Thirdly, huge variations exist between statutes (for example, the age of puberty is 18 years old for boys while it is 30 years old for girls) and what is happening in reality (15 years old, or even earlier). Therefore, we see contradicted practices, such as people older than 18 years of age being prosecuted as juveniles. Moreover, juveniles were prosecuted without mentioning their ages of puberty. Further, women over 18 years old were criminally prosecuted as juveniles.

Fourthly, there is no different classification for juveniles' crimes from those committed by adults in Saudi because the scale behind the classification is the punishment. Hence, the applications clearly

reflect the complexity of the juveniles' system and have led to unexpected verdicts from juveniles' judges in their decisions where, for instance, they exceeded the fixed number of lashes (i.e. if the fixed crimes' conditions were not met). Last but not least, I only found jailing and flogging in the judicial applications related to Ta'zir crimes. Other penalties such as admonition, reprimand, threat, fine and seizure of the property were dismissed or, at least mentioned in very rare cases (statistically they are not sufficient in number to be mentioned or to have been included in the SPSS analysis for this thesis). Accordingly, the tables herewith show that great inconsistencies exist in the discretionary lashes and jail punishments with regard to both genders, except with regard to fixed lashes. There were considerable differences between the discretionary lashes, fixed lashes and jail penalties with regard to the juveniles' associates, the four discretionary crimes and age groupings. However, there were no statistical differences in those three punishments with regard to the juveniles' previous convictions. Thus, I would strongly suggest that the juveniles' justice system (e.g. crime classification and punishment) should be reorganised into distinct procedures, rather than focusing on just penalty.

Acknowledgments

All prayers and thanks are due to Allah, the Lord of the world, and may the peace and blessings be upon Muhammad, the messenger of Allah. I sincerely thank almighty Allah for leading me to complete this thesis successfully. I am truly delighted to take this opportunity to express my deepest gratitude and sincere appreciation to my academic supervisor, Dr Farhaan Wali, for giving me every chance to meet him without reservation, his kind support, constructive suggestions, and encouragement in helping me to achieve the goals of this research.

I also wish to express my respect and thanks to all faculty members and staff of the Philosophy and Religious Studies school at Bangor University for their support and the friendly atmosphere that prevails therein. I would like to extend my thanks to my sponsor, Almajmaa University and the Saudi Ministry of Education for giving me this chance to undertake a scholarship in the UK and also for their generous financial support. Special thanks and appreciation go to my wife Majidah, my sons, Nasser and Thamer, for their love and support. Further, I would like to express my gratitude to my parents, whose prayers always ease my hardship, and my brothers and sisters for their encouragement and loving support during the course of my degree research.

This research has benefitted from many valuable comments and suggestions from a range of conferences, including the 5th International Conference on Interdisciplinary Social Science Studies at St Anne's College, University of Oxford (November, 2016); the International Conference on Research in Arts, Social Sciences and Humanities in Paris (September, 2016); the Law and Religion Scholars Network Annual Conference at Cardiff University (May, 2016); the 6th International Conference on Religion and Spirituality in Society at the Catholic University of America, Washington D.C. (March, 2016).

Finally, my deep appreciation also extends to all those who assisted in finalising this thesis, especially Dr Bertie Dockerill, Nykola Lee and Dr Badi Alotaibi, who carefully read this thesis and provided some valuable comments, suggestions and typographical corrections.

Chapter One: introduction and Literature Review

1.1 Preface

In 2005, ten boys harassed two girls at a place called the Al-nahda Tunnel in Riyadh, Saudi Arabia. According to Alarabiya News (2006), the boys filmed and shared their wrongdoings via Bluetooth and internet websites.[1] The Saudi Press Agency[2] reported that the group of boys was detained based on strong suspicions which resulted from those films. This was done in order to investigate them. Consequently, one of these boys admitted that he committed the harassment and had done so with three other people. Through comparing the voices and pictures with those in the videos, positive matches were established with the defendants. Subsequently, in front of the General Court, the Prosecutor-General accused these four boys, in addition to another six defendants involved in this case (No. 000,271).

To elaborate, the Prosecutor-General accused the first defendant of harassing the two girls and appearing throughout the videos. Additionally, while the second defendant was accused of filming the incident, the third, fourth and seventh defendants were accused of standing by, watching the harassment. The fifth and sixth defendants were accused of touching the girls, while the eighth defendant was accused of giving his telephone number to one of the girls. Finally, the ninth and tenth boys were accused of attending the scene and mocking the girls. At the General Court, the first defendant admitted that the picture which had appeared in the media was him, but it was fake because he did not attend the incident. Similarly, the second, sixth and the tenth defendants denied the allegations, arguing that they were far way away from the Al-Nahda tunnel at that time.[3] As a result, the court decided that since pornographic crimes are increasing in Saudi – a fact that necessitates strong penalties for perpetrators – there would be 12 years' jail and 600 discretionary lashes for the first boy; 10 years' jail and 300 lashes for the second defendant; 7 years' jail and 400 lashes for the third defendant, and 4 months' jail and 300 discretionary lashes for the fourth defendant. However, because the fourth defendant had a heart condition, the judges minimized the prison time. Finally, 6 years' jail and 400 corrective lashes was the punishment given to each of the rest of the defendants.

Alarabiya News was in close contact with the defendants' lawyers; the head of the defence team, Saad Alzuair, claimed that these verdicts were harsh because the judges depended on suspicions without clear and accurate evidence, such as voluntary confessions from the defendants. The accused denied the allegations and also suggested that the accusations were based on minor matters, such as giving their

[1] - Which can still be found here on YouTube at https://www.youtube.com/watch?v=E29TTDuHifI
[2] - Known as WAS among Saudi society.
[3] - They were not at Al-Nahda tunnel when the crime happened.

numbers to the girls or just watching/attending the incident, and therefore did not, deserve strong punishment. This incident had a great impact in Saudi society, particularly amongst religious (Sharia) and legal people.[4] There were many varied reactions to this incident according to an *Alriyadh* newspaper report (2006). Some researchers, such as Zaid Alzaid, the former dean of the Higher Judicial Institute; Alobaikan (2005), the former MP of the Saudi Shura council; and Almugaid (2006), a professor at Naif Arab University for Security Sciences, argued that this crime must be punished by severe Ta'zir sentences because Sharia is appropriate for each person, place and time. In contrast, other practitioners such as those who defended the case in front of the General Court,[5] believed that the call for severe punishment was a matter of circumstance.[6] Consequently, there has been a demand by some within the legal community and some Sharia scholars in Saudi[7] for the Government to create and establish clear and consistent rules pertaining to juveniles that are appropriate to Sharia. Saudi judges do not think that these issues might not have any rules in Sharia law because they are left open to their own discretion (Ijtihad). However, Alshathry (2007) and the General Presidency of Scholarly Research and Ifta (2015) argue that legislating or codifying rules is prohibited in Islam. One reason for this is that such a process has not happened since the Prophet's time, or during the four-schools of Islamic jurisprudence.

The supporters for establishing clear rules related to juveniles claimed, after hearing the judicial decision upon those juveniles at the Al-Nahda Tunnel, that they were surprised that different punishments were given, despite the fact that the offence was equally shared (Alhwaiqil, 2006). In addition, intriguingly, this case was transferred to the General Court, which is generally reserved for dangerous crimes such as killing, cutting or stoning. However, there was not any killing, cutting or stoning in this case, which means that this case should have been overseen by the juveniles' circle court at the Social Observation House (SOH) or the Care Institution for Girls (CIG) in Riyadh. From this, it can be argued that there are no clear classifications for juveniles' crimes and their penalties, and that there is a lack of determined thematic procedures (i.e. procedures that regulate juveniles' crimes in four important systematic aspects, including codification or Tadwin, age of criminal liability, crime classification and punishment).

An example of this is criminal responsibility, which requires the judges as well as the prosecutor to mention those juveniles' ages. Yet, we have not seen any declaration of their ages, so does that mean that the judge can decide about puberty[8] according to his own discretion? What is the age of criminal

[4] - For example, Azizah Al-Mane (2015) reported that "the incident in which some reckless youths harassed several female shoppers in one of the malls in the Eastern Province has also had an impact on everyone. It brought to mind the shameful incident that took place several years ago in Riyadh (i.e. Al-Nahda Tunnel) … The occurrence of such incidents has led many people, especially writers in newspapers and those who use Twitter, to call for strict regulations to combat harassment and for the punishment of perpetrators. They say that ignoring the matter will create a hostile environment in which a woman's safety cannot be guaranteed."

[5] - For example, Saad Alzuair.

[6] - I.e. we should focus on what is beneficial for juveniles.

[7] - For example, Zaid Alzaid, Ali Alshibel and Abdulrahman Alsanad. cited in Alshathri and Aljumaih, (2006).

[8] - The age of criminal liability.

liability in the Saudi juvenile system? Is it 18 years old for boys while 30 years old for girls, according to the laws of SOH and CIG, or is it 15 years old according to Hanbali doctrine, which Saudi judges basically apply?[9]

This chapter introduces the reader to the problem of this thesis, including its nature, historical developmental background, context and design. In addition, the chapter provides an overview of the chapters included in this thesis. Accordingly, this preliminary chapter identifies the nature of the problem as it relates to Saudi and supplies some judicial examples to rationalize investigating the topic. In addition, there is a reflection on the literature presently available on this subject and the methodological approaches used to conduct the research that underpinned the writing of this thesis.

1.2 Research problem

To understand the research problem properly, there is a need to recap some critical points from the above case, the Al-Nahda Tunnel incident. For example, no specific ages for criminal liability for those boys were declared and nor was classification given for the crime and its penalties. This meant that the judges at the General Court never depended on the alleged juveniles' Nizam (i.e. law), let alone their irrelevance to address juveniles' legal and judicial matters.[10] Another judicial example is that of Case no.18/300/11/31 (2008), which concerned a man aged 20 years old and a juvenile girl[11] who was also 20 years old, who were accused of committing adultery. The story started when the girl's father formally notified Riyadh police that his daughter was absent from her house and husband. After a while, the police arrested the girl alongside the man; both voluntarily admitted that the girl was in close contact with the man before she left her house, and hence she had cheated on her husband. Subsequently, the man offered his services to accommodate her and had sex with the girl at his family house. However, the man was not Muhsan,[12] while the girl was formally Muhsan.[13]

After that, the Prosecutor-General accused both of them of committing adultery due to their confessions throughout investigations. Therefore, the man deserved the fixed punishment of fornication which is mentioned in Quran (24:2), while the girl deserved the fixed penalty of adultery, that is, stoning to death. Subsequently, the three judges at the general court questioned the man and the girl about this allegation, and the girl denied any sexual intercourse, claiming instead that she was absent from home for a week

[9] - Fulfilling the commands of King Abdulaziz passed on 10/9/1928 which imposed the Hanbali doctrine to judge by because its books are easy to revise and also keen on mentioning evidence from the Quran and Sunnah (Aljura'y, 2015).
[10] - E.g. determining the age of criminal responsibility, classifying their crimes and punishments, codifying their legal-judicial issues.
[11] - She is arguably juvenile despite the fact that her age is 20 years old, according to the Saudi law of Care Institution for Girls (CIG) Article 1.
[12] - Legally unmarried.
[13] - Married to a different man.

or so and had exchanged the kisses with the man. The man denied everything except that he was just in touch with the girl by mobile phone only. As a result, the judges decided as follows; since the accused denied the allegation of adultery which requires, if proven, the fixed penalty of Zina. However, they both admitted that they were in touch for a while. Additionally, because the girl further confessed that she was absent from her husband's house as well as exchanged kisses with a man in an illegal relationship, the judges decided to remove the fixed penalty of adultery and fornication due to their denials because Hudud penalties in Islam would be removed by suspicion.[14] However, they both deserve discretionary punishments so as to protect the community's safety. Therefore, the man was jailed for ten months and 98 lashes of the whip, while the girl was jailed for 18 months with 250 corrective lashes.

To analyse, a number of critical points are discussed with regard to the above two cases. First, both cases above were archived under the term "Fahishah" which, in turn, can be launched on many things in Islamic law. For example, the term Fahishah in these cases is interchangeably used to indicate Zina (i.e. adultery), Liwa't (i.e. homosexuality) or prostitution in general. In other words, there was no quality control over classifying the crimes. Additionally, we can find applications where Fahishah was misleadingly applied on Zina, prostitution or homosexuals in cases numbered 23, 38, 82, 83, 159, 208 and 209 (Appendix 2). Similarly, the term Hirabah (i.e. highway armed robbery) involves many sub-types that are classified Hirabah without any given specific criteria. For example, the researcher found 17 types of crime already titled as Hirabah crime.[15] Consequently, the researcher argues that misclassifying juveniles' crimes and punishments can be the reason for mixing up legal affairs between juveniles and adults. For example, this may result in transferring juveniles' cases to the general or criminal courts without a logical reason.

The second point is related to juveniles' criminal responsibility; in case numbered no.18/300/11/31 (2008), both of the defendants[16] were aged 20 years old. However, the girl was the one who was considered a juvenile according to the law of the Care Institution for Girls (CIG).[17] Muhammad Alsyigh, a judge from the general court, argued that the age of criminal liability for both genders is fixed at 15 years old according to the Hadith narrated by Ibn Omar[18] **(**2010, p.13). In short, we can clearly see there are huge variations between what is written as a law and what is happening in reality (i.e. in the courts). In other words, while the age of criminal liability for boys is 18 years old, the age for girls is 30 years old. These are the statutory ages in which they are already written in the law of Social

[14] - For example, the defendants' denials.
[15] - Such as kidnapping and attempted sodomy, looting and theft, theft and gun-shooting, kidnapping and sodomy, shooting only, theft only, multiple theft, sodomy only, theft and drinking alcohol, armed robbery, adultery only, armed killings, armed sodomy, adultery for Non-Muhsan (i.e. fornication), sodomy and Hirabah only, finally kidnapping, sodomy and drinking wine.
[16] - i.e. the man and the girl.
[17] - i.e. the girls' criminal age of responsibility in Saudi is 30 years old according to the law of CIG.
[18] - For more discussion, please refer to Chapter Three, p.76,80

Observation House (SOH) and the law of the Care Institution for Girls (CIG). Practically, in front of the courts (general, criminal or juveniles' circle courts) judges apply 15 years old as being the age of puberty, depending on Hanbali doctrine. Yet, the judges can actually decide about puberty even before the age of 15 if the natural physical signs of puberty have appeared. This is exactly what is argued throughout Hanbali and some other doctrines. Thus, for example, Alharthi (2012), Alna'iem (2011), Alhariqy (2001), and Ma'bdah (2011) have reported that this opinion is followed by almost all Muslim ulema, except Abu Hanifa and some Maliki scholars such as Alhattab (2003) and Ibn Hazm.[19]

The third point is that, unfortunately, no articles have addressed these critical issues related to the juveniles' system in Saudi Arabia in a thematic way.[20] Instead, the researcher found columnists' articles, that were generally wide-ranging and not specific, or the comments of a few interested judges and officers of the religious police (e.g. Alharthi 2012, pp.87, 90) who regurgitated the views that already exist in prosecuting juveniles in Saudi, which again mean rooting for the distorting perceptions, for example, calling for the application of fixed penalties on juveniles such as Hudud, retribution, fixed lashes for adultery, Khamr and Hirabah crimes. There were no thematic connections between the legal sector (e.g. lawyers, judges) and academia (e.g. universities researchers, professors and so on) to address vital topics related to the Saudi juveniles' system. For instance, some religious police[21] (e.g. Alshammary, 2012; Ala'jam, 2013; Alna'iem, 2011; Alhariqy, 2001; Alharthi, 2012; Almadhi, 1994) have conducted research on investigational procedures within the Saudi juvenile system. However, these researches did not differ from what was already mentioned in the justice ministerial decree of 1969,[22] which contained seven general directions only, by which juveniles can be investigated and

[19] - Ibn Hazm supported his view through logic, despite that fact that he is against logical analogies, arguing that the normal nature of the human being includes some norms that are agreed by all folks. Furthermore, one of these agreed norms can be that there is a certain age which anybody reaches where he/she will be regarded as an adult without doubt. However, there is also a particular age that any child may reach yet he/she will not be an adult. In addition, this should not be 15 nor 18 years old because folks are different in these ages. Yet, the age of 19 years old is the stage of maturity without any controversial doubt. The view of Ibn Hazm (1988) may be criticized by saying that it is not supported by any sources of Islamic law other than custom. It is noted that the source of custom highly differs from time to time as well as according to different people and locations.

[20] - I.e. in an academic style that resolves the problem in specific themes e.g. the age of criminal liability, classification for juveniles' crimes and their punishments.

[21] - "The Islamic religious police (Arabic: مطوع muṭawwiʿ, plural مطوعون muṭawwiʿūn – derived from classical Arabic: mutaṭawwiʿa/muṭṭawwiʿa") refers to an official person in some Islamic countries, who on behalf of the authorities, enforces Sharia law in relation to religious values or behaviours (Bosworth, Van Donzel, Heinrichs, and Lecomte, 1997, p.779).

[22] - To elaborate on that ministerial decree, the Ministry of Justice in the Kingdom of Saudi Arabia released a decree in 1969 for all of its judges, stating some principles for judging the crimes of minors (juveniles). Subsequently, these principles should be followed when investigating and judging juveniles' crimes. This scheme is as follows:

1. No one can attend the hearing unless there is permission from the judge as it should be held in a private place.
2. The hearing process of judgment must be completed as quickly as possible.
3. The court should take into account the minors' psychological stability and avoid exposing them to any kind of fear or threat, and they should realise that the court's objectives are to guide them to become better citizens.
4. The judge should study and review each case before the judgement session is held, and take into account the report of the social worker as a guide to the juvenile's social, psychological and physical condition.
5. If the judge decides that the juvenile should stay in a reform institution, then this institution must be suitable for his/her age (e. g. they should not be kept with adults or with juveniles who have committed other crimes).

judged. Yet, this decree regrettably is insufficient since it is too old and related to only a few investigational procedures.[23]

On the other hand, a few other judges and researchers have misleadingly[24] and repeatedly enforced what is already contained in the Hanbali doctrine regarding the age of criminal liability.[25] For instance, Alharthi (2012, pp. 87, 90) argues that Saudi Arabia is superior to the international conventions because it applies Islamic law to the issue of puberty, which is 15 years old, unless the natural physical evidence appears earlier. He continues to assert that we should apply Hudud punishments, if proven, on juveniles and make some exemptions according to the United Nations Convention on the Rights of the Child 1989. Therefore, the problem here, I argue, is that juveniles in Saudi are in need of specific legislation that rules and specifies in a clear manner the appropriate age of criminal liability, and crimes' classification and punishment in accordance with Sharia policy and objectives.

1.3 Aims and objectives

The purpose of this research is[26] to identify and prove to what extent the Saudi criminal juveniles' system recognises minors. In other words, it seeks to identify four substantial problems: the codification of the Saudi juveniles' system; determining the age of criminal liability; the categorisation of juveniles' crimes; and inconsistency in their punishment. Badenhorst (2015) reports that research is vitally made up of arguments conceptualized around a problem that meets the needs of the discourse community. As a result, the core problems related to the juveniles' system are essentially those four thematic issues, mentioned above.[27]

---

6. The judgement against a juvenile should be reviewed by the supreme court if the juvenile or their parents is not satisfied with it.
7. Crimes committed by juveniles should not be officially recorded. This means that when they apply for jobs, their previous record should not appear (Al-Mutlag, 2003).

[23] - I.e. it did not address the age of criminal liability; it neither classified juveniles' crimes and their penalties nor specified certain rules for juveniles' prosecution.

[24] - Because they established only one opinion, which is Hanbali juristic doctrine and forgot that there are different and strongly evident opinions within Islamic juristic books with regard to the age of criminal responsibility, crimes' classification and so forth.

[25] - E.g. at 15 years old or even earlier if the natural evidence supports this.

[26] - There is also a number of supplementary targets and enquiries involved in this research. For example, this study aims to evaluate the Saudi juvenile system in order to identify core problems and suggest some potential solutions. Additionally, it discusses some important points in this matter, for example, the codification of Islamic law with specific reference to juvenile rules, differences in the determination of minors' ages, and the classification of minors' crimes in Saudi Islamic law. Furthermore, it seeks to extrapolate what Islamic criminal law states and argues in terms of renewable issues in minors' crimes, such as codification and juvenile sentences. This will help to combat the inconsistency in juveniles' punishments in Saudi Arabia. To achieve this, the thesis examines classifications of crimes and their penalties upon juveniles in Islamic Sharia law. Finally, supplying Saudi judges, scholars and stakeholders with an empirical study will hopefully contribute to the betterment of the Saudi legal-judicial system, as well as the knowledge of Islamic studies generally.

[27] - To elaborate, as a paralegal for some time in Saudi, I realised that the matter of Tadwin and/or codification remains in the Saudi juveniles' system, despite the fact that a law of social observation houses for boys and the law of the care institution for girls was passed in 1975 supposedly to set up some regulations. In addition, Saudi Arabia joined the Convention on the Rights of the Child (United Nations General Assembly, 1989). Saudi Arabia was a bit late to join this convention; Alshaqhaa

1.4 Additional contextual background

In Saudi Arabia, before 1969, as shown above in the justice ministerial decree, the crimes of minors were dealt with legislatively and judicially in the same court as adults, known as the general court (Al-Mutlag, 2003, p.30). However, judges at that time were aware in some way of juveniles' ages and their lower awareness of life, as well as also their diminished ability to choose and differentiate between right and wrong in some ways. Consequently, there was a strong demand from some scholars, judges and communities to run a specific and separate court for minors. In 1969, the Ministry of Justice in Saudi Arabia announced a decree which included very few instructions in terms of juveniles' judgement and procedures.[28]

Recently, in Saudi Arabia, new laws, especially regarding criminal procedures (2013) and the judicial law (2007), have bene launched, although these laws were not fully applied in some of their articles. In other words, there was a real gap in their application. For instance, Act 12 of the new criminal procedures law (2013) stated that "juveniles, either boys or girls, would be investigated and judged in accordance with the laws and instructions which order that". Yet, Alzughaibi (2014) wrote that the time has come for activating special courts for juveniles because their size and types have become larger and more wide-ranging, as well as the fact that juveniles' court now is held at either SOH or CIG, which follows the guidance of the Ministry of Social Affairs.[29] Alzughaibi (2014) continues to argue that juveniles' judges need to spend at least one year participating in juveniles' judgment rather than spending only four months,[30] because juveniles' judges have an obvious need to calculate experiences and unify them in accordance with similar cases and related laws. Unfortunately, those related laws seemed somehow problematic as there are still some critical issues with them. For instance, there have been some contradictions in determining the age of criminal liability for minors. These contradictions can debatingly be seen between theory[31] and judicial practices.[32] However, in front of the courthouses, there

(2007) and Alsygh (2010) argue that this was due to their cautiousness regarding some jurisprudential issues related to Sharia, such as issues related to Hudud, retribution punishments and determining the age of puberty in Islam. However, two reactions arguably emerged and, therefore, were followed by Saudi Arabia in order to clarify an Islamic and regional identity (i.e. regional characteristics that represent Gulf Arabian countries e.g. Saudi Arabia, the United Arab Emirates and Oman. In other words, it sought to make something unique to them and their cultural and religious traditions.) The Islamic reaction can be presented in the form of the Children's Charter in Islam passed by the International Islamic Committe for Children and Women, 2003. Yet, the regional reaction can be found in the Abu Dhabi document for unified juveniles' law for GCC countries (Gulf Cooperation Council, 2002,). However, none of those laws has addressed the problem of codification for the Saudi juveniles' system, as can be seen in a more elaborated manner in Chapter Two.

[28] - See p.22.

[29] - It can be said that these courts do not belong to the supreme judicial council as they are affiliated to the Ministry of Social Affairs.

[30] - Unfortunately, Alsyigh (2010, p.22) wrote that juveniles' judges would only spend four months to oversee juveniles' cases at either SOH or CIG. He additionally asserted that this is in fact according to the decision of the High Judicial Council number 95/239 (2007).

[31] - I.e. what is written as law e.g. 18 years old for boys and 30 years old for girls.

[32] - I.e. 15 years old for both genders, or even earlier if the natural physical signs appear earlier.

controversially are two points. First, according to Almani'ee (2011, p.526) the Hanbali juristic doctrine specifies the age of maturity at 15 years old for both genders equally, unless maturity is attained before 15 years of age according to natural physical signs (e.g. the appearance of semen, periods for girls etc.). Secondly, juveniles' judges can determine the age of puberty according to their own discretion (i.e. without depending on juveniles' official IDs). This can be supported by some cases I found before the Saudi courts. For example, during my time in Riyadh, I found 26 cases in which juveniles' ages hadn't been mentioned. Some of these verdicts include[33] no.31/11/144 (2014), no.28/20/254 (2014), no.31/50/123 (2014), no. 36470395/254 (2015) and no. 28/139/239 (2013).

Another example is that complex terminologies are used interchangeably with codification in the local newspapers such as Taqnin, Tadwin, Fiqh and Sharia. Hence, I examine these terminologies in Chapter Two.[34] The third example is related to the problem of classifying juveniles' crimes in Saudi. To elaborate, the core issue with categorizing their crimes straddles, again, the huge variations between theory and judicial practice. While many researchers (e.g. Alshammary, 2012; Ala'jam, 2013; Alna'iem, 2011; Alhariqy, 2001; Alharthi, 2012; Almadhi, 1994) argue that juveniles in Islam are not capable for punishments, they report that juveniles should have corrective sentences (e.g. prison, lashes etc.). Moreover, they claim that discretionary penalties should be based on the age of discretion, which starts at seven years old. This, in fact, is supported by some interpretation of the Hadith; when the prophet said to his people "start to ask your children to pray at the age of seven years old, yet correct them, if they missed the prayer, at the age of ten years old...". However, the Islamic law distinction for the idea of discretion is somewhat problematic. The Stanford marshmallow experiment (Da Silva, Moreira and Da Costa 2014, p.1) determined that children aged four can make distinctions between objects based on cause and effect (e.g. related to self-interest – what is good/bad for the child). This shows us the reason why Ma'bdah (2011, p. 207) differentiated between religion and life in terms of age based on the same Hadith above.[35]

On the other hand, in front of the courts, juveniles' crimes do not have different classifications from those of adults (i.e. adults' crimes are mainly classified into Hudud, Qisas and Ta'zir). If we dig deeper into the basic of this classification, we arguably find that some Muslim qadis/scholars such as Abu Zahra (1998, p.42) and Abdulqadir Audah (2009, p.614-620) use the punishment's heaviness or lightness as a scale for classification. Therefore, we saw Hudud, Qisas and Ta'zir respectively. However, I argue that this standard is not effective since it is inconsistent (i.e. the punishment of Qisas is

[33] - For more critical evaluations, see Chapter Three.
[34] - See p. 65.
[35] - I.e. while the age of seven could be a starting point for performing prayers, criminal responsibility, however, requires more than recognition, such as full awareness.

stronger/heavier than many Hududs e.g. fixed lashes, so while Qisas is stronger than Hudud it is classified as second in order). This is the reason which pushes some researchers such as Awadh (2008) to think of an appropriate scale upon which we can understand the whole Islamic division of crimes, that is, Sharia's interests and legislative power in criminalizing and penalizing.

Consequently, this study investigates those substantial problems related to the Saudi juveniles' system. Further, these considerations are looked at and criticized according to the main Islamic resources - the Qur'an, the traditions of the prophet Muhammad (Sunna) as well as some interpretations of the four Islamic law schools[36] when required. This study again aims to provide a good understanding of its applications; therefore, it supplies some judicial cases. The researcher has conducted empirical data at the general, criminal and the juveniles' circle courts located at the Social Observation House (SOH) and also the Care Institution for Girls (CIG).

In summary, as a paralegal in Saudi Arabia for some years, I observed a number of thematic problems related to the Saudi juveniles' system. These problems can be presented in the lack of codification/consolidation or Tadwin, unclear determination of the age of puberty, misclassification of juveniles' crimes and gross inconsistency in their penalties. These substantial thematic issues have motivated me to investigate the causes of these problems. For instance, juveniles' justice in Saudi Arabia operates under ambigious rules. Rather, the rules claimed for juveniles are obviously related to regulations which govern either the Social Observation House (SOH) or the Care Institution for Girls (CIG). Hence, there is an obvious need for either codification or Tadwin. However, the GPSRI in Saudi Arabia wrote an old research paper in 1972 and concluded neither to legislate nor codify sharia in general, including juveniles' rules. Another point is that the Saudi juveniles' system has misconceptions about the age of criminal liability in that the age of puberty is not clear – sometimes it is 15, 18, 19 or 30 years old. Further, juveniles' crimes are classified as same as those of adults. Therefore, my research examines these contradictory opinions and supply some solutions. This introduction has described the problem of this study as well as its research basis.

In a nutshell, this research will, to the best of my knowledge, be an advanced example of its kind academically in Saudi Arabia after very recent criminal laws and procedures (2013), judicial law (2007) and other international treaties, joined by Saudi Arabia, have been passed. Therefore, this thesis provides some applied cases from three courts in Riyadh, KSA. This study closely discusses three types of juveniles' crimes (i.e. Hudud, Qisas and Ta'zir) and their punishments quantitatively via SPSS and qualitatively via an analytical approach (as shown in Chapters Two, Three, Four, and Five).

[36] - E.g. Hanafi, Maliki, Shafie and Hanbali.

Additionally, those crimes are carefully chosen to make sure that they represent the problem practically (i.e. in reality and in theory), so the crimes were not chosen randomly or arbitrarily. However, in Hudud crimes, I have focused on the following crimes; Zina (adultery), Khamr and drugs, Hirabah (armed robbery) and Sariqah (theft). A few studies were found in this field, but they confined themselves to studying reasons, social factors and their impact upon the community. This research covers a wide remit, offering in-depth coverage and greater analysis, as will be seen in the literature review.

1.5 Literature Review

While some researchers such as Ala'jam (2013) and Alhariqy (2001) examine juveniles' crimes in terms of investigational procedures only (e.g. capture, arrest, etc.), few others have appeared without real academic approaches to examine the Saudi juveniles' system in a thematic manner. For example, these few studies can generally be classified into three clusters, that are, newspaper articles, a few dissertations and general juristic books that are only used for referencing.[37] Unfortunately, these three typologies were insufficient to critically discover and address important thematic issues faced by Saudi juveniles, such as codifying their juristic rules or not, determining their ages of criminal liability, classifying their crimes in a distinct manner and ensuring their punishments are consistent.[38]

One reason for this is that those few dissertations I have mentioned were written by religious police[39] who basically were not academics and whose jobs are mainly to deal with pre-trial matters such as arrest, interrogation and so on. Another reason is that those articles lack a scientific methodology that is far more important for accepting the outcome of any research, let alone the fact that all of those studies and articles came from bodies that are unrecognized according to the international and regional rankings.[40] This part of my research reviews the previous literature and methodologies that have helped to shape this thesis through an analytical thematic methodology. In other words, applying an analytical thematic approach means concentrating on how certain topics present themselves during the story/study. According to Meirow (2014, p.1), this sort of writing requires us to look at specific parts of a work to cast light on the big picture.[41] Consequently, the main arguments are identified so as to compare and contrast some ideas in order to offer more critiques for the literature. Another important result of applying this type of methodology is that it enables us to see the theoretical and conceptual frameworks of this research.

---

[37] - I.e. it lacks academic methodologies and, hence, was just written for either memorizing or for documenting the knowledge, such as can be seen in Almughni (1999).
[38] - This is one assumption that the previous literature was insufficient.
39 - For more details see footnote 22.
[40] - For example, QS University Rankings: Arab Region (2016), Shanghai Academic Ranking of World Universities (2016).
[41] - I.e. to relate these specific themes to the main point.

For instance, I assume that the ambigiouity that has existed in some essential concepts related to this thesis[42] have already resulted in gross reactions towards juveniles' legal-judicial issues, which has meant ignoring the reformative calls for renewing the juvenile justice system in a more professional style and with more appropriate content.[43] This professional way does mean that we should look at both the theoretical and practical sides in parallel to achieve what we are now planning for. Unfortunately, during my critical reading through the literature, I could not find any researcher who followed this method.[44] Thus, this literature review starts by discussing and analyzing some important terms/concepts. Those conceptual words (e.g. Jarimah/crime, Jinayah, juvenile, minor, Tifl/child, Taqnin, Tadwin) are important because they construct the title of this thesis, so the reader may inquire about them. After that, we move on to analyze the main debates and ideas in a thematic way. Therefore, this discussion for the main ideas and arguments is divided according to the chapters of this thesis.[45] Taylor (2010) reports that a literature review is actually not to prove the main points as this function (i.e. the proofs) shall be in the thesis body, but instead the literature is for developing, building our understanding of a theme, concentrating our knowledge and updating the readers of what has been done already. Finally, the researcher evaluates the literature, its methods and typologies in order to identify gaps and justifications for this study. In short, this literature review is divided into two parts, on the topic itself and on the methodology, as follows.

1.5.1 Part One: Definition of terms

This research has some essential terms that need to be examined through the literature. For example, Jarimah (i.e. crime) and Jinayah, Tifl (i.e. child), Sabi, Ghulam, Hadath (i.e. juvenile), Fata and Qasir (i.e. minor). Below is the analytical discussion upon these terms.

1.5.1.1 Hadath, Qasir and their synonyms

Almadhi (1994, p.22) did not come with something new in defining the term Hadath (i.e. juvenile) but, depending on what the Saudi guide to criminal proceedings stated, he defined Hadath as a human being whose age is neither below seven years old nor above 18 years old. Similarly, Alshammary (2012, pp.7, 8) did the same in defining Hadath (i.e. juvenile). However, neither specified the place which conceptualizes this understanding of the term (i.e. is it Saudi Arabia, Islamic law, international conventions?). Additionally, they did not discuss the synonyms of Hadath (i.e. juvenile).[46] Yet, they didn't rationalize why they chose this certain definition. Furthermore, another member of the religious

[42] - E.g. terminologies like Jarimah, i.e. crime, Jinayah, juvenile, minor, Tifl i.e. child, Taqnin, Tadwin.
[43] - This is another assumption.
[44] - I.e. combining or supporting theory with reality and this is my third assumption.
[45] - I.e. each argument will represent a core chapter.
[46] - Such as Tifl (i.e. child), Sabi, Ghulam, juvenile, Fata and Qasir (i.e. minor).

police, Alhariqy (2001), whose dissertation's pages are neither numbered nor indexed,[47] did not mention a clear definition for what it means by Hadath (i.e. juvenile) in Saudi.

Rather, he argued under a subsection titled "definition of Hadath" that Muslim jurists, generally speaking, agreed that any Sabi (i.e. child) has no ability to receive Taklif[48] if he/she is under seven years old due to the Hadith: "the pen is lifted from three people; one of whom is the child till he/she attains the age of adulthood" (Abu Daowd, 2013). However, jurists are not unanimous on determining the end of childhood. Alhariqy continued to confirm that the word Hadath is not mentioned in the Quran, but it is mentioned in Hadith, when the prophet described the Khawarig[49] that they are young people (i.e. Ahdathul Asnaan) and they are mindless (Altirmizy, 2012, p.425). Additionally, Alhariqy descriptively listed some synonymous words to Hadath, but without clear criteria to depend on.[50] Alhariqy, finally, concluded that the term Hadath (i.e. juvenile) is the most popular and common in legal usage around the globe, but there is no problem to use whatever we like (e.g. Tifl, Hadath, minor, Fata etc.). Unfortunately, Alhariqy failed to provide justifications for choosing these words.

Subsequently, Alsyigh (2010), a judge in the general court, about nine years after Alhariqy's research,[51] misleadingly provided unprecedented definitions and differentiations between the terms Tifl (i.e. child) and Hadath (i.e. juvenile). To break his argument down, Alsyigh (2010, pp.7-10) claimed that Tifl means a person from birth until puberty, which is 15 years old, whereas Hadath only means a person whose age is between 15 and 18 years old. He continued to affirm that his definition for Hadath was taken from his own experience in the Saudi judicial system (i.e. from his work at the general court for several years). Moreover, Alsyigh listed three similar terms to Tifl, namely, Sabi, Saghir and Ghulam. Although he argued that Tifl and Hadath have similar meanings, he limited his talk on Tifl (i.e. child) only as children, from his perception, have more judicial rights. To challenge him, all of the cases I gathered from the general, criminal and the juveniles' circle courts in Riyadh strongly reject this allegation, as I found Ahdath (i.e. juveniles) whose ages ranged between 11 and 30 years old, as can be seen throughout Chapters Three, Four, and Five of this thesis.

[47] - This is just one example of those studies to show you that their works, regrettably, lacked a methodological and scientific basis.
[48] - I.e. commands to do or let.
[49] - I.e. radical people.
[50] - I.e. he did not rationalize why he chose these certain synonyms or that he clarified the bases upon which these words are similar to Hadath. For instance, "Sabi", according to him, means a young person. Tifl, Ghulam and Saghir all refer to a human being before attaining puberty. Moreover, the word Murahig means a person who is about to reach adulthood, as does the word Fata, which means Shabab (i.e. youth).
[51] - We can clearly see that Alhariqy's research was conducted in 2001, while Alsyigh's was conducted in 2010.

In 2011, three works appeared from Ma'bdah (2011), Almani'ee (2011), and Alna'iem (2011) respectively. Ma'bdah, an assistant professor at a Jordanian university,[52] argued that the term Hadath has not been used throughout Islamic Fiqh because the Quran does not name children (i.e. young people) as Hadath. Instead, the Quran called them by other names or nicknames such as Saghir, Ghulam, Fata and Tifl (Ma'bdah, 2011, p.206). On the other hand, Almani'ee, a doctor at Umm Alqura University, claimed that Islamic jurisprudence used Bulough, as opposed to Hadath (2011, p.520). He went on to claim that Hadath in Islamic jurisprudence means a description exists in a human body which prevents him/her from praying unless he/she makes ablution, whereas Bulough means the end of childhood. While Almani'ee took his definition of Hadath from old jurists such as Alhattab (2003, p. 44, 439) and Alramli (2011, p.108), he also took his definition of Bulough from Albaberti (no date, p.228). Finally, Alna'iem (2011, p.9) claimed that Tifl (i.e. child) is a person from birth until adulthood and also listed a few synonymous words, such as Sabi, Saghir and Ghulam. However, Alna'iem did not define nor differentiate between them unless, otherwise, he argued that all of them arrive at the same meaning, which is a person who has not reached puberty yet. Therefore, he does not mind anyone using any word from those listed above, since the juristic maxim articulates that consideration is only given to the meaning, not to the shape/style of a word.

To critique this, while Ma'bdah and Almani'ee claimed that Hadath is a term that has not been used throughout Islamic Fiqh, Aljundi[53] (1986, p.7-9) argued that the term Hadath has already been used in Islamic jurisprudence to mean young people (i.e. Sigharul Sinn) who have not reached puberty yet.[54] Contemporary Muslim researchers[55] altered the term Saghir to Hadath, not because Hadath has a more accurate meaning, but for two reasons. First, Hadath is a common term around the world. Secondly, it indicates criminal responsibility for these youngsters. Nevertheless, a few members of the religious police in Saudi have kept repeating or establishing the wrong meaning of Hadath and Tifl. For example, in 2012, two dissertations appeared again to repeat the misunderstanding of the meaning of Tifl and Hadath.[56] To explain, Alharthi (2012, p.6-10) defined Tifl as a person from birth until either recognition or puberty. He asserted that he took this definition from Alsyigh, the judge at the general court, cited and discussed argument above.[57] Unfortunately, Alsyigh did not mention this, but argued that Tifl is someone from birth until the age of adulthood, which is 15 years old. Alharthi went on to contradict

[52] - Despite the fact that his work only compared Sharia and Jordanian juvenile law, I looked at his work on juveniles' juristic rules in Sharia only.
[53] - An assistant teacher at Tanta University in Egypt.
[54] - One example of this is mentioned by Alshatibi in his book *Alitisaam* (1995, p.95) and also Ibn Alqayim in his book *Alturuq Alhukmiah* (2014, p.128). Yet, Islamic jurisprudence used such a term according to their appropriate manner and style of writing. For instance, we can find Hadath's rules, in Islamic Fiqh, under the titles "Saghirul Sin" or "Awaridh Alahliyah".
[55] - Some of those listed above.
[56] - We have previously examined that of Alshammary (2012) and others, so refer here to p. 29 please.
[57] - Please see p.29

himself again in another part of his research, as he (2012, p.108) said that Tifl is someone between 15 and 18 years old. Additionally, Alharthi asserted that he took this definition from Saudi labour law Article 1, yet he debated that there is no reason to determine the age of puberty at 18 years old since this specification opposes simple psychological principles for age grouping. In other words, Tifl (i.e. the child) at 18 years old can only be described as a teenager not a child. Regrettably, I could not find any reference for this allegation; nor did Alharthi supply any reference for this. Instead, he continued to list some synonymous words to Tifl such as Sabi, Fata, Ghulam, Hadath, Bulough. Consequently, he defined all of these, except Sabi, as a person who has not reached the puberty which is 15 years old. However, Sabi is a child who has not reached the stage of recognition, which is at seven years old.

To sum up, with regard to the term Hadath (i.e. juvenile) and its synonyms, it is noted that Almadhi (1994) and Alshammary (2012) depended on the Saudi guide to criminal proceedings to define Hadath as a human being whose age is not below seven years old nor above 18 years old. However, they both did not discuss their definition in order to clarify its meaning since their definition did not cover girls' ages in Saudi (i.e. in which puberty is 30 years old) nor did they examine other related terms. Additionally, Almadhi and Alshammary did not rationalize their preference in choosing this specific meaning of Hadath in the Saudi juveniles' system. Consequently, while some researchers such as Alhariqy (2001) listed synonymous words to that of Tifl, other judges and members of the religious police (e.g. Alsyigh and Alharthi) misleadingly mixed Tifl and Hadath. Further, Alharthi skewed Alsyigh's context.[58] Therefore, this shows how important it is to set out this theoretical framework, as well as how crucial this thesis is, as there are still many contradictions that do not apply logic. In other words, I strongly question that if those articles, which were done by a few members of the religious police and, more rarely, judges in Saudi, really helped to identify and resolve problems faced by juveniles, then why are these problems still remaining until now?

Despite Almani'ee(2011) and Ma'bdah (2011) arguing that Hadath is not used in Islamic Fiqh[59], Aljundi (1985) believed that the term Hadath already used in Islamic jurisprudence to mean young people (i.e. Sigharul Sinn) who have not reached adulthood. However, Islamic jurisprudence used such terms according to their styles of writing. However, contemporary Muslim researchers (e.g. some of those mentioned above) altered the term Saghir by Hadath not because Hadath has an accurate meaning, but due to two reasons. First, Hadath is a common term around the world. Secondly, it indicates criminal

[58] - To elaborate, Alsyigh argued that Tifl (i.e. child) is a person from birth until puberty which is, according to him, 15 years old. In contrast, Alharthi stated that Tifl is from birth to either recognition or adulthood. Additionally, Alharthi claimed that there is no need to determine the age of maturity as being 18 years old since this opposes the simple psychological principles for age groupings. This means that Tifl (i.e. the child) at 18 years old can only be described as a teenager not a child.

[59] - I believe that Bulough is something not opposite to Hadath but involved in determining the age of adulthood, which is the end of being Hadath (i.e. juvenile). As a result, we can see that the same misunderstanding in defining Hadath and its related synonyms repeated many times because almost all the above researchers dismissed the great work of Aljundi (1986).

responsibility for youngsters. The researcher argues that referring to the original juristic resources is vital, especially what is written in juristic linguistics' books (e.g. Albarkati, 2002, p.136) stated that Tifl is someone who is from birth till the age of puberty. However, other synonyms signal the stage before adulthood (i.e. not from birth, but before adulthood, generally as a terminology given to this stage of children's lives). Hence, I conclude that the words Hadath (i.e. juvenile) and Qasir (i.e. minor) are the most appropriate expressions used nowadays. One reason for this is that they both sound polite in Arabic, so as to give extra meaning that the problem with these juveniles is related to their smallness and their lack of experience, so juvenile and minor are similar in their meaning. Hence, they quite often used in this study.

1.5.1.2 Jarimah and Jinayah:

Almadhi (1994, p.21) claimed that Jarimah refers to illegal prohibitions that require punishment of Hadd or Ta'zir. Critically, he took this definition from Almawardi (2013, p.19), a great Muslim jurist, in his book *Al'ahkaam Alsultaniah*, but unfortunately nor Almadhi neither Almawardi discussed this definition in order to clarify whether it covers Jinayah or not. By taking a quick glimpse at the definition above, we can see that Jarimah are connected only with Hadd or Ta'zir. So, does this mean Jinayah, on the other hand, indicates Qisas punishment? That is what we are now discovering through the literature. Alhariqy (2001) argued that Jinayah, according to the former judge Abdulqadir Aud'a (2009, p.67), is a name for any prohibited act in Sharia, whether it happened to a body, money or anything else. Unlike Almadhi and Almawardi who mentioned it closely, Alhariqy and Aud'a viewed that Jinayah has a wide meaning which can cover any illegal act to the body, money or anything else.

On the other hand, some other researchers such as Alshammary (2012, p.7, 47) and Ala'jam (2013, p.11) mix that which Aud'a and Almawardi mentioned in defining Jarimah and Jinayah. For example, Alshammary and Ala'jam argued that Jarimah and Jinayah have the same meaning according to Aud'a. Similarly, neither Alharthi (2011) nor Ma'bdah (2011) defined Jarimah or Jinayah in their research, but both defined criminal responsibility and, again, both took that definition from Aud'a (2009, p.392). To explain, Ma'bdah (2011, p.211) argued that Islamic Fiqh has not used the exact name of the term (i.e. criminal responsibility) despite the fact that its content existed in their books. One reason for this is that Muslim jurists used terms according to their own styles of writing, which required them to use certain words to simplify the meaning. In this regard, Alharthi (2011, p.11), Ma'bdah (2011, p.211) and Aud'a (2009, p.392) defined criminal responsibility as the result of a forbidden act committed by a person who does so voluntarily and aware of consequences. Further, Ma'bdah chose this definition since it covers the crime's pillars, that are, the forbidden act, being voluntary and aware of consequences.

To analyze, we see that there is a misunderstanding in defining Jarimah and Jinayah in Islamic Fiqh. Therefore, we can classify the definitions mentioned above into four tendencies. First, there is a

tendency which holds the view that Jarimah has the wider meaning as it covers crimes of Hadd and Ta'zir. This view underpinned by Almadhi (1994) and Almawardi (2013). Secondly, a tendency is apparent which argues that Jinayah has the wider meaning so as to cover any illegal act against a body, money or anything else, which is supported by Alhariqy (2001) and Aud'a (2009). Thirdly, there is a tendency to mix Jarimah and Jinayah, claiming that they have the same meaning, an opinion held by both Alshammary and Ala'jam. Finally, Ma'bdah (2011) and Alharthi (2012), instead of defining Jarimah and Jinayah, defined criminal responsibility so as to establish the crime's pillars in general. Unfortunately, with these generally mixed and rather opinionated views I could not see anyone referring to the old juristic books (e.g. Almughni) which exemplifies one of the bases of the Hanbali doctrine in Saudi.

By exploring Jarimah and Jinayah through some juristic books, we will be able to argue that there are only two directions, general and specific. The general direction extends Jinayah to cover all prohibited acts against a body, money or anything else, as Alhariqy (2001) and Aud'a (2009) claimed earlier. In addition, this general direction is affirmed by Hanafi and some Hanbali jurists (e.g. Alsarkhasi, 2009, p.85; Ibn Qudamah, 1999, p.207). However, the second direction allocated Jinayah to any assault against a human body only.[60] Therefore, Ibn Qudamah (vol.8, p.207) strongly claimed that this specific direction is in common usage among many scholars in the old juristic books. Hence, Alna'iem (2011, p.11) stated that Jarimah has a wider meaning nowadays to cover all types of crimes (e.g. Hudud, Qisas and Ta'zir), despite the fact that we can informally interchange between Jinayah and Jarimah to signal a prohibited act in general. Here, again, lies the problem of clarifying the theoretical framework,[61] especially for juveniles in Saudi. Therefore, this general definition for the crime, mentioned above, is meant for adults' crimes, and juveniles' crimes were ignored. In other words, juveniles should have their own crime categorizations according to the appropriate penalties, taking into account Sharia's interests as well as those of the legislation authority.[62]

As a result of these fluctuations in defining such important terms and concepts, some journalists (e.g. Alsahli, 2005; Alrashid, 2008; Salam, 2008) and diarists such as Matter[63] (2013) conducted some unorganized and incomplete reports on whether or not codifications for the Saudi legal system could be categorized as a whole. Unfortunately, those articles were not organized as it appeared in at lengthy intervals or did not come from those with specialized knowledge (e.g. academic Qadis or practitioners) to address this important topic in a systematic and methodical manner. Additionally, those journalists

[60] - I.e. Jinayah does not cover crimes related to money.
[61] - I.e. in other words, defining the conceptual terms such as Jarimah, Jinayah.
[62] - This is another assumption.
[63] - Although Matter is an assistant professor, he stated that he wrote his book mainly as a diary for him, then after a while, some of his friends advised him to gather his thoughts and opinions in a small memorandum just as some journalists do (e.g. Alsahli).

and diarists have not used cases to demonstrate their arguments. In other words, those articles did not have an empirical approach (e.g. judicial cases or statistical analysis SPSS, like my study here). Consequently, I argue that this[64] can be one reason for those efforts to be insufficient.[65]

1.5.1.3 Codification

This section discusses what other researchers have found so far on the issue of the codification of rules. Furthermore, it will explore the historical background of codification. Therefore, in terms of structure, it includes some discussions from some researchers on the emergence of such a new juristic style.[66] Consequently, I identify the problem of codification in the Saudi juveniles' system and make a distinction between what some Saudi writers (e.g. Salam, Alsahli) call for (i.e. legislation) and what some other Muslim and occidental thinkers (e.g. Wael Hallaq) argue (i.e. Islamic law shall not be codified). However, it appeared that only some scattered articles on this topic could be found, but no one, to the best of my knowledge, connected these ideas and arguments on the Saudi juveniles' system particularly.

For instance, there have been discussions about legislating such Islamic traditions. This problem not only impacts on Muslims' lives today but particularly upon minors' crimes in Saudi Arabia.[67] Rather, almost all of the articles conducted claim to prohibit such an idea. For example, the General Presidency of Scholary Research and Ifta (GPSRI) in Saudi Arabia conducted research a long time ago, in 1972. As a result, their research concluded by supporting that Sharia should not be legislated in general. Additionally, Dekmejian (2003, p.401) and Raphaeli (2005, p.527) in their reports claimed that at the time of First Gulf War in 1990, nearly three quarters of Saudi thinkers called for codification as part of a rather secular movement. Raphaeli (2005) concluded that one of the most effective factors in demanding reforms in Saudi Arabia could be that when Saudi was exposed to outer pressures (e.g. international problems) as well as periods when religious faith seems weak, with the consequence that reformers started to agitate. March (2015, p.838), Moussa (2005, p.87) and Bedir (2004, p.400) argued that codification is extremely against Sharia because Sharia contains more than law (e.g. rules for worshipping God, personal affairs). Therefore, it cannot be recognized as law nor it can be codified as its nature (divine texts) cannot be changed. Also, Sharia does not develop very much with regard to some aspects of law such as constitutional and administrative laws. Rather, Sharia left them to the

[64] - I.e. a lack of pragmatic evidence and methodology in the previous studies.
[65] - This is also another assumption.
[66] - As Prof. Bedir Murteza (2004) named it in his paper on the Turkish Ottoman codified magazine.
[67] - E.e. I couldn't find any paper, to the best of my knowledge, conducted to address codification with regard to determining the age of puberty, classifying minors' crimes and their punishments to be consistent.

discretion of the Muslim ruler. Therefore, we can see that the legislative authority in Saudi started to launch discussions and join regional and international treaties on juveniles' matters as shown earlier.[68]

Unfortunately, there are no official statistics nor there have been statistical studies on juveniles' verdicts in Saudi. This is why some writers[69] have called many times in local journals for ordering everything as laws, articles and instructions so that people can know, at least, what will happen to them. Alshathry (2007) reported that the first time he saw demands for Sharia codification was in 1927 in King Abdulaziz's era, then for a second time after the First Gulf War in 1990 and for the third time in 2007, and it has continued until today. Nevertheless, Alshathry argued that the amendments for codification will never have stopped as a legislative authority sometimes is obliged to issue explanatory or executive decrees on those laws. Therefore, Alshathry is worried about establishing such codification in Saudi as this will alter Sharia without doubt, according to him. However, the calls for codification had already reached Saudi Arabia, because in 1927 some people asked King Abdulaziz to codify Islamic juristic rulings in order to ease the Fiqh, but Alshathry reported that scholars at that time were unanimous on refuting this idea. Regrettably, I could not find the source he attributed for this allegation (the *Umm Alqura* newspaper, 27/08/1927), as I could not find it in their archives. The recent historic stage for codification in Saudi started in 2006 and Alshathry described those who called for it as a "few and unspecialized journalists; may Allah guide them to the right path".

From the critical thinking in the above historical backgrounds, we can find that Alshathry was extremely opposed to codification. This is apparent from his last speech, when he sought God to guide those who called for codification as this can alter Sharia and close the gate of Ijtihad. Similarly, other calls for codification can be seen as a failure according to Alshathry's perception because the nature of codification is not stable.[70] These amendments made Alshathry and other researchers[71] seek to combat codification by all means. Thus, the aim of this chapter of my thesis is that I look at both sides of the argument regarding to what extent Islamic scholars tend to legislate Sharia as statute. This will also include investigating some relevant terminology, such as codification, Tadwin, Shariah and Fiqh

---

[68] - In the introduction p.22 onward. Nowadays, times have changed and Saudi Arabia can be considered an excellent economy in the world because of its revenue from oil over a long period of time (Al-Mutlag, 2003). Additionally, its population has increased according to the Saudi Central Department of Statistics and Information, whereas the population in the general census of population data 1974 (i.e. at about the time when the General Presidency of Scholarly Research and Ifta (GRSRI) conducted their research) was in total 7,009,466, in 2010 it was a total of 27,563,432. See this official link http://www.cdsi.gov.sa/english/index.php?option=com_docman&task=cat_view&gid=31&Itemid=113.

[69] - E.g. Alsahli, 2007; Alsahli, 2006; Alsahli, 2005; Almogren, 2016; Alrashid, 2008; Alzughaibi 2014; Salam, 2008.

[70] - To explain, it was not successful during Islamic history. For instance, at the first stage, Abu Jaafar killed the one who called for it (i.e. Ibn Almuqaffa). Additionally, in the second stage, Malik refused to impose his book *Almuatta* as a codification since people may have strong rationales or views other than his own. Despite the fact that some judges in the Ottoman empire were unqualified to deduce Islamic juristic rulings from their resources directly, unfortunately, it has not covered judicial issues related to crimes, juveniles, age of criminal responsibility (i.e. it was not comprehensive). Therefore, due to the fact that codification's nature is changeable as it is written to be not fixed, we saw many amendments in the Egyptian personal law, according to Alshathry above.

[71] - E.g. Baker Abu Zaid who was a member of the GPSRI and also represented the Salafi in Saudi.

(jurisprudence). As a result, we will discover codification's rule in Islamic law with regard to juveniles' rules as well as the main point of contention.

1.5.1.4 Age of criminal liability

The section seeks to review literature in Chapter Three, which addresses the determination of the juvenile age of criminal liability in Saudi. In fact, this chapter can present one practical application of the problem of codification in the Saudi juveniles' system. As stated earlier, Saudi Arabia has formally passed or enjoined few instructions with regard to juveniles.[72] However, I argue that the juvenile age of criminal liability is not clear yet in Saudi. For example, there are inconsistencies between what was written as a law and what happened at court, as explained earlier in the introduction.[73] For instance, Alshammary (2012), Alharthi (2012), Almadhi (1994), Alsyigh (2010) and Almani'ee (2011) contradicted themselves when they defined juveniles i.e. they clearly stated that the juvenile is someone whose age does not exceed 18 years old. However, in their argument above they paradoxically claimed that the age of puberty is 15 years old. Therefore, in this chapter, the thesis explores these problems related to the age of puberty in the Saudi juveniles' system, providing some judicial applications.

Subsequently, in Chapters Four and Five, we will need to see how the Saudi juveniles' system works in terms of classifying juveniles' crimes and their punishments. On which basis has Islamic law classified juveniles' crimes and their penalties in Saudi? There have been different categorisations of crimes generally in Islamic law. Furthermore, some researchers, like Sanad (1991) and Alawadeh (2005), argue crimes in Islamic law occur according to three lists; Hudud (fixed), Qisas (retribution) and Ta'zir (discretionary or corrective). However, others such as Alshammary (2012) and Almadhi (1994) claim that there are alternative crimes[74] which are called Diyah (blood money), associated with Qisas offences. Therefore, all of the researches I found on classifying juveniles' crimes in Saudi adapted the adults' crimes classification which is something, I argue, does not work in solving juveniles' thematic problems. Herein, I supply some paraphrased citations from those studies in order to demonstrate the extent of this problem (i.e. classifying minors' crimes as adults). This is additionally in line with discussing the basis upon which crimes in Islamic law can be classified. Some researchers (Alshammary, 2012; Sanad, 1991; Almadhi, 1994; Alawadeh, 2005)) believe that crime is categorized according to its punishment.[75] Therefore, there are three main categories for crimes in Islam.

---

[72] - For instance, (SOH) Social Observation House's law number 611 1975, (CIG) Care Institutions for Girls' law number 2083 1976, (CCI) Child Convention in Islam 2003, passed by the international Islamic committee for women and children, and finally the Convention on the Rights of the Child passed by the United Nations General Assembly 44/25 1989.

[73] - P.20

[74]- Crimes in Islamic criminal law are named by their punishments, see for example Sanad (1991).

[75] - Again, all thematic issues pertaining to juveniles in this thesis are vital in that all of them represent, what we can call, a chain as to start with codification, determining the age of juveniles' criminal liability, classification of their crimes and examining inconsistency in their punishments. As a result, each point is arguably unique in itself as it provides a practical judicial issue faced by juveniles in Saudi. For instance, our discussion now is on the literature over the classification of

1.5.1.5 Hudud crimes

Hudud (fixed) offences refer to those with a fixed penalty that is mostly due to Allah's right (Almarghinani, 2006, p.200).[76] Hudud crimes are not just limited to only one crime, yet it generally covers seven crimes, that are, adultery, defamation, drinking wine, theft, rebellion, banditry (armed highway robbery) and apostasy. However, I will solely focus on just four Hudud crimes (Zina, Alkhamr, Sariqah and Hirabah). Please note that, in Chapter Four we will examine four fixed Hudud penalties only because Qisas and Ta'zir crimes require a separate chapter of their own. Hence, I examine them in Chapter Five, alongside SPSS statistics on those fixed crimes, that missed some of its conditions.[77] The reason for separating Ta'zir crimes in another chapter is that they are considered the most common type of crime committed by juveniles. Aljundi (1986, p.257) confirmed this statement and wrote that Ta'zir crimes are confidently more appropriate to juveniles' abilities, either bodily or intellectually, as well as that Ta'zir crimes are so wide-ranging as to cover any unfixed crimes in Sharia law. Hence, due to this wide nature of Ta'zir crimes we examine them in the subsequent chapter, which is Chapter Five, concluding that they require establishing or re-categorizing juveniles' crimes as a whole. On the other hand, the reason for Qisas crimes to be additionally discussed in Chapter Five is that we cannot discuss them during Chapter Four due to the word limit. Another reason is that Qisas crimes' applications are limited as I found only ten judicial cases. Therefore, in Chapter Five both Qisas and Ta'zir crimes' categorizations are discussed.

1.5.1.6 Qisas crimes:

Qisas crimes can be defined according to Almawardi (2013, p.303) as "a punishment that is pre-determined by Sharia, in which the human right is predominant". Moreover, Sanad, a professor in Islamic criminal law, stated that it is crucial to note that Qisas crime is only related to bodily harm or injuries such as those that are intentional or semi-intentional, fault murder or injuring any other part of the human body. Therefore, it does not apply for non-fixed crimes such as Ta'azir crimes, nor for fixed penalty offences such as Hudud crime (1991, pp.65, 66). To challenge these two definitions for Hudud and Qisas crimes, there are two issues at play. First, while Awadh, the professor of Islamic criminal law, reported that the term crime/Jarimah has not commonly been used in Islamic jurisprudence,[78] the

---

minors' crimes in Saudi. This is exactly to show that since there have not been any clear rules for juveniles in Saudi (i.e. instead rather scattered and contradicted views), we can see that juveniles' crimes are dealt with the same as adults in terms of crimes' classification.

[76] - Fixed sentence means that the penalty is already determined, so there is no maximum or minimum amount for the punishment which is due to Allah's rights. Furthermore, Allah's right is the main cause for this penalty which means that this punishment cannot be excused from individual nor folk, if the case has already reached the judge (Ibn Qudamah, 1999, p.140 and Aljassas, 1985, p.107).

[77] - I.e. the situation in Saudi juveniles' system is that if the fixed crime missed its conditions, then the judge/s will certainly and openly prescribe discretionary punishment. Thus, we will prove that those discretionary punishments were, by any means, inconsistent in the same crimes, associates etc.

[78] - Including Hanbali doctrine, which is the basic for all Saudi juveniles' courts.

term Jinayah is, instead, applicable to bodily crimes only. Thus, Jinayah and Qisas are the same in that both of them are applied to bodily crimes. However, Muslim jurists such as Alzailai and Ibn Qudamah[79] elaborated rules related to other types such as Hudud and Ta'zir crimes. Therefore, Aud'a (2009, p.51) claimed that if we turn a blind eye to what jurists know about the term crime (i.e. Jarimah) or Jinayah, we will find that they are synonymous.[80] This is in fact a statement that has affected some related issues such as classifying juveniles' crimes and archiving them in the courts. Consequently, we found some confusion in terms like Fahishah[81] and Ghilah.[82]

Secondly, according to Almawardi, in his definition above, we can clearly see that Hudud and Qisas crimes and their punishments are pre-determined by the law-giver (i.e. Allah) due to Allah's right in the former (i.e. Hudud) and the human right in the latter (Qisas) being predominant in the crime itself. In other words, the definition has taken into account the criminal conduct only (i.e. to happen to either Allah's rights or a human being), but not the rationale behind penalising the act which is penalized because of Allah's right in Hudud or human rights in Qisas. However, this rationale for Qisas crimes being due to human rights' predomination cannot be accurate. One reason for this is that Ta'zir crimes can be due to human rights too, such as assaulting a human body without injuring it. Similarly, we can find some Hudud crimes such as Sariqah (i.e. theft) and Qazf (i.e. defamation) in which these two crimes and their penalties are already pre-fixed by the law-giver. However, they are considered to be Hudud crimes not Qisas crimes, even though they involve human rights (e.g. the stolen person's right and the slandered person's right). Thus, Awadh argued that we should remove this statement "… in which the human right is predominant" from the Qisas definition as well as this statement from Hudud's definition "…mostly due to Allah's rights". He also continued to claim that if we want those two statements to stay, then we must distinguish between two criteria, that are, criminal conduct (i.e. does it happen to Allah's right or a human's right) and the sense behind penalizing it (i.e. is it determined for Allah's rights or for a human's right). If we understand the difference between these two things, then we will certainly be able to understand why Qisas crimes can be removed by forgiving, whereas while Hudud cannot be removed, if they reach the prosecution stage.

Unfortunately, researchers such as Alshammary, Aljundi, Aud'a and many others (e.g. Alsyigh, 2010; Alna'iem, 2011; Almadhi, 1994; Aljundi, 1986) took the first criterion, that is criminal conduct in determining both Hudud and Qisas fixed penalties (i.e. the criminal conduct is happening to a human body). Hence, Alshammary (2012, p.63) and Aud'a (2009, p.621) tried to differentiate between Qisas

[79] - Mentioned in Chapter Four, p.96 onward.
[80] - Please refer here to the previous discussion on this matter pp.33-35.
[81] - As detailed in Chapter Four, pp.99-104
[82] - See Chapter Five, p.127 for more detail.

and Hudud crimes generally, arguing that Qisas crimes are lower than Hudud in dangerousness since Qisas crimes solely affect individuals' lives (i.e. not the whole community, hence making them personal crimes). Consequently, the misleading classification for juveniles' crimes continued since those researchers applied the classification of adult crimes on minors. For example, Alshammary (2012, p.63) argued that there are no differences between crimes committed by adults or juveniles because crime will still be crime in Islam whether it is committed by an adult or minor. Therefore, Alshammary as well as some other researchers (e.g. Alsyigh, 2010, pp.11, 12; Alna'iem, 2011, pp.172, 470; Aljundi, 1986, p.40) confirmed that we can apply harsh penalties on juveniles such as execution, fixed penalties and so on. However, Zaidan (2016) argued that the penalty for juveniles cannot reach the full punishment as a juvenile is not like an adult, but instead the correction for the crime must start from the role of education and upbringing for the minor. Hence, the classification of juveniles' crimes should differ from those of adults. Let me now clarify something related to the Ta'zir definition.

1.5.1.7 Ta'azir crimes

Ta'azir can technically be defined as a discretionary punishment prescribed by the ruler for crimes committed against Allah or individuals, where there is no fixed penalty nor expiation (Ibn Farhoun, 2002, p.217; Bambale, 2003, p.98). Aljundi (1986, p.258) argued that, from the definition above, we can grasp that corrective punishment differs from fixed and retribution crimes in that Ta'azir crime cannot intervene or change any of them. Yet, a discretionary penalty can sometimes be an alternative solution for fixed and retribution crimes where any condition in those crimes is missed or was not approved. However, Aljundi forgot that the juveniles' judges in Saudi already mix fixed and discretionary punishments, as we have proved through cases in Chapters Two, Three, and Four. Hence, I presume that the criteria in which juveniles' crimes and their penalties were, generally, classified were exactly as same as those of adults to a great extent. One example of this is what we have seen in those cases from applying fixed penalties and retribution on juveniles, let alone adding to them extra discretionary punishments.

The Saudi legal system, except in juveniles' cases, has determined some penalties for Ta'zir crimes and this is also what can be seen in the Quranic verse (4:34) and the Hadith[83]. While some researchers, mentioned above, reported that Ta'zir penalties are not specified as they are subject to the judges' discretion, we saw that the Quranic verses and some Saudi laws/Nizams specified some Ta'zir penalties. For instance, the Saudi authorities have tended to legislate some Ta'zir crimes, which strongly threaten

[83] - "Start to ask your children to pray at the age of seven years, yet correct them, if they missed the prayer, at the age of ten years" (Abu Daowd, 2013, p239 and Alalbani, 1988, p.1022).

the community.[84] Thus, Alshammary went further to classify minors' crimes in Saudi into two categories: traditional and modern crimes. However, both are already subject to the main classification (i.e. Hudud, Qisas and Ta'azir). Hence, this thesis discusses both categories of minors' crimes in Saudi Arabia and provides some critical points related to Alshammary's division.

First, traditional minors' crimes: and this type of offence is already well known in Saudi society since such crime is not something new or abnormal. Furthermore, by going back to some official statistics from the Interior Ministry (no. 35, 2008), the Justice Ministry (no. 33, 2008) and the Social Affairs Ministry in 2008, we find that the potential traditional crimes are: assaulting other people's property, homicide, immoral crimes, assaulting other individuals, using drugs and drinking alcohol, driving offences, theft, assaulting families and begging.

Secondly, modern minors' crimes are somewhat new for Saudi society because they have never been faced over the previous 20 years (Alshammary, 2012, pp.126, 127). In addition, these crimes are mostly related to cyber-crimes via the internet. According to Alminshawi (2003, p.3) most cyber-crimes in Saudi that are committed by juveniles, are as follows: sexual crimes (immorality), hacking people's websites and financial crimes, such as stealing bank cards and gambling.

To investigate, despite those law/Nizams[85] mentioned earlier, Saudi judges have dismissed those laws throughout many, but almost all, of juveniles' verdicts.[86] For instance, the researcher could not find any reference to those laws during his reading in the gathered applications. Hence, Alshammary's classification for Ta'zir crimes into traditional and modern can easily eject many modern crimes from being classified under crimes of "Ta'zir". With this in mind, the Abu Dhabi document for the Unified Code of Juveniles[87] (2002) specified Chapter Two for juveniles' punishments and divided them into three types, that are, caring, reforming and punishing measures. Yet, these measures for classifying juveniles' crimes in Saudi appear to be ambiguous since judges are not obliged to apply the Abu Dhabi document because it was just for guidance only. One reason for this is that we cannot see any reference to them throughout juveniles' verdicts in my study. Furthermore, it has not any rationale from the Quran, Sunnah, which is the basic ground for the Saudi legal system according to Article 7 of the Saudi constitutional law 1992. This again reminds us of the problem of codification in the Saudi juveniles' system particularly. As a result, we analytically discuss these problems in great depth in Chapters Two, Three, Four, and Five. Thus, I need to reflect on the methodology used in this research.

---

[84] - Examples of these legislated laws are: anti e-crime law issued by royal ordinance number (M/17) 0n 27/3/2007, anti-money laundering law number (M/39) on 24/8/2003, anti-forgery law number (114) on 12/5/1961 and embezzlement law (for the government's public money) number (M/77) on 29/10/1975.

[85] - Please see the extensive discussion on codification in Chapter Two p.48 onwards.

[86] - As can be seen in more analytical details in Chapters Three, Four and Five.

[87] - Which Saudi Arabia has also joined.

1.5.2 Part two: Methodology

Unlike other researchers, mentioned earlier, my study adds to existing academic knowledge a unique thematic study. This means breaking the problems down into four main chapters, i.e. codification, determining the age of puberty, the classification of juveniles' crimes and inconsistent penalties for them in Saudi with empirical data from the general, criminal and juveniles' circle courts in Riyadh. Additionally, my study employs mixed methods which involve analytical and statistical approaches to the problems. Moreover, it provides some judicial applications from three courts in Riyadh, to examine the traditional classification of juveniles' crimes (i.e. Hudud, Qisas and Ta'zir crimes). Specifically, under the Hudud crimes, we investigate four crimes, being, adultery, drugs and alcohol, Hirabah (armed robbery), and theft. Hence, this research focuses closely on minors' crimes and their punishments. Again, this is a case-specific study which integrates theory (i.e. what is written as statutes) with reality (i.e. what happens at court), unlike the previous studies, which accumulated and, hence, embedded, distorted perceptions within the Saudi juveniles' system without using an appropriately scholarly style (i.e. the previous studies lacked scientific and clear methodologies).

For instance, Alshammary (2012) and Almadhi (1994) applied a descriptive comparative research approach, which means they compared various different legal systems. Yet, they did not name what they were comparing it with (i.e. they discussed crimes' classifications in Saudi law and other made-based laws). In addition, made-based laws can mean all laws against Sharia[88] (Almufada, 2012), so we conclude that there were no specific laws they were comparing them with except the Saudi crimes' classifications, which basically are related to adults only. Similarly, Almadhi (1994) applied a scope of research which followed a social approach, the same as Al-Mutlag (2003) did in his research. Moreover, they talked a great deal about reasons and their effects upon society in Saudi, whereas my research does not address social matters or the causes of minors' crimes. Another example is that of Alhariqy's methodology in his research. Alhariqy (2001) stated in his introduction that he would use a descriptive approach in order to improve the situation with regard to juveniles' delinquency in the SOH. Unfortunately, a descriptive methodology does not assist in improving the situation for human rights as it just simply lists what others say about the situation. This again shows the reader here that Alhariqy and some other researchers did not provide any valuable contribution to the existing thematic gaps on the Saudi juveniles' system, as they just established and emphasized the existing view, maintaining that it is the right one.

[88] A problem remains again here with regards to Islamic law codification or the Islamic legislation record, which means that there seems to be a fear of using the word of law as legislation instead of Sharia even if it has been used throughout Islamic history by a great number of Islamic scholars. See, for instance, Almufada (2012).

In other words, I could not see the independence of the academic researcher in expressing the right view about those thematic problems faced by juveniles and achieving a balance between different juristic views. Rather, they, somehow, evidenced their opinions via Sharia law within its restricted view.[89] Further, these studies, mentioned earlier, are quite old, dating back to 1994, and some new issues have occurred since that time.[90] These new issues require us to analyze and evaluate instructions/laws passed by the Saudi government with regard to juveniles' crimes.

Once again, the previous few studies were only descriptive and, hence, were biased in the sense that they were just partly[91] and advocated the existing Hanbali views without balancing and expressing other Islamic juristic views, especially those of great scholars (e.g. Ibn Farhoun, Ibn Qudamah and Ibn Abdin). In other words, we can say those studies were somewhat part of the problem itself in terms of causing the juveniles' thematic issues because of their non-academic approach. Shalamanova (2014), a researcher of methodologies, reported that a clear research methodology means a process is followed to construct an accurate and consistent presentation for a topic. Therefore, the method section in any research should give a detailed description about how the thesis/paper was conducted (Laplaca, 2015). Thus, the thesis now explains the methods used to gather, analyse and interpret the information/data needed.

1.5.3 Study design

Since this study thankfully combines theory and reality, this has allowed me to prove my claims on identifying thematic problems via a mixed methodology. Additionally, the mixed methodological approach assisted me in mitigating bias.[92] To elaborate, combining quantitative and qualitative methodologies in this research were able to yield a clear picture of this study, as well as minimising the chance for any potential bias because we do not rely upon one side more than other. Rather, I combine theoretical claims with their proofs from judicial applications. Despite the fact that the previous

[89] - E.g. the age of puberty is only 15 years old, or even earlier, for boys and girls, despite the fact that Alhariqy did not evaluate these views or supply clear critiques for them.

[90] - E.g. Saudi officials passed the new judicial law (2078) as well as also joined the Abu Dhabi document for a unified code for juveniles, which was launched by the Gulf Cooperation Council (2002).

[91] - Because their research did not fully address thematic issues like my study here. Rather, they were just describing investigational procedures.

[92] - To explain, Creswell (2014) stated that, if the collected data has both strengths and limitations, we should consider how mixing these databases together will provide us with a better grasp of the study's problem and queries. For instance, a quantitative approach may have many more research designs than a qualitative one. Moreover, quantitative methods are better structured, more specific and, therefore, have been tested to make sure of their reliability and validity, whereas the qualitative approach might mainly be for discovering, understanding and explaining. As such, its design may often be based on a deductive rather than inductive sense, so they are flexible in nature (Kumar, 2014). However, Al'assaf (2014) argued that both deductive and inductive approaches are just tools or methods in a qualitative approach. See for instance https://www.youtube.com/ (2014). Consequently, there might be no clear relationship between a design and method of collecting data using a qualitative approach rather than a quantitative one and this may open the door for potential bias. This is again another proof of the limitations and bias of the few previous studies as they only used a somewhat qualitative approach. However, employing both of these approaches will maximise the advantages as well as minimise the disadvantages.

researchers' designs applied just a deductive method as a tool of qualitative data, they unfortunately did not examine the Saudi juveniles' system in a thematic way. One reason for this can be that they existed just to advocate for the Hanbali juristic doctrine regardless of the juveniles' best interests. This strongly and humanly requires me to stand for them and, hence, to do academic research which takes into account mixing the deductive and inductive methods.[93]

Deshpand (1983) claimed that it is highly advised, for researchers, to reach a balance between the inductive and deductive methods[94] so that the bias is minimised. Furthermore, this advantage can be achieved through two steps; firstl by using a qualitative approach (i.e. the inductive method) when we generate a new theory. Secondly, it can achieved by utilising a quantitative method (i.e. deductive approach) while we examine that theory. Therefore, this researcher thinks that the most suitable design for this study mixes the explanatory and exploratory sequential methods. While the explanatory method begins with quantitative data (collecting and analysing), then employs these results in order to give a greater depth of understanding of the topic, the exploratory approach starts by using qualitative data, then uses quantitative data to develop the criteria for the topic (i.e. suggesting potential solutions for certain problems, such as determining juveniles' ages of criminal liability in Saudi).[95]

1.5.4 Difficulties in the field

I have faced some difficulties in this study. For example, to gather my empirical data, I have had to take a journey to Saudi Arabia, so I planned to conduct my research there from 17/8/2015 for three months. Furthermore, during this time, the researcher had to have pre-consent in order to get access to the courts,

[93] - To identify cases' numbers in Appendix 2 it is important to note cases with long numbers (e.g. 2013, no.342150173/26) and cases with short numbers (e.g.68). In the former, you can find case numbers in the last number/s after the slash (i.e. 26) while in the latter, the number itself (i.e. 68) is the case number in Appendix 2.

[94] - The deductive approach begins with a general idea, tries to develop it into a testable theory by collecting data and analyzing it while the inductive approach starts with observation in order to create or develop a theory (Bowling, 2014; Haider and Birley, 1999). Yet, some other researchers argue that both methods should be combined in order to gain more benefits by incorporating different interesting approaches (Warster, 2014; Seth and Zinkhan, 1991). Additionally, it is claimed that the theory proposed by Bowling (2014) and Haider and Birley (1999) might belong to the natural sciences, but not to arts and humanities researches (Al Assaf, 2006). As a result, the inductive and deductive methods are not considered as part of the analytcal approaches or methods since they are used as tools of a qualitative approach in order to extract information and evidence from qualitative data or applications (i.e. we can deduct information needed from documents via a qualitative approach, while we can induct information via resources in order to gather/build theories).

[95] - Wali (2016) argued that "generally speaking, quantitative data is used to prove the hypothesis (e.g. whether a trend exists, once you prove this trend then you want to know why?". However, in Wali's thesis (2011), the qualitative chapter came before the quantitative chapter because, according to him, his argument demanded this structural approach, so we can conclude that it might be better to overlap between both aims (i.e. the exploratory and explanatory sequential mixed methods) so as to give extra depth of a problem's core and understanding. Whatever the case might be, I argue that using both techniques in my research here will give both results despite the fact that we already started by using qualitative data in Chapters One, Two, Three and Four, which outwardly means that we, somehow, tended to follow an exploratory design. However, if we begin reading from the last chapter, which is Chapter 5, then we will truly find that we started using quantitative data, then after that, qualitative data in Chapters Four, Three, Two and One in descending order. Therefore, I utilized both designs to give extra depth for the topic's analysis and understanding. In other words, whether the intention is either for discovering (to develop a new scale) or explaining (to plan or build), the thesis's structure here will discover and prove the critical thematic points in the Saudi juveniles' system, which are already based on strict Islamic law. Further, the research enriches the discussion by suggesting some potential solutions. However, the main duty here is to identify and prove those thematic problems related to the Saudi juveniles' system.

and thus, I was involved in many processes to do this. First, the Saudi Cultural Bureau in London required many papers such as pre-consent from my supervisor, the direction where I wanted to conduct my research, my university in Saudi Arabia and some other papers, such as my proposal and detailed plan for the journey. Moreover, the researcher and his supervisor worked hard to get access to judicial applications data. Another point here was that some judges in the general court were unhelpful, despite the fact that the researcher explained to them that these applications would only be for research purposes and also despite the sense of humour the researcher used to build confidence and social relationships. Moreover, it might be difficult to determine the total number of applications in the general court because there were no specific records for them or special files, and the system was not computerized as yet.[96] With this in mind, I encountered some difficulties with a few judges in terms of being denied access to those applications for no reasonable reason at all![97]

On the other hand, in the theoretical aspects of this thesis (i.e. Chapters Two to Five), the researcher faced some challenges. For instance, the discussion of Islamic law codification seems to be new matter in Islamic jurisprudence (i.e. it was not discussed during the Prophet's time nor by the four-main schools of Islamic jurisprudence). In addition, with regard to the complex legal nature of the Islamic law, we should also bear in mind the difficulties in translating some of its terms, cultural and historical styles. Therefore, this necessitated revising the thesis more than three times to make it more meaningful for the audience. Adding to this, some authors on Islamic law, generally do not refer to their original resources, such as books of the four-schools. Bassiouni (1982) reported that this writing style is commonly practised by some Islamic scholars (e.g. Awadh, 2008) as they assumed that those books were well known to everyone, so that they did not cite them. However, these challenges can be seen as features for this thesis in overcoming them and countering them, thereby making this work distinguishable. As a result of this hard work, I initially gathered 271 cases, one of which is missing,[98] from three courts, which were the general, criminal and juveniles' circle courts within the period of 7/6/2010 until about June 2015[99] (see Table 1, Appendix 1).[100] Also, juveniles' ages are divided into three clusters as can be seen in Tables 7 and 11 (Appendix 1).[101] Unfortunately, the juveniles' ages were

[96] - It is archived in a repository instead.

[97] - For instance, one judge said we do not have any, while I found some juveniles' cases associating his name with other friendly judges. In addition, another judge argued that they might have, but they would not be able to give me any information since they did not have enough staff to do so.

[98] - The reason was because of mis-archiving the cases (i.e. the archive has separately transferred to the criminal court while they were archived either at the general or at the juveniles' circle courts, so some cases were missing by the court's clerks).

[99] - Except the case of Al-Nahda Tunnel as it happened in 2005, pp.17-18, but I decided to start with it to introduce the reader to my thesis with one of the highest impacted cases in Saudi society in Riyadh.

[100] - Please find general summary for all gathered cases in Appendix 1.

[101] - In short, the tables show us both genders (i.e. males and females) were considered, and the percentage for male cases was 86.7% with 235 frequencies. However, for females it was 12.9% with 35 frequencies. Moreover, to describe the percentages and frequencies for the offences in this chapter, we can see theft crime accounted for 39.2% or 135 cases. Adultery accounted for 7.8% or 35 cases, while drugs and alcohol crimes were 17.2% or 59 cases. Hirabah crime was 35.8% in frequency or 123 cases. With regard to the juveniles' age-grouping, we can find that 7-15 years old group was responsible

not mentioned in some cases and so the researcher faced some difficulties in putting those cases into SPSS because juveniles' ages are classified into three distinct clusters. Therefore, it was very challenging to address such a problem. However, the researcher returned again and again to the three courts to ask judges about those neglected ages. They referred me to their clerks and claimed they did not know, but the neglected ages can be considered to be 16 to 18 approximately! As a result, the researcher decided to stipulate these cases clearly during the qualitative study in the chapters while clarifying them with an asterisk in Appendix 2.

1.5.5 Data analysis and interpretation

To analyze and interpret the archived data, this research used the program, Social Product for Service Solution[102] (SPSS) in order to undertake a quantitative analysis. This drew out some variables that affect judicial decisions or showed the contradictions between them.[103] In the gathered verdicts, almost all data are categorical except three variables as they are scales, which are sentences_jail, sentences_lashes and sentences_fixed. Therefore, three non-parametric statistics were used. These non-parametric statistics are as follows: first, the Chi-square test was used to independently explore the relationship between categorical variables such as Gender vs. either (Associates and Precedents). Another example was Age_group vs. either (Associates and Precedents). Secondly, the Mann-Whitney U test, which is the alternative to an independent-sample T-test. This tested differences between two independent clusters on a scale measure (i.e. continual data). An example of this was Gender vs. (sentences_jail, sentences_lashes and sentences_fixed) and also Associates vs. (sentences_jail, sentences_lashes and sentences_fixed). Thirdly, the Kruskal-Wallis test, which is similar to the Mann-Whitney U test, but it allows us to compare variables that have more than two categories (i.e. three or more). For example, Age_group or Offences or Precedents vs. (sentences_jail, sentences_lashes and sentences_fixed) as these variables have more than two groups as can be seen in Chapter Five.[104] Therefore, in Chapter Five, I analyzed and interpreted the outcomes of the tables. However, the tables themselves are in the appendices (i.e. Appendix 1) to provide more information on the tables, which may interrupt the flow of the analysis, if they were included in the main chapters.[105]

---

for 8.1% or 28 cases. Additionally, the 16-18 years old group committed 83.4% or 287 of cases. Finally, 19-30 years old undertook 8.4% or 29 cases.

[102] - Some researchers (Althubaiti, 2010; Evans, 2011) call it the Statistical Package for Social Sciences (SPSS).

[103] - The condensed data do not demonstrate rigorous requirements nor do they make assumptions about the population distribution as most of the data are categorical, yet three types of data are scales, which are sentences_jail, sentences_lashes and sentences_fixed. Pallant, a great maths and statistics scholar, reported that if the data do not have rigorous requirements nor make assumptions about population distribution, then there is no need for a parametric statistic (2013, p.221). For instance, if most of the data are measured to be categorical, either nominal (e.g. gender, crimes' types, associates). Thus, the variables do not have a meaning for rank or order to them.

[104] - Pp. 138-152

[105] - This additionally allowed for condensing chapter five to be about 13600 words rather than 18000. Also, it helped removing the mathematical/numericial issues to be at the footnotes alongside with Appendices. These Appendices are classified as follows; Appendix 1 list of tables and annotations, Appendix 2 general summary of cases, Appendix 3 letters of correspondence.

1.6. Summary

Certain thematic aspects of the juveniles' justice system in Saudi are ambiguous. By reading through the literature, it appears that there has been no previous research conducted to classify juveniles' crimes in Saudi Islamic law. Instead, many researchers (Ala'jam, 2013; Alshammary, 2012; Almadhi, 1994; Muhammad, 2016,) classified only adults' crimes (i.e. fixed, retribution and discretionary crimes) and, hence, imposed this classification on juveniles. Additionally, these three categorisations depended on solely on adults' punishments according to Alshammary (2012) and Sanad (1991). However, Saudi Arabia has formally passed new judicial laws (2007) and joined regional treaties such as the Abu Dhabi document (2002). Therefore, these treaties asserted that state parties should divide juveniles' penalties according to three measures, that are, caring, reforming and punishing measures. Yet, Saudi has not applied these things as they were just guidance documents. Thus, this thesis demonstrates and supplies some judicial applications gathered from three courts, criminal, general and juveniles' circle courts in Riyadh, KSA. These applications are examined via a mixed methodology following exploratory and explanatory designs. To elaborate, in theoretical issues which involve controversial ideas (e.g. determining the age of criminal liability) an analytical thematic methodology[106] is applied. This means analyzing these cases with regard to some important variables, that are, age, penalty, gender, precedents, associates and crimes. The crimes studied in Chapter Five are supposedly recognised as fixed and retribution crimes. However, not all fixed crimes were studied because some of them may not exist amongst juveniles in Saudi, such as crimes of apostasy and rebellion, during the period under research. Further, I could not find any applications related to defamation in the three courts examined. Again, the fixed offences that are analyzed here are crimes of adultery, drugs and alcohol, Herabah (armed robbery) and theft.

Despite the fact that those researchers, mentioned above through the literature, were part of the problem itself since they established and emphasized the rightness of the distorted views, my research will overcome those challenges as well as have a wide impact. One reason for this comes from my practical experience as a paralegal for more than three years, during which time I assisted many people to gain their rights, through either consultancy or legal action. Another reason comes from my qualifications as a lecturer in Islamic law and Islamic contemporary studies in Saudi Arabia. This again gives my research greater gravitas so as to assist stakeholders with these valuable judicial applications. Hence, we will investigate four substantial problems pertaining to the Saudi juveniles' system. These problems are classified into chapters as follows: codifying Islamic rules pertaining to juveniles; determining juveniles'

106 - See p.28 for more details.

age of criminal liability; classifying their crimes; and, finally, examining statistically the inconsistency in juveniles' sentences in Saudi Arabia.

Chapter Two: the problem of codifying juveniles' crimes in the Saudi legal system

2.1 Introduction

Codification for Saudi Islamic law can generally be a new juristic matter. However, according to Alalfi, (2015) and Alahow (2015), its roots/basis go further back to the early time of Islamic history (e.g. the era of Abbasid or even to Umayyad dynasties). Nowadays in Saudi, codification is generally a result of some thinkers' calls[107] to develop greater clarity and accuracy for the Saudi judicial system (Dekmejian, 2003; Raphaeli, 2005). One of these is the Saudi juveniles' law, which has ambiguous regulations. For instance, minors' crimes were dealt with in the same court as adults before the 1970s.[108] After this, a law of Social Observation Houses (SOH) and the law of Care Institution for Girls (CIG) (1975) was passed, supposedly to set up some regulations related to juveniles' affairs, which basically differ from those of adults. In addition, Saudi Arabia joined the Convention on the Rights of the Child[109] passed by the United Nations General Assembly (1989). Finally, two reactions emerged and, therefore, were followed by Saudi Arabia in order to clarify an Islamic and regional identity.[110] The Islamic reaction can be presented in the form of a Child's Charter in Islam (International Islamic Committee for Woman and Child, 2003), yet the regional reaction can be found in the Abu Dhabi document for a unified juveniles' law for GCC countries (Gulf Cooperation Council, 2002).

However, none of those documents has addressed the problem of codification for the Saudi juveniles' system, as we will see shortly. Hence, this matter of codification[111] remains a critical gap in the Saudi juveniles' system. Herein, the researcher investigates those laws, mentioned above, generally, and provides some critiques for them alongside with some supportive verdicts. This step is important to show that the Saudi juveniles' system is in obvious need of either codification or documentation[112] (i.e. Tadwin or re-writing). Subsequently, we move on to discuss and analyze the following important points related to codification in the Saudi juveniles' system. First, definitions of related terms such as codification, Tadwin, Fiqh and Sharia are presented. Secondly, we analyze the historical growth of the idea of codification in the Saudi Islamic justice system in order to see the whole picture of this problem clearly. Hence, analysis of the codification's rules in Saudi Islamic law is examined in order to address

---

[107] - Such as Alsahli, a prominent lawyer in Riyadh (2006 and 2005); Alobaikan, a former MP at Saudi Shoura council (2005); Alnujaimi, a well-known professor in Sharia law and consultant for the Saudi Interior Ministry (2005) and Alghabash, a lawyer and writer in *Makkah* newspaper (2014). These writers/researchers are known in Saudi society, of which I am one, that they do not represent any specific school of thought (e.g. *Salafis*). Yet, almost all of them do not care about these thought classifications as long as they provide discussion/ideas to enhance the welfare of society.

[108] - Please see the extensive discussion on this matter in Chapter One, pp. 24-25.

[109] - The thinking behind signing the Convention e.g. a body of law that is not Islamic, was mentioned in Chapter One, pp.24-25.

[110] - Again, for more details, see Chapter One, pp.24-25.

[111] - The discussion of definitions of codification and its related terms follow shortly because my argument requires this structural approach.

[112] - The researcher is proposing this concept as a comparable to codification and, again, a detailed explanation can be found in this chapter, pp.54-62.

this problem and prove it. This includes looking in great depth to clarify the basic grounds upon which codification in Islamic law can be built.

2.2 Critical points related to Saudi juveniles' laws

Despite the fact that before the 1970s, juveniles in Saudi were dealt with the same as adults (Al-Mutlag, 2003), both laws for either Social Observation Houses, which consist of 12 articles, and the Care Institution for Girls, which consists of 20 articles, cannot be considered appropriate for dealing with juvenile legal and judicial matters. One reason for this is that both mainly contain social affairs such as providing shelter, food and guardianship for minors. However, the only articles that dealt with juveniles' definition are article one of both laws of Social Observation Houses for boys and Care Institution for Girls. Moreover, both articles are inconsistent in that they differ between boys and girls concerning age but without rationales, as can be seen in the verdicts below. Furthermore, it stated that the Social Observation Houses aim at providing care for juveniles whose ages are between 7 years and 18 years old in two situations. First, this includes juveniles who are subject to investigation or trial from prosecution or the police.[113] Secondly, it includes those who judges decided must stay. On the other hand, article one of the law of the Care Institution for Girls states that it aims at implementing social care programmes for juvenile girls whose ages do not exceed 30 years old without specifying a minimum age like boys (i.e. 7 years old). As a result, both laws can be regarded as dealing with juveniles' social and health matters, but no real codification can be found in terms of legal and judicial matters.

2.2.1 Case one

The first case study on these issues[114] is that of verdict no. 35314533/3 (2014). In detail, the Prosecutor-General accused a juvenile, aged 17 years old, of intentionally killing an adult woman by running over her twice using a car and after scuffling with other children. Furthermore, the prosecutor claimed that the juvenile admitted this intentional murder. Additionally, the forensic report number (01/32/258) stated that the damage to the dead woman's body were akin to those suffered in a severe car accident. The traffic police report number (4791431) wrote that the smash happened 100% due to the car accident. Further, another three eyewitnesses confirmed that the death happened because the juvenile ran over the woman twice. However, the Prosecutor-General stated that he could not find any criminal precedents

[113] - Thus, they can be placed in the SOH while under investigation. However, please note that this research does not discuss procedural/investigational matters such as is there a time limit for investigation? Additionally, in my opinion, these sub-aspects need another lengthy text to explore them properly.

[114] - I.e. differentiation in age between boys and girls without rationale, the gap in the Convention on the Rights of the Child article 1 and, hence, imposing capital punishments on juveniles (e.g. putting to death, fixed lashes).

for this juvenile case. Hence, he appealed to the three judges at the general court to apply the fixed penalty of intentional murder, which is putting to death. Subsequently, the judges asked the juvenile and the claimant about this allegation, although both of them asked the judges to postpone the hearings in order to appoint solicitors for them. Yet, the juvenile's lawyer argued that the classification for the murder was wrong from both the prosecutor and the claimant since the juvenile had not intended to kill the woman. Instead, he had no business or hostility with the deceased lady since the problem that precipitated his agitation occurred between her children and him. Rather, he claimed he ran away using the car as he was extremely scared, and did not know that the lady was waiting behind the car. As a result, the problem here is a matter of classification since the murder here is semi-intentional (i.e. not intended). Following on from that, why did the judges not remove the fixed penalty by suspicion since it is narrated in Hadith that the fixed penalties should be removed in the case of suspicion?

On the other hand, the claimant's lawyer and the Prosecutor-General insisted on their arguments, claiming that their evidence was sufficient to clear the minor. Hence, the judges decided, because although we offered reconciliation between both sides of the suit, each side refused. Additionally, the defendant, who is juvenile, confessed twice that he ran over the lady by car throughout the period of investigation, yet denied this in front of the court, claiming that it was by accident. However, the three eyewitnesses confirmed that the death was intended because the juvenile ran over the lady twice forward and backward. In addition to the traffic police and forensic reports, the judges were truly convinced that the murder was intentional. Moreover, although we may not discover the juvenile's intention, there were many signals that indicate the murder was committed on purpose, such as the eyewitnesses' accounts, the reports and the juvenile's confession. Further, the killing tool (i.e. the car) was deadly as it does kill people. Therefore, we decided to apply the fixed penalty of Qisas, that is, putting to death according to the Quran (17:33) and (2:178). However, the judges did not considere the juvenile's age at the time of the murder (i.e. he was only 15 years old and 9 months according to his official ID, yet the judges as well as the Prosecutor-General wrote that he was 17 years old depending on the time of the prosecution, which is not accurate). Secondly, the judges depended on the testimonies offered by some children who attended the scuffle, despite the fact that they were enemies of the accused juvenile (i.e. they may be motivated by revenge for their mother).[115]

2.2.2 Case two

[115] - Alramli (2011, p.255) argued that the confession of the minor him/herself cannot be considered a proof since the confession of the minor is not often acceptable in Islamic law. However, please note that talking in great depth about the matter of proof in crimes and likewise requires more resources than afforded by this thesis, so I have given a brief overview only.

Another example is that of no.31/300/4/27 (2009) and is related to a man aged 27 years old and a juvenile[116] girl aged 25 years old. Both defendants were captured by the religious police after they left a hotel based on the suspicion that they were not related to each other and so committing adultery. During the investigation, the man admitted that they were not related, but he denied having sexual intercourse with her. However, the girl admitted that she had sex with the man without being compelled to do so. Subsequently, the case transferred to the general court and the Prosecutor-General accused the man of being in illegal relationship, while the girl was accused of committing adultery as she was already married. Hence, the Prosecutor-General asked the judges to apply the fixed penalty of adultery on the girl while applying discretionary punishment on the man. However, the judges questioned the girl about this allegation, as the man was absent from the case hearing, and she replied that the Prosecutor-General was wrong because she was compelled to confess and also to have sex with the man. The judges postponed the case until the man could be brought to court. After a month, the man still had not come, despite the fact that he was notified by the court to attend. Therefore, the judges only decided about the girl, as follows; since the girl initially[117] admitted that she committed adultery, then in front of the court denied it, claiming that was compelled to do so, the judges decided to remove the fixed penalty of adultery by suspicion.[118] Thus, she deserved discretionary penalties and so it was decided to sentence her to jail for one and a half years and that she submit to 150 lashes.[119]

2.2.3 Case three

The third case example is that of no. 35440121/84 (2014) from the criminal court in Riyadh, KSA. Briefly, a juvenile Syrian girl, whose age was 18 years old, agreed with a juvenile Syrian boy, also aged 18 years old, to kill her Saudi husband. Accordingly, the girl was the prime mover in the crime, but the boy was the killer. In examining the case, the girl admitted that she hated her husband since he beat and humiliated her. Subsequently, she introduced herself to a Syrian boy via the internet, contacted him via WhatsApp and complained about her situation with her husband. Consequently, they agreed that the boy would kill her husband if she provided him with her husband's shotgun to commit the act. She informed the boy that she and her husband would go for picnic on a specific day, and sent the boy their locations via WhatsApp. The boy duly arrived and shot her husband until death. The boy's confession corroborated this.

---

[116] - She is arguably juvenile despite the fact that her age is 25 years old, according to the Saudi law of Care Institution for Girls (CIG) Article 1.
[117] - I.e. during the investigation.
[118] - It is narrated in Hadith that remove the fixed penalties by suspicion. See chapter four, p.97
[119] - As can be seen here, the age of puberty for girls in Saudi is 30 years old and this girl's age was 25 years old. Also, the girl was given more severe corrective punishment without clear criteria, such as jail for eighteen months as well as 150 lashes.

The boy also insisted on recounting their confessions in front of the three judges at the criminal court, so the judges decided that since they both certainly admitted committing the crime of murder, because the girl helped the boy by giving him the gun and providing him with all the necessary information to kill her husband, the crime was therefore of Hirabah origin (i.e. highway armed robbery). The crime is specifically called Ghilah (i.e. assassination) in which the victim feels safe with the killer, yet the killer does not appreciate this safety and intentionally kills the victim. The judges supported their vision that Ghilah is of Hudud origin, not Qisas, guided by Ibn Tymiyah and the General Precedency for Scholarly research and Iftaa in Saudi, as well as the General Authority of the Saudi supreme court. As a result, the judges ordered both of them to death by retribution, despite the fact that the girl had delivered her baby a week after the verdict.

In turn, this style of retribution can be seen to be against the prophetic tradition which asks for a certain waiting time for a pregnant woman to live with and feed her baby (Alqushairi, 2013; Bukhari, 1987). However, the judges responded to this by saying that contemporary times are different, as in the prophetic era there was not powdered baby milk as there is today. Nevertheless, we still argue that the mother's milk is still the most beneficial for the infant, so the mother must be kept alive for at least a certain time (i.e. 2 years approximately) according to the Quran (2:233). Another point relevant to the sentence is that the judges classified this murder as Ghilah (i.e. assassination), and hence it is from Hudud crimes not Qisas crimes, which meant they depended on what some scholars had chosen. There is conflicting opinion, even within the Saudi general precedency for scholarly research and Iftaa, that this type of murder is of Qisas origin. This opinion is strongly held by Sheikh Saleh Bin Ghoson (Alaoudh, 2017). This is, again, against what Alsarkhasi (2009) argued, that in this particular scenario (i.e. when the murder is jointly committed by juveniles) then the blood money will be upon the male relatives of the killer because he/she is the one who commited the crime of homicide.

2.2.4 Case four

The final case example here is that of no.18031573230923100/72 (2010) and is related to two juveniles without any given ages who committed the crime of homosexuality, yet the Saudi Prosecutor-General and the judges classified it as Hirabah (i.e. highway armed robbery). The traffic police in Riyadh arrested two juveniles since they were seen committing an act of homosexuality inside a car. The story began when Juvenile A gave a lift to Juvenile B. Subsequently, in the car, Juvenile B asked for sex and Juvenile A voluntarily responded to his suggestion, but anal penetration did not occur. The Prosecutor-General questioned Juvenile A only since Juvenile B was the one who was assaulted, hence, he was not the offender. Juvenile A admitted his wrongdoing throughout investigation and in front of the general court, but he was not the one who asked for sex originally and, the sex was without anal penetration. As a result, the judges decided that since the defendant (i.e. Juvenile A) admitted his wrongdoing but did

not initiate the sex, which did not feature anal penetration, the fixed penalty of Hirabah was removed, but he deserved discretionary punishments of 11 months' jail and 98 lashes.

Thus, we can see that both of the juveniles admitted that they committed an act of homosexuality. However, Juvenile B was not prosecuted. Additionally, both of the juveniles' ages were not mentioned. However, this practice shows us that, despite article 1 of the Convention on the Rights of the Child, the Saudi judges can decide the age of puberty even before the age of 15 years old according to their own discretion as can be seen in this case, as well as in other similar cases in Chapter Three. **This** is to illustrate that the previous laws related to Saudi juveniles were somehow inconsistent. In the same manner, the Convention on the Rights of the Child (United Nations General Assembly, 1989) as well as the Child's Charter in Islam (International Islamic Committee for Woman and Child, 2003) and the Abu Dhabi document for a unified juveniles' law for GCC countries are too open.[120] For instance, article one of the Convention on the Rights of the Child left the definition of the juvenile to each government, stating that "… a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". This Convention might be just for guidance only[121] (i.e. not compulsory, which is the situation in Saudi) as article 52 reminds that "A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations".

Moreover, the Convention on the Rights of the Child prevents corporal and capital punishment against juveniles, which are already refused by the Saudi Islamic doctrine. In other words, we can see that juveniles in Saudi are subject to capital punishment (e.g. putting to death, fixed lashes and so on). This can be seen in Chapters Four and Five of this thesis.[122] Similarly, the Child's Charter in Islam has not determined the age of legal liability for Saudi juveniles, leaving it open to different interpretations.[123] In addition, the Abu Dhabi document for a unified juveniles' law for GCC countries was just for guidance, as mentioned in its introduction. Article 19 of this is against Sharia law according to article 7 of Saudi constitutional law. To explain this, article 19 of the Abu Dhabi document is concerned with juveniles' punishment. It specifies that when any minor aged between 15 and 18 years old, commits a fixed penalty, the decision will be as follows: if the crime is related to Hudud or Qisas, it will be dealt

[120] - For more details on the age range/timeframe, please refer to Chapter Three, p.68 onward.
[121] - I.e. it is not legally binding.
[122] - Please see Chapter Four, pp.116-120 and Chapter Five, pp.125-132.
[123] - For a more analytical discussion, please see Chapter Three, p.68 onward.

with according to Sharia law. However, if the crime is murder, the juvenile will be subject to a prison term of between six and twelve years. Therefore, as can be seen from article 19, this is against what the Saudi juvenile system is based on (i.e. Sharia law). In other words, the crime of murder is one type of fixed penalty in Islam, so the Abu Dhabi document seems to be a poorly written and excessively complex law that does not eliminate the issue of discretionary sentences, in addition to not being binding.

Despite these unsuccessful[124] attempts to codify the Saudi juveniles' legal system, contemporary calls for legislating and codifying juveniles' legal affairs still remain. For example, some journalists[125] have expressed a desire to see that, one day, Islamic Sharia law, including juveniles' matters, will be codified (Alsahli, 2006; Alrashid, 2008; Salam, 2008,). However, the General Presidency of Scholary Research and Ifta (2015) in Saudi generally[126] has discussed this matter since 1972 and concluded that it will not codify Islamic law at all. Additionally, the General Presidency of Scholary Research and Ifta (2015) refuses to address or to stimulate this topic amongst society as it will open the door for deviation from the right path, which is Ijtihad (scholarly style). Those journalists and thinkers,[127] it appears from their writings, randomly mix significant terms such as codification, Tadwin, Fiqh and Sharia in this regard. The following section analyses these terms so as to place each term in its right position. After that, we trace and evaluate the historical development for the idea of codification in Saudi Islamic law.

2.3 Codification and definitions of related terms

Some Saudi thinkers and lawyers such as Alsahli, Salam, Alghabash and Alrashid have randomly mixed significant terms in their calls to codify Islamic law. For instance, they interchangeably use term "Tadwin", which basically means (to register), instead of codification (Alsahli, 2006; Alrashid, 2008;

[124] - They were unsuccessful, not because they were not adopted, but because they lacked two references, according to Matter (2013). First, protecting credo roots means that these Islamic rulings must express Islamic resources (i.e. indicating Islamic belongings rather than just being opinions). In other words, the verdicts must be rationalized or supported by Sharia resources (e.g. the Quran, Sunnah, consensus, qiyas and other branched sources such as public interest). This element of Islamic theology (ideology) is deemed vital because of Sharia's sovereignty. However, in codification, the judicial decisions are rationalized by materialistic codes only, regardless of Sharia. This is one reason behind refusing codification by Saudi ulema and officials. Secondly, juristic roots refer to an old argument between Muslim jurists, that is, can a president of any Muslim state impose any juristic doctrine upon judges? Can a judge make decisions just according to these determined laws by the authority regardless of his satisfaction? In addition, this matter of imposing a certain doctrine on judges is related to a substantial part of the issue concerening codification, which is adherence to certain juristic school (e.g. Hanafi). In other words, there is a commitment to a certain point of view (materialistic codes) while there could be other applicable opinions.

[125] - For more information, please refer to footnote 69. For instance, Alsahli, a prominent lawyer in Riyadh (2006 and 2005); Alobaikan, a former MP at Saudi Shoura council (2005); Alnujaimi, a well-known professor in Sharia law and consultant for Saudi interior ministry (2005); and Alghabash, a lawyer and writer in the *Makkah* newspaper (2014). According to them, they were trying to both stimulate legal reforms via codification and create debate, again, over its legitimacy.

[126] - I.e. without specifying codification with regard to a particular subject (e.g. juveniles, tax or land laws), but they discussed it as generally applying it to all fields of Fiqh (rules).

[127] - See supra note above.

Salam, 2008; Alghabash, 2014). In addition, others such Matter (2013) used Sharia and Fiqh within the same meaning. Therefore, we need to discuss what these terms mean. Following on from this, the chapter considers why many of Saudi ulema/qadis[128] are against codification. In this context, there are four important terms related to codification in Saudi legal system. The first of these could be Sharia.

2.3.1 Sharia and Fiqh: Sharia has a range of meanings pertaining to religious law (i.e. Islam as a religion). Additionally, the authors of the *Encyclopedia of Islam* (Bosworth, Van Donzel, Heinrichs, and Lecote, 1997, p.321) reported that sharia to Muslims refers to rules and regulations that govern all aspects of life (e.g. legal, political and social affairs) and derived its principles from Quran and Sunnah. Consequently, Sharia is included in Wahi (Quran and Sunnah). Morevoer, at this point, Sharia and Fiqh can be used interchangeably because Fiqh is supposedly utilized to describe Sharia rulings via its resources (e.g. Quran, Sunnah). Similarly, Sharia covers all aspects of a Muslim's life whilst Fiqh regulates the public and private life of a Muslim. However, Sharia is the divine aspect of Islamic rulings as it is located in the Quran while Fiqh is the human aspect of them as it was created via humanitarian minds. Fiqh is sometimes based upon speculation, therefore, it can be changed according to different places, times and people (Bedir, M. 2004). In contrast, the authors of the *Encyclopedia of Islam* (Bosworth, Van Donzel, Heinrichs and Lecomte, 1997, p.321) argued that Fiqh can just be interpreted by religious scholars, but not legislators because Allah is the legislator.[129] Consequently, the interpretation can only be via Islamic juristic doctrinal books, which are not codified in a Western meaning of the term (Shuga'a 2015). Intriguingly, Bedir, a professor of Islamic law, stated that since the late 19th century Fiqh came to be recognized as 'Islamic law' as a result of the influence of European legal points of view (2004, pp.378-380). Kamali (1991, p.1) confirmed this and stated that we should use Islamic law to indicate Fiqh while the term Islamic jurisprudence is for Usul Alfiqh. Hence, the term "law" interred and translated in Arabic, the religious language of Islam, into Kanun. The editors of Encyclopedia of Islam (1997, p.556) argue that despite the fact that the word kanun is of Greek origin and it has the sense of regulating or codifying, the Muslim governors during Islamic history issued some public orders related to costume and penal codes of Islamic law.

Muslim scholars accept that there is no conflict between Sharia and law in the administrative field as Sharia remains silent on this matter (Bosworth, Van Donzel, Heinrichs and Lecomte, 1997 p.321). Similarly, the law does not alter Sharia in the penal code as the governor just has the power of restricting or changing some discretionary punishments in Islam. (Alqaradawi, 2001, p.267; Abu zaid, 1996, pp.30-

[128] - Such as Sheikh Muhammad, I. Alalsheikh, Sheikh Ibn Baz, Sheikh Abdullah Albassam, Sheikh Muahammad Alamin Alshanqiti, Sheikh Bakr Abu Zaid, Sheikh Saleh Alfouzan (Alshathry, A. 2007, p.20).

[129] - This statement of these authors is somewhat unclear (i.e. they were asserting a separation of powers exists between the two powers) because Allah has given some rooms for the rulers and judges to decide according to different time, place and people. See for instance, Aljundi, (1986, p.70); Ibn Alqayim, (2014, p.16).

54). In Saudi, the word law or "Kanun" is controversially unusable even if they (law and Kanun) are the common translation for Islamic Fiqh and Sharia, yet the Saudi officials are using "Nizam" instead.

Consequently, Nizam indicates the provisions either of sharia or Fiqh., I argue, for using Nizam due to its holistic applicability. Nizam is an all-encompassing term. Thus, if the word 'law' and 'Nizam' are similar in their linguistic meanings, then why the difference still remains at the Saudi General Presidency of Scholarly Research and Ifta 2015? This will be examined in the word 'Tadwin' and 'Taqnin' (i.e. codification) as follows.

2.3.2. Tadwin and 'Taqnin:

Tadwin means registering the decisions in order to derive legal theories and rulings in addition to giving a chance to the judge to recuse/ or decide differently with a strong reason (e.g. theologically or juristically (Matter, 2013; Ibn Mandhur, 2005). In addition, Bosworth, Van Donzel, Heinrichs and Lecomte (1997, p.81) confined Tadwin to the science of Hadith as to collect prophetic traditions in writing in order to extract legal rulings and theories of them (i.e. not just for assisting in memorizing those Hadiths as this could be achieved through Kitabat ilm (writing a knowledge). The authors of the *Encyclopedia of Islam* claimed that Tadwin of Hadiths started at the end of the 1st century of Islamic calendar (7th Gregorian calendar). Although, Tadwin of Fiqh also began at the same time as Hadith's Tadwin. So, Tadwin shouldn't be confined to hadith only as it could apply to Fiqh too. In contrast to Tadwin, we find Taqnin (codification) which has connection with law in its European sense (i.e. Kanun). Herein, we can find two tendencies about the origin of this word "taqnin" in Islamic studies. Some jurists such as (Alrazi 2008, Alfaiumi 2010) argue it is not of Arabic origin while others such as (Alalfi 2015,) argue that it is of Arabic origin. Whatever the case is, it interred Arabic dictionary, then it became Arabic by usage (Mustafa, Alzaiyat, Abdulqadir and Alnajjar, 1985). Hence, different technical definitions can be found for this word within contemporary researchers.

Commenting on the numerous different definitions and meaning of the term, . Zanki (2014, p.127), an associate professor in Shariah and Islamic studies, reported that "one can conclude that the codification is to collect legal texts that are respective to a branch of law in an official document, e.g., civil law, commercial law, penal law, law of civil or criminal procedure, law of labor. A “code”, therefore, is the official document that contains the legal texts in a particular branch of law". Unfortunately, I could not see any reference to Tadwin or Taqnin in the cases gathered in this study. [130]

To summrise, it is concluded that Sharia and Fiqh are similar in that both of them refer to rulings and regulations governing all aspects of Muslim life. Additionally, both of them can be identified through

[130] - For instance, see cases mentioned earlier in this chapter pp.49-56

the Quran and the Sunnah of the Prophet. However, Sharia is the godly aspect of Islamic law because it can solely be found via Quran and Sunnah, yet Fiqh is the human aspect of them since it can only be deduced via a human mind. Tadwin in Islamic law can cover Hadith and Fiqh in contrast to the authors of encyclopedia of Islam who only confined Tadwin to the science of Hadith (1997, p.81). On the other hand, Taqnin (codification) means more than Tadwin as it includes the element of imposing in the form of legal act (Alshathry, 2007, p.15). Therefore, this element may probably have led Saudi ulema not just to refuse the idea of codification, but also to refute whatever terminologies connect with it such as law, Kanun. Thus, they are using the term "Nizam" instead, which basically means law/Kanun in English language.[131] To understand this in more elaborated sense, we need to discuss and analyse the historical growth (development) of codification in Saudi Islamic context. This will importantly and subsequently prepare us for the polemics on the ruling of Islamic codification regarding juveniles in Saudi.

2.4 The historical analysis of the idea of Islamic law codification in Saudi:

There is plenty of literature exploring the history of Islamic law and the foundation of its jurisprudence. The debates on Islamic law codification and its legitimacy have already been discussed by the profound Professor Subhi Mahmasani in "Al-Awḍa al-Tashriʿiyyah fi al-Duwal al-Arabiyyah Maiha wa Hadiruha" (Legal Systems in the Arab States: Past and Present) and "Falsafat al-Tashri' fi alislam" (The Philosophy of Jurisprudence in Islam). The issue is additionally studied by other distinguished scholars in Islamic law such as Sheikh Alqaradawi in his book Madkhal Li Dirasat Alsharia Alislamiyah, and Sheikh Alshathry in his paper "the rule of codifying Islamic Sharia law". In these books, the authors discussed the developmental background of legal status in the Arab world and explore in detail the historical events relevant to the compilation of Islamic law. Although, little English literature has been supplied on this issue and the latest polemics on codification's legitimacy is mainly absent. Yet, applying this discussion on case-specific studies e.g. Saudi juveniles' system couldn't be found and so this study will try to close the gap in this regard.

(Al'aff 2015) reported that the roots of the idea of codification go back in history to the Code of Hammurabi (1750 B.C.E). However, others, such as Alashqar (2005, p.351) argue that it has been recognized since the time of Umayyad dynasty. In contrast, Suga'a (2015) believes that this idea came to realization at the hand of Abdullah Ibn Almuqaffa (D.762). Given such differences in opinion it is difficult to assume that Islamic codification project was based upon Roman Byzantine law since there is no single book that evidences this (Peters, 2009, pp529,530). Alshathry (2007) reported that Abu jaafar asked Malik Ibn Anas, the establisher of Maliki school, to make his book, Almuatta, as a

[131] - Although, as stated above in p.56 this may not be the case. As system is a broader term (i.e. kanun – law is specific/narrow while nazim – system is broad/holistic meaning the whole legal system).

codification for the Umma (people). Though, Malik politely refused since his book wasn't the perfect nor the only one to impose on people. In other words, Malik did not want to make it hard for people to follow only one say. Hence, this idea of codification was frozen until the mid 16th century when the Ottoman Mecelle was introduced. The Ottoman Mecelle has finished in 1876 and it consists of 1825 codes. (Bedir 2004) claimed that this revolutional movement in Turkish Ottoman (i.e. from Fikh to codification or law) has subjected Sharia objectives with affected changes. For instance, it confided Fiqh to only social life (Muamalaat), and the Ibadat(worship) side was excluded from law as it was believed to be related to religion. Hence, we can see the division between religious and law schools in Turkey since that time.

Bedir (2004) continued to offer another example, that is, the juristic rationales were abolished from the law because of limitation of codification (i.e. there seems not enough space for juristic justification because codification does not deal with logic and feelings, but with the idea of suitableness). Consequently, the so-called Islamic law of today is markedly different from its original position.

When Fikh converted to Islamic law, those branches became codified. However, there are also some gaps within these areas of Islamic jurisprudence (i.e. people started to accuse Islamic jurisprudence since those branches were not developed). The codification within Ottoman Mecelle hs affected some parts of the Islamic world, especially the Hijaz region in Saudi Arabia. Hijaz province, the western part of Saudi Arabia, was under the control of the Ottoman empire (Hamzah 1968). As a result of this, the Ottoman Mecelle was applied – at least to some extent - by most judges at that time as they were affiliated to the Islamic empire (Abu Talib 1984, Alalfi 1976). However, Ahmad Alqari (1891) was a judge in Makkah who believed in following Hanbali and not the Hanafi school. Following on from that, he started to think of creating a work similar to that of the Ottoman Mecelle in style; it would, however, follow Hanbali. As a result, Alqari wrote a Shariah rulings magazine which consists of 2382 following two things, that are, the writing style of Ottoman Magazine (i.e. codification) as well as the subject-matter (i.e. it confined itself to civil transactions e.g. rules of contracts, sponsorship etc…). Notwithstanding, the Shariah rulings magazine has not imposed on judges to decide by, but it was just a new style of writing which ease the Islamic jurisprudence more.

Aljura'y (2015) reported that King Abdulaziz thought of creating another magazine for Shariah juristic rulings following the style of Ottoman Magazine in codification, but different in its contents. Unfortunately, this idea has disappeared. Alalfi (2015) wrote that this project was unsuccessful because of fanaticism (Hanbalisim) as well as a dislike of codification. As a result, Saudi Arabia has had two reactions toward this codification. First, according to Alqari (2005, p.5) the Judicial monitoring commission in Saudi commanded all courts to apply only Hanbali doctrine. doctrine unless, otherwise, public interest is against what Hanbali doctrine stated or if the rules couldn't be found in Hanbali

doctrine, then the judge should start to seek the rule from other juristic doctrines. Moreover, the above Saudi commission determined four books inside Hanbali doctrine in which judges can only refer to, these are, Sharhul muntaha, Sharhul Iqnaa, Sharhul zad and Sharhul dalil. Unfortunately, these books are not simplified nor codified.

Secondly, the Saudi government has issued many pieces of legislation all of which are named Nizam. For example, Nizam of Social Observation Houses and the Nizam of Care Institution for Girls (1975) as well as child's charter in Islam and Abu Dhabi unified law for juveniles in GCC countries. Such conventions are still not active as they are not obligatory. Therefore, Shuga'a (2015) asserted that these Nizams are obviously equal in meaning to law or Kanun because Nizam implies the idea of codification. However, these Nizams are still not comprehensive and thus they don't cover all aspects of social life (i.e. Muamalat) nor do the Saudi officials (e.g. Ulema and qadis) admit that these nizams are codifications.

2.5 Evidence of both viewpoints regarding Islamic law codification:

Alalfi, (2015) argues that codification will enable Muslims to apply Islamic law easily in a form that is suitable for modern life. However, other scholars such as Saudi official ulema council (e.g. Alfouzan, Alluhaidan) argue that this idea is unacceptable in Islamic law. Different evidences about this issue of legislating are still scattered throughout juristic books, therefore, these indictments need to be gathered, compared and contrasted in order to examine their meanings. In this section, I will examine some evidences for both sides of view. Additionally, the way of discussion here will be as follows. The researcher will start off by the reasons of opposition of codification, which are four causes in total. Subsequently, I will put the supporters' critiques after each reason in order to assess their argument. This will continue as a vice versa with the second point of view (i.e. the supporters of codification will be dealt with their reasons as same method as the opposition). Following on from that, we will evaluate the argument in order to see the basic ground upon which this problem has been built in Saudi.

To contextualize further, there are two main opinions concerning the issue of codification: the conservative school rejects the idea of codification. This school is led by many scholars of Saudi Arabia and Salafis, such as Sheikh Muhammad Alalsheikh, Sheikh Ibn Baz, Sheikh Abdullah Albassam, Sheikh Muahammad Alamin Alshanqiti, Sheikh Saleh Alfouzan and Bakar Abu Zaid a prominent Saudi scholar, who authored the book *Fiqh Alnawazil*. He concluded that codification is not suitable for Muslims. It is a western model that cannot accommodate Islamic law, neither in content nor in title. The nature of Islamic legislation does not comply with codification and so its adoption by Muslims is unsuitable. In contrast, Sheikh Muhammad Zaki Abdulbarr, Sheikh Yosuf alqaradawi, Sheikh Wahba Alzuhaily, Sheikh Muhammad Rashid Ridha, Sheikh Muhammad Abu Zahra, Sheikh Muhammad

Abduh viewe the codification of Islamic law as something necessary. Moreover, Sheikh Wahba Alzuhaily called on the Arab countries, especially Saudi Arabia, to codify Islamic law and justified this through a variety of reasons (as is discussed later in this thesis).

The opponents of codification provide evidence as follows; first, the Quran asserts that Muslims must judge according to what they understand from the Quran and Sunnah, otherwise, they might be wrong. For instance, the Quran (4:105) says "We have revealed to you the Scripture, with the truth, so that you judge between people in accordance with what God has shown you…" and another verse (5:42) says "… if you judge, judge between them equitably. God loves the equitable" as well as another verse (38:26) which says "… so judge between the people with justice, and do not follow desire, lest it diverts you from God's path…". Therefore, rights and wrongs do not necessarily relate to certain doctrine. Thus if Sharia rulings are codified, then the judgment will be according to the codification, which is a human effort rather than being according to what God has revealed to us (e.g. Quran and Sunnah).

Secondly, the Prophet said, "judges are three types, one will only enter paradise who has a knowledge of right and wrong, so he judges according to it, yet two will be in hellfire, they are, someone knows right and wrong, yet he judges according to his desire and someone who judges between people according to his illiteracy" (Abu Daoud, no date). Consequently, a judge can be imposed upon by these so-called Islamic codifications while he does not have satisfaction with them (i.e. his internal persuasiveness does not exist, then the judge, at this situation, might be enclosed within a category of those judges who know right and wrong, but do not apply them) (Alahow, 2015). In responding to the first and second evidences, supporters of codification argue that codification will not replace the Quran, Sunnah but will instead re-arrange the Fiqh in a more developed manner, (Shuga'a, 2015, pp. 22-23).

Thirdly, many different juristic opinions existed during the companions' lifetime and, additionally, the situation did not require any one of them to call for the codifying of Islamic rulings (Alshathry, 2008). In responding to this, supporters for codification claim that the motives for codification might not have existed during that time. In this regard, Alzarqaa (2004) stated that minimising the legislation during the Prophet's time was one of the features of that time. Therefore, Islamic jurisprudence rulings at that time were not numerous. Quran (5:101) states "O you who believe! Do not ask about things that would trouble you if disclosed to you…". However, in recent time, where we live now, there is a need for legislations as there are many things happened and renewed every day (Alalfi 2015).

The Opponents continue, however, to argue that codifying Islamic rulings will not eradicate paradoxical judicial decisions or, at least, existing differences amongst scholars. One reason for this is that judges are human and thus at courts which apply codified laws we find that their decisions sometimes are inconsistent. Hence, they give the right of appeal to people who are dissatisfied with it.

Meanwhile, codification will make it harder for Muslims as it imposes only one opinion. Thus, codifying Islamic law will close the door of Ijtihad (Alfouzan, 2005).

The supporters for codification, argue that Ijtihad is still open for judges. For instance, judges will be able to interpret the codes in front of them and, thus Ijtihad still remains. Additionally, if the judge is dissatisfied with the code then he can juristically rationalize his decision from Islamic resources. This is precisely what the Saudi constitutional law states in Articles 1 and 7; that "the Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its religion; God's Book and the Sunnah of His Prophet are its constitution..." and " "Government in Saudi Arabia derives power from the holy Quran and the Prophet's traditions and these two resources govern this constitution as well as all other laws". Therefore, codification will not nullify Islamic jurisprudence since the codification is just stylistic formation of what already exists in Islamic jurisprudence.

In contrast, supporters for Islamic codification have derived some evidences from the Quran, Sunnah, consensus and logic, as follows; first, the Quran asks Muslims to follow what their president brings for them unless that is a sin (4:59). However, legislating Islamic law is obviously in favour of Muslim people. Additionally, codification will ease Islamic jurisprudence for the stakeholders rather than leaving those rules too separated within many schools (e.g. Hanafi, Malki, Shafie and Hanbali). To achieve these goals the Muslim ruler should consult his people so that these codifications will be according to what society chooses. In this sense, the Quran (4:59) says "O you who believe! Obey God and obey the Messenger and those in authority among you…". Another verse (3:159) states "… and consult them in the conduct of affairs. And when you make a decision, put your trust in God…". In summary, codification gives more freedom for the Muslim Ummah to legislate what suits them, this can be achieved via obeying those in authority. In Saudi, it seems that the ruler (the king) wants to codify Islamic law, as we have seen in king Abdul Aziz's decree.

However, some Saudi scholars such as Alfouzan argue that those verses are out of our discussion since they have not talked about codification. One reason for this is that the qadi (judge) might strongly believe that the code is not suitable or not the best choice for the accuser. It follows, that if he judges according to this code despite his dissatisfaction, then he commits a repugnant sin in Islam (Abu zaid, 1996 p.30). Furthermore, what King Abdul Aziz thought of was extremely unsuccessful due to the fanaticism for Hanbali doctrine in Arabia. As a result of this, people refused it because they can have otpions with regards to which juristic doctrines they choose. However, codification, if applied, would be obligatory.

The supporters for codification further argue that consultation is the basis for codification and that this makes it more democratic. Moreover, there were many times when the Prophet consulted his

companions. As a result, consultation is crucial in the codification of Islamic law. Moreover, this example of Shura (consultation) of the prophet to his companions backs up what we have seen above in the sense that the prophet was a ruler. After that, he consulted his companions to build up general rules about certain matters such as the design of his Masjid and so on. Additionally, therefore, this shows us how codification is constructed and how it makes a lot of room for scholars to come up with best ideas. Thereafter, the ruler will decide upon the best ideas for the community in the form of law (Alshathry 2007). In response to this evidence, the opposition claim that we are not talking about democracy. Rather, they suggest, we are discussing the rule of codification with regard to the Saudi Islamic system. Therefore, codification can freeze people on one say only i.e. doesn't give them more rooms, which is against democracy, while in Fiqh we can find different juristic opinions. Accordingly, it follows that judges can choose what best suits the individual dispute (Shuga'a, 2015, p.26).

Arguing against this, the supporters continue their third reason. In so doing, they argue that the consensus also supports the idea of codification. For example, the consensus of the companions upon collecting and writing the Quran after the demise of the Prophet. Moreover, this was a new issue after the Prophet and no one refused this idea since that collection and writing of Quran will protect it from being lost. Furthermore, it will make the Quran easy to read and recite for those who cannot memorise it. Similarly, legislating Sharia law is the same as this and thus we can see that the companions were unanimous upon prohibiting anything that leads to Fitnah (dispute). Therefore, leaving Islamic juristic rulings scattered throughout books will make it harder for all stakeholders including, for instance, Qadis, lawyers and students. All of these people may not be able to find the rules straight away (Abu Zaid, 1982 P.26). Consequently, codification will ease such burdens and hardships and create a convenient atmosphere in which the accused person will know what will happen to him or her. Moreover, the qadis, lawyers and students will find it straightforward to find the right decision. In replying to this evidence, the opposition believe that collecting and writing the Quran after the demise of the Prophet is different from codification. This is because, in their opinion, the former was just a form of Tadwin (i.e. registration) and only for that which had revealed to the prophet. However, the latter (codification) is something more than registering. It confines Fiqh to only one say that believed to be the only right say (i.e. other opinions might be wrong or not appropriate). Furthermore, stakeholders can find any decision they want straightforward since Islamic juristic rulings are written in accordance with clear topic headlines as well as its contents are listed at the end of each book. Therefore, it is easy to revise these Islamic juristic books even with different school of thought (e.g. Hanafi, Maliki, Shafie and Hanbali) (Shuga'a, 2015 p.17).

The final evidence put forward by the supporters of codification is that legislating Sharia rulings can be required by modern life style. Furthermore, many judges today are imitators, so they would be grateful

if it were easier to read juristic books (in order that could apply judicial decisions consistently to similar cases (Alshathry, 2008). The opposition, claim that we have already answered the King's order[132]. In addition, they (i.e. the opponents of codification) suggest that idea just because most Saudi judges are being imitators, codification should not be undertaken just because of the inability of the judges. The authority, that oversees choosing judges, in Saudi must choose the best judges who have the ability of Ijtihad bearing in mind that Ijtihad could be divided according to certain subjects (e.g. we can specialize judges in juveniles, civic or commercial cases). Hence, there will not be room for those imitating or failure judges (Aljura'y, 2015, p.15).

2.6 Analytical elements of codification polemics:

Despite the fact that the argument about codification is relatively new in Saudi, the General Presidency of Scholary Research and Ifta was the dominant voice of opposition to codification. The opposition's evidence for rejecting codification is based on three substantial problems. First, codification necessitates commitment. Secondly, legislation also closes the gate of Ijtihad (scholarly style). Finally, codification is likely to alter Sharia rules and regulations. On the other hand, the supporter's argument for codification is based on three evidences. First, codification is in favour easing Islamic law for stakeholders (e.g. judges, students and researchrs) as well as developing Islamic jurisprudence and the Muslim community in its styles and applications. Secondly, unifying Islamic verdicts or, at least, minimizing the inconsistency is a progressive measure. Finally, codification is required by modern life because it requires scheduling and putting everything in order.

2.7 The potential solution for this problem in Saudi:

The problems outlined above centre on two points; first, terminologies (e.g. codification, Tadwin) and, secondly, the disadvantages supposedly resulted by codification such as commitment to law (not Sharia) as well as closing the gate of Ijtihad and altering Sharia rules and regulations. Matter (2013, p.15) argues that we (Sharia scholars) do not have any problem with Tadwin itself since its registration (writing) has happened throughout Islamic history (e.g. writing Quran, Sunnah and Fiqh). Rather, the problem lies in finding safeguards to protect Islamic ideological and doctrinal roots in the idea of codification. Matter (2013 p.15) continues to claim that once these two elements (i.e. Islamic ideological and juristic doctrinal roots) exist, then we can accept codification since those disadvantages will disappear. However, these two factors cannot be found in codification. Therefore, the Saudi official Ulema such

[132] - See, for example, pp.19, 37 and 63

as Alfouzan strongly refused codification. Herein, we will investigate these two elements in order to reach a solution to the problem.

First, protecting credo roots means that these Islamic rulings must express Islamic resources (i.e. indicating Islamic belongings rather than just being opinionated). This element of Islamic theologyis deemed vital because of the Sharia sovereignty. However, in codification, the judicial decisions are rationalized by materialistic (i.e. impenetrable) codes only regardless of Sharia belongings. Secondly, juristic roots refer to an old argument between Muslim jurists, that is, can a president of any Muslim state impose any juristic doctrine upon judges? Actually, this matter of imposing certain doctrine on judges is related to substantial parts of codification, namely, adherence to certain juristic school (e.g. Hanafi).

This idea of adherence is located exactly in codification in that both (codification and judging by only certain juristic doctrine) are binding and controversial. However, they differ in that codification is more materialistic (i.e. impenetrable) whereas judging in accordance with a certain juristic school is more stylistic (i.e. type of Tadwin/registration of Fiqh). As a result, scholars are not unanimous upon the rule of imposing certain juristic doctrine on the judges. Consequently, some Ulema (Ibn Qudamah, 1996; Alhattab, 2003) claim that this is illegal because Quran and Sunnah necessitate referring to original sources, rather than what a certain doctrine imposes upon a judge. However, other scholars such as Ibn A'bdin, (2000) argue that imposing a specific juristic doctrine on judges is a good idea as it will eradicate paradoxical decisions from judges. Additionally, if the judge is not satisfied with the code or the doctrinal school, then he can justifiably recuse himself and leave the case for a different judge to decide (Matter, 2013, p.17).

Supporters of codification have, therefore, increased in number. Dekmejian, (2003, p.403) reported that “In December 1990, a petition signed by forty-three intellectuals asked the King to issue a codification of Islamic law that would provide for fundamental reforms, i.e. basic human rights, equality before the law regardless of race, gender and social status, women's rights and an independent Islamic judiciary". Subsequently, King Fahad launched the first Saudi constitutional law. What is more, Article 1 states that "the Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its religion; Quran and Sunnah of the Prophet are its constitution”. From this, (Matar, 2013, p.18) claimed that this form of legislating differs from legal codification which just gives rational reasons regardless of whether or not they are in accordance with Islamic law. Unfortunately, this idea of Tadwin is still not applied to

the Saudi juveniles' system. Hence, we witness inconsistency between the juveniles' verdicts, crimes' classification and punishments throughout this research[133].

2.8 Summary

This Chapter has illustrated that the problem of codification is based on two factors. The first element is related to terminologies (e.g. codification and Tadwin) and the second one is related to the disadvantages that may arise as a result of codification such as commitment to law (not Sharia), blocking Ijtihad and altering Sharia regulations. In fact, the second element could be a result of the first factor according to Matter (2013 p.15). Hence, Tadwin and codification are different in that the former is registering a knowledge, whilst the latter is binding and can alter Sharia. Resultantly, codification may not express its belongings to Islamic resources and, therefore, in codification we cannot be sure about preserving Islamic credo (i.e. theology/ideology) and jurisprudence.

Although Saudi Arabia has established some important laws/Nizams, some writers such as Alsahli (2007), Alrashid (2008), Shuga'a (2015), Aljura'y (2015) believe that these nizams were a type of codification since they were regulating important matters relating to crucial topics like criminal procedures. In addition, the Saudis are following and applying them in their disputes. On the other hand, others such as Matter (2013) and , Alahow (2015) think that they were not codified since they were governed by Shria sovereignty in Saudi and thus judge cannot be obliged to apply those Nizams if he is not satisfied or if he thinks that they might be against Sharia. Hence, the situation seems, to some extent, vague and overlapping. The result, as shown, was the perseverance of arbitrary judicial practices.

Herein, we can conclude that Tadwin could be the best solution and alternative for codification. One reason for this is that Tadwin is obviously compatible with Saudi constitutional law (i.e. Sharia) as Tadwin will accommodate the preservation of Islamic ideological roots. Secondly, despite Tadwin will be binding in the sense that the rules gathered in the Mudawanah (i.e. the book) will be the latest and most authentic regulations, it will, however, give the judge a chance to recuse (leave the case to other judges) if he isn't satisfied with the registered rule(Tadwin). Therefore, Tadwin will require scholars and specialized people to get involved closely to collect, then select what is the Rajih (the qualified) opinion from different juristic views. This means that Tadwin will generally have slightly different processes regarding codification. [134]

133 - For example, the above cases, pp.48-54 numbered 35314533/3 (2014), no.31/300/4/27 (2009), no. 35440121/84 (2014) and no.18031573230923100/72 (2010).

134 - To clarify, Matter (2013, p.17) exemplified this by stating that codification could open the door for the legislative authority (e.g. the parliament and the ministers' councils) to avoid justice whenever they want because codification is solely

These procedures vary as they are just suggestions. In addition, these operations have been mentioned by some Islamic contemporary thinkers such as Alalfi (2015) and Al'aff (2015). One reason for discussing these processes is that we need to clarify the scientific and procedural operations. The former refers to which resources can be determined to extract rules and regulations related to juveniles, whereas the latter belongs to executive management. With regard to the scientific operation of Tadwin, Alalfi (2015, p.152) reported that we can differentiate between three types of rules in Islam; Sharia, Fiqh(juristic) and Ijtihadi (renewable) regulations.

What is more, Sharia rules are binding since they are based on fixed texts such as Quran, Sunnah and authentic consensus. However, Fiqh (juristic) regulations can be based on speculation (Zanni), and might, therefore, be subject to change. As a result, these juristic rules are not binding unless official legislation has been passed about them. Furthermore, the sources for these juristic rules can be found in any of the four juristic schools (i.e. Hanafai, Maliki, Shafie and Hanbali) as well as the books of the Islamic legal theory (Usul Alfiqh), legal maxims and Fatawa books. The third cluster is the Ijtihadi (renewable) rules (i.e. things that haven't had any given rules from Sharia nor from Fiqh(juristic) rules because they are new matters). Herein, we can rely more on customs, collective Ijtihad via institutions and contemporary legal notions resulted from practices by any nations (e.g. British), in which they are not against Sharia. In short, these three types of rules could be the main types of rules in Islamic law generally and in juveniles' system specifically.

About procedural operation, it has been stated that the involvement of the General Presidency of scholarly research and Ifta in Saudi is crucial. One reason for this is that it is the specialized body for scholarly research and Ifta in Saudi. Shuga'a (2015, p.31) wrote that it is vital to note that the scholars and researchers who are involved in such scholarly body must not have the sense of fanaticism for their juristic doctrine (e.g. Hanbali). Therefore, it is their duty in this Tadwin to draw up frameworks for the modern era. This framework should include, but not be limited to, determining the problems that needs solutions as well as suggesting some possible answers for them. Subsequently, the General Presidency

made by the legislative (not judicial) authority, which doesn't usually have the judicial qualifications. However, in country like the UK, which applies the Anglo-Saxon system, the reference for rules and regulations is judicial authority in the sense that they are expertise in these matters. Hence, Tadwin should have the genuine reference in the sense that those rules and regulations must be made by Islamic scholars and specialized people in a field. As a result, this can create another step between legislative and judicial authorities which is the General Presidency of Scholarly research and Ifta in Saudi. What is more, this general presidency of scholarly research and Ifta will hopefully assist in providing the necessary researches and papers for a matter in front of them via their scholars, employees/members in Saudi. Alalfi (2015, p.157) expressed his whish about giving a chance for comparative legislations institutes in Saudi and in all Muslim countries as this will assist in applying scientific and comparative research methodologies to develop theoretical researches (i.e. to be more pragmatic).

of scholarly research and Ifta in Saudi will require its registered scholars, researchers, and other specialized people such as lawyers and persons within law departments to do research about these problems in the light of the three types of rules (i.e. Sharia, Fiqh and Ijtihadi). Finally, the General Presidency of scholarly research and Ifta will formulate the potential Tadwin and thereafter, this potential Tadwin will be passed on to the legislative authority in Saudi, which are parliament, then ministers councils in order for them to debate it.

Within these two procedures, mentioned above, Tadwin will hopefully eradicate, or at least minimize, existing inconsistencies in the Saudi Juveniles' system. It is also hooped that this Tadwin will establish clear and reasonable ground for determining the age of puberty for Saudi juveniles. It is to this issue that this thesis now turns, in Chapter Three.

Chapter Three: the age of criminal liability for juveniles in Saudi

3.1 background

As we have seen in Chapter Two, none of the so-called laws relating to juveniles have addressed the problems faced by them in Saudi (i.e. no codification, or documentation). Consequently, the same can be argued here for the age of criminal liability for minors in Saudi. In other words, it seems that there is no clear and consistent policy about this age in the Saudi Islamic juveniles' system (i.e. determination or standardization) for boys or girls. For instance, the only articles that can be found that deal with a juvenile's age in terms of their criminal liability (i.e. the minimum and maximum ages for criminal liability) are Articles 1 and 7 of the Social Observation Houses Law (SOH) and Articles 1 and 14 of the Law of Care Institutions for Girls (CIG).

In addition to these, Articles 1 and 40 clause 3 of the Convention on the Rights of the Child (United Nations, 1989) as well as Chapter Four, Article 21 of the Child Charter in Islam (International Islamic Committe for Woman and Child, 2003). Furthermore, Articles 1, 4, 13, 15 and 19 of the Abu Dhabi document for unified juveniles law for GCC countries (Gulf Cooperation Council, 2002). In this chapter, the thesis examines these related laws for determining the age of criminal responsibility for juveniles in Saudi Arabia. This includes some essential judicial applications from the general, criminal and juveniles' circle courts in Riyadh, Saudi Arabia in order to analyze and evaluate the problem theoretically and practically, as well as to suggest some potential answers.[135] Thus, this analysis is very important in order to show how conflicting and inconsistent the situation is for judges to determine the age of criminal liability within this rigorous Islamic legal system.

3.2 Assessment of laws on the age of criminal responsibility

Article 1 of Social Observation Houses Law (SOH) stated that the purpose of the SOH is to provide care for juvenile boys whose ages are not below 7 years old or above 18 years old in two situations: when juveniles are undergoing prosecution or when a judge decides that they must stay at the SOH. However, Article 7 of SOH states that a juvenile's stay at the SOH will end in one of three situations. These are if the minor is innocent, reaches the age of 20 or if the specialized minister[136] and the judge agree about terminating the juvenile's stay at the SOH. On the other hand, Article 1 of the law of Care Institutions for Girls (CIG) states only that the maximum juvenile age for girls is 30 years old. Therefore, no minimum age can be found for juvenile girls (i.e. the minimum age to enter the SOH is 7 years old for juvenile boys). However, the law of CIG does not mention the minimum age for girls. Moreover,

[135] - However, my main duty here is to identify and prove the thematic problems related to the Saudi juveniles' system.
[136] - He is the Minister of Labour and Social Welfare. See Article 7 of the SOH executive decree.

Article 40 clause 3 of the Convention on the Rights of the Child requires that all signatories, including Saudi Arabia, must establish a minimum age below which children shall be presumed not to have the capacity to infringe penal law. Unfortunately, this cannot be found in Saudi juvenile girls nor in boys, even if the minimum age has been statutorily given only for boys (7 years old).

The age of criminal responsibility for boys, that is seven, is very low and not well justified, as we will see through the discussion below, alongside some supporting judicial applications from Saudi Arabia.[137] Additionally, Article 14 of CIG specifies the situations in which a juvenile girl will be released from the CIG and these cases are the same for those for boys (mentioned above in Article 7 of SOH). However, Article 14 of the CIG added another situation in which a juvenile girl will be released, that is, at the end of the punishment/verdict.

As a result, we can see in Article 1 of SOH that the minimum and maximum age for juvenile boys is 7 and 18 years old respectively. This means that no one should enter the SOH under the age of 7 or above the age of 18 years of age. In contrast to this, and within the same law of SOH, Article 7 states that juvenile boys can stay up until they are 20 years old! Moreover, Article 15 of the Abu Dhabi document stipulates that any procedures/arrangements will end if the juvenile reaches the age of 21. However, no minimum age of admission into CIG for juvenile girls can be found (i.e. the law of CIG stated that the maximum age for juvenile girls, who the CIG takes care of, is 30 years old). Consequently, it is deduced that there is an irrational segregation in age, and hence in puberty, between juveniles, either boys or girls. In other words, while the admission age into SOH for juvenile boys ranges between 7 to 18 years of age, the age of admission into CIG can range from zero to 30 years old. This is a huge contradiction in theory, let alone what really happens in operation (i.e. in court). For instance, see the discussion on related cases from page 87 onwards.

Intriguingly, this differentiation in age, hence in adulthood, between boys and girls is not mentioned in the Convention on the Rights of the Child (1989) nor related laws, that may be Islamically or regionally created in reaction to that convention,[138] such as the Child Charter in Islam and the Abu Dhabi document for unified juveniles' law for GCC countries. Furthermore, these treaties are joined by Saudi Arabia, but it can be controversially claimed that those laws are not legally binding as they give more room for the interior laws of each country to be applicable or might just be for guidance only (e.g. the Abu Dhabi document for unified juveniles law for GCC countries). To explain this, Article 1 of the Convention on the Rights of the Child states that "A child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier". Thus, puberty in Saudi could

[137] - For instance, see the discussion on related cases from page 87 onwards.
[138] - See Chapter One, p.24.

be obtained earlier than at 18 years of age, according to the Hanbali doctrine, which basically applies in all Saudi courts. However, physical maturity would be according to something that cannot be controlled, that is, natural signals such as the appearance of semen, a menstruation period for girls etc.

3.2.1 Case one

A good example of this is when the juveniles' judge decided that a 14 year old boy would be transferred to the general court, because the juvenile was mature (i.e. an adult) depending on the judge's discretionary decision (no.15/300/22/18, 2009). In detailing this case, the 14 year old was caught by the police based on intelligence that he had stolen valuable items from a claimant's house (some items of jewellery equivalent to SR35,000 and the sum of SR35,000, as well as two unauthorized weapons). In addition, the child was transferred to the juveniles' circle court in order to prosecute him. However, the juveniles' judge decided to refer the whole case to the general court as the judge determined that the accused was mature and, hence, adult. Consequently, the juvenile was actually transferred to the general court, despite the Saudi regulations which necessitate a transfer to the general court because the boy was between the age of 15 and 18 years old and the committed crime should involve the punishment of cutting, stunning or retribution (Alotaibi, 2003, pp.36-37).

Another random standardization, which was officially joined by Saudi, is that Article 1 of the Abu Dhabi document for unified juveniles' law for GCC countries identified two types of juveniles. These are juveniles and deviant juveniles and these types cover both genders. Article 1 of that document argued that ‘juvenile’ refers to every human being who has not completed the age of 18 years. However, the deviant juvenile is confined in age between 7 to 18 years of age, but has been found in dangerous situations such as begging, prostitution, or being psychologically or mentally ill. In addition, Articles 4 and 19 of the Abu Dhabi document have further divided juveniles according to their ages into two clusters, that are, from 7 to 15 years of age and from 15 to 18 years of age. In the former cluster, Article 4 asked all of the GCC signatories not to punish the child unless, otherwise, caring or rehabilitation procedures were applicable, whereas in the latter cluster, Article 19 promoted the use of corporal and capital punishment for these children. For instance, it states that if the committed crime was of a fixed or retributive nature, then the juvenile would be dealt with according to Sharia law rules (e.g. cutting, stunning or lashing).

In critiquing the above definitions and divisions, it appears that the Abu Dhabi document has unjustifiably distinguished between juveniles and deviant juveniles without a clear rationale. Therefore, both types do not make sense in terms of age. Thus, if there was any rational sense, why did not they specify certain ages for juveniles who are not deviant? Also, what are the legal differences in terms of age between juveniles and deviant juveniles, as both of them will legally be labelled under the same

term of juvenile? In turn, dividing juveniles according to their ages into two clusters, from 7 to 15 years of age and from 15 to 18 years of age, can be challenged by Articles 13 and 15 of the Abu Dhabi document. While Article 13 of the Abu Dhabi document stipulates that any stay at the SOH or CIG will end by serving 7 years for Hudud and Qisas crimes, or 5 years for misdemeanours, Article 15 of the same document states that any procedure/arrangement for the juvenile will end anyway if the child reaches the age of 21 years. To explain this further, if the juvenile was caught at the age of 14 years committing Hudud crimes and the fixed penalty's conditions could not be applied, then the Saudi judge has the discretion to apply corrective punishment.[139] In this case, the juvenile is likely to exceed 21 years of age without leaving the SOH or CIG, which completely disables the function of Articles 13 and 15 of the Abu Dhabi document. The example below, from the general court in Riyadh (no. 34434312/1, 2014), demonstrates this.

3.2.2 Case two

In this case, which is no. 34434312/1 (2014), the Prosecutor-General claimed that both an adult of 27 years and a juvenile male of 18 years had been caught on a charge of drugs promotion. In addition, the Prosecutor-General proved by two fair witnesses that both of the accused had promoted drugs for the purpose of trading, along with their confessions throughout the investigation. However, in front of the court, both of the accused had mixed statements; the adult did not admit that he was promoting drugs for trade, instead claiming he was only drinking alcohol, and the juvenile withdrew his previous confession and claimed that he did not know about the drugs in the adult's car, where they were caught by the police. The evidence from two witnesses proved the charge of drug promotion for both the adult and the juvenile. In respect of the latter, the focus of this discussion, the judges at the general court sentenced the juvenile to 4 years' jail and 400 lashes, and banned him from travelling outside Arabia for 4 years.

Therefore, in considering Articles 13 and 15 of the Abu Dhabi document with regard to the above example from the general court, there is no apparent application for them. In other words, both Articles may be useless, since the punishment for the juvenile above has already exceeded his attaining the age of 21, as he was jailed for 4 years when he was 18, so he would not be released until the age of 22. Hence, the division in age between 7 and 15 years old, and 15 and 18 years old appears to show no

[139] - Ibn Nujaim, a graat Hanafi scholar (1993, p.157) stated that the corrective punishment is due if there is any suspicion still affiliated with the circumstances. In other words, if the fixed penalty's conditions are not met, then the judge has the power of discretion to punish the defendant if the judge still believes in the suspicion. See for instance, case no. 342150173/26 (2013, p.103).

rational justification, unless in consideration for the sentence (i.e. in balancing between the age and the punishment that will be prescribed for the juvenile[140]).

Despite what has been discussed in the Abu Dhabi document, Article 21 of the Child Charter in Islam has completely opened the door for discretion. While the Abu Dhabi document determined certain ages for juveniles (i.e. from 7 to 15 years and from 15 to 18 years), Article 21 of the Child Charter in Islam openly asserted terms such as the age of recognizing and the age of puberty, but without specifying certain ages. In other words, Article 21 stipulated that the juvenile's criminal liability will be gradual according to two life stages for the juvenile. These stages are, firstly, before the age of recognizing/discretion, which is specified by the law, and secondly, between the age of recognizing and the age of adulthood, which is also determined by the law. Unfortunately, the Child Charter in Islam has not provided any age, as there are many different Islamic countries to which the Charter applies. Therefore, each country is different in how they apply Islamic juristic doctrines (e.g. Hanafi, Maliki, Shafie and Hanbali). Consequently, the Child Charter in Islam made it too open for each Islamic country to determine what suits them. However, they may have forgotten that any statute has to be specific, so that people can know what their rights and duties are. In other words, the law may not be applicable if it had been made to be too open, such as Article 21 above.

To summarize, there has been a clear conflict in determining the age of puberty, hence, the age of criminal responsibility for juveniles in Saudi Arabia. While Article 1 of the SOH law states that the SOH will take care of boys whose ages are between a minimum age of 7 and a maximum age of 18 years, Article 1 of the law of CIG reported that the CIG will take care of girls whose ages do not exceed 30 years. Therefore, we can analytically deduce that the Saudi Islamic juveniles' system distinguishes between boys and girls in accordance with their age and without precedent. To explain this, to be labelled under the term of juvenile in Saudi Arabia, boys' ages are from 7 to 18 years old, whereas girls from birth to 30. Another point is that Article 1 of the law of CIG states the maximum age for juvenile girls, but not the minimum age for them.

To explore this, we shall navigate via other related laws and regulations, which are officially joined by Saudi Arabia either regionally or internationally. These treaties are the Convention on the Rights of the Child, the Abu Dhabi document for unified juvenile law for GCC countries and, finally, the Child Charter in Islam. The first two treaties determined the maximum age for juveniles, either boys or girls, to be 18 years old. However, Article 1 of the Convention opened the door for discretion to attain maturity before the age of 18 years by consenting that the entire regulations of each country should be applicable, if majority is acquired earlier under the law applicable to the minor (which is 15 years of age in Saudi

[140] - On this topic, please see the discussion at Chapter Five, pp.138-147

Arabian courts or even earlier than 15 years old, depending on natural signs such as the appearance of semen, a period for girls etc.). For example, the discussion on case no.15/300/22/18 (2009) showed that, when the juveniles' judge decided that a boy aged 14 years old was mature, he was sent to the general court. Thus, again Article 1 of the Convention seems not to be consistent, as it is very open in its implications.

Despite the openness of Article 1 of the Convention, Article 40 clause 3 of that Convention asked all state parties to specify a minimum age below which juveniles, either boys and girls, shall not have the capacity to breach penal law. Consequently, the Saudi juvenile system may have followed what the Abu Dhabi document stated[141] in Article 1 about the deviant juvenile, indicating that the minimum age should be 7 years old. However, Saudi does not differentiate between juveniles and deviant juveniles in judicial practice (i.e. in front of the court), as both types are labelled under the same term of 'juvenile'. Yet, this is what the Abu Dhabi document failed to prove, in addition failing to terminate any case anyway if the child reaches the age of 21 years. This can be seen in the discussion on case no. 34434312/1 (2014). Thus, again the maximum and the minimum ages for the juvenile to be held criminally liable are not clear in Articles 1 and 40, clause 3 of the Convention, Articles 4, 13 and 15 of the Abu Dhabi document, Articles 1 and 14 of the law of CIG, and Article 7 of the law of SOH. In similar ambiguity, Article 21 of the Child Charter in Islam does not explain what the age of recognizing and of puberty means, yet it can show the Islamization of the juveniles' legal system, since it uses Islamic implications, for instance, the age of recognizing and the age of puberty. Thus, in the next paragraphs these terms will be examined more closely within the Saudi Islamic juveniles' system and provide supportive applications from related courts in Riyadh, Saudi Arabia. Consequently, those judicial applications will critically provide the reader with an outstanding grasp of the real situation in the juveniles' system in the KSA, evidencing that there is clearly conflict between theory and practice.

3.3 Juveniles' ages: conflict between theory and practice

With regard to the terms " recognizing/discretion" and "puberty", many researchers in Saudi Arabia, such as Alharthi (2012), Alshammary (2012), Alna'iem (2011), Alhariqy (2001), Almadhi 1994, Ala'jam (2013) and Almani'ee (2011), claimed that the Saudi juveniles' system is strictly based on Sharia. Hence, a juvenile will Islamically be defined as any child who has not reached the age of puberty. Additionally, this is what the Quran (24:59) states: "When the children among you reach puberty, they must ask permission…". Therefore, Abu Hayian, a great Quran interpreter (2015, p.449), argued that anyone who has not reached adulthood/puberty will be called a child or juvenile alike. However,

[141] - Although Saudi Arabia applies the Hanbali doctrine in reality, the written law for juvenile boys is different from that of girls, as will be seen shortly. Additionally, the written laws for boys and girls are different from the judicial practice. Therefore, there is a huge inconsistency between theory and practice in the Saudi Islamic juveniles' system.

Alsyigh (2016, p.7) contended that the term "child" will be given to any young human being until he/she either recognizes right from wrong or reaches puberty. Furthermore, Aljassas (1985, p.319) claimed that the term "child" will not be given to any human being after he/she reaches the age of recognizing/discretion. Instead, they will be called teenagers rather than children, if they reach the age of recognizing/discretion.[142]

As a result, the researchers named above differ in their interpretations of verse 59 chapter 24 of the Quran. In other words, while the Quran expanded the term "children", hence juvenile, up until the age of puberty, we can clearly see that Alsyigh and Aljassas have a different understanding of what is written. To explain this, Alsyigh was somewhat hesitant to expand the term "child" until the stage of puberty, so he used the conjunction "or" to indicate that there is disagreement about expanding childhood until puberty. Moreover, Aljassas asserted this by limiting childhood to the time before the age of recognizing, which is specified by other scholars to be at the age of 7 years old, as we will see shortly.

In a nutshell, the Quran used the term "puberty" as a definitive line between childhood and adulthood. However, this definitive line (i.e. puberty) is not specified in the Quran as occurring by any certain age or any other natural signs (e.g. appearance of semen, a period for girls and so on). This is the reason why Islamic scholars in Saudi[143] specifically sought other resources to explain how to reach maturity in Islam. In this regard, we can find critical discussions on some Ahadiths, customs/traditions and logic. Herein, I will supply more analysis on how Saudi judges depended on certain juristic doctrines to determine the phases of juveniles' puberty and discretion/recognizing. In other words, the law of SOH and CIG determined boys' ages of puberty, hence criminal responsibly, at the age of 18 years old and the girls' ages of puberty at the age of 30 years old. However, judicial practices and monitoring resolutions (e.g. number 124 on 1976) as well as the criminal procedures guide in Saudi Arabia (2002, p.86) divided juveniles into three phases according to puberty and recognizing/discretion.

These phases are: the stage before recognizing is from birth to 7 years old; the stage of recognizing is from completing the age of 7 years old to 15 years of age; and finally, the stage of puberty, which is from 15 years of age until 18 years for boys, and until 30 years for girls. An inspection of these divisions shows that the Saudi Islamic juveniles' system supported these three phases using some controversial Ahadiths, customs/traditions and logic. Consequently, a juvenile's criminal liability in Saudi can be based on the outcome of this division. Islamic jurists such as Alsarkhasi (2009, p.162); Al'amidi, (2012, p.151); Aud'a (2009, p.447); Almardawi (1986, p.395); Alzailai (2010, p.191); Ibn Amir Alhajj (1983,

[142] - For more critiques on these definitions, please see the literature review, p.29
[143]- Mentioned earlier.

p.164) arguably divided minors' ages based on puberty and discretion into three clusters, as the following sections consider.

3.3.1 The stage before recognition (discretion)

This stage starts from the birth until the child completes 7 years of age (Alsarkhasi, 2009). In addition, in this phase, the child is assumed to have no awareness even if he/she has some kind of sense or feeling (Al'amidi, 2012, p.151). However, the term of "recognition" in fact cannot be determined by specifying a certain age, for instance, 7 years or whatever, because "recognition" is regarded as something intangible (i.e. a figurative meaning that might not be tangible). As a result, recognition may appear before the age of seven or even after that (Aud'a, 2009, p.447). One of the remarkable points regarding this matter of "recognition" is that a child during the Prophet's lifetime had reached the sense of "recognition" when he was just 5 years old. This Hadith was narrated in Bukhari (1987) that Mahmoud Ibn Alrabie reported that he recognized and remembered a kind of joke happened between him and the Prophet whereby the messenger used to spray water in his face.

As a result, the idea of recognition may not be controlled by specifying it at a certain age (e.g. 7 years old) since recognition can appear before or after this certain age. How does this Hadith indicate "recognition"? We may analytically disagree with this standpoint, but we need to establish its conceptual argument. Thus, the conceptual argument here can be based upon what the term 'recognition' means. To answer this conceptual principle, the researcher strove to find any research within Islamic studies which discusses the implicated meaning behind this Hadith (i.e. whether recognition means cognitive-behavioral recognition). However, the initial meaning which comes to mind is that the Hadith indicates cognitive-behavioral recognition, since these things are mentioned literally in that Hadith (e.g. recognizes, spray water, as a joke etc.) To back this up, the behavioural psychologists, Da Silva, Moreira and Da Costa (2014, p1) have discovered that distinct patterns of behaviour can start as early as 4 years of age (e.g. delayed gratification experiments conducted in Stanford University determined two distinct groups of child behaviour: those who could delay gratification and those who could not). This impacted behaviour in later life. In other words, the root of the disposition can be determined very early.

Notwithstanding this, Ma'bdah (2011, p.209) reported that most[144] Islamic jurists such as Ibn Qudamah (2011, p.347) and Alsarkhasi (2009, p.162) are unanimous in stating that the phase of "recognition" starts at the age of 7 years because this is almost the common tradition in every child. Therefore, any child who has not yet reached the age of 7 years will be considered not completely aware even if he/she has more awareness or cleverness than the one who has reached the age of 7. One reason for this is that the juristic rulings in Islamic law are for common traditions/cases, not for individual odd cases (Aud'a,

[144] - It can almost be a matter fo consensus, according to Alhariqy (2001) and Almadhi (1994).

2009). Another reason is that the Prophet instructed his people to "start to ask your children to pray at the age of seven years old, yet correct them, if they missed the prayer, at the age of ten years old...". As a result, it is impossible to ask a child who is not discreet (i.e. below the age of 7 years old) to pray. Additionally, the Prophet instructs parents to ask their children to pray at the age of 7 years in order to familiarize their children with prayers (Alzarqaa, 2004). The child who is below the age of 7 years will not criminally be responsible for his/her crimes[145] because the Prophet said that "the pen is lifted from three people; the one who is asleep till he/she wakes up, the child till he he/she attains the age of adulthood and the insane till he/she regains sanity" (Abu Daowd 2013: p.363).

3.3.2 Analysis: What is the minimum age of criminal liability?

The Saudi juveniles law specified that the age of recognition was from 7 years, complying with Article 1 of the law of SOH, Article 4 of the Abu Dhabi document and the Convention on the Rights of the Child. However, Article 40 clause 3 asked for a determination of the minimum age for criminal responsibility. Therefore, 7 years of age seems unfair as it is too low to determine criminal and legal responsibility. Alna'iem (2011, p.169) argued that deciding upon such a low age means that the legislators might not have a clear idea about the negative impact that results from punishment of these juveniles at the age of 7 years. Consequently, Alna'iem wrote that the sentences will not achieve their intended goals (i.e. to rehabilitate the juvenile rather than just punish them). The third reason is that the researcher could not find any judicial applications out of 271 cases, which I gathered from three court, for any juveniles under the age of 11 years in Saudi Arabia. In other words, the minimum age I found throughout the gathered applications was 11 years of age and this was in two cases. The first was no. 31/164/175 (2014) and the second one was no. 28/67/223 (2014). As a result, the age of 7 years seems unfair, for it is neither logical nor practical. These artbitrary decisions have been proven to have huge negative impacts resulting from punishing juveniles at 7 years of age, failing to achieve the intended targets and no case existing in reality.

On the other hand, we can respond to the reasons brought by those scholars who specified the age of recognition at 7 years of age. They evaluated their tendency via two reasons and these were as follows: first, a 7 year old will usually be discreet by this age. Secondly, the Hadith of asking children to pray at the age of 7 years of age is a clear evidence that this age is the starting point for being discreet. To answer the first cause, we can argue that any custom can vary from place to place, people to people and one environment to another. Therefore, a child can reach the stage of recognizing/discretion before the age of 7 years of age, as is the case of Mahmoud Ibn Alrabie when the Prophet used to spray the water in his face as a joke, and this Hadith is authentic as it is narrated in Bukhari (1987). To back this up, Drammeh (2014) stated that the lack of understanding methodological matters related to the Quran may

[145] - The parents will only guarantee compensation for what the child has damaged of other people's property (Ma'bdah, 2011).

cause misunderstanding and, thus, misinterpretation. For instance, the disjoint interpretation of any text from the Quran is not enough to give a holistic meaning about the text. It can be said that the Quran should not be taken from historical and linguistic angels only, but also other aspects should be taken into account such as the social, political and psychological circumstances of those texts. Alhariqy (2001, p.45), therefore, claimed that the child can reach the age of 7 years old but he/she has no discretion. As a result, the age of 7 years old seems too low for being the starting point of criminal liability, including because it seems that there is a variation between customs with regard to the child being discreet.

In addition, to respond to the second cause (i.e. the Hadith), Alzarqaa (2004, p.802) reported that the meaning (i.e. the rational justification) behind instructing parents to ask their children to pray at the age of 7 years is for their children to become familiar with prayers at a reasonably early age. In other words, the idea of recognition/discretion is not mentioned in that Hadith at all since discretion varies from one child to another. Subsequently, the Prophet advised parents to correct their children, if they miss prayers, at the time of completing 10 years of age (i.e. 11 years of age). As a result, we can see here that there could be a difference between Ibadaat (religious affairs such as prayers) and Muamalaat (social, economic and criminal affairs). Hence, it is better to determine the minimum age of criminal liability at 11 years; whilst the Ibadaat could start to be learnt at a reasonably early age (7 years). Hence, it is better enough to determine the minimum age of criminal liability at 11 years, whereas the Ibadaat could start to be learnt at reasonable early age which can be 7 years, as mentioned in the Hadith above.

3.3.3 The stage of recognizing

Recognition in the English language literally means "the act of recognizing something or of showing or receiving respect" (Oxford Dictionary, 2011), but the juristic meaning of "recognition" in Islamic law indicates that a child has reached the age whereby s/he is able to differentiate between good and evil, or right and wrong, in daily life (Alzailai, 2010, p.191). However, the Islamic law distinction is problematic. The Stanford Marshmallow experiments (Da Silva, Moreira and Da Costa, 2014, p.1) determined that children aged 4 can make distinctions based on cause and effect (e.g. related to self-interest – what is good/bad for the child). This shows us why Ma'bdah (2011, p. 207) differentiated between religion and life in terms of age – while the age of 7 could be a starting point for performing prayers, criminal responsibility requires more than recognition, such as full awareness. A juvenile at this stage of recognition[146] will not have complete criminal responsibility because his/her awareness is still weak. Instead, a juvenile in this phase will have a lack of criminal liability. Hence, the discreet child herein will only be liable for a corrective penalty due to the Prophetic tradition "correct your children, if they missed the prayer, at the age of ten years...".

[146] - From 7 years old according to the Saudi juvenile system Article 1 of the law of SOH.

As a result, Ma'bdah claimed that this Hadith indicates that the minor will not hold any complete criminal liability, but a corrective penalty will be due in order to protect the child from deviance. Furthermore, the corrective penalty for the discreet child will be open to the judge to decide what is most suitable for the child's circumstances. In addition, the judge must navigate official instructions passed by relative institutions, such as the Ministry of Justice, the Interior Ministry, the Social Observation House and so forth (Alna'iem, 2011, p.174). However, the main problem here is minimizing the age of adulthood to start from 15 years old and dividing the phase of puberty into two phases, either from 15 or from 18 years old. To explain this, we have seen from the discussion above that the overwhelming majority of Islamic scholars[147] are unanimous that the age of recognition/discretion will start from the complete age of 7 years. However, the problem in this phase (i.e. recognition/discretion) is whether it will end at a certain age or at certain natural signs (e.g. the appearance of semen, pubic hair etc.).

In other words, we do know that this stage of recognition will start from the completed age of 7 years, but this phase will end when the juvenile becomes mature, having rached puberty. However, by which means will this puberty be determined? Is it by a certain age or according to certain natural physical signs or whatever comes first, either age or natural signs? Herein, the researcher will analytically investigate when the stage of recognition ends by identifying the definition of puberty and how it is determined in the Saudi Islamic juveniles' system, providing some important judicial cases from the general, criminal and juvenile circle courts in Riyadh, Saudi Arabia. These applications will crucially show the reality of judicial practice, indicating to some extent the inconsistency of the law.[148] Thus, we will now discuss the stage of puberty.

3.3.4 The stage of Puberty

Puberty literally means "the time when a child's body is changing and becoming physically like that of an adult" (Oxford Dictionary, 2011, p.627). In other words, it means that the age at which the boundary of childhood is terminated and the time of being adult has started (Ibn Amir Alhajj, 1983, p.164). In addition to this, a child in Saudi Arabia will Islamically be considered an adult when he/she reaches the stage of adulthood either by a specific age or, even before that, by natural signs. With regard to the specified age, a number of researchers (Alharthi, 2012, p.87; Alshammary, 2012, p.34; Alna'iem, 2011, p.172; Alhariqy, 2001, p.47; Alsyigh, 2010, p.12; Ma'bdah, 2011, p.206) claimed that the majority of Muslim scholars such as Alshafie (2001, p.330) and Ibn Qudamah (2005, p.346) determined that the age of puberty is at 15 years old for both boys and girls, whereas others (Alhattab, 2003, p633) argued that it is 18 years old for boys and girls alike. Further, some other Islamic jurists such as Abu Hanifa

[147] - See footnote 144 for more details.

[148] - While the Saudi juveniles' system claims that juvenile law complies with international law and human rights reports, judicial practices can, however, be very different, based on the Hanbali juristic doctrine.

(Ibn Abdin, 2000, p.226) maintained that the age of puberty for boys is 18 years old, whereas for girls it is 17 years old. Furthermore, the final opinion in this regard is that of Ibn Hazm (1988, p.89), who states that the age of puberty is 19 years old for both girls and boys.

Abu Hanifa and some maliki scholars supported their argument by the following; first, the Quran (6:152) states: "And do not come near the property of the orphan, except with the best intentions, until he reaches maturity." Maturity for boys and girls is 18 years according to one of the Prophet's companions, who specialized in Quran exegeses, Ibn Abbass. This interpretation from Ibn Abbass was also followed by some great scholars, who also specialized in the Quran's interpretation, such as Alnasafi and Muqatil Ibn Sulaiman (Alnasafi, 2008, p.286; Al'azdi, 2002, p.378). Secondly, the law giver (Allah) made a connection between the commission and the appearance of natural signs, specifically semen. Therefore, the Islamic juridical rulings should be built upon it. Otherwise, if the natural signs have not yet appeared, then we must wait until we despair and that would be at 18 years of age. That means that we give all the chances for natural signals in order to appear (Abu Hayian, 2015, p.286; Ibn Aljuazi, 2002, p.149). Thirdly, Abu Hanifa claimed that there would be a difference between boys and girls in terms of adulthood. Consequently, the age of puberty for boys should be 18, but for girls it should be 17 because girls usually mature physically more quickly. As a result, we only deducted one year from their rights, as one year includes all four seasons, so the mood will be mature by coming across one or more of these seasons (Almarghinani, 2006, p.284).

The upshot of these deliberations is that Saudi juveniles' judges believed in what the Hanbali juristic doctrine argued about puberty, that is, 15 years old for both boys and girls. However, in the juveniles' statutes, the law of SOH and CIG, it is stipulated that the age of puberty for boys is 18 years old, whereas for girls it is 30 years old. Ala'jam (2013, p.32) argued that the Saudi juveniles' system is distinctive in that it nominates the female age of puberty as 30 years old. Additionally, Ala'jam continued to rationalize this view by stating that girls are not the same as boys with regard to age, so the Saudi juveniles' system gave more protection for girls up until they are 30 years old. In other words, if the girl's age is 29 years old and she was accused of committing a crime, instead of sending her to the general court and prison, she will alternatively be sent to a special court and prison (namely, a CIG, or Care Institution for Girls). Therefore, the girls' ages of puberty will be attained at the age of 30 years, whereas for boys it will be gained statutorily at 18 years; however, in practice, in the courts themselves, it will be at the age of 15 years old unless puberty is attained earlier by natural signs. Despite the fact that natural signs are given more importance by Saudi Qadis as they can appear before the age of adulthood, the above view in the Saudi juveniles' system is backed up by some statements from Hadith, custom and rationales, as next section explains.

3.3.5 Saudi Qadis' evidence on choosing 15 years old as the age of puberty[149]

First, Ibn Omar narrated that the Prophet was shown Ibn Omar when he was 14 years old in order to gain consent to enrol him in the army, but the Prophet refused. After one year, when Ibn Omar had completed 15 years of age, the Prophet gave him approval to enter the army. In addition, Nafie[150] stated that, afterwards, he contributed this tradition to Omar Ibn Abdulaziz, who was the fifth caliph in Islamic history; Omar Ibn Abdulaziz wrote to his deputies that the age of 15 years was the boundary between childhood and adulthood (Bukhari, 1987, p.948; Ibn Hanbal, 1999, p.17).

Secondly, the usual custom tells us that puberty will not be later than 15 years of age, unless there are problems related to the body of the child. If the normal child reaches the age of 15 years and makes a transaction (i.e. a sale or purchase), it will be regarded as valid. Therefore, the age of 15 should be viewed the same as the age of 18, in that any deeds done in these given ages will be considered acts of responsibility. Thirdly, the rationale in the matter of being adult is the sense of awareness (full mind), and the law giver (Allah) made some signals to indicate awareness, such as those natural signs mentioned earlier, particularly the appearance of semen. Consequently, the usual custom indicates that spermatogenesis will not often be later than the age of 15 years old. If spermatogenesis occurs later than the age of 15, then this would be due to an illness or a problem connected with the body, but it should be noted that this problem with the body may not necessarily be connected with any deficiency or delay in mental awareness. As a result, we must consider the age of 15 to be the beginning of maturity (adulthood) (Alkasany, 2010, pp.171, 172). These are the main causes for Saudi juveniles' judges to set 15 years old as the age for the onset of puberty and hence, criminal responsibility. Nevertheless, this opinion can be opposed by some rationales, as the subsequent section explores.

3.3.6 Evidence against choosing 15 years old as the age of puberty

To analytically discuss the onset of puberty as being determined as 15 years old, which is basically applied by Saudi juveniles' judges, contrary opinions should be considered. Drammeh (2014) suggests that we should consider multidisciplinary and interdisciplinary approaches to the study of the sources. This is an elaboration to the methodology of pluralism that gathers different disciplines such as Fiqh, linguistics, history and socio-cultural studies. Also, we must consider the important role for the reason and revelation in dealing with current issues of dogmatism and reform.

1- The narrative Hadith of Ibn Omar may be discussed by arguing that the Prophet may have consented to the participation of Ibn Omar in the army the second time, due to the appearance of semen (Ihtilam) or, it may have been that he was suitable for the army in order to be familiar with it and its affairs, but not due to his maturity or his age of 15, so this Hadith might not be

[149] - For more details, please refer to Chapter One, literature review.
[150] - Nafie was a servant for Ibn Omar and knew him well.

proof of being adult by reaching the age of 15 years old (Alkasany, 2010, p.171, 172). For example, although the Prophet urged parents to teach their children to pray at age 7, there was not an expectation that such children should bear responsibility for prayer until the completion of their tenth year. This demonstrates that the Prophet was prepared to accept a period of learning and personal growth before the onset of responsibility.

2- The Hadith narrated by Ibn Omar is in (Jihad[151]) and the Prophet used to consent (but not compulsory) non-mature in this service, so this tradition of the Prophet supplies the previous Hadith of Ibn Omar by a clear idea that the age is irrelevant (Almawsili, 1975). In other words, the age of 15 is not the age of puberty, as proven from the practices of the Prophet, because he used to consent to some non-mature people being in the army in order to train them, according to Almawsili (1975, p.102). Additionally, Ma'bdah (2011, p.207) claimed that the age of 15 years can be perfect for being a standard for Ibadaat (religious affairs), such as prayer etc. However, it is impossible to make 15 years the age of puberty and hence of criminally liability, as these things need more awareness and experience.

3- All sides of the view are actually evident in their directions by custom, yet every time has its own custom, because tradition is more likely to change from time to time, people to people, and place to place. Consequently, we cannot be sure that the usual custom in every circumstance is that 15 years of age is the age of puberty (Almani'ee, 2011). Another answer is that custom is a branch resource of Islamic law, so it is not basic evidence upon which we can build a permanent juristic rule pertaining to a juvenile's life. Determining puberty, and hence, criminal responsibility for juveniles at the age of 15, may result in a negative impact upon juveniles, as they will be subject to fixed penalties and retribution in the Saudi Islamic juveniles' system. Herein, we will realistically analyze some juveniles' cases to show the complexity of determining the age of puberty at 15 years old in reality (i.e. in front of a juveniles' court), as opposed to putting the official age in statutes at 18 years for boys and 30 years for girls.

This style of overlapping and, possibly arbitrary, mixing between juristic opinions resulted in 7 people, again over the age of 18, being prosecuted as juveniles at SOH without justification. Another negative result is that many people, supposedly juveniles, were prosecuted without due consideration of their age. Moreover, the researcher has discovered 26 cases, none of which has mentioned the age of the prosecuted juveniles.[152] No one can claim that those juveniles' ages may

[151] - Military service for a Muslim country in the time of the Prophet.

[152] - Therefore, we are not sure whether the prosecuted individual was really a juvenile or not, as there were no ages mentioned throughout the cases.

be missed or forgotten, since it did not happen to one, two or three people, but happened 26 times, which suggests that this omission of the age is not accidental. Following on from that, I will demonstrate the judicial practice with regard to girls' ages (i.e. 30 years old). This is to show that the reality for girls' ages in front of the juveniles' court is compliant with the Saudi law of CIG. In other words, it is written in the law of CIG that the age for girls to be juvenile is 30 years old. However, this is could be different from the Hanbali doctrine, which is the religious basis of all Saudi law, which states that the age of puberty is 15 for both boys and girls. To cap it all, there were some cases in which a judge individually decided that the juvenile was mature by his own discretionary authority. Furthermore, as case no. 15/300/22/18 (2009) showed, the juvenile was just 14 years old. Thus, we will discuss some cases according to the following order[153].

3.3.7 Juvenile prosecution above the age of 18

Case no. 35430024/5 (2009) involved the prosecution of 5 people aged over 18 years old. This joint enterprise case criminally involved 12 people, some of whom were juveniles, but others were not. However, the juveniles' judge decided that all of the accused were to be sent to the general court, since the case was one of retribution (i.e. Qisas). In this case, some of the defendants were accused of murdering an innocent man by intentionally and severely crashing his car after a long chase at too high a speed (230 km/h), while the rest of the accused individuals were associated with the murderer in this crime by either assisting in the gang and intimidating the victim by chasing his car at a high speed, as well as leaving the victim to die slowly without helping him or calling the official authorities (an ambulance or the police). Herein, 5 of the 12 accused people were aged over 18. These were defendants number 5, aged 19 years; number 8, aged 19 years; number 9, aged 21 years; number 10, aged 26 years; and number 11, aged 19 years. The remaining 7 of the 12 accused people were either 17 or 18 years old. In this regard, the Prosecutor-General proved by interrogating the defendants that the first accused, aged 17, admitted that he intentionally crashed into the victim's car, after a long high-speed chase, leaving the victim to die without any help. Additionally, the rest of the defendants were accused of helping the first defendant to kill the victim by crowding and surrounding him in their cars, chasing the victim's car at high speed and leaving him to die without any assistance. Furthermore, defendants 5, aged 19, and 9, aged 21, were further accused of beating the victim and breaking the glass of the victim's car from the rear.

[153] - Firstly, people more than 18 years old were prosecuted as juveniles. Secondly, juveniles, were prosecuted without mentioning their ages of puberty. Finally, women over 18 years old were criminally prosecuted as juveniles.

Subsequently, the three judges in the general court investigated the case further to make sure of the defendants' confessions. Hence, the judges came to the finding that defendant number 12 was not guilty, as the judges did not know why this particular defendant was involved, since there was no mention of his participation throughout the confessions, nor through the testimonies provided by the witnesses to the accident. Further, defendants 5 and 9 were not guilty of beating the victim nor breaking his car. However, the accusation was proven with regard to their grouping together with other defendants, defendants number 2 to 11, as well as chasing the victim's car and leaving him stranded, reaching out for help until he died. Additionally, the accusation was also proven against the first defendant, who was 17 years old, in murdering the victim with intent. Hence, the judges decided that the first defendant, who was 17 years old, must be killed as retribution for intentionally murdering the innocent victim, as well as to pay the sum of SR 41000 as compensation for damaging the victim's car.

Additionally, the second defendant, aged 17, was sent to jail for two and a half years and was sentenced to be lashed with 200 separated whips. Furthermore, the third defendant, aged 18, the fourth defendant, aged 18, and the fifth defendant, aged 19, were all jailed for 5 years, as well as being sentenced to be whipped with 500 separate lashes each. Moreover, the sixth defendant, aged 17, the seventh defendant, aged 18, the eighth defendant, aged 19 and the eleventh defendant, aged 19, were all jailed for two and a half years and sentenced to be lashed with 300 separate lashes. What is more, the ninth defendant, aged 21 was jailed for 2 years and lashed with 250 separate whips. The tenth defendant, aged 26 years old, was jailed for 4 years and lashed with 400 separate lashes. Finally, all of the cars involved in chasing the victim were confiscated to the public treasury of Saudi Arabia.

In analyzing this case, we can clearly see that in Saudi Islamic law the judge generally is the only one who decides the case (i.e. there is no jury, as can be seen in the law of England and Wales, as mentioned in Binns, 2014). Consequently, we can see here that the juveniles' judge referred the case to the general court, as the case pertained to retribution (i.e. Qisas). This in fact complies with the decision of the Saudi Justice Minister, number 310 on 30/4/1974. In elaborating upon this decision, minors aged 15-18 go on trial according to the following:

1- If the minor commits crimes that include homicide, injuring or cutting, then they will be sent to the general or criminal court and can be subject to fixed penalties (i.e. Hudud and Qisas crimes) because the age of puberty is 15 years old according to the Hanbali doctrine.
2- If the crime does not involve homicide, injuring or cutting, then the juvenile will be delivered to the juveniles' court inside the SOH for boys or CIG for girls. Consequently, the minor will not be subject to fixed penalties, but could receive a severe corrective punishment (Alsaifi, 1995).

As a result, all of the people involved in this case were transferred to the general court, indicating the ineffectiveness of the juveniles' court (SOH). In turn, this is also against Article 10 code 4 from the recent Saudi judicial law, which was passed in 2007. Furthermore, the law states that in cases of fixed penalty (Hudud) or retribution (Qisas), there will be a committee of five judges to decide. However, in this case there were only three judges. Another remarkable point is that, despite what the Saudi juveniles' system is based on, the Hanbali juristic doctrine, which specified the age of puberty at 15 years, and despite what the Saudi juveniles' system stated in the law of SOH (that the age of puberty is 18 years old), these aspects were not respected. There was inconsistency in the judicial application because this case involved 5 people whose ages were neither 15 nor 18. Hence, criminal responsibility and the age of puberty seemed vague and in absolute need of rigorous revision, as were the severe punishments in this case, which will be discussed in the next chapter.

3.3.8 Juvenile above the age of puberty

This case study refers to case no. 0000/16 (2009) and involved 3 people, one of whom was aged 19. The first and third defendants were 18 years old while the second defendant was 19 years old; they were accused of burglary and stealing from several shops. Hence, sentencing for this case involved cutting off the hands of the thieves according to Sharia law (Quran, 5:38). Therefore, the judge of the juveniles' court decided to refer this case to the general court according to the Saudi Justice Minister's decision, number 310 on 30/4/1974. In front of the general court, the Prosecutor-General proved that these juveniles admitted that they stole valuable things from secure locations (i.e. locked shops). Additionally, the Prosecutor-General brought a report from the criminal evidence centre, number 11-2392 (2009), that the blood found in some of the shops broken into belonged to the second defendant, aged 19. The three judges looked into the case and viewed the defendants' confessions at investigation, as well as in the report. However, all of the accused denied the allegations and changed their testimonies.

The judges considered this denial as suspicious, at which point the fixed penalty must be removed according to the Hadith narrated by Altirmizy (2012) and Albaihaqi (2010) "remove fixed penalties by suspicion". Alshammary (2012) explained that "suspicion" in this context means anything that can remove the fixed penalty, such as denying committing the crime. Subsequently, the judges decided to remove the fixed penalty for theft, which was cutting off their hands, despite the report number (being 11-2392, dated 2009) against the second defendant, aged 19 years old. However, the judges claimed that removing the fixed penalty did not mean that the defendants were free and could go, and exercised discretion regarding the punishments, as their actions were deemed horrible and against public security. Therefore, it was decided to jail all of the defendants for 7 years and to lash them with 700 separate whips.

An analysis of this case, as can be seen in case one above, also demonstrates the ineffectiveness and helplessness of the juveniles' court. Moreover, the reference to the general court is against Article 10 code 4 of the Saudi judicial law. Another important point is that it involved three people, two juveniles aged 18 and the other aged 19. This realistically indicates the complexity of determining the age of puberty and criminal liability in the Saudi juveniles' system. In other words, the two juveniles here were aged 18 and were intentionally sent out of the juveniles' court to the judges at the general court. However, the 19 year old was surprisingly considered juvenile because of two factors: first, the decision was the same for him and the other juveniles. Secondly, the place in which they were all prosecuted was the same as the three defendants who formed a gang regardless of their ages. With this in mind, this practice is contradicted again by two issues: what Saudi juveniles' judges believe about the age of puberty, hence the criminal liability of a 15 year old, and what Saudi juveniles' laws, that are the laws of SOH, state about the age of puberty being 18 years of age. Hence, the age of criminal responsibility and the age of puberty are in need of greater discussion throughout the Saudi juveniles' system.

In case no. 31/37/167 (2014), 9 juveniles, one of them aged 19, were captured by police based on intelligence from urgent and secret reports from the Saudi intelligence department in Riyadh (number 45237, 2014). In addition, these juveniles were demonstrating to express their views against the government's policies towards prisoners' opinions. In detailing the case, the story began when a group of juveniles gathered in front of Almamlakah hospital in the north of Riyadh. They used microphones and distributed some leaflets, as well as placards calling for assistance for certain prisoners. However, this was against the Islamic regulations which ban public calls for Fitnah against the ruler, according to the Fatwa issued by the General Presidency of Scholarly Research and Ifta (2017, p.377). During the investigation period, all of the defendants regrettably admitted that they did call for a revolution. Therefore, they also insisted on their confessions in front of the juveniles' judge, despite the fact that this case should have been referred to the general court as it involved a fixed penalty, that is Albaghy (i.e. rebellion[154]). Aud'a (2009, p.499) reported that the fixed penalty for the crime of rebellion is to be put to death, because this crime is considered a political crime. It is considered that such a crime would destroy the socio-political life of people as well as the general security of the country, so Sharia law requires a strict fixed penalty for this sort of crime, as being lenient with such rebels may ultimately lead to instability, disorder and civil war in the country (Alotaibi, 2003, p.163).

[154] - Albaghye literally in Arabic means corruption, unfairness and assault (Ibn Mandhur, 2005). Technically, it can be defined as group of armed Muslims who fight a head of an Islamic country with somewhat initial palatable interpretation (Ibn Abdin, 2000). However, scholars seem to have different defnitions of the crime of rebellion, but it can be argued that the main cause of these differences might be referred to as some conditions, such as stipulating that a rebellious person must use force or that it is enough to disobey (without using the power) statutes of the head of the Islamic government.

Notwithstanding the above, this case was overseen and tried by the juveniles' court. Subsequently, the judge decided to jail all of them for 40 days only, except for defendants numbered 1, aged 19, and number 6, aged 12. The reason for excluding defendant number 1 was that he was out of the courts' specialization. Therefore, he had to be sent to another court (e.g. the general court). However, defendant number 6 was jailed for 25 days only because of his young age.

To analyze, this case may represent, to some extent, a good example of the operation of the juveniles' court, except for the decision to send the 19 year old to another court. However, the punishments were too high for those children, since appeal verdict number 35460288 (2014) asserted that the jail time was excessive for the juveniles, especially with their honest repentances. Although defendant number 1 was called for trial at the juveniles' court, he was refused and subsequently sent to an unknown court, since the verdict did not mention his final destination. Herein lies the confusion when there is no clear age for puberty nor for criminal liability. In a nutshell, these cases clearly show how there is conflict in the legal and judicial situations for juveniles in Saudi. One reason for this is that, as has been seen from the above cases, despite the written age for puberty, hence criminal liability, being 18 years of age for boys, the law of CIG, however, has determined it to be 30 years of age for girls. On the other hand, while the juristic doctrine upon which the whole Saudi legal and judicial systems are based, has specified the age of adulthood to be 15 years of age for both boys and girls. The above cases show that there have been some individuals above the age of 18 who have been put on trial as a juvenile. There are also cases where juveniles have been tried without any mention of age: the researcher found about 26 cases in which juveniles' ages had not mentioned. In the next step, we will discuss some of these.

3.3.9 Juveniles prosecuted without their age stated

Case one (no.31/11/144, 2014) involved 5 people, none of whom was the given age (i.e. none of whom had their age stated in the court), yet the judge used his discretionary authority to determine whether these children were mature or not. To elaborate, the Prosecutor-General accused 5 juveniles of possession and distribution of drugs. The first, second and fourth defendants were accused of drug offences inside the Social Observation House (SOH), where the juveniles' court is located. The third and fifth defendants were accused of possession and distribution. All of the juveniles, except the second defendant, admitted to the charges. Subsequently, they admitted their confessions in front of the judge. Therefore, the judge decided to apply the fixed penalty of drug possession and distribution. Alshammary (2012, p.72) claimed that drugs usage is exactly similar to drinking alcohol and according to the Hanbali juristic analogy, since the rational is the same, which is intoxication by both drugs and alcohol. Hence, the juveniles' judge decided to lash all defendants with 80 fixed lashes for their drug possession and distribution. Further, these lashes had to be witnessed by some Muslim people.

The second and third defendants were additionally whipped another 40 discretionary lashes for sending drugs as a gift to other juveniles in the SOH. However, the third defendant was also jailed for 4 months for sending drugs as a gift to others in the SOH. The reason behind all of these additional discretionary punishments was because these defendants had committed similar acts before. Another reason was that the judge rationalized his decision by using his discretionary authority to determine their puberty (i.e. he was unable to depend upon official IDs, nor were their ages given by the prosecutor- general), stating that all of these juveniles were above the age of 15. Hence, they should be given more additional punishments, since they were adults according to the Hanbali doctrine. Further, the fifth defendant was also whipped 60 discretionary lashes as well as being jailed for 10 months for his precedents.

To evaluate the above case, the judge mixed fixed and discretionary punishments. Alsharif (2010) reported that many criminal cases in Saudi Arabia encounter challenges, because there are no sentencing guidelines. Therefore, judges openly apply their discretion in choosing what they believe is appropriate, regardless of the severe impact that such mixed punishments have upon the juveniles. Additionally, sometimes the discretionary lashes exceed the fixed whips by an extreme amount, that pre-specified by Allah. Alsharif continued to confirm that if the defendant was given a fixed penalty, then there is no need for the discretionary one, since the fixed sentence is supposed to be enough as it is fixed by Allah. Another remarkable critique is that the judge depended upon the juveniles' precedents, when it is illegal to do so. This is because juveniles are more vulnerable and can be physically, psychologically and emotionally affected by consideration of precedents in the verdict. It is also against the Convention on the Rights of the Child, which prevents counting the child's precedents. However, the Saudi juveniles' system depends on many scattered decrees/orders which may allow for the recording of juveniles' precedents. For instance, Article 1 of the basic regulations on the law of SOH stated that, with regard to juveniles' precedents, juveniles are classified in two types as follows: first, juveniles whose ages are below 15 years will not have their precedents counted nor recorded. However, juveniles who are aged between 15 and 18 years old have their precedents recorded only in special files inside the SOH or CIG, and they will not be counted. Unfortunately, one does not know how many times this basic regulation has been breached by juveniles' judges. One example is what we are discussing now as the judge here used, first, his own discretionary authority to determine that those juveniles were mature. Subsequently, he counted their previous offences in order to strengthen the punishment upon them.

Another critical point is that the juveniles' judge here mixed possession and distribution of drugs, in that he prescribed the same fixed penalty as for alcohol consumption, which is 80 lashes. However, possession is different from distribution, according to Articles 38 and 41 of the Saudi drugs law. Article 38 is concerned with the distribution of drugs and gives a punishment of imprisonment varying from 2 to 15 years, whereas Article 41 of the same law is concerned with drugs possession and it prescribes a sentence of between 6 months and 2 years imprisonment. However, Article 42 exempts juveniles from

these punishments as they are only for adults. Therefore, Article 42 stated that juveniles who are drugs distributors or users will be given a suitable corrective punishment. However, the judge here gave them fixed and extra discretionary punishments regardless of what Saudi drugs law stated about juveniles. Please also note that the Saudi drugs law contains codes relating to juveniles, indicating that there is a need to either reform the juveniles' law or to establish a new, better law for them, taking into account this critical advice.

Case two (no.28/20/254, 2014) involved a woman whose age was not specified, yet the judge used his discretionary authority to determine whether she was mature or not. The Prosecutor-General accused an unmarried woman, who had delivered her baby one month before, of fornication (i.e. sexual intercourse between people who are not married). In addition, the Prosecutor-General proved that the woman committed the crime of fornication as she delivered a bastard. Subsequently, the judge asked her and she admitted four times that she committed the crime of fornication as well as not being legally married. Hence, the juveniles' judge decided to apply the fixed penalty for fornication described in the Quran (24:2) "The adulteress and the adulterer—whip each one of them a hundred lashes, and let no pity towards them overcome you regarding God's Law, if you believe in God and the Last Day. And let a group of believers witness their punishment." Additionally, it is also mentioned in the Hadith to "whip them 100 lashes and exile/deny them".

This case was difficult for this woman, as she had recently delivered her baby. The judge decided that the whipping should be in front of a group of believers, yet this might contradict what the Convention on the Rights of the Child stated about the juvenile's privacy in Articles 3, 16, 19. Furthermore, the judge did not clarify what he meant by exile/denial,[155] especially for a woman, which may basically be against Islamic regulations about women's protection. The final remark is that the judge did not mention the age of the woman, so this is again confirmation that the judge used his own discretionary authority to decide the age of criminal liability and the age of puberty. To summarize, why was the flogging publicized, which seems to be against the nature of juveniles' law? If the juveniles' system regarded this girl as an adult, then why was she tried in the juveniles' court? Why was her age not mentioned?

Case three (no. 31/50/123, 2014) involved 2 people, the first of whom was 16 years old, whereas the age for the second was not stated, despite the fact that the second defendant's father formally advised the judge that his son was above the legal age of SOH, which is 18 years of age, despite the father being worried that his son would be transferred to the general court. However, the judge continued to try the

[155] - What does exile mean? Does it mean deportation for foreign criminal/s? However, what about citizens in Islam? Some scholars such as Hanbali, Shafie and Maliki argue that the traditional meaning of exile might mean deportation to another place/city. However, the Hanafi doctrine claims that it might mean being in prison for a certain time. Therefore, this Hanafi opinion could be suitable for contemporary times. Hence, we will discuss this later in greater depth in the section on Ta'azir crimes, pp.138-148

second defendant, without mentioning his age. The Prosecutor-General proved that both defendants had admitted several times that they had stolen two valuable mobiles, as well as a wallet from a secured car. Fortunately, the car's owner captured the thieves and waited until the police came to transfer them to the juveniles' court. The first defendant's destination was not mentioned at all in this case. The second defendant, without any given age, admitted in his confession that he stole the two mobiles and the wallet, although he repeatedly repented and returned those items to their owner. Hence, the judge decided not to send this defendant to the general court, despite the fact that this crime involved the punishment of cutting his hand off. Consequently, it might be against what the Quran (5:38) prescribed as the punishment for theft. Ultimately, the judge decided to jail the second defendant for only 15 days and 50 lashes. Yet, the judge here is believed to had removed the fixed penalty by suspicion, which is the defendant's repentance.

Case four (no. 36470395/254, 2015) involved a woman whose age was not stated, yet the judge used his discretionary authority to determine whether the child was mature or not. A woman was captured based on a notification from her mother that her daughter was illegally pregnant by somebody. Subsequently, the religious police (i.e. the Committee for the Propagation of Virtue and Prevention of Vice, or CPVPV) captured the woman and escorted her to the prosecution. The woman admitted that she was illegally pregnant and in the second month of pregnancy. Therefore, the Prosecutor-General escalated this case to the juveniles' court in the CIG. Subsequently, the woman altered her confession in front of the juveniles' judge to being coerced/forced to commit adultery, as she was married, then divorced, without her consent. In other words, she was raped. Hence, the judge decided to remove the fixed penalty of adultery, which is stoning to death, because of the suspicion of being raped. Finally, the judge jailed her for 2 years and lashed her 200 separated lashes.

Case five (no. 28/139/239, 2013) involved a boy whose age was not stated, yet the judge used his discretionary authority to determine whether the child was mature or not. At the juveniles' court, the Prosecutor-General accused the child of using drugs. Consequently, the child repeatedly insisted and admitted that he was a drug user and he was mature. Hence, the judge decided to lash him a fixed penalty of 80 lashes (i.e. the same as for drinking alcohol) and to jail him for one month, as well as banning him from travelling outside Saudi Arabia for 2 years.

To evaluate this case, the judge here used his discretionary authority to decide that this child was mature. Additionally, the judge alternated between the punishment for drugs and alcohol, and prescribed extra discretionary punishments without reasonable justification.[156] Unfortunately, it seems that there is a tendency in the juveniles' court, especially, and the other courts, generally, in Saudi Arabia to equate

[156] - Please refer here to the discussion on Case 1 (no. 31/11/144, 2014) p.86

drugs usage with alcohol consumption. This is also evident in case no. 29/120/181 (2014) in Appendix 2. However, this practice obviously contradicts what Saudi Arabian drugs law has codified in Articles 38, 41 and 42 of drugs law. This again demonstrates that the reality in judicial practice is based upon the Hanbali doctrine, regardless of these statutes, as shown repeatedly throughout this research.

3.3.10 Women over 18 years old criminally prosecuted as juveniles

Case one (no. 35403531/2, 2014) involved 2 people, one of whom was a woman aged 30 years old, yet she was transferred to the general court, as the case involved retribution for being implicated in the killing of her husband, as well as being in an illegal relationship. The Prosecutor-General claimed that a man aged 32 years old had been aarrested in association with a juvenile woman aged 30 years old, on a charge of killing her husband. In addition, the report from King Salman Hospital asserted that a man died due to a lethal shot in his head, causing a severe split in his brain. Further, some recorded calls to the victim's brother indicated a death threat, if this brother did not withdraw his statement to the prosecutor. Another issue was that some eyewitnesses reported that the defendant was in a relationship with the victim's wife and that the defendant was a drugs consumer. Another matter was that some recorded calls between both the male defendant and the female defendant indicated that they were both in an illegal relationship, which they both admitted in front of the judges, despite the fact that both of the defendants were already married. However, both of the defendants denied killing the victim, who was the husband of the female defendant. The Prosecutor-General searched their criminal histories and found 5 previous convictions for the accused man, but nothing for the accused woman.

Consequently, the three judges decided to remove the matter of retribution from both victims since the evidence was not enough to prove that the murder was caused by both defendants, or even one of them. Subsequently, the judges decided to prescribe a fixed penalty for consuming drugs on the man, which is 80 lashes. However, for his illegal relationship, he was jailed for 4 years and whipped another 500 discretionary lashes. The juvenile woman was jailed for one year and whipped 150 discretionary lashes for her illegal relationship (i.e. while she was already married to the murdered victim).

To analyze, as we can see, this case had been transferred out of the juveniles' court, even though it had a juvenile woman, aged 30 years old according to the law of CIG. However, this was again because the case involved the crime of murder (i.e. retribution/Qisas). Hence, according to the decision of the Saudi Justice Minister, number 310 on 30/4/1974, this case must be referred to the general court for trial. A remarkable aspect of the case is that the three judges in the general court dismissed the existing case of retribution and only decided on the illegal relations and drugs consumption. However, the prescribed punishment for the man confirmed what has been discussed above – that the Saudi courts generally tend to equalize the penalty of drugs consumption with drinking alcohol, as both of them are intoxicating. In turn, this is against the Saudi Arabian drugs law Articles 38, 41 and 42, which necessitate discretionary

punishments rather than a fixed one. Further, the juvenile woman's punishments very much exceeded the fixed number of lashes. In other words, while there is an argument between Muslim jurists (e.g. Hanafi, Shafie, Maliki and Hanbali) on whether a judge can exceed, by corrective flogging, the fixed amount of lashing in Hudud crimes, the flogging herein exceeded the minimum fixed penalty in Islam, which is 80 lashes. This is discussed further in Chapter Four, p.97

Case two (no. 18/300/11/31, 2008) involved 2 people, one of whom was a woman aged 20 years old. The father of this girl had notified the police about the disappearance of his daughter. Subsequently, after just a few days the police found the girl with a man also aged 20 years old. During the investigation, both of the defendants admitted that they had been calling each other from time to time, even though the girl was already married to a different man. Further, they both admitted that they had voluntarily committed the crime of adultery. Therefore, this case was transferred to the general court, since it involved the fixed penalty of adultery; that is, stoning to death for the girl, but a fixed 100 lashes for the man as he was not married. In front of the three judges in the general court, both defendants denied the accusation of committing adultery, but admitted being in an illegal relationship. Hence, the judges decided to remove the fixed penalties, yet prescribed discretionary punishments for them. The man was jailed for 10 months and lashed 98 times. However, the girl was given a harsher sentence of 1 year and 6 months, as well as being lashed 250 times. The judges stated that the reason for giving a higher penalty to the girl was because she was already married, and had betrayed her husband, whereas the defendant man was unmarried.

Case three (no. 31/56/159, 2014) involved a girl aged 19 years old who was accused of three crimes: committing adultery as she was already married, drinking alcohol, and avoiding/escaping her husband's house. The Prosecutor-General claimed that his evidence upon these matters was her voluntary confession. The juveniles' judge asked her to be sure about her confession, so she agreed she had committed the latter two charges, but refused the allegation of adultery. In addition, the girl confirmed that she had already three precedents similar to this case. Consequently, the juveniles' judge considered these precedents in his verdict, asserting that, due to her confession regarding drinking alcohol as well as avoiding/escaping her husband's house, she deserved a fixed 80 lashes for alcohol consumption and 2 years and 6 months jail as well as being lashed an extra 200 discretionary times.

Case four (no. 29/121/180, 2014) involved 2 people, one of whom was a girl aged 22, while the other was a man aged 27. The man was transferred to the general court, as he was considered an adult. However, the girl was referred to the juveniles' court at the CIG, as she was considered a juvenile, even though her age was 22. The girl was captured at a prison on suspicion of handling hashish while she was delivering some clothes to the man. The Prosecutor-General proved that the substance found in the clothes were indeed drugs, according to the legitimate report number 715. Hence, she was accused of

drugs promotion although she had no previous convictions. In court, the juveniles' judge asked her about this allegation and she confirmed that she was delivering some clothes, but did not know about the pieces of hashish. Regardless, the judge sentenced her to one year in and 100 discretionary lashes.

To analyze this case, we can clearly see that the girl's age was 22, while the man was 27. However, both of them were sent to different courts even though they were both mature according to Hanbali juristic doctrine, yet the Saudi juveniles' system in the law of CIG stipulated that the age of maturity for girls would be 30 years old. Another critical point is that the judge decided to punish the girl without asking for evidence from the eyewitnesses at the jail when the girl delivered the clothes. If the eyewitnesses had corroborated the girl's statement that she did not know the clothes contained some pieces of hashish, then the girl should not have been punished. Instead, she might have been given a commitment to sign promising to be vigilant in the future. Finally, why did not the judge or the Prosecutor-General encounter both of the defendants by the legitimate reports mentioned above? Why did not they also try both defendants at the general court as both of them were above 21 years of age?

Case five (no. 342150173/26, 2013) involved 3 people, all of whom were women age 35, 29 and 25 years respectively. A notification from a shopkeeper indicated that a woman of 35 was promoting her mobile number between shops and telling them that she was able to bring prostitutes and alcohol as requested. Subsequently, the Prosecutor-General prepared her arrest along with the two prostitutes and for supplying alcohol and it was successful. Consequently, they were sent to the general court, since the case involved fixed penalties that required stoning, despite the fact that two of the defendants were labelled as juveniles according to the law of the CIG. In front of the three judges, the Prosecutor-General brought evidence from their voice records, as well as one eyewitness. The judge asked the three defendants about these allegations, so the first, aged 35 years and the second, aged 29 years, denied the allegations, yet the third defendant, aged 25 years, admitted that she had drunk alcohol. Subsequently, the second defendant, aged 29, came and admitted that she coerced adultery while she was already married. As a result, the judges decided to whip the third defendant 80 fixed lashes for her alcohol consumption, as well as to jail her for 2 years and to lash her another 200 discretionary separate lashings. The first defendant was jailed for 5 years and lashed a discretionary 500 whippings, while the second defendant was jailed for 3 years and lashed 300 discretionary lashings.

3.4 Summary and potential solutions

It has been shown that the juveniles' statutes in Saudi are incoherent, hidden and are contradictory. Furthermore, while the law of SOH stated that it will accommodate discreet juveniles whose ages range between 7 and 18 years, the law of CIG stated that it will generally accommodate girls whose ages do not exceed 30. It seems that these two laws of SOH and CIG cannot, in any way, be regarded as proper

statutes for juveniles. One reason for this is that both of them pertain to the social affairs, but not the legal and judicial affairs, of juveniles. Another reason is that both of them contradict the United Nations Convention on the Rights of the Child, to which Saudi is a signatory, which necessitates determining a minimum age for juveniles' criminal liability, below which they will not have any criminal responsibility. Unfortunately, the Saudi juveniles' system may demonstrate double standards in both theory and judicial practice.

The theoretical statutes above have been summarized, yet in judicial practice Saudi juveniles' judges tend to apply the Hanbali doctrine, as detailed in Chapter Two of this thesis. This Hanbali juristic doctrine claims that the age of puberty, hence criminal liability, will be attained at 15 years old. However, a child can be mature before 15 years of age if the natural physical things have appeared on his/her body. Alharthi (2012, p.87), Alshammary (2012, p.34), Alna'iem (2011, p.172), Alhariqy (2001, p.47), Alsyigh (2016, p.12) and Ma'bdah (2011, p.206) have reported that this opinion is followed by almost all Muslim ulema except Abu Hanifa, some Maliki scholars such as Alhattab (2003, p.428) and Ibn Hazm (1988, pp.88, 89). In addition, Abu Hanifa argued that the age of puberty for boys is 18, but for girls is 17. However, some Maliki scholars have argued that it is 18 years of age for both boys and girls alike. Both sides back up their arguments with evidence from the Quran and logic. Thus, we discussed their evidences, followed by a critical discussion of the Abu Hanifa differentiation between boys and girls with regard to age.

In contrast, the majority of Muslim scholars, mentioned earlier, depended on some Ahadiths, custom and logic that the age of puberty and criminal liability is attained at 15 or, even before that, if the natural signs have appeared. In this regard, we have discussed their indictments, yet provided some critical cases against them. For instance, 7 people over 18 years of age have been prosecuted as juveniles at SOH without sound justification. The researcher has also found about 26 cases, none of which mentioned the age of the prosecuted juvenile. This was due to the fact that the judge could apply his own discretionary authority to determine whether the child was mature or not.

As a result, the Saudi Islamic juveniles' system has determined the time span only (i.e. the chronological order for juveniles' ages) which is from 7 until 18 years for boys and until 30 for girls. However, in proving puberty, the judge will be the only one who is in charge of proving whether or not this juvenile is mature. Unfortunately, this was not the only contradiction in the Saudi juveniles' system, as there is another instruction by the decision of Saudi's Justice Minister, number 310 on 30/4/1974.
Following on from that, judicial practice with regard to the girls' ages (i.e. 30 years of age) has been proved. Moreover, the researcher has already found about 33 cases for girls aged over 18 years up until 30 years old. This is, again, to show that the reality for girls' ages in front of the juveniles' court is

exactly compliant with the Saudi law of CIG. However, it is against Hanbali and the majority of juristic doctrines which do not differentiate between boys and girls in terms of age. Unfortunately, these contradictions might be against Islam itself, in that Islam basically does not differentiate between boys and girls in terms of age. For example, we have already seen Ahadiths that not discriminate between gender with regard to age. These Ahadiths are such as "start to ask your children to pray at the age of seven years old, yet correct them, if they missed the prayer, at the age of ten years old…". Another Hadith is that "the pen is lifted from three people; the one who is asleep till he/she wakes up, the child till he he/she attains the age of adulthood and the insane till he/she regains sanity" (Abu Daowd, 2013, p.363).

As a result, we can clearly see that both Ahadiths used the term "child" or "children" and this obviously covers girls and boys alike. Maracineanu (2010, p.2) stated that Islamic law generally is subordinated to theology/Tawhid (i.e. unity). She also continued to assert that Islamic law, which is supposedly the basic ground for all Saudi law, promotes the idea of unity. Therefore, both gender types should be equal regarding the puberty. Additionally, Truszkowska (2001, p.1, 2) has wondered whether Islam itself allows for severe segregation and the mistreatment of women just because they are women. Islam legislates the same obligations for men and women, such as prayers, pilgrimage and so forth. Musailhi, a professor at the Saudi Higher Judicial Institute, has reported that women and men are the same in Islam, in that both of them have the same criminal and civil responsibilities. One reason for this is that the Sharia commitments (e.g. fasting) are directed to both of them alike (Musailhi, 2001, p.6).

On the other hand, Truszkowska (2001) continued to confirm that the wrong practices came from those of the CPVPV (i.e. the religious police) in Saudi Arabia, since they applied Islamic laws that were too vague, a situation which cannot be condemned in Saudi Arabia at all. The authors, above, also tried to prescribe two possible answers to this problem in Saudi Arabia. First, they asserted that all laws in Saudi Arabia, not just the juveniles' system, need to be revised, to oblige Saudi Arabia to comply with international treaties to which Saudi is a signatory, especially with regard to human rights. Another solution from their perspective was for Saudi Arabia to apply the gentler brand of Islamic authority.

In short, we can deduce that those Ahadiths can pertain to religious affairs solely, such as prayers, fasting and so on. Hence, Ma'bdah (2011, p.207) argued that the age of Ibadaat (i.e. religious affairs) should be 15 for boys and girls. Children can learn how to pray and so on from a reasonable early age, that is, 7 years old. However, the age of Muamalaat (e.g. criminal responsibility) needs more awareness and cautiousness based on some exposure to life. Therefore, this should be at the age of 18 years old for both genders, as the majority of juristic doctrines do not differentiate between boys and girls in terms of age. This opinion actually seemed to be supported on the Ibadaat by the meaning of the Hadith mentioned above concerning instructing children on prayers. However, on the Muamalaat side it can be

supported by the meaning indicated by Verse 152, Chapter Six of the Quran, which is about the Orphan's maturity. Furthermore, Ibn Abbass interpreted that maturity for boys and girls is 18 and this interpretation was already followed by some great scholars, who also specialized in the Quran's interpretation, such as Alqurtbi, Alnasafi and Muqatil Ibn Sulaiman. Thus, this opinion seemed more satisfying as it promotes the age of criminality for juveniles as well as making enough room for children to be raised religiously in Saudi Arabia without differentiating between boys and girls in age.

Until we achieve this, Welton, a Western researcher of Islamic law, reported that obviously, during any given period of Islam, and surely in the current time, no one can speak about Islam as a unified system of justice (2006, p.599). Hence, some Western scholars of Islamic law such as Joseph Schacht (Stilt; Peters, 2008, p.513) have noticed that there is certainly a contrast between the legal texts and practice, especially from judges. Subsequently, Stilt (Stilt; Peters, 2008, p.513) reported that very few scholars have attempted to study the topic, due to reasons such as methodological challenges in obtaining court records. Therefore, this thesis will be to identify some critical issues between legal texts and judicial practice in the most traditional system of Islamic law, that is the Saudi Arabian juveniles' system. In summary, therefore, the Saudi Arabian juveniles' system is in need of revision on the age of puberty, and in turn criminal responsibility. In addition, this should be done for both males and females without any differentiation. The age of criminal responsibility should be 18 years of age.

Chapter Four: classification of juveniles' crimes in the Saudi juveniles' system

With special reference to four fixed crimes "Zina, Khamr, Sariqah, Hirabah"

4.1 Preface

There is no real classification for juveniles' crimes in Saudi Arabia. Further, the only article that categorizse some juveniles' crimes is the Abu Dhabi document in Article 19. However, it misleadingly over-classified the crimes into more than three, which is the traditional categorization of crimes in Islamic law, and thus in the Saudi juveniles' system. Moreover, the crimes mentioned in Article 19 were crimes of Hudud and Qisas, the crime of murder, the crime of life imprisonment, other Jinayat (i.e. crimes) and, finally, misdemeanours. Therefore, we can clearly see that Article 19 has misconceptions and that there are sections of overlap between crimes. For instance, in Sharia, the proxy Saudi legal system, there is no such term as" the crime of Life imprisonment", yet prison itself is a type of discretionary punishment (Awadh, 2008). Another example is the crime of murder which is exactly classified under the crime of Qisas (i.e. the crime of murder does not have a separate classification in Islam according to Alshammary (2012, p.79). Therefore, why does Article 19 of Abu Dhabi separate it from the crime of Qisas? The third example relates to what Article 19 means by other Jinayat. These issues lead us to think about a crime's definition in the Saudi juveniles' system. Unfortunately, there is not a definition for the crime in the Saudi juveniles' system nor in other related laws[157] such as the Saudi criminal procedures law passed in 2013 and the executive decree passed in 2015.

It is for reasons such as these that researchers such as Awadh have suggested that there is a need for an appropriate scale upon which Islamic division of crimes can be better understood. [158]. Khadar, (1982, p.12, 13) argues that this shows us the complexity of putting a specific definition for a crime in general because a general definition will be incapable of covering all types of crime in one phrase. Hence, this general definition of the crime is meant for adults' crimes, yet juveniles' crimes are ignored. This would suggest that juveniles should have their own crimes' categorizations taking into account Sharia's interests. One reason for this is that one or more of the crimes' pillars are already missing from the general crimes' definition. For instance, criminal intention is not presumed in juvenile crimes, since the minor has less awareness and a lack of liability (Aljundi, 1986, p.213).

Building upon these issues, this thesis now undertakes a discussion of the four fixed crimes in which the scale behind the classification which is the punishment (i.e. not basically Sharia's interests) is borne

---

[157] - As shown in the literature review, Chapter one p.28 onward.

[158] - In this regard, we can define a crime generally by any commission or omission that defects Sharia's interests and necessitates Sharia punishment. As a result, if the penalty was due to Allah's rights then the crime is Hudud, but if the penalty was because of a human's rights then the crime is of Qisas. Otherwise, if the crime is fixed, but its penalty isn't fixed then it will be Ta'zir crime.

in mind. These fixed crimes are Zina (adultery), drinking Alkhamr (alcohols and drugs) Sariqah (theft) and Hirabah (armed robbery). Each crime's definition will be examined, its legislative text and some important applications of each crime from Riyadh's general, criminal and juveniles' circle courts will also be given. There are two reasons why these four fixed crimes were chosen. First, they clearly show how miserable juveniles' situations are when they are facing strong punishments that are mainly ordered for adult' crimes. Thus, it reflects the complexity of juveniles' judicial system, as it involves some scattered regulations (e.g. the law of SOH and the law of CIG are related to social care only as is evident throughout the Articles). Ala'jam (2013, p.168) reported that we can see too many hidden and complex executive decisions, orders and royal decrees for juvenile girls due to the lack of a consolidated law for juveniles. This has already led to unexpected verdicts from juveniles' judges in their decisions as this thesis discusses. Secondly, these judicial verdicts, - as discussed below - show us, analytically, that despite the fact that these crimes are fixed, juveniles' judges exceeded the fixed number of lashes which are 100 whips in Non-Muhsan adultery, [159] and 40 or 80 lashes for alcohol.[160]

To explain such inconsistencies, it must be remembered that Saudi juveniles' judges have an open discretionary authority in cases where the aforemtnioned fixed crimes have missed some of their conditions. This could be against the determination of both the crime and its penalty in Hudud (i.e. fixed) crimes. Albisher (2001, p.72) and Al'Awwa (1982, p.89) stated that one of the main effects of being fixed is that an analogy does not exist to expand the text to cover other types of crimes similar to those stipulated in the text. Consequently, we cannot go further in terms of the text's exegeses, since the crime and its penalty have been specified.

Before an examination of those four fixed crimes commences, a crucial theory in relation to juveniles' associates (e.g. adults or other juveniles) must be discussed.[161] Unfortunately, some researchers such as Alhariqy (2001) and Ala'jam (2013) have failed to discuss this vital theory in adjudicating juveniles as shown in literature review.[162]This theory can fall behind in some of its applications due to different situations in certain crimes such as in the crime of Hirabah (armed robbery). Aljundi (1986, p.194) wrote that jurists such as (Ibn Qudamah, 1999; Alramli, 2011; Alsarkhasi, 2009) distinguished between whether the minor is the wrongdoer and the adult is the coordinator or *vice versa*. Accordingly, this theory will be analysed from different Islamic juristic views in order to see where Saudi juveniles' judges stood. Thereafter, this theory is applied to some judicial applications from Riyadh KSA.

---

[159] - Unmarried.

[160] - As it depends upon the applicable juristic doctrine, despite the fact that Saudi judges are ordered by king Abdul Aziz to apply mainly Hanbalisim. Please refer here to the elaborated discussions on this matter in chapter one, p.20, footnote 9 and chapter two, p.63

[161] - i.e. in different situations when the juveniles committed crimes in conjunction with other adults or juveniles.

[162] - Chapter one, p. 29 onward.

4.2 Juristic theory in relation to juveniles' associates:

There are specifically three pictures in which juveniles would commit a crime. In addition, these pictures involve committing the crime either individually or in collaboration with other minors or adults, so these are three images. As a result, there is a strong argument between Muslim jurists (e.g. Ibn Abdin from the Hanafi school, Ibn Farhoun from the Maliki, Alshirasi from the Shafie and Ibn Qudamah from the Hanbali) about whether the criminal adult can really benefit from being associated with a juvenile. The Islamic juristic schools (i.e. Hanafi, Maliki, Shafie and Hanbali) are divided into two groups and each has its own rationale as follows;

The Hanafi and Maliki schools argue that the criminal associate who is an adult will benefit from being joined by a minor. Therefore, the fixed penalty of adultery, Sariqah, Khamr, Hirabah and Qisas should be removed. According to this juristic view, the fixed penalty requires puberty from both perpetrators in order to apply the punishment, which is something that cannot be found here as one side is a juvenile (Ibn Abdin, 2000, p.22; Ibn Farhoun, 2002, p.197). This juristic view may fall behind when the adultery happened between an adult man and a juvenile girl. In this situation, both the adulterer and the adulteress will be punished. Alshirasi, (2003, p.341) ; Ibn Farhoun, (2002, p.197); and Alasroshni, (1983, p.131) reported that Muslim scholars are unanimous upon this matter because the man, here, seems fully adult and he is the wrong doer, therefore, both sides should be penalized in a fixed manner.[163]

On the other hand, Hanbali and Shafie schools claim that the fixed penalty should be applicable to an adult. One reason for this is that the complete meaning of the crime already exists from the adult's side. Therefore, it does not matter if the adult is already joined by a minor who does not come under the remit of the fixed punishment (Ibn Qudamah 1999, Alshirasi 2003). This view thus advances that there is no criminal responsibility nor penalty for the minor. Thus, the adult, who joined the juvenile will not benefit from being with him, although the adult will be liable for the fixed penalty. Although, some Hanbali scholars Such as Ibn Qudamah (1999, p. 297) changed their views to be the same as that of Hanafi's regarding a certain image of Hirabah crimes, that is, when the juvenile is the wrongdoer and the adult is the assistant.

As a result of this specific Hirabah's picture, Hanafi and Hanbali doctrines are similar in that they argue that both the adult and minor are not criminally liable for the fixed penalty. The reason for this is that,

[163] - I am afraid that the consensus reported here by those Muslim jurists may likely need revision as there seems disagreement by Ibn Qudamah and Saudi scholars e.g. see page 105 of this research.

Hanbalis argue, they all agree that the minor, even if he/she is the wrongdoer, should not be punished by fixed penalty, due to his/her lack of awareness. Moreover, the adult who assisted the minor in committing the crime will not be subject to the fixed penalty because he was just assisting. However, both of them will be eligible for corrective punishment, according to (Ibn Qudamah, 1999, p.297; Almarghinani, 2006, p.133). Herein, the researcher found two examples, which were jointly made between minors and adults. Yet, no applicability for the above discussion on these two cases of Hirabah could be found.

Case One: (no. 361324099/106, 2015) two minors, aged 16 years old, with an adult, aged 23 years old, committed the crime of Hirabah (armed robbery), that is, deliberately assaulting and kidnapping another juvenile for the aim of committing a homosexual act[164]. So, they were all given a fixed punishment for Hirabah, and the judges suggested that it should be cutting off the right hand and the left foot. However, the judges might forget that most of the offenders were juveniles, so why should they be punished as same as an adult? Were they adults? This indicates the variation between the so-called juveniles law and judicial practices in Saudi Arabia.

Case two: (no. 361005066/99, 2014) was related to two juveniles, aged 16 years old, committing the crime of Hirabah (armed robbery) jointly with other two adults, aged 22 and 19 years old respectively. All of them, except the first accused who was a juvenile, were ordered the fixed penalty of Hirabah; the judges suggested that it should be cutting off the right hand and the left foot. The juvenile was sent to jail for 5 years and 500 corrective lashes. However, if those two children were considered to be juveniles, then why should they be punished as same as an adult? Were they adults? Unfortunately, the juveniles' judges did not apply their Hanbali standard of distinguishing between the wrongdoer and the assistant. Although, the judge carried the fixed penalty of Hirabah, or even exceeded it for Ta'zir punishment. These decisions can be seen to be against the Hanbali juristic doctrine, in that the usual Hanbali scale for juveniles-joint crimes with an adult distinguishes between criminals' liabilities (e.g. adult and juvenile). However, in these two cases above, the juveniles and the adults were given fixed sentences.

In short, these are both sides of view in relation to the Juristic theory pertaining to juveniles' associates. One side, which looks at unified responsibilities between offenders due to an unified criminal act. However, the other side looks at distinguished liabilities between perpetrators. Notwithstanding, this

[164] - One can really ask were they committing armed robbery or a homosexual act – or both? This is in fact an application of misclassifying juveniles' crimes in the juveniles' system.

theory is already affected in its applications (i.e. it has fallen behind) in certain two pictures of fixed crimes. Firstly, in one picture of the crime of adultery, that is, when the adultery happened between an adult man and a juvenile girl. Secondly, in certain image of the Hirabah crime, that is, when the juvenile is the wrongdoer and the adult is the assistant. Last but not least, we examined two cases on the Hirabah crime related to the above exemption, yet we found inconsistent applications from the Saudi juveniles' judges despite that fact that they are expected to apply distinguished liabilities. Hence, the adult should be the only one who deserves the fixed penalty, if proven. However, the minor and the adult in those cases were both sentenced.

4.3 General critiques to the verdicts:

Due to the word limit in this thesis, ten critiques are applied to all cases herein to avoid repetition. The ten main critical points are as follows: first, many of the fixed penalties below were simply altered by corrective punishments due to the defendant/s' denial. Secondly, the defendants' denial, however, is not considered as Shubhah in some cases,[165],which means that some Saudi juveniles' judges are not consistent. Thirdly, juveniles' judicial precedents (i.e. convictions) were always taken into account in maximizing or minimizing the punishments. This is against what has theoretically been stated in Saudi about the juveniles' precedents; namely that it will not be taken into account while dealing with their cases as they are only juveniles. Fourthly, the rationales/wisdoms behind severely penalizing these juveniles have been ignored. Fifthly, we can see a gross categorization in juveniles' crimes as well as an inconsistency in their punishments. This appears if we compare similar crimes with similar joined-juveniles or adults (Aljundi, 1986). Sixthly, the juveniles' ages were not mentioned in some cases (e.g. case no.31/11/144, (2014) and case no. 361130005/88, (2015). This means either that the judges missed mentioning the ages or the judges used their discretion to decide about the juveniles' puberty. Seventhly, doubling the penalties (i.e. gathering two penalties together into one as is fixed, while the other is discretionary) in order to enhance the punishment. For instance, see case no.31/158/148, (2014). Eighthly, there are very long prosecution times, which can sometimes exceed 6 months (e.g. cases no.31/155/149, (2014) and no. 361130005/88, (2015). Ninthly, Saudi judges do not differentiate between alcohol and drugs; both of them are dealt with under the fixed crime of Khamr (i.e. drinking). However, in Saudi statutory law, there is a law related to drugs which was passed in 2005 and so there is variation in Saudi between what is written as a law and what has happened in judicial practice (e.g. see case number 31/81/146, (2014). Finally, there is no quality control in archiving cases related to adultery, sodomy and prostitution, as both judges and the Prosecutor-General openly use the term

165 - e.g. see cases no.22673/36, (2008), no.31/11/144, (2014) and no.361130005/7, (2015).

Fahishah to indicate those three things (see for example cases no.33365723/61, (2012) and no.34358315/53, (2013).

4.4 Fixed penalty (Hudud crime):[166]

Hudud crimes are not limited to only one crime, it covers seven crimes; adultery, defamation, drinking wine, theft, rebellion, banditry (armed highway robbery) and apostasy. However, this thesis focuses on just four Hudud crimes (Zina, Alkhamr, Sariqah and Hirabah). In addition to the previous reasons behind choosing only these four crimes, there is a need to clarify something related to terminologies and the number of cases found on each crime. The researcher was very surprised when he found that the term Fahishah in these cases is used interchangeably and misleadingly used to indicate Zina (i.e. adultery), Liwa't (i.e. homosexuality) and prostitution in general. In other words, there was no quality control over classifying crimes.[167] Therefore, these issues are e examined as follows;

4.4.1 Crime of adultery and fornication:

Adultery in Arabic means deviance and vice (Ibn Mandhur, 2005). Technically, it means the physical penetrating of a male's organ into a female's organ without being legally married[168] (Almarghinani, 2006, p.200 and Albuhoti, 2008, p.86).[169] However, there are differences between adultery and fornication, in that the former can happen between a couple who are already married or where one of the two parties is already married. Therefore, adultery is similar to the term "Muhsan" in Islamic law, which means a person who is already married, whereas the latter is between a couple who are not married at all and, thus, fornication is similar to the term non-Muhsan in Islamic law. In terminological usage, I found usage somewhat inconsistent with the archiving of adultery cases at Saudi juveniles' court being archived under the term Fahishah (e.g. cases numbered 23, 38, 82, 83, 159, 208 and 209 from Appendix 2).[170] Hence, juveniles' courts in Saudi Arabia are in need of careful re-archiving of adultery cases under clear terms such as Muhsan, Non-Muhsan, Zina or adultery etc.

---

[166] - Hudud is literally the plural of "Hadd" in Arabic. Consequently, "Hadd" can be applied to crime, penalty or any Sharia ruling in general (Ibn Muflih, 2003, p.17; Aljuzairi, 2001, p.11). However, it means, here, a fixed penalty that is mostly due to Allah's right (Almarghinani, 2006, p.200)..

[167] - For instance, we can find the applications where Fahishah was misleadingly applied either on Zina or homosexuals in cases from our Appendix 2 numbered 23, 38, 82, 83, 159, 208 and 209. Similarly, the term Hirabah (i.e. highway armed robbery) involved many sub-types that are classified Hirabah (i.e. without any given specific criteria). For example, the researcher found 17 types already titled as Hirabah crimes such as kidnapping and attempted sodomy, looting and theft, theft and gun-shooting, kidnapping and sodomy, shooting only, theft only, multiple theft, sodomy only, theft and drinking alcohol, armed robbery, adultery only, armed killings, armed sodomy, adultery for Non-Muhsan (i.e. fornication), sodomy and Hirabah only, finally kidnapping, sodomy and wine.

[168] - As a result, any overlapping between a man and woman less than this will be subject to discretionary (Ta'azir) punishment (Aljundi, 1986, p.189).

[169] - Please, note here that scholars have had many different expressions on defining adultery(Alshammary 2012).

[170] - To explain, sometimes many cases were found under the term Fahishah (i.e. not adultery or Zina) which can also be used for sodomy or prostitution generally. As a result, the researcher found this confusing, as well as them having to spend much more time looking for adultery cases committed by juveniles.

Adultery and fornication are strongly forbidden in Islamic law. The Quran (17:32) says "and do not come near adultery. It is immoral, and an evil way". Moreover, the punishment for adultery (muhsan) was initially mentioned in the Quran, then it was abrogated in its recital (i.e. its ruling remains till now). According to Omar Ibn Alkhattab,[171] it was written in the Quran that the punishment of adultery "when a married man or married woman commits Zina (adultery), their punishment shall be stoning as a retribution ordained by God" (Kamali, 1991, p.212; Alghazali, 2011, p.80). In contrast, the penalty of fornication still remains in the Quran both its words and ruling (i.e. hokum). The Quran (24:2) says "The adulteress and the adulterer—whip each one of them a hundred lashes, and let no pity towards them overcome you regarding God's Law, if you believe in God and the Last Day. And let a group of believers witness their punishment". Furthermore, the prophet added another extra penalty, that is, exile[172] (Ibn Abdulbarr, 1987, p.107 ;Alshafie, 2001, p.167 and Ibn Qudamah, 1999, p.539)[173].

The minor may commit adultery and this can take three forms; one juvenile with other juvenile, one juvenile boy with an adult woman and, thirdly, an adult man with a juvenile girl. In addition, the researcher found one case for the first and the second forms (cases numbered 26 and 209 respectively), while he found 20 cases for the third form (cases numbered 23-38, 82, 208, 252 and 254, yet in case 254 the juvenile's age was not mentioned). Unfortunately, the second form seems no longer to exist, if we agree about the girls' criminal age in Saudi, that is 30 years old.[174] Another point here pertains to the criminal associate's identity in those cases mentioned above (i.e. whether the criminal associate is an adult or a juvenile). There were some cases in which the criminal associate's identity had not been clarified as to whether he was an adult or a juvenile. For example, cases numbered 159, 252 and 254 in Appendix 2.

Following on from that, the researcher found many cases in which the minors were subject to either fixed or sever corrective punishments (i.e. more than a fixed penalty). In addition to this, a fixed penalty imposed on a juvenile was also found in case number 254 from Appendix 2. For example, the female adulteress was given a fixed punishment of 100 lashings for non-Muhsan Zina, and, in addition to this,

---

[171] - One of the great Prophet's companions and was the second caliph in Islamic history.

[172] - This exile might be called, among jurists "affiliated penalty" because it is not the main sentence, yet it is affiliated to the penalty of fornication (non-muhsan), which is one hundred floggings. Hence, this is what Islamic jurisprudence almost settled down with and it still there some controversial points between jurists (i.e. what does exile mean? Does it mean deportation for foreign criminal/s? However, what about citizens in Islam? Some scholars argue that the traditional meaning of exile might mean deportation. However, in contemporary times it might mean being in prison for a certain time, therefore, this will be discussed later on in depth in the section of Ta'azir crimes, see subsequent chapter).

[173] - In contrast to other types of crimes such as murder, which require two sides, one is the criminal and the other is the victim, both sides in adultery are offenders in the Saudi juveniles' system, unless, otherwise, one party or both are proven to be innocent or under the state of coercion according to (Quran:2:286).

[174] - To clarify, it has already been discussed that the girls' criminal age in Saudi isn't clear (i.e. in CIG's law their ages extend until they are 30 years old, whereas in Islamic jurisprudence it can be 17 in the Hanafi and 15 in the Hanbali school, which is the basic jurisprudence for the Saudi legal system. Yet, to cap it all, the juveniles' judge has openly given the discretionary authority to determine whether this child has reached the age of puberty even if she/he has not completed the age of 15 years).

as she was ordered to be exiled without explaining the meaning of exile, even though she was a juvenile girl.[175] To cap it all, the researcher could not find what some jurists such as (Ma'bdah, 2011, p.209 ;Ibn Qudamah, 2011, p.66 and Alsarkhasi, 1997, p.39) argued about, which was differentiating between a discreet and non-discreet child.[176] Here are the cases, that were analysed and discussed.

4.4.1.1 Example of (minor boy [177] X minor girl) case no.342150173/26, (2013). In detailing the case, three women aged 35, 29 and 25 years old respectively were formally captured by the CPVPV[178] based on several notifications from some shopkeepers in Albathaa square in Riyadh. Consequently, three members of CPVPV contacted the boss of these women, who was aged 35, and pretended to ask her for sexual intercourse. The madam accepted and brought the two other juveniles, aged 29 and 25.[179] They were all caught, investigated by the Prosecutor-General and, then, transferred to the general court. At the court, the Prosecutor-General proved that these two juveniles and their madam had admitted their wrongdoings. For example, the boss, aged 35, was captured while holding alcohol in her hands along with some pornographic photographs. In addition, she already had a previous history of prostitution and drug promotion. The second criminal, aged 29 years old, admitted that she was pregnant from an illegal marriage due to adultery, had consumed alcohol and was in possession of some pornographic photos. The third criminal, aged 25 years old, admitted drug consumption and owning some pornographic photos, yet refused to admit her long-term career in prostitution.

As a result, the Prosecutor-General asked the judges for the following; to punish the first criminal, aged 35, by any corrective penalty, the content of Article 3 of the Anti-Human Trafficking Act, deportation and confiscation of her mobiles according to Article 53 of the Saudi anti-drugs law. About the second criminal, aged 29, the judges were asked to punish her with a fixed adultery sentence for Muhsan, that is putting to death by stoning, and confiscation of her mobiles according to Article 53 of the anti-drugs law. For the third criminal, aged 25 years old, it was decided that she should be penalized by any corrective penalty, the content of Article 41 of the anti-drugs law, a travel ban and confiscation of her mobiles according to Article 53 of the anti-drugs law.

Subsequently, the three judges at the general court questioned the criminals about their confessions, in order to make sure of their confessions having been made voluntarily.[180] As a result, the third criminal, aged 25, regrettably admitted alcohol consumption, yet refused anything else. The second accused, aged 29, denied the illegitimate pregnancy by being under the state of coercion as she was coerced, and she did not ask for sexual intercourse. She also refused everything else. Similarly, the first criminal, aged

[175] - i.e. not man which means that she needs a Mahram to travel according to the Hadith.
[176] - Please refer here to p.73 onward, for more details.
[177] - Unfortunately, the juvenile boy hadn't mentioned in the case nor his age was given. This is another example on inconsistency and unclarity of the system.
[178] - i.e. the Saudi religious police.
[179] - These are juveniles up until 30 years old according to Saudi juveniles' law pertaining to girls, which is law of CIG.
[180] - (i.e. not under the state of coercion).

35, denied everything. After that, the three judges asked the Prosecutor-General for extra evidence. He brought only one witness from his colleagues, the one who captured these criminal women. Yet, the judges decided that the number of eyewitnesses needed to be at least two. Therefore, the judges concluded that the number of eyewitnesses in this case was not enough. Furthermore, the fixed penalty should be removed in the state of Shubhah (i.e. uncertainty). Thus, the judges decided that they were not certain about the allegations against the three women, which were the consumption of drugs, holding pornographic images and practicing adultery, due to a lack of evidence and, resultant uncertainty. However, this uncertainty did not completely remove the accusations from these women. Therefore, they ordered corrective penalties as follows; jailing the third criminal, aged 25, for 2 consecutive years and whipping her 200 separate lashes as well as 80 fixed lashes for her alcohol consumption. In addition, the first criminal, aged 35, was jailed for 5 consecutive years along with a whipping of 500 separate lashes. Furthermore, the second criminal, aged 29 years old, was jailed for 3 consecutive years along with lashing her 300 separate lashes.

4.4.1.2 Example of (minor boy X adult women) is that of case no. 29/58/209, (2013). In elaboration of this case, three girls aged 18, 24 and 29[181] years old respectively were brought under the request of the Prosecutor-General to the juveniles' court at the Care Institution for Girls (CIG). In front of the juveniles' judge, the Prosecutor-General accused these three girls of practicing Fahishah[182]. To back up this allegation, the prosecutor handed the judge their confessions throughout the time of the investigation. Additionally, the prosecutor found one precedent[183] committed by the third criminal, aged 29 years old, which was absence from her family's house.

Subsequently, the judge questioned the juveniles about their confessions; they all denied this allegation, claiming that they were obliged to sign something that they had not had a chance to read. However, the Prosecutor-General asked the judge to prescribe corrective punishment for these three girls. The judge was convinced by what the prosecutor had presented in terms of evidence. The first defendant, aged 18, was jailed for one month and lashed 90 whippings at one time, the second defendant, aged 24 years old, was jailed for one month and lashed 90 whippings at once. The third defendant, aged 29 years old, was jailed for 2 months and lashed 200 separate whippings. Although, all three accused juveniles were ordered to an additional 2 extra months jail, unless they memorized chapters 1, 29 and 30 of the Quran within the next 7 months. In rationalizing this decision, the judge argued that the first and second juveniles were Muhsan (i.e. already married) and the third juvenile was non-Muhsan (i.e. not married)

[181] - Please note here the contradiction between the criminals and their ages. Another important point is that the juvenile boys' punishments were not mentioned at all, despite the fact that, according to Saudi Islamic law, both sides in adultery are criminals, and therefore deserve the fixed penalty, if proven. See p.102 above.

[182] - We can see here that the term Fahishah is applied on something other than Zina or Liwat, which is prostitution.

[183] - The judges here considered the juveniles' precedents.

whilst the third defendant, aged 29, already had one conviction, which necessitated strengthening the punishment she received.

4.4.1.3 Example of (adult man[184] X juvenile girl)

The third situation involves an adult man committing adultery with a minor girl; the girl will not criminally be liable for a fixed sentence according to the Hanbali doctrine (Ibn Qudamah, 1999, p.119).[185] The adult man will be criminally responsible and deserving of a fixed penalty of adultery. However, in the verdict no.28/20/254, (2014) which was found from the CIG (Care Institution for Girls) the minor girl was punished for illegal intercourse with an adult. With regards to this case, this girl was found in hospital delivering her illegitimate baby according to the solicitor. As a result, she was formally captured after one month of giving birth to her baby, and then punished for fornication, as she was unmarried, by 100 lashes and exiled for 1 year. In addition, the judges decided that the flogging must be before a group of believers according to the Quran (24/2).

In critical evaluation of this case, we can see that this minor girl was sentenced for fornication despite the fact, mentioned above in situation 3, that a minor will not be criminally liable for any fixed punishment except for a corrective sentence if the minor is discreet. However, in this case the juvenile girl was given 100 fixed whippings to be implemented all at one time. Furthermore, the period of prosecution was truly short (i.e. barely enough to recouperate after delivering the baby) because she was interred in the hospital on 04/06/2013 and formally prosecuted on 02/07/2013!

The judge did not explain what he meant by exile, since the traditional meaning of exile in Islamic law can be changed.[186] Moreover, the age of the girl was not mentioned, however, the girl was interred in the Care Institution for Girls CIG. Another point here relates to the publicizing of the flogging, which seems to be against the nature of juveniles and their laws. If the Saudi law regards this girl as an adult, then why was she interred by the juveniles' court? Why was her age not mentioned? Why was she likewise mistreated? Why was the other party, who was the adult, not mentioned nor punished?

---

184 - Unfortunately, the adult was neither mentioned nor punished.

185 - See our discussion on such issue p.98 onward.

186 - About the penalty of exile, jurists hold differences whether exile is a fixed (Hudud) or corrective (Ta'azir) punishment. The majority of scholars argue that it is a fixed penalty, that is, affiliated to the crime of adultery according to the authentic Hadith narrated by (Bukhari 1997, Bukhari 1987), therefore, it cannot be applied to any crime. However, those in the majority differ upon the matter of determining the distance for the criminal to be deported.

So, Shafie and Hanbali schools claim that the distance will be about 80 km approximately (i.e. the standard here is that where A Muslim is able to shorten the prayer due to the idea of traveling, then the distance of exile would be the same)(Ibn Qudamah 1999, Alshirasi 2003). However, the Maliki school believes that the male criminal should be exiled rather than the woman because women are specialized by the Hadith, in which she may not be able to travel alone without securing herself by being with her husband or one of her close relatives(Ibn Rushd 2014).

On the other hand, the Hanfai school claims that exile does not belong to a fixed penalty, so it should be a sort of discretionary punishment, therefore, exile cannot be connected with flogging for the adulterer or the adulteress because exile is not a fixed penalty for adultery since it is not mentioned in chapter 24 verse 2 of the Quran. Consequently, exile can be replaced by putting the person in jail according to different circumstances because exile and jail are similar in that both of them initially may prevent and segregate the perpetrator from communicating with bad people (Alshawkani 2015).

Another example is no.22673/36, (2008) from the general court. In detailing the case, two adult men, aged 46 and 38 years old respectively, and one girl aged 20 years old were formally captured by the religious police CPVPV based on some urgent notifications from local residents about them. Additionally, they were captured while the first accused man, aged 46, accommodated the other man, aged 38, and the girl. During the investigation, the first man argued that he accommodated the girl as she was escaping from her Saudi sponsor, as she was a home-worker (i.e. worked as a servant for a Saudi family). However, the girl initially, admitted that she escaped from her sponsor and voluntarily committed illegal sexual intercourse with the accused men, aged 46 and 38 years old, while all of them were still married, hence it was Muhsan in Sharia law. Moreover, the second accused man, aged 38, claimed that he had just arrived to visit his friend when he was just captured. The Prosecutor-General asked the three judges to apply the fixed penalty on the girl while penalizing the other two men by corrective punishments.

In front of the judges, the case got delayed three times due to the absence of the accused and their deficiencies in the Arabic language as they were all non-Arabic speakers. The judges again questioned the defendants about their confessions during the investigation; both men insisted that they did not have sexual intercourse with the girl and that the first man, aged 46, was only being merciful to her as she had escaped from her sponsor and had not found any food or shelter since that time. What is more, the girl denied her previous confession of committing illegitimate intercourse with the first man and claimed that she was staying at his room to find another job. Thus, the judges decided that since the evidence in this case was just confined to the formal minutes (i.e. capturing papers) as well as the girl denying her illegal sexual intercourse in addition to the two men were just staying with non- Familial members, then the judges decided that the girl and the first man were not eligible for the fixed penalty of adultery, which was stoning to death, due to the Shubhah in the girl's denial. They were all subject to corrective punishments; the first man, aged 46, was jailed for 2 years and lashed 300 corrective punishments. The second man, aged 38, was jailed for 11 months and whipped 80 corrective lashes and the girl was sent to prison for 5 years and lashed 750 corrective whippings.

In critiquing this case, it can be seen that the indictment of the Prosecutor-General was confined to the capturing papers by the religious police CPVPV. Hence, the judges tried to rely upon the girl's confession to apply the fixed penalty. However, all of the defendants denied the allegations in order to benefit from the concept of Shubhah in Islamic law, which is mentioned in the Hadith narrated by Altirmizy (2012) and Albaihaqi (2010) “remove fixed penalties by suspicion”. The researcher argues here that this concept in Islam may need to be controlled, as anyone can claim it, and then the punishment will be removed. However, some cases were found in which the juveniles' judge did not

consider this principle of Shubhah. For example, see the discussion on case 144 p.121.[187] The discussion will now move to examine the fixed crime of Alkhamr.

4.4.2 The crime of drinking Alcohol (Khamr):

The word "khamr" literally means any intoxication especially that caused by the juice of grapes as well as Khamr includes any intoxication that covers a human's mind, such as drugs' pills and likewise (Ibn Mandhur 2005). Technically, "Khamr" in Islamic law has caused argument between the majority of scholars (e.g. Maliki, Shafie, Hanbali) and Hanafi scholars.[188] The former claim that "khamr" covers any kind of liquids/solids (e.g. pills) that intoxicate a human's mind, whereas the latter believe that the "khamr" is the drinking of the grape, date or raisin which have already been boiled and been subjected to foam extrusion[189](Alkasany, 2010, p.112; Alshirasi, 2003, p.366; Ibn Qudamah, 1999, p.159; Alhattab, 2003, p.317). Furthermore, Aud'a, (2009, p.405) argued that the opinion of the majority of scholars is sustainably followed and believed, since there is no difference in punishment and the result is the same from any intoxicating substances.[190]

Drinking alcohol was a common tradition in pre-Islamic Arabia,[191] consequently, the Lord revealed the rules which prohibited it gradually. The Quran (5:90,91) says" O you who believe! Intoxicants, gambling, idolatry, and divination are abominations of Satan's doing. Avoid them, so that you may prosper ** Satan wants to provoke strife and hatred among you through intoxicants and gambling, and to prevent you from the remembrance of God, and from prayer. Will you not desist?" Moreover, the Prophet said "the God curses the drinker, the seller, the buyer, the conveyor …"(Abu Daowd 2013) and this hadith is considered authentic according to (Alalbani 1988). As a result of these texts, no literal fixed punishment for drinking Khamr could be found, other than just asking for its avoidance. So, why do Saudi juveniles' judges apply a fixed penalty of 80 lashes for drinking alcohol/drugs? Why do they equalize between drugs and alcohol in theory, while falling behind in the punishment?

---

[187] - Another important thing is that, it can obviously be noticed that the punishments are severe and can be prescribed openly (i.e. without criteria). For instance, the jailing time for the first man was 2 years while for the second man was 11 months, yet for the girl, it was 5 years. Although, they all are foreigners (i.e. not Saudi), which makes this decision incapable of being carried out at all, as it will cost the government a lot of money to spend on these individuals, as they will need to be in prison for a very long time. Ala'jam, (2013, p. 32) reported that specifying the girls' criminal responsibility at the age of 30 years old is solely for Saudi girls only. Hence, non-Saudi girls would immediately be transferred to the general or criminal courts, as well as being sent to the jail with other adult women, even if their ages were below 30 years old. Ala'jam relied on the interior minister's decree numbered 757/17 passed on 1993, which is something that could not be found, after much research.

[188] - Hanafi scholars believe that the term "shurb"(i.e. drink) is aimed at alcohol which is made only from grapes, dates and raisins, whereas the term "Muskir" tends to be used for drugs and so forth (Aljundi, 1986, p. 209).

[189] - this is the opinion of Abu Hanifa himself. However, two of his companions, namely, Muhammad Ibn Alhasan and Abu Yousuf argued that it is enough for a grape, date or raisin, to be called "khamr", being boiled (i.e. without being of foam extrusion) (Alkasany, 2010, p.112; Alshirasi, 2003, p.366; Ibn Qudamah, 1999, p.159 and Alhattab, 2003, p.317).

[190] - i.e. even Hanafi scholars differentiated between alcohol and drugs just in terms of technical terminologies, yet they already agreed with the majority of scholars that the punishment for both will be the same, see, for instance, (Alkasany 2010).

[191] - Wine drinking is considered a great sin and crime against public morality in Islamic law, as it makes a human's mind run out of control. Therefore, it is called the mother of all evils in Sharia law according to the Prophetic hadith.

Aljundi, (1986, p.213) wrote that the fixed penalty of drinking wine in Islamic law has a debate depending on what the prophet and his three successors did. As a result, Shafie and Hanbali schools claim that the "hadd" is 40 lashes and the other 40 floggings is an extra discretionary punishment, because the Prophet and, his first successor, Abu Bakr flogged the drunkard just 40 lashes. However, during the time of Omar Ibn Alkhattab, the second successor, many people were engaged in drinking alcohol. Therefore, Omar maximized the penalty by adding an extra 40 discretionary lashes bringing the total to 80 lashess. In contrast, Hanafi and Maliki schools argue that it is only 40 lashes according to what the Prophet did, as well as Ali ibn Abu Talib, the fourth successor, who sometimes applied 40 lashes, but at other times applied 80 floggings. Hence, it seems that 80 lashes is the maximum penalty and 40 the minimum.

A minor may commit the crime of drinking separately or with other juveniles or adults. In this regard, the researcher has found 35 cases in which the juvenile committed drinking/taking drugs crime alone. 10 cases were found in which the juvenile committed these crimes in conjunction with other juveniles. Additionally, another 10 cases were found in which the juvenile committed the crime with adults. Here are some examples;

4.4.2.1 A juvenile committed drinking/drugs crime alone:

Case One: is no.31/158/148, (2014) and is related to a juvenile of unknown nationality aged 16 years old. This juvenile was delivered by the Prosecutor-General to the juveniles' court at SOH.[192] In front of the judge, the Prosecutor-General accused the juvenile of possessing and using a cigarette which included Hashish. This was chemically proven by the laboratory - report number 20. Furthermore, the juvenile admitted that he possessed and used the illegal cigarette. As a result, the Prosecutor-General asked the judge for corrective punishment for this child. Following on from that, the judge questioned the juvenile about the allegation, his confession and the chemical report. Consequently, the juvenile insisted on his confession and admitted that he had used the cigarette. Subsequently, the Prosecutor-General and the judge searched for the juvenile's previous convictions, but could not find any. Therefore, the judge decided that since the juvenile had admitted the crime, he deserved a fixed penalty of 80 lashes. Furthermore, the juvenile was sent to jail for one month of corrective punishment.

From this case, it can be seen that the the judge prescribed an extra penalty; jail for one month, without a rational reason. Further, the juvenile was given a fixed penalty despite the fact that he was still a juvenile, which contradicts what some researchers such as Aljundi, (1986); Alshammary, (2012) and Alhariqy (2001) have argued that the juvenile will not be subject to any fixed penalty. Moreover, the Prosecutor-General asked only for corrective punishment, yet the judge formally prescribed two things,

[192] - i.e. the case does not have any more details about how he was captured or by whom? etc.

fixed and corrective penalties. Finally, both the judge and the Prosecutor-General searched for the juvenile's precedents. One has to ask why. One must bear in mind what Aljundi (1986, p.290), a professor of juveniles' law, stated about juveniles' precedents, that they must not be taken into account while prosecuting juveniles, due to their special circumstances (e.g. lack of awareness and being less competent).

Case Two: is no.31/155/149, (2014) and is related to a juvenile, aged 17 years old who was captured on 20/10/2013 and prosecuted on 4/6/2014. In detailing the case, the Prosecutor-General accused the juvenile of using a certain type of drugs; Hashish. The Prosecutor-General had evidence of this by the juvenile's confession. Consequently, the juvenile should be penalized by corrective punishment. In front of the juveniles' court, the judge questioned the juvenile about his confession and the juvenile insisted on his admission. Subsequently, the judge prescribed a fixed penalty of 80 lashes for using Hashish.[193]

4.4.2.2 A juvenile committed drinking/drugs crime with other juveniles:

Case One: is no.31/11/144, (2014) and relates to 5 juveniles, without mentioning their ages, who were accused of drug use and promotion. In detail, the five juveniles were captured inside the Social Observation House SOH while they were promoting and using drugs. Hence, the Prosecutor-General accused them and proved the allegation by the chemical report number 10 along with their confessions throughout the investigation period. In front of the judge, the Prosecutor-General asked for corrective punishments for all the juveniles. Following on from that, the judge questioned the juveniles about the allegation, their confessions and the chemical report. As a result, all five juveniles, except the second defendant, admitted drug use and promotion. Therefore, the judge decided that since these five juveniles had already admitted their crimes of drug use and promotion, and because they had previous histories of this crime as well as the fact that they were already more than 15 years old (which is the age of criminal liability), they deserved the following; the fifth defendant was jailed for 10 months, lashed 80 fixed whippings for drugs usage and lashed another 60 corrective whips after 10 days of finishing the fixed whippings. The first, second and fourth defendants were lashed 80 fixed whips in front of a group of believers, according to the Hadith, for using drugs. The second defendant was also lashed another 40 corrective whippings for drugs promotion. However, the third defendant was jailed for 4 months for drugs promotion and lashed 40 corrective whippings, despite the fact that he had already insisted on his confession of drugs use.

[193] - In this case, two things can be noticed, which are that a very long prosecution time occurred; the case took more than 7 months to be completed. Secondly, the Prosecutor-General asked for only corrective punishment, yet the judge prescribed a fixed penalty despite that fact that the juvenile was only 17 years old.

In critiquing to this case, some important comments can be made. First, these five juveniles were already over 15 years old according to the judge's own discretion, yet their accurate ages were not mentioned at all. This again shows us that Saudi juveniles' judges can use their own discretionary authority to determine the age of puberty, even if the child is not yet mature according to his national ID. Secondly, all the five juveniles, except the second defendant, admitted that they had regrettably committed the crime of drugs usage and promotion, yet the verdict had a lot of contradictions. For example, the Shubhah of denying the allegation from the second defendant was not taken into account. Hence, he was given a fixed penalty of 80 lashes alongside another extra 40 corrective whips without justification. Moreover, the third defendant had already admitted that he had committed the crime of drug use and promotion, yet he was, somewhat, exempted as he was only jailed for 4 months and lashed 40 corrective whippings. Furthermore, the juveniles' judge considered precedents in those five juveniles' rights. Hence, he strived to enhance the punishment on them due to their previous history of drugs use and promotion. Finally, we can notice that the judge added extra corrective punishments for only some of the juvenilles despite the fact that all of them had committed the same crime.

Case Two: is no.28/114/236, (2013) and relates to a juvenile, aged 17 years old, who committed the crime of drug use and promotion with other two juveniles. However, the other two juveniles were not prosecuted nor were their verdicts mentioned throughout the case. In front of the judge at the juveniles' court, the Prosecutor-General proved by means of chemical report number 29 that the juvenile had used and promoted drugs. As a result, the juvenile deserved a corrective punishment for this crime. Subsequently, the judge questioned the juvenile about this allegation and the juvenile argued that he had unintentionally promoted drugs, as he had not known what was inside the box, as it was wrapped up. The judge decided that the juvenile admitted committing drugs promotion, and that he deserved 3 months and 20 days jail and another 40 corrective whippings.[194]

Case Three: did not differentiate between alcohol and drugs, and is numbered 31/81/146, (2014). Two juvenile boys, aged 17 and 16 years old respectively, were accused of possessing and drinking intoxicants. Consequently, the Prosecutor-General asked the judge for corrective punishments for them. However, the first defendant, aged 17 years old, was completely removed from the case.[195] The judge questioned the second defendant, aged 16 years old, about this allegation, and the juvenile admitted that he had taken intoxicants, but he had never entered the juveniles' court before.[196]He was punished by 80

[194] - Two things can be seen here, that firstly the judge seemed lenient compared to the two previous cases. To explain this, despite the facts that the juvenile admitted committing drugs promotion and his three theft convictions, the judge only sentenced him to 3 months' jail and 40 corrective lashes. Still, however, it is unclear why the judge did not put the other juveniles with this minor in this case. Secondly, the judge did not give fix penalty for drug use as he supposed to do so since the situation in Saudi Islamic law is equlising drugs and alcohol.

[195] - i.e. neither the judge nor the prosecutor mentioned his punishment.

[196] - Again, the inspector and the judge were searching for any convictions on this child despite the fact that convictions should not be taken in account when dealing with juveniles.

lashes as a fixed penalty for using intoxicants and given another 10 corrective lashes for possessing intoxicants. In turn, if that child, who had possessed and drunk intoxicants in this case, was considered to be juvenile, then why we should apply a heavy punishment that is mainly for adults? Why did the judge provide an extra corrective penalty for possessing intoxicants while the idea in Islam is that the fixed penalty can include any other sentences. In other words, Alsharif, (2010) stated that the fixed penalty in Islam is considered the more severe sentence, therefore, there should be no extra penalty beyond it.

4.4.2.3 A juvenile committs the crime of drinking/drugs with adults:

Case One: is no.31/47/64, (2014) and involved non-Saudi juvenile (boy), aged 15 years old, in conjunction with an adult man, aged 20 years old, who possessed, promote and drank alcohol. Unfortunately, it is unknown either why this adult man, aged 20 years old, entered the social observation house SOH or why this adult man continued to be prosecuted in the juveniles' court.[197].At the court, the Prosecutor-General had evidence of the allegation against the juvenile and his associate in chemical report number 26. As a result, this juvenile deserved corrective punishment, the Prosecutor-General said. Subsequently, the judge questioned the juvenile about this allegation. Though the juvenile initially denied the charge he then admitted that he possessed, used and sold drugs. As a result, the judge decided that the juvenile should be sentenced to 80 fixed lashes for using alcohol, be sent to jail for 1 year and lashed another 150 corrective lashes. After that, he was to be deported from Saudi Arabia except for doing Hajj and Umrah.[198]

Case Two: is numbered 29/121/180, (2014) and this case has already analyzed in Chapter Three, page 91. Additionally, this case involved 2 people, one of whom was a girl aged 22 years old, while the man was aged 27. Hence, please refer to its details there while we will move now to examine juveniles' crimes of Sariqah.

Case Three: is numbered 34434312/1, (2014) which was already discussed in chapter three (p.71). Herein, the researcher just wants to clarify something about its content only. This case is related to an adult and a juvenile who jointly committed a crime of using and promoting drugs. It was proved before the court that the adult was the one who was solely responsible for using, but the minor was only

197 - Unfortunately, the researcher couldn't find the adult's verdict at the end of this case despite the fact that he was prosecuted at the juveniles' court.

198 - In turn, we can see that this boy was prosecuted in the juveniles' court while his associate's age was 20 years old. Furthermore, we can see the controversy and overlap between these fixed and corrective punishments. Additionally, the judge can only suggest in his verdicts about deporting foreign people (i.e. the judge, in this regard, cannot make it compulsory according to the principle of the high supreme court in Riyadh), so why should it be mentioned in the verdict while it is not necessary? One needs to bear in mind the idea of Hajj and Umrah, that cannot be forbidden for any Muslim visitor. Moreover, we can critically see how long the time is in this case, especially for foreign juveniles (which will definitely require more government spending).

assisting him by driving. The adult was given 80 fixed lashes as well as corrective punishments of 1500 lashes after the fixed penalty and 15 years' jail. Additionally, the adult was ordered to pay a SR 100000 fine. However, the minor was given 4 years' prison and 400 corrective lashes. Here, it can be seen that the adult did not benefit from being with a minor. Moreover, from reading through the case the researcher can assume that there was not enough evidence to support the claim against those defendants (i.e. for possessing and using drugs). In addition, it can be seen that the overlap between fixed and corrective punishments was without justification.

4.4.3 The crime of theft (Sariqah):

"Sariqah" or theft in Arabic means stealing something which belongs to another person in secret (Ibn Mandhour). Technically, Alhattab, (2003, p.309); Alkasany, (2010, p.65) and Bambale, (2003, p.54) defined it as secretly taking away the lawful and valuable property that is owned by another person/s from its proper custody without any lawful claim to it. Additionally, Alhattab, Alkasany, Bambale discussed some important pillars and conditions that are needed in such cases in order to apply a fixed penalty of theft in Sharia law, which is amputation of the thief's right hand. Commenting further, Prof. Awadh (2008) reported that the reason behind setting up some conditions, specifically for Sariqah is that the law-giver has not elaborated its pillars, conditions etc. For example, in the Sariqah crime only the Imam's role, of balancing between different opinions according to public interest, can be seen. This is exactly the reason why some Western researchers on Islamic law such as Anderson have reported that since those Islamic juristic textbooks were based on the immutable rock of the revelation, many divergent interpretations for them can be seen. Consequently, this required interventions from reformers to deconstruct their complexity (1960, p.192).

The point being made by Professor Awadh is very beneficial in making extra conditions, especially on other fixed crimes such as Hirabah[199], can be employed. , The researcher argues that these pillars may be given more emphasis in order to distinguish theft from other similar types of stealing such as armed robbery, looting and embezzlement. Ibn Qudamah, (1999, p.104); Alnawawy, (1991, p.110); and Aud'a, A. (2009, p.421) stated that the pillars of theft are;

1- The crime of stealing must be done secretly.
2- The stolen property must be of lawful monetary value.
3- The property must already be owned by another person/s.
4- The existence of criminal intention (mens rea).

[199] - i.e. this point of making extra conditions while some fixed crimes have not been completely addressed within Quran or Sunnah (e.g. its definitions, pillars, conditions etc.).

If these conditions are met, then the punishment of stealing in Islamic law is amputation according to the Quran (5:38) "As for the thief, whether male or female, cut their hands as a penalty for what they have reaped—a deterrent from God. God is Mighty and Wise". Further, the Prophet said "…By Allah, if Fatimah, who is the daughter of the Prophet, had stolen, I would have her hand cut off" (Bukhari, 1987, p.159; Bambale, 2003, p.58)[200]. Herein we will discuss three situations in which the juvenile can commit Sariqah (e.g. alone or with other juveniles or adults). Again, despite the fact that the Quran (6:38) stipulated a fixed penalty openly (i.e. without conditions) and the scholars, mentioned above, restricted it with some conditions, the researcher found an application (no.31/300/18/10, 2009) where the fixed penalty of theft (i.e. amputation of theft's right hand) was applied. This fact emphasizes the importance of what has already been argued, that juveniles' crimes and punishments in Saudi Arabia should be re-organized.

4.4.3.1 A minor commits theft alone:

Case One: is numbered 361130005/88, (2015); a juvenile was captured by the police after Alisha (i.e. midnight) prayer in front of a watch shop. The juvenile was found with three watches and the sum of SR 800 and his right hand was injured due to it having been used to break the shop's glass doors. The juvenile was transferred to the criminal court as the crime is of cutting the hand (i.e. Sariqah crime).[201] In front of the three judges, the Prosecutor-General accused the juvenile of stealing from the shop and provided evidence from two eye witnesses, the juvenile's confession during the investigation and the medical report that the juvenile was found injured in front of the shop. In searching for the juvenile's convictions, the Prosecutor-General found two, one of which was graffiti and the other was car drifting. Therefore, the prosecutor requested that this juvenile must be fixedly punished according to the Quran (6:38). However, the juvenile had not attended the case against him despite the fact that the court had called him several times. Hence, this case was suspended for a short while until the juvenile attended. This time was lengthened from 10/11/2014 until 25/8/2016, when the juvenile was again brought by the police in front of the criminal court. The three judges questioned the juvenile about this allegation, his confession, the medical report and the eyewitnesses. The juvenile denied everything arguing that he was just involved in an assault with the shop's security staff, and further argued that the security personnel had thrown him into the shop's glass when they saw the blood on his hand. Consequently, the judges decided that since the juvenile denied this allegation, which can be Shubhah that suspends the fixed

---

[200] - Notwithstanding that the minor will probably be excused from amputation, the juvenile is still required to return the stolen property, if applicable, or to compensate its owner as the fixed sentence is for Allah's right, yet the compensation is the right of people/the individual in order to protect people's properties from damage or loss (Almawsili, A. (1975, p.303).

201 - Surprisingly, this juvenile was sent to the criminal court while in case no. 31/54/126, (2014) the defendant was sent to the juveniles' court, even though he committed crime of Sariqah which requires the hand to be cut as same as this case and, also, case number 361130005/7, (2015) which can be found in appendix 2.

penalty, yet it can clearly be seen from the eyewitnesses and the medical report that the juvenile was still under suspicion of committing this crime. Thus, the juvenile was sent to jail for one year and 6 months as well as being lashed 150 corrective whippings.

Case Two: Another similar, yet inconsistent, example is the case numbered no. 31/54/126, (2014) which is related to a juvenile aged 17 years old who was accused of stealing four cars and trying to steal a fifth one. The Prosecutor-General evidenced this allegation by the juvenile's confession and the investigation's minutes. Surprisingly, this juvenile was sent to the juveniles' court, even though he committed the crime of Sariqah, which requires the hand to be cut off, the same as case no. 361130005/88, (2015). However, the juveniles' judge questioned the juvenile about this allegation and the juvenile insisted on his confession and expressed his repentance and his two convictions for theft crimes. Therefore, the judge decided that since this juvenile regrettably admitted his crime and expressed his repentance, he must be given corrective penalties;6 month' jail and 200 corrective lashes. Please note that the juvenile was captured on 2/4/2014 and the case ended on 7/4/2014.

Case Three: is numbered 31/204/178, (2014) and was about a Sudani juvenile aged 16 years old who was accused of breaking a shop's door in order to steal. The Prosecutor-General evidenced this by the juvenile's confession during the investigation as well as the juvenile already having two convictions for theft. Therefore, the prosecutor claimed that this juvenile deserved corrective punishments. Consequently, the judge questioned the juvenile about this allegation, and the juvenile confessed his crime and his two previous convictions for stealing. As a result, the judge decided that since the juvenile had confessed his age was low (16 years old), and due to the fact that he was foreign (i.e. Sudani), the punishments should be; 5 months jail, 300 corrective lashes and deportation. Please note that the juvenile was captured on 2/3/2014 and the case ended on 9/6/2014.[202]

4.4.3.2 A juvenile steals with other minors:

Case One: is numbered 315914901322310025/9, (2010) and related to two juveniles, both aged 18 years old. The details of the case are that the second defendant was stuck in the window of the victim's house while carrying some gold. Additionally, the first defendant was captured in front of the house while he was driving to the front of the house waiting for the second accused. The Prosecutor-General transferred them to the general court claiming that they had stolen from the house; the evidence was

[202] - In critical evaluation of these three cases, one can notice three important things. First, the inconsistent practice of sending juvenile thieves to either the criminal or juveniles' court. This can be seen in case (no. 361130005/7, 2015) where the juvenile was sent to the general court. However, in cases (no. 31/54/126, 2014) and (no. 31/204/178, 2014) the juveniles were prosecuted at the juveniles' court. Secondly, disrespect/ appreciation of punishments (i.e. the first case involved damaging and injuries, yet its punishment was much lower than the other two cases which were either stealing cars or attempting to steal). Finally, the prosecution's time were too long as in case (no. 361130005/7, 2015).

their confessions throughout the investigation and the medical report on the second defendant. They both deserved the fixed penalty of theft which is mentioned in the Quran (6:38).

The three judges in the general court questioned the juveniles about this allegation, their confessions and the medical report. Consequently, the first defendant denied everything and claimed that he was coming from outside that neighbor's house when he was caught by the police. However, the second juvenile insisted on his confession reporting that he was with the first juvenile in his car, then the first juvenile said to him that his father requested him to bring some boxes from their home. After that, the first defendant stopped by the victim's house and said to the second juvenile that unfortunately he had forgotten the keys, therefore could he please jump and open the door for them. The second accuser answered thinking that this house was his. Subsequently, when they entered the victim's house, the second juvenile was waiting in the living room, then the first juvenile came with boxes, which he did not know what was inside them, and asked the second juvenile to follow him. Finally, the first juvenile jumped from the window while the second juvenile could not. As a result, the three judges decided that since they both denied the crime of theft (i.e. the first juvenile clearly denied it, yet the second expressed that he did not know about the situation) which removed the fixed penalty of theft from them. Further, since they did not have any convictions for theft, the judges prescribed the following corrective punishments; the first juvenile to be jailed for 2 years and lashed 500 discretionary whips while the second juvenile was to be jailed for one year and lashed 300 times.

Case Two: is numbered 3220277/22, (2011) and pertains to a gang of juveniles. However, the police only captured 2 of them, both aged 18 years old. Both juveniles were transferred by the Prosecutor-General to the general court as the crime was theft, which involved the punishment of hand cutting. Subsequently, the Prosecutor-General evidenced this allegation by the juveniles' confessions throughout the investigation, and asked the judges to apply theft's fixed penalty.

In front of the judges, the juveniles were questioned about their confessions, the first juvenile admitted that he joined only for planning (i.e. not for stealing) and this was his first such crime. The second juvenile admitted that he stole, but also stated that this his first time as a thief. As a result, the judge searched for their convictions and found two previous theft convictions for the first defendant and 3 for the second defendant. Hence, the judge decided as follows; 10 months' jail and 150 corrective lashes for the first juvenile, 2 years' prison and 300 corrective lashes for the second.

Case Three: is no.31/143/133, (2014) and relates to two brothers, both aged 17 years old who stole their father's gun and shot into the sky. The case did not provide many details about how they were captured or by whom or what the evidence was. However, it gave the details that the Prosecutor-General brought these two juveniles in front of the juveniles' judge, and claimed that they stole their father's gun

and shot into the sky; the proof was their confessions. Therefore, the Prosecutor-General asked the judge for corrective punishment to be applied to them. Consequently, the judge asked them about this allegation and they both confessed. The judge decided that they should sign a pledge and promise not to commit this crime again.

In turn, this case cannot be considered as theft, since many scholars (e.g. Ibn Qudamah, Alshirasi, Almawsili) argue that both ascendants and descendants will not be punished for stealing from each other, if they are in need, due to the Hadith in which the Prophet said to the son, in such case, you and your money are for your father.[203] Another reason for this is that father is the main reason for the existence of his son. Therefore, the son should not be a cause of harm to his father nor vice versa.[204]

4.4.3.3 A minor commits theft with an adult/s:

Case One: is numbered 31/300/18/10, (2009) and related to 6 people, aged 20, 19, 18, 21, 19, and 21 years old respectively. One of them was a juvenile aged 18-years-old. These people were captured by police based on a formal complaint made by a man aged 80 years old who had been robbed. These 6 people stole his car, the sum of SR1,000,000, some very valuable jewelry equivalent to SR 300,000 and threatened his home-female worker with a sharp knife. They completely escaped since the complaint had been made on 13/9/2008. After that, the news of the crime spread throughout the town of Dawadmi, near Riyadh where the crime had been committed. Evenutally some car salesmen suspected a few people, who were trying to sell their car. As a result, they were identified, the police informed, and the latter found a strong connection between the six people and the robbed elderly man.

Subsequently, they were further investigated by the Prosecutor-General and found guilty of theft since the evidence was their confessions throughout the investigation process and the criminal evidence report number (11/1863), as well as the presence of the fifth defendant's fingerprints on the robbed man's house. The Prosecutor-General asked the three judges in the general court to apply the fixed penalty of theft to them as well as prescribing strong corrective punishments for the third, fourth and sixth defendants due to their police confrontation when they were captured. The judges faced these people with the allegations and they all, except the fifth defendant, admitted that they stole the elderly man's valuable properties. Therefore, the judges decided that since they all, except the fifth defendant, admitted theft that the fixed penalty of theft should be applied to all of them, except the fifth accused.

---

[203] - However, those scholars specialized this hadith by necessity, so fathers must not cause any harm to their son's money nor vice versa (Albuhoti 2008).

[204] - (Ibn Qudamah 1999, Alshirasi 2003, Almawsili 1975) reported that in order for the fixed theft penalty to be applicable there should not be any lawful claim or suspicion of stealing a property (i.e. a lawful claim is such as a father, grandfather or grand grandfather(ascendants) reversely steals something from their sons (descendants) as they have the rights, if they are needy, to ask their children to provide them some money. Although, in this case, both the Prosecutor-General and the juveniles' judge prescribed this as a crime, which unfortunately contradicts this situation (i.e. theft between father and his children) making it an exception.

This fixed penalty is according to Quran (6:38) and involves cutting their right hands off from the wrist. The judges stated that since they still had some doubt about the fifth defendant he should be jailed for 5 years and given 500 corrective whippings. Herein, all those defendants denied their previous confessions arguing that they all should be excused. The judges refuted their objections and the verdict was irrevocable.

Clearly, we can see here that the judges did not depend on the associates theory in order to differentiate between adults and juveniles, because each one side in this case was an adult according to the Hanbali doctrine, which is the corner-stone of all Saudi courts.[205] Despite the fact that the judges prescribed a fixed penalty of theft on all the defendants except the fifth one, the judges did not take into account three important things. First, one of the defendants was a juvenile aged 18 years old, so he should have been given an alternative punishment. Secondly, the judges completely dismissed the defendants' confessions withdrawal despite the fact that the prophet asked a Muslim judge, especially in Hudud crimes, to accept a confession withdrawal. Thirdly, why was the fifth defendant exempted from the fixed penalty bearing in mind his friends' confessions that he was with them. These confessions could have been used as witnesses against the fifth defendant.

Case Two: is numbered 36436052/87, (2015) and concerned three people aged 19, 18 and 21 years old respectively. The juvenile was the second defendant. The Rawdah's police in Riyadh received more than 8 car theft complaints in which the thieves were unknown. However, one of those claimants reported that he saw his own car with someone he knew. Herein, the police started to carefully piece the evidence together and, hence, captured the three accused people. Subsequently, they all admitted that they had committed all the thefts. However, the Prosecutor-General could not match their fingerprints with the prints found on the stolen cars, so the artificial report numbers (2744) and (11/3420) were not of help in this case. Additionally, these three defendants did not have any previous convictions for theft. As a result, the Prosecutor-General asked the three judges at the criminal court to apply the fixed and corrective penalties on them since they admitted many thefts and had previously escaped many times from the police and justice.

Subsequently, the judges questioned the defendants about their confessions. The first and second defendants denied their previous confessions claiming that they were beaten in order to give the confession. In contrast, the third defendant admitted that he had stole one car and denied all other allegations. As a result, the judges decided that since the first and third defendants admitted their crimes during the investigation, their crimes could not be considered Sariqah, as an important condition was missing, that is proper custody (i.e. all the stolen cars where switched on when their owners left them

[205] - See the discussion on this point chapter two, pp.57,62.

unsecure). It was decided that they all deserved only corrective punishments as follows; the first defendant was sent to jail for 5 years and lashed 500 whippings, while the second defendant (i.e. the juvenile) was jailed for 3 years and lashed 300 whippings., the third defendant was jailed for 2 years and given 200 lashes.[206]

4.4.4 The crime of armed robbery (Hirabah):

Hirabah literally in Arabic means fighting, enmity and killing (Ibn Mandhur 2005). Technically,[207] Hirabah could be defined as cutting a highway using forces in order to kill, steal, rape or interrupt public security (Alkasany, 2010, p.91; Ibn Farhoun, 2002, p.184; Alqarafi, 2001, p.123; Albuhoti, 2008, p.181). Unfortunately, throughout the applications gathered from the criminal, general and juveniles' circle courts in Riyadh KSA the researcher found 17 styles in which they were regarded as a Hirabah crime. Therefore, the Hirabah definition above seems neither well developed nor accurate in that it limited the Hirabah only to the highway armed robbery. Additionally, the definition does not cover these 17 Hirabah styles as classified by Saudi courts. As a result, either those Muslim jurists or Saudi judges would be criticized unless the definition is made more specific.

Herein lies the starting point for the argument of some crimes that happen inside cities, yet are considered Hirabah. Aljassas, a great Hanafi scholar, argued that Hirabah is solely limited to highways, since people on the highway cannot find assistance quicker than they would in inner cities (1985, p.60). However, Ibn Almundhir, a Shafie scholar, claimed that highways and cities are covered by the term "Hirabah", since the words mentioned in the Quran (5:33) are general, and therefore, can be applied to both situations (i.e. on a highway or in cities) as Alqurtobi, (2014, p.151) notes. This second opinion is applied by Saudi juveniles' judges despite the fact that the Hirabah in Hanbali doctrine, which is the basis for Saudi legal system, is confined to only highways; see, amongst others, Ibn Qudamah, (2005) and Almardawi, (1986). Notwithstanding those 17 styles which are considered Hirabah crimes by Saudi juveniles' judges are not mentioned in Ibn Abbas's interpretation for the Quranic verse 33 nor were their practices consistent.

The Quran (5:33) says "the punishment for those who fight God and His Messenger, and strive to spread corruption on earth, is that they be killed, or crucified, or have their hands and feet cut off on opposite

[206] - Here we can see that the juvenile was given a more severe punishment than the third defendant, despite the fact that the juvenile denied the allegation. Despite the fact that the third defendant, who was an adult, admitted that he committed one theft, he was given the most lenient penalty. This shows us that some of the Saudi judges cannot apply the associates theory in crimes properly (i.e. as in this case when the judges considered the juvenile as an adult, then prescribed him a penalty similar to, or heavier than, those adults with him).

[207] - Scholars of Islamic law such as Alkasany, Ibn Farhoun, Alqarafi and Albuhoti differ in their definitions yet they may have similar meanings.

sides, or be banished from the land".[208] Further, the Prophet said "he who levels weapon against my community is not of us" (Bukhari, 1987, p. 4; Bambale, 2003, p.70). The fixed sentence[209] for the Hirabah crime (i.e. armed robbery) is, according to Ibn Abbass[210] - and provided that the armed person/s only killed victims – that they should be killed. Secondly, if the armed person/s killed victims and took their money, then they should be killed and crucified. Thirdly, if the armed person/s just stole the other people's properties, then their hands and feet should reversely be cut off. Finally, if the armed person/s did nothing other than intimidating horribly on the highway, then they should be exiled (Aljundi 1986). A minor may commit an armed robbery crime individually or with other juveniles or adults. The situations are as follows;

4.4.4.1 A minor commits Hirabah alone:

Case One: verdict no.33365723/61, (2012) involved two juveniles, one of them was the defendant while the other was the victim. In detail, the police captured the defendant, aged 18 years old, based on an official complaint from the victim that the defendant had kidnapped and anally penetrated him. During the investigation, the defendant sometimes admitted, but at other times denied, this. However, in the end he insisted that he regrettably admitted the crime. Therefore, the Prosecutor-General accused him, in front of the general court, of a Hirabah crime and asked the two judges[211] to apply the fixed penalty of Hirabah mentioned in the Quran (6:33). Although, there were no convictions for the juvenile nor the medical report number (74) of the victim contained any harm to his back. The judges questioned the juvenile regarding this allegation and the juvenile immediately admitted that he had committed homosexuality, but also stated that he did not kidnap the victim as he went with him voluntarily. Therefore, the judges decided that the defendant regrettably admitted Fahishah[212] (i.e. homosexuality), but had not kidnapped the the victim. Further, the defendant had no previous convictions. Hence, the judges removed the fixed penalty of Hirabah, yet applied corrective punishments, that were, 2 years jail and 200 corrective whippings.

---

[208] - Hirabah is considered a crime not just for individual passers-by, but also for the public security, as the crime of Hirabah makes terror and creates fear inside people as well as it obstructing the roads thus smoothing the escape. Therefore, it is called armed robbery. Islamic criminal law has also regarded this crime as fighting against God and his Messenger according to the Quran (5:33). As a result, Islamic law demands a severe fixed penalty for this sort of crime.

[209] - The researcher here will not discuss the argument about the order of this fixed penalty (i.e. is it choice of four things or obligation to apply them in a certain order?) because it is out of the researcher's scope. Thus, for more discussion about these things, please refer to Ibn Rushd, (2014, p.405).

[210] - One of the Prophet's companions who specialized in Quran's exegeses. Please note that Ibn Abbass had put these punishments in order as to fit the criminal conduct of the robbers.

[211] - Please note here that the number of judges must be 3 according to Article 20 of the Saudi judicial law (2007). However, herein the judges were only two. Clearly, this is another example of contradictions.

[212] - Again, this is another example of when judges used the term Fahishah for an unclear meaning (i.e. is it for adultery or homosexuality or something else like prostitution?).

Case Two: is numbered 361136678/104, (2015) and is related to a Pakistani driver who complained about a juvenile aged 18-years-old. In detail, this juvenile was captured by traffic police the next day after he had threatened, beaten and stolen the driver's car. The defendant confessed that he beaten, threatened and stolen the driver's car with other three friends, whose ages were not mentioned. The police also captured these three people and found that one of them was only visiting the defendant while the other two were found guilty of other theft crimes. The visiting man was released as there was not enough evidence to accuse him of collaboration with the defendant in this case. However, the other two associates were isolated and brought to the criminal court. The defendant in the case was also transferred to the criminal court and the Prosecutor-General asked the three judges to apply the fixed penalty of Hirabah. However, the defendant did not have any previous convictions for theft.

Consequently, the judges questioned the defendant about this allegation and he denied it, claiming that he lost his way while he was heading home, yet found this driver waiting, then he asked the driver to give him the keys and the driver voluntarily answered without beating or threating him, then after that, he was found by police without a driving license. As a result, the judges decided as follows; since the juvenile admitted that he took the car in the form of looting (i.e. not armed robbery nor theft) and taking into account his low age and not having any previous convictions, the fixed penalty of Hirabah was removed and he was given one and a half years in jail and 150 separate corrective lashes.[213]

4.4.4.2 A minor commits Hirabah with other juveniles:

Case One: is numbered 32178024/15, ((2012) and relates to four juveniles, aged 18, 17, 17, 17 years old respectively. The 18 year old was the only one who was prosecuted while the other three were not. In detail, two taxi drivers – in quick succession - complained about a group of juveniles who had stopped, threatened them and robbed their taxis, taken their mobiles and some money from inside their taxis. The police realized commonalities between these taxi thefts and eventually arrested a suspect along with all of his gang members (the other three juvenilles). During the investigation, they all denied the allegations of Hirabah except the first defendant who additionally stated that he had not stolen the mobile but he bought it from the second defendant. The second defendant denied that. Subsequently, the Prosecutor-General accused all of them in front of the general court of threatening behaviour, and stealing. He proved this by their words throughout the investigation. Moreover, the eyewitness admitted that he saw these juveniles in the stolen taxis sometimes in front of King Saud University. Therefore, the prosecutor asked the three judges to apply the fixed penalty of Hirabah.

[213] - Herein, we can notice that the classification of the Hirabah crime from the Prosecutor-General as he asked the judges to apply the fixed penalty of Hirabah. Yet, the judges removed this penalty arguing that the crime wasn't Hirabah but looting.

The judges requested the presence of all the juveniles, but three of them were released from the SOH without judicial permission. However, the first juvenile, aged 18 years old, was present. The judges questioned him about these allegations including the aforementioned evidence. He denied everything and claimed that he bought the mobile phone from the second defendant, who was not present. As a result, the judges decided as follows to remove the fixed penalty of Hirabah and prescribe the following discretionary sentences; one year jail and 150 separate lashes. The judges decided about the other three juveniles once they were brought to the court again.[214]

Case Two: is numbered 35335714/48, ((2014) and pertained to three juveniles aged 18, 18 and 16 years old respectively. These three juveniles were arrested due to several threats, armed robbery of cars and stealing some valuable things from inside of those cars. In details, a Filipino worker complained to the police about two black juveniles who had robbed his car after he tried to stop them, but they threw him out of the away and tried to run him over. After two days, another Saudi man complained about three juveniles he knew, as they were living in his neighborhood, who swerved at his car in order to stop him compulsory. Subsequently, he stopped to see what was going on, but those juveniles threatened him by large knifes and stole his car, 2 mobile phones and the sum of SR 2600. This was a starting point for the police to arrest these juveniles, so they were investigated and admitted that they all had threatened and stolen the cars.

The Prosecutor-General searched for their convictions and found nothing for the first two juveniles who both aged 18 years old while the last juvenile who was aged 16 years old had one previous conviction for theft. Therefore, the prosecutor asked the judge to apply the fixed penalty of Hirabah to these juveniles according to the Quran (6:33). In front of the general court, the three judges questioned these juveniles about their confessions; the juveniles aged 18 years old insisted on their confessions while the young juvenile aged 16 years old denied it. The judges decided that since these juveniles did not always admit their confessions, and that this could be considered to be Shubhah, the fixed penalty of Hirabah would be removed. However, all of them were given corrective punishments, 2 years jail and 200 separate lashes for the first defendant and 3 and a half years prison and 300 whippings for the other juveniles.[215]

[214] - In this example, one can notice two points. First, as usual the idea that if the defendant denied the allegation, then the fixed penalty will be removed according to the Hadith. Yet, the defendant will always be given corrective punishments that will exceed the fixed penalties of lashing (i.e. the fixed penalty of lashing is 80 whips in non-Muhsan adultery and 40 lashes in Alkhamr). Secondly, one can see in this case that the other three juveniles were released without legal permission, hence the judges only decided against the first juvenile. Although, the corrective punishments were severe, as he had no previous convictions.

[215] - Clearly, we can analytically see a new critical point here, that is, removing the fixed penalty by Shubhah of denying the allegation in spite of the juveniles' confessions many times.

4.4.4.3 A minor commits Hirabah with adults:

Case One: is numbered 34358315/53, (2013) and related to a juvenile aged 18-years-old and a man aged 29 years old. Both of them were captured by police based on a complaint from a woman that they had broken into her house in order to have sexual intercourse while they were drunk. Subsequently, the Prosecutor-General accused them in front of the general court of threatening, trying to commit Fahishah and drinking Khamr. He proved this by their confessions throughout the investigation. The prosecutor asked the three judges to apply the fixed penalty of Hirabah. However, the judges asked the defendants about their confessions; initially the adult confessed that he had committed all of these offences, the juvenile admitted Khamr and denied all the other things. Consequently, the adult defendant reversed his previous confessions and said the truth was that he had committed Khamr and went to the lady's house only in order to steal.

As a result, the judges decided as follows; both deserved the fixed penalty of Khamr, which was 80 fixed lashes at one time (i.e. not separated) and that first man should be jailed for 12 years and lashed 1200 corrective separate whippings while the juvenile was jailed for 7 years and lashed 700 corrective separated whippings.

Case Two: is numbered 00000/40, (2011) and relates to 7 people aged 19, 20, 17, 17, 20, 20 and 19 years old respectively. The juveniles were those aged 17 years old. These people were captured by the investigation and criminal intelligence department of the Riyadh police based on 64 formal complaints about a gang that threatened, committed armed robbed on many shops, taxies, and night workers, and stole mobiles phones and cars. The Prosecutor-General accused them in front of the general court of two allegations, that were, Sariqah and Hirabah. These were evidenced by their confessions. The prosecutor asked judges to apply both fixed penalties on them. The judges questioned them about their confessions, which all of them denied except the first, fifth and seventh defendants. Therefore, the judges decided as follows; all of them denied their previous confessions except the first, fifth and seventh defendants. However, they all admitted committing the crimes listed above throughout investigation, which means that they were still in Shubhah (i.e. suspicion) of committing all or some of those crimes. Hence, this Shubhah removed the fixed penalties of Hirabah and Sariqah, yet they all deserved severe corrective penalties as follows; 10 years jail and 1000 separate lashes for the first defendant. Furthermore, 8 years jail and 800 separate lashes for the fifth defendant. Moreover, 7 years jail and 700 separate whippings for the second, third (i.e. the juvenile) and the seventh defendants. What

is more, 3 years prison and 300 separate whippings for the sixth defendant. Finally, one-year jail and 100 separate lashes for the fourth defendant (i.e. the juvenile).[216]

4.5 Summary:

We have critically and evidently seen that there is no different classification for juveniles' crimes in Saudi Arabia from that of adults. Further, the only Article that may categorize some crimes is that of the Abu Dhabi document in Article 19. However, it has misleadingly over-classified the crimes into more than three, which is the traditional categorization of crimes in Islamic law, the same as in the Saudi juveniles' system. For instance, in Sharia, - the proxy Saudi legal system - there is no such term like the crime of life imprisonment, while prison itself is a type of discretionary punishment (Awadh 2008). Another example is that crime of murder is exactly classified under the crime of Qisas (i.e. the crime of murder does not have a separate classification in Islam according to Alshammary (2012, p.79), so why Article 19 of the Abu Dhabi document separates it from the crime of Qisas is unclear. The third example is what does Article 19 mean by other Jinayat? These important questions have led us to think about the definitions of crimes in the Saudi juvenile system,. Unfortunately, there is not a definition for the crime in the Saudi juvenile system nor in other related laws such as the Saudi criminal procedures law passed in 2013 and its executive decree passed in 2015.

Following on from that, we have applied the discussion to four fixed crimes, bearing in mind the scale behind the classification which is the punishment., These fixed crimes were Zina (adultery), drinking Alkhamr (alcohols and drugs) Sariqah (theft) and Hirabah (armed robbery). Subsequently, we examined each crime's definition, its legislative text and some important applications of each crime from Riyadh's general, criminal and juveniles' circle courts. Those applications clearly showed us that how miserable juveniles' situations are when facing the strong punishments that are mainly ordered for adults' crimes. This led us to the discovery of unexpected verdicts from juveniles' judges in their decisions. For example, there were ten critical points related to those judicial cases above. Further, those judicial verdicts mentioned above analytically show us that despite the fact that these crimes are fixed, juveniles'

[216] - To analyze, we can notice how complicated this case was. One can see these people jointly committed the same crimes helping each other to achieve their illegal goals across Riyadh city. However, their punishments were extremely different especially the third defendant, who was a juvenile already and who denied those allegations the same as the fourth defendant who was also a juvenile. Yet, both of the juveniles' punishments were very different without justification. Another important thing is that, the fixed penalties of Hirabah and Sariqah were removed from the first, fifth and seventh defendants, who were adults and who insisted on their confessions that they committed those crimes. Although, the fixed punishments were already removed from them, hence was this due to the juristic theory pertains to associates with juveniles? The answer is no, but it was a contradiction because the Hanbali doctrine, the basic for all Saudi courts, does not recognize the idea of unified responsibility, which requires that if the minor is excused then the adult should also be excused. However, neither the adults nor the juveniles were excused in this case!

judges exceeded the fixed number of lashes. Consequently, this could be against the determination of both the crime and its penalty. This thesis now turns to Qisas and Ta'zir crimes in Chapter Five.

Chapter Five: inconsistent Qisas and discretionary penalties for juveniles

5.1 Introduction

In this chapter, the researcher will examine the other two crime categories in the Saudi juveniles' system: Qisas and Ta'zir crimes. This is, again, alongside SPSS analytical statistics on the four fixed crimes,[217] that missed some of their conditions.[218] The reasons behind discussing Qisas and Ta'zir crimes in a separate chapter were described in the introduction and literature review. While Qisas crimes are already determined by Allah, their fixed penalties in the Saudi juveniles' system are extremely inconsistent. The objective of juvenile sentencing is to rehabilitate rather than primarily punish. However, because the Saudi juveniles' system prosecutes juveniles as if they were adults, it can be argued that this must be to penalise only. Therefore, we will see in this chapter that, in some cases, capital punishment was imposed on juveniles, as it would be for adults. If not (i.e. if the capital punishment was not existing), then the judges will have an open discretionary authority to decide the punishment's type and amount, which can almost be of two choices only – either lashe or jail, without obvious criteria.

Thus, this chapter achieves two objectives potentially in one. One represents Qisas crimes while the other illustrates Ta'zir crimes. However, Ta'zir crimes were analysed using SPSS statistical analysis. Therefore, we need to consider separating Chapter Five into two distinct and separate methodological parts. One part would be dedicated to exploring the case study material (i.e. the case study method as a distinct empirical approach), which also qualitatively exemplifies Qisas crimes' cases, while the other part quantitatively represents Ta'zir crimes with SPSS statistical analysis. Accordingly, Chapter Five is the empirical chapter and I present the SPSS data for the case files. This can be divided into (1) the contextualisation of case file data, and (2) statistical evaluation of case file data. Both reflect two separate methodological perspectives, and add greater depth to the case files. Consequently, through utilising a qualitative approach, examining the Qisas crimes case files, we will again be able to explore the many thematic problems encountered by juveniles in the Saudi Islamic system. In using a quantitative methodology to consider Ta'zir crimes through SPSS statistical analysis, we will be able to minimise bias, since statistical analysis uses mathematical logic in order to demonstrate the inconsistency in juveniles' sentences. Thus, I will provide further examination of Qisas offences. Given

[217] - I.e. the previous four Hudud crimes, Zina, Sariqah, Khamr and Hirabah.

[218] - The reasons behind solely choosing these four fixed crimes were mentioned earlier in Chapter Four, pp.96-97 and Chapter One, p.37 onward. First, these four crimes reflect the complexity of the juveniles' judicial system as they involve some scattered regulations (e.g. the law of SOH and the law of CIG are related to social care only). Secondly, the judicial verdicts mentioned in Chapter Four show that, despite the fact that these crimes are fixed, juveniles' judges exceeded the fixed number of lashes. For example, this is 100 whips in non-Muhsan adultery, or 40 or 80 lashes for alcohol consumption, as the sentence depends on the applicable juristic doctrine, despite the fact that Saudi judges are ordered by King Abdul Aziz to apply mainly Hanbalisim.

that Qisas crimes generally constitute two types, murder and wounding or causing injuries, which will be discussed shortly.

5.2 Part one: Qisas crimes (retribution)

Alshammary (2012, p.80) claimed that Quranic verses and Ahadiths,[219] which criminalised and penalized Qisas offences, can cover both juveniles and adults, despite that fact that these verses are basically related to adults. What remains inadequately explored is how juveniles should be treated, and whether they should receive the same punishment as adults if they committed Qisas crimes in Saudi. Actually, in reading Hanbali juristic books, which offer basic guidance for Saudi juveniles' judges, it is apparent that juvenilism is considered a barrier for applying fixed penalties such as for Hudud and Qisas crimes. For instance, Aljundi (1986, p.175) reported that criminal responsibility will only be upon a person who is adult and sane due to the prophetic Hadith "the pen is lifted from three people; one of whom is the child till he/she attains the age of adulthood" (Abu Daowd, 2013).[220] This is what Islamic juristic books, generally, contained about immaturity, where a juvenile is facing trial in front of the court justice. Yet, if we dig deeper in those juristic books, we will find different opinions with regard to the age of criminal responsibility.[221] Hanafi and some Maliki argued it is 18 years old for boys and 17 years old for girls. However, others such as Hanbali and Shafie argued it is 15 years old for both genders, yet some Maliki claimed that it is 18 years sold for both genders, and Ibn Hazm argued it is 19 years old for both genders.

These variations have been extended to affect the Saudi juveniles' system in the sense that the age of criminal responsibility in Saudi is a statutory 18 years old for boys and 30 years old for girls. However, at the juveniles' court, the judges can choose 15 years old as the age of criminal liability, as could be seen regarding case no. 35314533/3 (2014) and case no. 35430024/5 (2014) in this chapter.[222] In addition, juveniles aged between 15 and 18 years old, and who have committed fixed crimes (e.g. Hudud and Qisas), are prosecuted as adults. They will be sent to the general or criminal courts and are subject to fixed penalties. This is according to the decision of Saudi Justice Minister, number 310 on 30/4/1974.[223] In this chapter, it will be shown that some juveniles have been subject to a Qisas fixed penalty, that is retribution; based on the type of Qisas crime, the retribution can be either being put to death or the application of the same harm to the defendant, with certain conditions to be met. However,

[219] - Quran (2:178), (5:45), (17:33) and (Bukhari 1987) narrated a Hadith that the crime of murder will be the first matter which the Lord will judge on the day of judgment.
[220] - For more details, please refer to Chapter Three, p.78.
[221] - Please refer here to Chapter Three, p.78 onwards, for an extensive discussion on this matter.
[222] - Please also refer here to the extensive discussion on this matter with some supportive cases in Chapter Three, p.73 onwards.
[223] - This has already been examined in Chapter Three, from p.90 onward.

those penalties were inappropriate to offences committed by juveniles. Consequently, we need to take issue with Qisas crime types and their penalties. Causally, this step is crucial as to critique some useless efforts made by researchers such as Alshammary (2012, pp.80-88) and Almadhi (1994, pp.96-117).

To explain, Alshammary and Almadhi wasted effort elaborating different Qisas types in order to apply them to juveniles in Saudi, forgetting that juveniles should already have different crime classifications and sentences. This, again, gives us clear view of the disorder made by some researchers, despite their effort and hard work, in the Islamic juveniles' system. One reason for this is that, as we will find, semi-intentional murder, which is one of Qisas crimes' types, is not applicable in terms of adults, let alone juveniles, according to the Maliki doctrine.[224] Another reason is that Aljundi (1986, p.185) reported that juveniles' responsibility in Qisas crimes is only financial and attracts corrective liabilities only. This is because they are not criminally responsible, so juveniles will only be subject to either blood money or corrective penalties such as jail or lashes. However, I think I will briefly need to elaborate some important things related to Qisas crimes' types because we will see that some juveniles have already been subject to a retributive penalty (the death penalty).

Therefore, Qisas crimes are of two main types. First, it includes the crime of homicide, either intentional,[225] semi-intentional,[226] or faulty.[227] Secondly, it includes crimes resulting in injuries and wounds, such as the cutting or beating of any organ of a human being's body.[228] Subsequently, Alshammary (2012, pp.81-82) stated that the first type, which is murder, has three forms and each form

[224] - Maliki scholars are of the view that semi-intentional category of murder is basically not known because if a murderer aims to kill another person, then the murderer's act will be intentional; in contrast, it may be faulty if something went wrong, leaving no rationale for so-called semi-intentional homicide (Alsaifi, 1995). In response to this, the majority of jurists claim that semi-intentional murder type exists and the difference between intentional and semi-intentional murder is that, in the former, the murderer willingly killed the other person on purpose using deadly tools such as weapons, whereas in the latter the intention for assault already exists, but the murderer was not aiming to kill the victim. In other words, the murderer in the latter does not use deadly tools in order to kill (Ibn Qudamah, 1999; Alramli, 2011; Alzailai, 2010).

[225] - Homicide is a crime in which the murderer intentionally uses a deadly weapon such as a gun in order to kill another person.

[226] - This relates to homicide in which the murderer does not intentionally kill the victim, but willingly aims at assaulting his/her victim. Furthermore, this usually happens by using tools that are not deadly (Alsarkhasim, 1997; Alshafie, 2001; Ibn Qudamah, 1999). Bambale (2003) stated that this sort of murder may result from an accident, mistake or in an indirect wamy such as manslaughter. Consequently, there should be no retribution penalty (i.e. Qisas).

[227] - This appears, from its name, to be that the murderer does not intend to kill the victim or the murderer mistakenly kills the victim (Sanad, 1991; Aud'a, 2009). As a result, the faulty murder crime may have two presentations; first, the mistake may happen when perhaps someone is out hunting, but he/she accidentally kills a person. Secondly, the fault might exist in the intention, such as the hunter might have thought a glimpse of movement was prey, yet afterward it transpires to be a human, so this is a fault in the intention (Almawsili, 1975).

[228] - The fixed penalties for these crimes will be vary depending on the situation, so if it is committed by fault (mistake or accident), then the basic penalty will be the blood money or "Arsh", as well as what the judge can afford to prescribe for him/her as a corrective punishment (Aud'a, 2009). On the other hand, if these wounds are committed on purpose, then the fixed sentences will be as follows. 1- The primary penalty is retribution. However, there are certain strict conditions for this penalty to be applied. 2- The alternative penalties are blood money and corrective punishment (Ta'azir). In this regard, the basic sentence for crimes involving wounding and injuries in Islamic law is retribution (Qisas). Yet, certain conditions must be met in order to apply this penalty. Thus, these conditions are: 1- The wound must be committed on purpose (i.e. not by mistake or accident). 2- The part of the body where Qisas (retribution) will be inflicted to the perpetrator, must be the same of that injured or wounded person, as well as to the same degree.

has its own penalties. For instance, for intentional murder, the primary punishment is retribution (Qisas). Additionally, the alternative penalties are heavy blood money, fasting for two consecutive months and Ta'azir (corrective punishment). Finally, the attached sentences are: banning the murderer from an inheritance or bequest, if the killed person is one of the murderer's heirs (this will happen in cases where the alternative penalty, above, is applied (i.e. if the heirs choose not to execute the murderer).[229] Another example, according to Alshammary and Almadhi, is related to semi-intentional murder penalties, so the basic penalty is heavy blood money. Furthermore, the alternative punishments are fasting two consecutive months and corrective sentence(Ta'azir). Finally, a penalty may be to forbid the murderer from an inheritance or bequest, if the victim is one of his/her heirs. The last example, according to Alshammary and Almadhi, is pertaining to faulty murder, so its penalties are the same as for semi-intentional murder, except the blood money. Thus, in the faulty case it will be light, such as Mukhaffafah, while in semi-intentional murder it is heavy, such as Mughallazah.[230] With these types of punishments, juveniles are less likely to commit them to the same level, so they may commit them alone or with other juveniles or adults. Below are some examples.

5.2.1 Homicide crimes committed by a minor alone

Case one, no. 35314533/3 (2014): the Prosecutor-General accused a juvenile, aged 17 years old, of intentionally killing an adult woman by running over her twice by car after scuffling with other children. Furthermore, the prosecutor claimed that the juvenile admitted this intentional murder. Additionally, the forensic report (01/32/258) stated that the damages to the killed woman's body were the result of a severe car accident. The traffic police report (4791431) wrote that the smash happened 100% due to the car accident. Three eyewitnesses confirmed that the death happened because the juvenile ran over the woman by car twice. However, the Prosecutor-General stated that he could not find any criminal precedents for this juvenile. Hence, he appealed to the three judges at the general court to apply the fixed penalty of intentional murder, which is the death penalty. Subsequently, the judges asked the juvenile and the claimant (i.e. a relative who claims a personal right for the dead woman) about this allegation, although both of them asked the judges to postpone the hearings in order to appoint solicitors for them. Yet, the juveniles' lawyer argued that the murder was wrongly classified by both the prosecutor

---

229 - Aud'a (2009, pp.91-92) argued that the primary punishment means the basic penalty that is prescribed by the law giver (Allah) if the close relatives of the victim want to apply it. However, if they do not prefer this basic penalty, then the alternative punishment will be due. Yet, if they also pardon the accused forever, then no penalty should be applied, unless the judge decides it is necessary in order to protect public security. Strict conditions, however, must be satisfied in order to apply these penalties. Furthermore, the murderer must be a sane adult. In addition, the victim must be a Muslim, Zimmi (i.e. Christian or Jew) or, according to majority of jurists, Musta'aman (i.e. a non-Muslim who lives in Muslim country under a work contract) (Sanad, 1991, p.63).

230 - It is called "heavy" regarding its amount so as to make it as high as possible. Therefore, it is made of 100 camels, 40 of which are pregnant according to the prophetic Hadith (Bambale, 2003). However, light (Mkhaffafah) blood money is applicable in cases other than intentional murder, that is, faulty homicide situations. Furthermore, it is basically made from 100 camels, 40 of which are young, according to the Hadith (Bambale, 2003).

and the claimant since the juvenile had not intended to kill the woman. Instead, he had no business or hostility with the dead lady since the problem happened between her children and him. Rather, he escaped in the car as he was extremely scared, and did not know that the lady was waiting behind the car. As a result, the problem is a matter of classification since the murder is semi-intentional (i.e. not fully intended). Thus, the question remains regarding why the judges did not remove the fixed penalty by suspicion since it is narrated in Hadith that it would be appropriate to do so.

On the other hand, the claimant's lawyer and the Prosecutor-General insisted on their arguments, claiming that their evidence was sufficient. Hence, the judges decided that since we offered reconciliation between both sides of the suit, yet each side refused. Additionally, the defendant, who was juvenile, confessed twice that he ran over the lady by car throughout the investigation, but then denied this in front of the court, claiming that it was by accident. However, the three eyewitnesses confirmed that the death happened because the juvenile ran over the lady by car twice, forward and backward. In addition, as a result of the reports by the traffic police and the forensic evidence, the judges were truly convinced that the murder was intentional. Although the juvenile's intention is not clear, there are many signals that indicated the murder was committed on purpose, such as the eyewitnesses, the reports and the juvenile's confession. Also, the killing tool (i.e. the car) was deemed deadly as it does kill people if manipulated to do so. Therefore, the fixed penalty of Qisas was applied, that is, putting to death according to the Quran (17:33) and (2:178).

The judges did not consider the juvenile's age at the time of the murder; he was only 15 years old and 9 months according to his official ID, yet the judges as well as the Prosecutor-General wrote that he was 17 years old at the time of the prosecution, which was not accurate. Further, the judges depended on the testimonies offered by some of the children who attended the scuffle, despite the fact that they were enemies of the accused juvenile (i.e. they wanted revenge for their mother).[231]

Case two, no. 28/81/267 (2013):[232] a juvenile, without a given age, was driving his car in the middle of the road, then swerved onto the pavement. He killed a man who was planning to cross the road and the traffic police reported that the accident was 75% the fault of the juvenile due to his recklessness, while

[231] - Alramli (2011, p.255) argued that the confession of the minor him/herself cannot be considered as proof since a spoken confession by a minor is not often acceptable in Islamic law. However, please note that talking in great depth about the matter of proof in crimes will require extra time, papers and discussion. As we have limited time and space, a brief overview only was conducted.

[232] - This case, again, indicates inconsistent practices in penalizing Qisas crimes. Additionally, these inconsistent practices are made by juveniles' judges since they do not sometimes have a commitment to apply those fixed penalties. This shows the ambiguity of the criteria that they depend on because I argue we do not basically need to discuss Qisas penalties' types since they are mainly related to adults, while we are now dealing with juveniles. Therefore, their penalties should be recategorized according to Sharia interests and policy, which already established that youth is a barrier for certain harsh penalties.

25% was the fault of the passer-by.[233] The Prosecutor-General accused the juvenile of killing the man and asked for justice. The judge presented the juvenile with this allegation and the latter confirmed it and committed to what the judge would decide. The juveniles' judge decided that the juvenile killed the man by 75%, yet the punishment would be related to the specialised institution (i.e. without clarifying what he meant by this). However, the judge told the juvenile that he had to fast for two consecutive months as penance for the fault murder.

It is clear that even though the murder was committed by a juvenile, his age was not mentioned. This, again, indicates that the judge may have used his own discretion to decide the age of criminal responsibility. Further, neither the judge nor the prosecutor properly explained what type of murder this was (i.e. is it semi-intentional or fault?). This type of murder can be fault since the tool (the car) is deadly and the juvenile was reckless exceeding the specified road speed. Another point is that, despite the Qisas crimes' types, which are intentional, semi-intentional and fault, the juveniles' judge ignored these types since he suggested only that the juvenile undertake incomplete alternative penalties, fasting 2 months and paying the blood money. Also, the judge did not clarify what type of blood money should the juvenile pay (i.e. is it heavy or light?).

5.2.2 Joint enterprise homicide committed by minors

Case one, no. 35440121/84 (2014): A juvenile Syrian girl, aged 18 years old, agreed with a juvenile Syrian boy, also 18 years old, to kill her Saudi husband, so the girl was the commander, but the boy was the killer. In detailing the case, the girl admitted that she hated her husband since he beat and humiliated her. Subsequently, she introduced herself to a Syrian boy via the internet, and contacted him via WhatsApp, complaining about her situation with her husband. They agreed that the boy would kill her husband and she would provide him with her husband's shotgun. She informed the boy that she and her husband would go for picnic on a specific day, so she sent the boy their locations via WhatsApp. After that, the boy came and shot her husband until death. Similarly, the boy confessed that he committed the crime as detailed above.

Consequently, they repeated their confessions in front of the three judges at the criminal court, so the judges decided that since they both certainly admitted committing the crime of murder, and the girl helped the boy by giving him the gun and providing him with all of the necessary information to kill her husband. Accordingly, it was decided that the crime was of Hirabah origin (i.e. highway armed robbery). Such a crime is specifically called Ghilah (assassination), in which the victim feels safe with the killer, yet the killer does not appreciate this safety and so intentionally killed the victim. The judges supported their vision that Ghilah is of Hudud origin, not Qisas, which some scholars chose, such as

[233] - Unfortunately, the verdict doesn't give more details why 25% of the fault attached to this passer-by.

Ibn Tymiyah and the General Precedency for Scholarly Research and Iftaa in Saudi, as well as the General Authority of the Saudi Supreme Court. As a result, the judges ordered both of them to death by retribution, despite the fact that the girl had delivered her baby only a week after the verdict.

This style of retribution can be against the prophetic tradition which asked for a certain waiting time for a pregnant woman to live with and feed her baby (Alqushairi, 2013; Bukhari, 1987). However, the judges responded to this by saying that the contemporary time is different, as in the prophetic era there was not powdered milk, as there is nowadays. Although we still argue that mother's milk is still the most beneficial for the infant, so the mother must be kept alive for at least certain time (approximately 2 years) according to the Quran (2:233). Another point is that the judges classified this murder as Ghilah (assassination), and hence it is Hudud not Qisas. However, there is another opinion, even within the Saudi General Precedency for Scholarly Research and Iftaa, that this type of murder is of Qisas origin. This opinion is strongly held by Sheikh Saleh Bin Ghoson (Alaoudh, 2017). This is, again, against what Alsarkhasi (2009) argued; that in this particular scenario, i.e. when the murder is committed by a juvenile-joint juvenile, then the blood money will be upon the male relatives of the killer.

5.2.3 Joint enterprise homicide committed by a minor with adults

Case one, no. 0000/4 (2012): A juvenile, aged 17 years old, committed a crime of intentional murder in conjunction with an adult aged 19 years old. The two defendants were captured by police after they entered a shop which sold mobile phones and killed the shopkeeper on purpose. The Prosecutor-General realized that these two defendants had already committed crimes similar to the current one; the police reported four times that these two defendants entered, threatened staff and stole valuable items from different shops. Hence, the prosecutor asked the three judges at the general court to apply the fixed penalty of Hirabah and additionally to punish the juvenile with the fixed penalty of Khamr. The prosecutor proved his case, presenting their confessions throughout the investigation period, artificial reports number 117 and 7. Later on, the suit was rejected by the court, as the heirs had not claimed their personal right. The judges argued that personal rights have priority over general rights (i.e. community rights).

After a while, the heirs authorized a lawyer to claim their personal rights. Hence, the attorney arrived at the court, after passing the formal procedures requested by the court, such as letters of authorization, and he asked the juvenile only for compensation of 4 million Saudi Riyals to be paid to the victim's relatives within 6 months. Also, the heir forgave the adult who joined with the juvenile in the murder since he had not shot the victim. However, the Prosecutor-General argued that judges must then decide about general rights, or community rights. The judges stated that both defendants confessed that they committed those crimes. However, the adult was not involved in killing but was just helping the juvenile, commuting with him from place to place. This was also the first time that the juvenile killed a

human being, but the juvenile also committed the crime of drinking. It was decided that the juvenile must be jailed for 5 years according to the Royal Decree (2104/4/8) on intentional murder, and must be jailed for another 5 years for armed robbery of the other shops and lashed 1,000 discretionary separated whips. The adult defendant must be jailed for 3 years and lashed 300 whips.

In this case, we can clearly see that the judges differentiated between the adult and the juvenile in responsibility, despite the fact that both of them were involved in the killing. However, the adult was just accompanying the juvenile and had no knowledge that the juvenile would kill, thinking he would steal and threaten the shopkeepers only. Therefore, the association here between the juvenile and the adult was in an indirect way. In other words, there was no connection between the murder and the adult since he did not know about it or participate in the act. Therefore, we can see that the judges distinguished between them in responsibility. Yet, the corrective punishments were inconsistent in the sense that both of them committed dangerous crimes (e.g. robbery and threatening many shops and shopkeepers). In other words, we do not know the standard upon which the judges prescribed these different penalties. Another important factor is that the judges adjourned the case until the claimant of personal rights asked for his rights, despite the fact that in other cases we could not see this procedure taking place.[234] The final point is that the prosecutor asked the judges at the general court to apply the fixed penalty of Hirabah and to additionally punish the juvenile by the fixed penalty of Khamr. Unfortunately, this misclassification appeared again to mix murder and Hirabah despite the fact that the judges did not punish the defendants for Hirabah or Khamr as shown above. Rather, the discretionary penalties of both defendants were due to the several thefts and threats against the shops, whereas the juvenile was additionally ordered to pay blood money as retribution (i.e. instead of being put to death).

Case two, no. 35430024/5 (2014). This case, from the general court in Riyadh, involved a group of seven juveniles, whose ages varied between 17-18 years old, and another five adults, whose ages were 19-26 years old. The juveniles were involved in chasing at too high a speed and on different cars another two juveniles on their car on the highway. The police reported, after coming to the scene, that they found two juveniles, one of whom had already died, while the other was critically injured. Hence, the investigation processes began, first with the Qa'if[235] tracer to the scene to assist in clarifying the situation because of his knowledge of traces. Subsequently, the tracer confirmed that the Caprice car was the one who chased the victims at too high a speed. Additionally, the police investigated the case further with the injured victim to find that he and his dead friend were about to buy some things from a shop on the highway. After that, they saw some young stringers around the shop, but did not know them.

[234] - For more details, please refer to the cases mentioned on pp.111,116 and 122 onward.
[235] - Qa'if means someone who is specialized in the knowledge of traces.

Unfortunately, those juveniles, with their adult friends, chased them on the highway at too high a speed in order to assault and kill them.

The Prosecutor-General proved this intentional murder and asked the three judges to apply the Qisas penalty for the first juvenile, aged 17 years old, while giving corrective punishment to the other defendants. These penalties are due to their confessions, the two eyewitnesses, traffic police report and criminal evidence report. Consequently, the victim's father claimed personal rights for three things: retribution from the first juvenile as he was the only one who killed their son; compensation for destroying the victims' car; and the Arsh[236] for wounding a victim's head. The judges questioned the defendants on the allegations. The latter admitted that they chased the victims at too high a speed, but the one who killed the victims using their car was the first defendant and his accompanying friend (both juveniles aged 17). Yet, defendants number 9 and 12 denied everything, arguing that they were not involved in any way in this crime. As a result, the judges asked the victim's father to swear 50 times that the first defendant was the one who killed his son and injured his son's friend. He fulfilled what the judges asked, and the judges decided that, since all of the defendants confessed except for defendants 9 and 12, and because the victim's father swore 50 times that the first juvenile was the only one who killed his son and injured his son's friend, then these two were responsible.

Additionally, the rest of the defendants were just chasing the victims. They did not kill the victim in a direct way and had no intention to do so because the second defendant, who was accompanying the first defendant, tried hard to stop his friend from crashing with the victims, but without any result. Furthermore, the others, except for defendants 9 and 12 as they denied everything, admitted that they contributed to the tracing, but returned after the victims ran far away from their village. However, they exacerbated the victims' suffering by not offering any help or calling officials to assist. Hence, the first defendant deserved the fixed penalty of Qisas (the death penalty), and must also pay the difference for the crashed car. This was to be calculated by pricing the car as if it were new and pricing it, again, as it is now, with the difference being the compensation, valued at SR 41,000. Moreover, the first defendant must pay the Arsh, which is compensation for wounding a victim's head. This was calculated at SR 114,000.

The other defendants were all given discretionary punishment, except for defendant number 12, as he was found innocent, according to his statement, and there was no mention of him throughout the

[236] - The "Arsh" (i.e. compensation for injuries) is divided into specified and not specified types. The specified "Arsh" is given by a text in Islamic law as compensation for the cutting of hand or foot (i.e. the first two categories of wounding crimes). However, the non-specified "Arsh" is not given by a text, therefore, it might be located in many wounds and injuries (i.e. in most cases related to the last three categories of injury crimes); therefore, this sort of "Arsh" is called "Hukumatul Adl" (Bahannasi, 1983, p.186).

investigation, from the other defendants or eyewitnesses. The second defendant was jailed for 18 months and lashed 200 separated whips. The third, fourth and fifth defendants were jailed for 5 years and whipped 500 lashes. The sixth, seventh, eighth and eleventh defendants were jailed for 30 months and received 300 lashes each. The ninth defendant was jailed for 2 years and accrued 250 lashes. The tenth defendant was jailed for 4 years and lashed 400 whips. Finally, the cars used in chasing in this suit were confiscated, which were a 2001 Caprice, 2008 Hilux, 1989 Caprice, 2005 Datsun and 1982 Datsun. Revenue from their sale would be credited to the General Treasury.

The judges proved that one of the juveniles was solely liable for retribution despite the idea that the other juveniles and adults assisted him to kill or injure those young drivers. In addition, the convicted juvenile was asked to pay two costs: compensation for destroying the victims' car and the Arsh for wounding a victim's head. It is noted that the discretionary punishments were extremely different, despite the fact that all of them contributed similarly to the accident. Indeed, the second juvenile, who accompanied the killer, was given the lowest penalty.

Case three, no. 35403531/2 (2014) was mentioned earlier on page 97.

Case four, no. 32330096/6 (2011): This related to one juvenile, aged 17 years old, who was the victim, along with his three brothers, aged 20, 21, and 23 years old respectively. In fact, this case was somewhat complicated as it involved two elements: prosecution for the crime of murder as well as sodomy. The first three defendants were found by local police to have killed an adult man, aged 23 years old, as those three defendants accused him of committing homosexuality with their youngest brother, whose age was 17 years old. Additionally, those three defendants further accused a fourth defendant in this case, who was a friend of the killed man, of assisting and committing homosexuality with their youngest brother simultaneously with the killed man. Hence, the Prosecutor-General proved that the first, second and third defendants intentionally killed the man, aged 23.

The fourth defendant in this case dragged the juvenile out of the city to the desert and firmly committed homosexuality with him. These two factors were confirmed by their confessions during the investigation as well as via the security forces' report, and medical reports on the second and third defendants, which proved that they were involved in the killing by stabbing the killed man and his friend, who was the fourth defendant in this case. Furthermore, the calls between the defendants and their opponents proved that there was a strong connection between the juvenile, the killed man and the fourth defendant. Yet, none of them had any criminal precedents. The Prosecutor-General asked the judges to apply the fixed penalty of Hirabah on the fourth defendant as well as to apply discretionary punishment to the rest of the defendants.

In front of the general court, the three judges initially decided to adjourn the case since the case required the presence of the claimant of the personal rights, whereby the next of kin could claim Qisas or blood money from the killers. Subsequently, the judges proceeded to adjudicate on general rights, that is, community rights. After a period of time, the claimant of the personal rights came along with the Prosecutor-General and the fourth defendant. The prosecutor challenged the judges' previous decision to adjourn the case for two reasons. First, there were two cases gathered in one case (i.e. the crime of murder and the crime of sodomy). Hence, the prosecutor asked the judges not to link them together since they could be heard separately. The judges were convinced by this argument and decided to hear the sodomy only. The fourth defendant, aged 20 years old, admitted that he accompanied the killed man throughout the time the latter was with the juvenile victim. This defendant clearly knew that they were intending to commit homosexuality with the juvenile. For instance, they moved away from people and buildings. Phone call evidence between them before going out indicated that there was a pre-planned crime. Accordingly, the fourth defendant was jailed for 2 years and whipped 500 discretionary lashes and these penalties covered the personal and general rights. However, no Hirabah penalty should be applicable since he denied the allegation of sodomy. Thereafter, the judges decided to proceed to adjudicate on the crime of murder in this case, but in another separate decision and in a different session.

In critiquing this, we can see that this case contained two crimes and the Prosecutor-General was the one who gathered them together. That was one reason for judges to adjourn the case. Another reason was due to the importance of the claimant of personal rights to be present and to ask for his rights. Subsequently, the claimant came and asked for revenge from his son's killers (i.e. the first three defendants in this case). However, the judges decided to adjudicate on the matter of sodomy only and leave the matter of murder to another separate case. Therefore, we can see the misclassification from the Prosecutor-General on the crime of murder since he asked for corrective punishment, while failing to recognise that all of the three defendants strongly admitted that they murdered the man. Therefore, we cannot return from their confessions since it was linked with a personal right (i.e. not Allah's right, which can be forgivable). This, again, is a problem related to classifying juveniles' crimes and, in turn, penalizing them. For instance, in this case, we can see that the crime of sodomy was classified under Hirabah crime. But one can argue that, since the crime of sodomy here is accompanied with force and the juvenile had been taken away from the city and buildings, then the crime is of Hirabah origin, not only sodomy.[237] Furthermore, the judges had not clarified what punishment was for the personal right and what was for the general or community right.

[237] - Please refer here to our discussion on the definition of Hirabah, Chapter Four, p.118 onwards.

5.2.4 Crimes of injuries and wounding committed by a minor

Aljundi claimed that the responsibility for minors here is only civil and corrective liabilities. This means that the fixed penalties for adults who commit wounding and injury crimes will not be applicable upon a minor since the latter is not an adult, and thus he/she does not have full awareness and appropriate criminal intent. As a result, the minor will be responsible for his/her damaging or injuring others in a scenario that results in blood money or Arsh (compensation) (Aljundi, 1986, pp.185-186). Therefore, it does not matter here whether a child committed this type of crime individually or with others, as long as each one is responsible for paying the blood money or the Arsh.[238] To demonstrate this, we will discuss three cases, all of which are from the juveniles' circle court in Riyadh.

Case one, no. 29/14/213 (2013): this is related to two juveniles, without given ages, one of whom was the defendant while the other was the claimant. The Prosecutor-General accused the defendant that he stabbed the other juvenile with a sharp knife according to the medical report. Hence, the Prosecutor-General asked the judge to apply an appropriate penalty to the defendant. The judge presented the defendant with this allegation, who confirmed it, arguing that it was because the claimant promised to kidnap him, although he did not have any evidence to prove this threat. The judge then asked the claimant about the threat, which he denied, including under oath. Thus, the judge decided that since the stabbing had been proven by the medical report and the defendant had no criminal precedents, yet he was just given last week a verdict (no.29/5, 2013) of discretionary punishments (i.e. jail for 3 months and 70 separated lashes), the defendant deserved an additional one month jail and another 100 separated whips.[239]

Case two, no. 28/82/269 (2014): A juvenile aged 18-year-old mistakenly crashed into another juvenile and broke the latter's leg. The Prosecutor-General accused the juvenile of breaking the victim's leg and leaving him suffering, without seeking out any help. Hence, he deserved an appropriate corrective punishment, bearing in mind that the victim had waived his personal right (i.e. he forgave the defendant and did not ask for any compensations). The judge at the juveniles' circle court presented the juvenile with this allegation, and the juvenile admitted that he crashed into the victim, yet it was by accident as he was waiting in front of a restaurant when the victim came and verbally assaulted him. The defendant reciprocated but then was fearful of the victim's friends, as they approached him from the front of the car. Hence, the defendant immediately moved his car backward without warning the victim, claiming that he did not know that the victim was behind the car, with the result that the latter's leg was broken.

---

[238] - In this regard, the crime of causing injuries and wounding must be proved by clear indictment or by two witnesses of sound mind. However, it cannot be proved by the confession of the minor him/herself since a confession by a minor is not often acceptable in Islamic law (Alramli, 2011, p.255). However, please note that considering in great depth the matter of proof in crimes and likewise will require extra time, papers and discussion. Yet, we have limited time and space, so I have given a brief overview only.

[239] - Please note here that there was no mention of personal or community rights in this verdict!

The judge decided that since the defendant regrettably admitted his crime, but said it was by mistake and because the victim waived his personal right, the defendant deserved corrective punishment of one month's jail and 60 lashes in front of some people.

Case three, no. 28/20/270 (2013): A juvenile, without a given age, stabbed another juvenile's hand. The Prosecutor-General asked the judge at the juveniles' circle court to apply corrective punishment since the defendant admitted his crime, which corroborated the findings of the medical report. The judge presented the defendant with this allegation; the juvenile admitted that he and the victim were involved in a scuffle and he regrettably stabbed him. Hence, the judge decided that since the defendant confessed to his crime and in light of the medical report, the defendant deserved corrective punishment of six weeks' jail and 150 corrective lashes.

In a critical evaluation of the above three cases, we can clearly note that the juveniles' ages were not mentioned except in the second case (no. 28/82/269, 2014). This again indicates the policy of judges' open discretion, critically discussed in Chapter Three.[240] Additionally, the judges did not mention personal rights or the Arsh (i.e. the compensation for the victim). One can argue it could be due to the fact that, in the first case, no. 29/14/213 (2013), these were waived due to the defendant's oath. However, how can we remove a personal right without explicit expression from the claimant him/herself? Following that, in case no. 28/82/269 (2014), the juveniles' judge decided to publicize the whip, so this may be against what Islamic law stated about publicizing the lashing solely in case of adultery only (Quran, 24:2). These were all of the 10 cases related to Qisas crimes, their different types and penalties. Therefore, we have seen the inconsistency and inappropriateness between the crime itself and the punishment. I argue that one reason for this can be that the Saudi juveniles' system has already given juveniles the same crime classification of that of adults. For example, some cases were misclassified (i.e. it was basically Qisas, yet either the prosecutor or the judges decided it was something else e.g. Hirabah, sodomy and so on). As a result, their penalties varied, since problems in classifying will certainly result in problems in penalizing. This is precisely why it is important to discuss Ta'zir crimes and their penalties now, as this gathers those Hudud crimes which missed some of their conditions, and to examine the findings in light of the statistical analysis generated from SPSS using a thematic approach.

[240] - P. 78 onward.

5.3 Part two: Crime of Ta'azir (inconsistent corrective punishments)

5.3.1 Preface and background

The inconsistency in the penal code, especially in the Saudi juveniles' system, has become an important research topic. A few articles and reports have been published to combat this phenomenon. For instance, Alshafi (2014, p.27) wrote that consistency does not generally mean equalizing the penalty for all who commit the same crime. The penalty can differ from one person to another according to diverse motives, circumstances and the impact of the crime, but the role of the legislator is, however, to balance between the punishment and the crime, determining a maximum and minimum amount for the sentences as well as allowing some room for judges to choose between those determined amounts based on the particulars of a case. Hence, finding a balance between a crime and its penalties is called legislative individualization, while choosing appropriate penalties for the criminals is referred to as the individualization of sentence.

Unfortunately, I could not find the criteria upon which Saudi juveniles' judges can prescribe consistent, or at least similar, penalties. When I was a paralegal, I regularly came across many imprecise observations that tend to generalise gross and severe lashing or jailing, ignoring the fact that this topic is very sensitive and highly complex. In the previous chapters, I tried to study the thematic process of prosecuting juveniles by qualitatively examining the theoretical basis and the reality of the Saudi juveniles' system, analysing and supporting my claims with verdicts gathered from the courts. As a result, this allowed me to arrive at important conclusions based on that examination. Now I need to determine whether those findings hold outside my investigative sample. A great deal of what I know about juveniles' Ta'zir punishments in Saudi, e.g. their types, age groups, gender, associates and the previous convictions of the punished juveniles, has been obtained through verdicts. Correlating this data would, in theory, allow me to statistically and quantitively support my previous findings in the past four chapters. Of particular interest is whether these results prove the inconsistency between three factors: crime, punishment and the juveniles' different circumstances (e.g. their gender, associates, age groups, or previous convictions).

In other words, despite the meaningful data I collected from the case studies files in the previous chapters, I realised the need to conduct statistical analysis. This statistical analysis allows me to extend my knowledge of the Saudi juveniles' system, beyond the individual cases, in order to arrive at a more comprehensive analytical view. Specifically, my research has indicated that the current judicial problems faced by juveniles strongly depend on the distorted perceptions caused by almost all the previous conducted research, as detailed in the literature review.[241] Thus, before determining the key

[241] - Please see Chapter one, p.29 onward.

characteristics and measures that I need to examine within the juveniles' verdicts, it is useful to summarise some of what Alrousan (2010) suggested in this regard. He conducted a discussion on the "judicial individualization of the punishments" that involved investigating the likely settings for inconsistency in any criminal verdict. The distinctiveness of his work has been long-lasting mainly because it recognizes a number of criteria for assessing punishments in general (not just for juveniles), and, hence, this has gone on to inform my own view. He concluded that punishment is a necessary evil that must acknowledge an awareness of its negative impacts and also its expected educational role and so reduce the recourse to the punishment. The primary purpose of this is the ability to develop techniques to identify appropriate penalties to re-integrate offenders into society, re-educate them, persuade them to respect societal values and to inform them of their duties. Therefore, it is possible to rely on age, gender, behaviour and the psychological elements of the criminal. This knowledge is very different from what the traditional schools (e.g. Hanafi, Hanbali) called for because it is not only about the external circumstances of the crime and the offenders' previous convictions. This was the case for juveniles' verdicts; however, while this argument was revealing, it is not sufficient in itself. This is because, unlike Alrousan, I am not trying to develop a generic profile of criminal verdicts. Rather, my aim is to set out a common profile of Saudi juveniles' inconsistent punishments. With this purpose in mind, I needed to focus on juveniles' gender, associates, previous convictions, age groups and crime types across all penalty types (e.g. fixed lashes, discretionary lashes and jail), as the next section explores.

5.3.2 Juveniles' verdicts: gender

After each case, I briefly reflect on the information given by the verdicts in order to pick out potential topics for more examination. One very remarkable theme that appeared from my data was the disproportionate number of females and males involved within crime. For instance, Table 1 (Appendix 1) shows that the percentage for male cases was 86.7% with 235 frequencies, while for females it was 12.9% with 35 frequencies. However, one of these cases is missing because of mis-archiving the cases.[242] Gender should not be taken for granted, because it has a strong effect on the way juveniles' judges oversee cases.

Juveniles in Saudi are very much separated in courts based on their gender. For instance, the verdicts gathered from the Social Observation House (SOH) contained only boys' cases while the Care Institution for Girls (CIG) housed girls' cases. Cases that contain execution or cutting committed by

[242] - I.e. the archive has been separately transferred to the criminal court over long intervals while they were already archived either at the general or at the juveniles' circle courts. Hence, some cases were mislaid by the court's clerks.

minors were already directed to either the general or criminal court.[243] My data statistically shows two relevant factors; while there is statistical significance between juveniles' gender on the one hand, and their associates (Appendix 1, Tables 2-2.2) on the other hand, there is no such statistical significance between juveniles' gender and their previous convictions (Appendix 1, Tables 3-3.2). Consequently, I needed to follow up three issues – gender, juveniles' associates and juveniles' previous convictions – all of which must be considered with regard to the punishments given (e.g. fixed lashes, discretionary lashes and jail). However, I will leave the last two elements (i.e. juveniles' associates and juveniles' previous convictions) for a detailed discussion on them in subsequent sections.

Additionally, I used a Chi-square test to discover relations between categorical variables (e.g. gender with either associates and judicial precedents on the one hand, and age-grouping with either associates and judicial precedents on the other hand). Consequently, in Tables 2-2.2 (Appendix 1), we can prove that there is a strong relation between gender and associates in minors' verdicts. While 82% of boys had associates when committing crimes, 100% of girls had associates. Therefore, we will shortly examine in Tables 4-6.1. (Appendix 1) to what extent punishments are different for both genders.

Due to the strong relation between gender and juveniles' associates as shown in Tables 2 – 2.2, I decided to examine gender further with regard to three Ta'zir punishments.[244] Despite the fact that Ta'zir penalties are not limited as they are subject to the judges' discretion, Awadh blamed Aud'a,[245] a former judge, for limiting Ta'zir penalties to only four general categories: oral punishments (e.g. admonition, reprimand, threat and public disclosure); bodily punishment (e.g. flogging[246]); financial corrective

[243] - This is according to the recent new judicial law (2007), as there were many barriers to it, such as funding and facilities for new court buildings etc. As a result, the legislature decided to allow about five years as a preparation period in order to implement the new law. However, during this period the cases mentioned above will be directed to general court as usual.

[244] - Discretionary lashes, fixed lashes and jail.

[245] - This should include what Alshammary did in his new classifications for Ta'zir crimes. See Chapter One, p.42 for more detail.

[246] - An argument arises between jurists regarding whether or not a judge can exceed, by corrective flogging, the fixed amount of lashing in Hudud crimes. Logically, flogging may have minimum and maximum amounts in order to be appropriate, as well as to give the judge more room to navigate and more choices to apply, rather than confining himself to very few options and thereby not taking individual circumstances sufficiently into account. However, different opinions exist about the minimum amount of lashing. First, some jurists (such as Ibn Abdin, 2000) argue that the minimum level is 3 lashes, therefore, it must be applied where the minimum level is to be chosen. Secondly, others (such as Ibn Qudamah, 1999) believe that there is no minimum amount for lashing in Islamic law because if we specify it, it must be like a fixed penalty (i.e. Hudud), while in reality it is not fixed since it is called discretionary punishment, and should leave it for the judge to decide what is suitable for the juvenile.

On the other hand, in terms of the maximum amount, jurists are divided into three clusters, relying on some Hadiths. First, some Hanbali scholars (e.g. Ibn Qudamah, 1999) claim that the maximum level for flogging is 10 lashes according to the Hadith "do not inflict more than 10 lashes unless in Hudud crimes" (Bukhari, 1987; Alqushairi, 2013). Secondly, the majority of scholars (e.g. Hanafi and Shafie) believe that it is 39 floggings because it is less than the fixed penalty, which is 40 lashes, in the crime of drinking, according to Hadith: "whoever reaches with his verdict the fixed penalty, then he will be regarded transgressor" (Almawardi, 2013, p.236).

Thirdly, Maliki scholars (e.g. Ibn Farhoun, 2002) are of the view that there should be no maximum amount for flogging because it is a matter for the judge's discretion. Aljundi (1986) tried to arrive at somewhat of a balance, and argues that there should be a maximum amount for flogging in adult crimes (i.e. 39 lashes), whereas for minors it should be 10 lashes maximum, because a minor cannot bear flogging. This means that we must not apply the punishment of lashing other than in highly necessary cases, but it should be remembered that all punishment must be as suitable. Consequently, if injuries

punishment (e.g. fines, seizure of the property and being dismissed from the job); and negative corrective sanctions for freedom (e.g. temporary or life imprisonment and exile). However, I found only jailing and flogging in the judicial applications related to juveniles. The other penalties (e.g. admonition, reprimand, threat and public disclosure, fine, seizure of property) were dismissed, or perhaps only mentioned in some very rare cases, to the degree that these were not statistically significant. For example, a fine was imposed only three times, in cases 1, 5 and 181 (Appendix 2). Another example is that seizure of the property was mentioned merely eight times, in cases 5, 25, 41, 66, 95, 181, 187 and 197 (Appendix 2). The third example is signing the pledge and this was mentioned 22 times, in cases 5, 25, 41, 66, 95, 181, 187, 197, 218-225, 229, 246, 259, 260, 263 and 269. Thus, as mentioned earlier, there is no statistical benefit from inputting or discussing them here.

While Awadh (2008) claimed that Ta'zir penalties are not determined, one can critically ask about Ta'zir penalties that are already specified in the Quran (e.g. Quran 4: 34). To address this, Awadh noted that the Ta'zir penalties mentioned in the Quran do not necessarily limit all discretionary punishments to only four categories, as long as the penalty is legitimate and appropriate for the crime and the criminal. Yet, being mentioned in the Quran means legitimizing the penalty only, in order for the judge to use them in his verdicts. Therefore, it does not mean limiting the discretionary punishments only to those mentioned in the Quran. Hence, the judge's role is to seek a balance between the penalty, crime and criminal. With this in mind, we will statistically prove that, even when discretion is openly given to juveniles' judges in Saudi, almost all of their verdicts were solely confined to either fixed lashes, discretionary lashes or discretionary jail, as can be seen by critically looking at Tables 4-6.1 (Appendix 1). We can conclude that there are significant differences between boys and girls in discretionary flogging, as girls get far more lashes, by 200 scores/lashes (see Appendix 1, Table 4.2). Additionally, jail punishment for girls is higher than boys by 18 months[247] (Table 5). However, there were no significant differences in respect to fixed lashes penalties, either for boys or girls. The reason behind this is that fixed lashes are predominantly determined by Allah, so there should be no variation in it (Appendix 1, Tables 6 and 6.1).

---

resulted from the beating(lashing), then compensation should be due (Aljundi, 1986). Notwithstanding this, I personally call for abolition of the penalty of lashing completely. One reason for this is what Sheikh Abu Zahra (1998, p.339) stated: that the discreet child (i.e. aged 11-18 years of old, as I argued in Chapter Three of this thesis) can be corrected, yet not punished. This means that when the juveniles' judges decide upon minors' crimes, then the judges should take into account that the procedure/s is for correcting or rehabilitating the juveniles, not only to punish them. There is a huge difference between the principles of punishment and rehabilitation. Another reason is that we will very shortly see that, if those lashes had been, by any means, useful in addressing juveniles' crimes, then surely their crimes should have stopped. Regrettably, lashes were not the best solutions and, hence, it has not prevented juveniles' crimes or, at least, minimized them in Saudi juveniles'' courts.

247 - Please note that in respect to jail sentences, the researcher uses months; however, for sentences of less than a month (i.e. 10 or 19 days) all of the sentences will be rounded up to ensure that they are all included.

5.3.3 Juveniles' verdicts: age groups[248]

Notwithstanding the fact that there are many opinions in Islamic law concerning the issue of puberty, the Saudi juveniles' system is in a state of confusion, especially when it has created an unprecedented opinion in determining the age of puberty for girls at 30 years old.[249] As discussed throughout Chapter Three of this thesis, I classify juveniles' age groups in Saudi into three stages: 7 to 15 years old, 16 to 18 years old and, finally, 19 to 30 years old. Table 7 (Appendix 1) shows that the 7-15 age group comprises 8.1% of cases, totalling 28 cases. The 16-18 age group comprises 83.4% (287) of cases. Finally, the 19-30 age group constitutes 8.4% (29) of cases.

The data statistically shows two factors. While there is a statistical significance between the juvenile age groups, on the one hand, and their associates on the other hand, there is no such statistical significance between a juvenile age groups and previous convictions. Hence, I needed to follow up three examinations (juveniles' age groups, juveniles' associates and juveniles' previous convictions, across all of the punishments (e.g. fixed lashes, discretionary lashes and jail). However, I will postpone the last two elements (i.e. juveniles' associates and their previous convictions with regard to the punishments) until a detailed discussion can be held on them in the subsequent themes. It can clearly be seen from Table 8 that there is a strong relationship between juveniles' age groups and associates; the 7-15 age group had 96% associates, the 16-18 age group had 80.5%, and the last group aged 19-30 had 100%. However, there is no strong relation between age group and precedents in Saudi, as can be seen in Tables 7.2 and 7.3 (Appendix 1).

With regard to a relationship between juveniles' age groups and the three punishments (Tables 9-9.6, Appendix 1), there are significant differences in all three punishments (discretionary lashes, jail and fixed lashes) in terms of the age-grouping. Furthermore, in terms of jail punishment (Tables 9-9.1), members of the older group, aged 19-30, were sentenced to the longest time in prison (mean rank of 218.52 months), while the second group, aged 15-18 years, was sentenced for 172.93 months. Yet, the shortest time of jail I found was for the youngest group, aged 7-15 years, which was 120.48 months. To clarify, 120.48 months means more than 10 years in prison. This is in fact is the shortest jailing time (even for juveniles!), while the longest jailing period was 218.52 months, which translates to more than 18 years in prison. Initially, these results seem logical, as juveniles' judges take into account the gradation according to the juveniles' age groups. However, it is not convincing since we do not really

[248] - For those variables which have more than two groups, we will use the Kruskal-Wallis test instead of the Mann-Whitney U test. In fact, they are the same, but Kruskal-Wallis allows us to compare variables that have more than two categories (i.e. three or more), for example, Age_group or Offence or Precedents vs. either (sentences_jail, sentences_lashes and sentences_fixed).

[249] For more detail, please see Chapter Three.

know the criteria upon which the juveniles' judges have prescribed the sentence.[250] However, I am calling for replacing the penalty of jail time with other, more useful, rehabilitative procedures. This is discussed further later in this chapter.

Similarly, in the case of discretionary lashing, we can see from Tables 9.2 and 9.3 (Appendix 1) that the highest amount of discretionary penalty was given to the older group, aged 19-30, with a mean rank of 218.00 lashes, while the second group, aged 16-18 years old, was given 174.25 lashes. However, the youngest group, aged 7-15 years old, was given the lightest number of lashings, at 107.46.[251] However, with regard to the fixed lashing penalty (Tables 9.4-9.6), we can see no significant difference in the fixed lashing penalty between the different juveniles' age groups. For example, for fixed lashes, the 7-15 group was given 160 while the second group, aged 16-18 years old, was given 173.74 and the older group given 172.26. I argue that since the lashes here are fixed by Allah (i.e. the law giver), then there should be no differences in the fixed lashes with regard to juveniles' age groups because it is fixed.

5.3.4 Juveniles' verdicts: juveniles' associates

Despite the fact that Saudi juveniles' judges basically apply the Hanbali doctrine, their verdicts were inconsistent with regard to juveniles' associates. In Chapter Four, there is an extensive discussion on the theory of juveniles' associates (whether juveniles or adults), arguing that the Hanbali and Shafie schools claim that the fixed penalty will only be applicable to an adult.[252] This view looks at distinguishing liabilities between perpetrators (e.g. adult and juvenile). Therefore, there is no criminal responsibility nor penalty for the minor, whereas the adult, who joined the juvenile, will not benefit from being with him (Ibn Qudamah, 1999; Alshirasi, 2003). Unfortunately, the statistics show that there have been many cases where juveniles who have associates were punished far more harshly than those who did not have associates. For instance, Tables 10-10.7 (Appendix 1) demonstrate that there are significant differences between associates in discretionary and fixed lashes and jail time, because the juveniles who had associates seemed to receive more severe punishments than those who did not. According to Table 10.2, the median scores for discretionary lashes for juveniles who had associates is 100.00 while it is much

[250] - In other words, the jail sentences were inconsistent since they were extremely open to the juveniles' judges' discretion to decide without clear guidance or criteria.

[251] - To detail the output from Tables 9.2 and 9.3, we can see that there are no violations for SPSS assumptions in Table 9.2. The main values that are relevant are the Chi-square, degree of freedom (df) and significance level values; these can be found in the table titled Test Statistics (Table 9.1). The Chi-square value is 18.383 so the result is very significant (i.e. there are huge differences in lashing juveniles according to their age group as it is proved that the significance level is .000, which is lower than .05). As a result, according to Table 9.2, the mean ranks for juveniles aged 7-15 years old was 107.46, while for those aged 16-18 years old it was 174.25. The mean ranks for juveniles aged 19-30 was 218.00, which indicates that the last age group gets the most severe lashing, demonstrating the same ambiguous issue that they look like adults yet are juveniles. Pallant (2013, p.243) stated that if we find significant differences between variables, then we should report the mean instead of the median. This is apparent in Table 9.2.

[252] - One reason for this is that the complete meaning of the crime already exists from the adult's side.

lower for those who had not, at 60. Further, according to Table 10.5, the median scores for jail sentences for juveniles who had associates is 12.00, while it was much lower for those who had not by 1.00.

However, the prevalence of fixed lashes as a punishment was higher for those who did not have associates. According to Table 10.6, the mean ranks for fixed lashes for juveniles who had associates was 166.62, while for juveniles who did not have associates it was 202.12. This significant statistical difference in fixed lashes between juveniles who had associates and who did not leads one to question why. Bearing in mind that the fixed lashes are predominantly determined by Allah, they cannot vary from person to another. To answer this question, please refer to Chapters Two, Three, and Four in order to see how fixed penalties are added to extra discretionary punishments without clear criteria. Again, it is very important to create a balance between the crime, its punishment and the juvenile's associates.[253] However, Ibn Alqaiym (1999, p.394) has a different opinion, as he responded to Awadh when he claimed that the complete legislative power is for Allah. He gave some room for the ruler to legitimate some penalties for Ta'zir crimes, as well as to legislate certain conditions for crimes. Ibn Alqayim (1999, p.394) tried to respond to this, claiming that since the crimes' results are different due to their abundance or otherwise, as well as their strong or weak impacts, the crimes' penalties are authoritatively given to the Imams/qadis to choose a balance that is suitable for penalizing based on public interests, place, time and the criminals themselves. However, Ibn Alqayim argued any consolidation between time, place or criminals in the penalty demonstrates a misunderstanding of Sharia.

5.3.5 Juveniles' verdicts: crime types

The researcher decided to choose certain cases (i.e. Ta'zir crimes) that truly show situations where the fixed punishments are not applied, yet the corrective punishments were alternatively applicable, but they were extremely different in quantity. In other words, I chose four specific crimes: theft, adultery, drugs and alcohol, and Hirabah (i.e. armed robbery). The reason is that these crimes are considered the most dangerous in Saudi society and, hence, have more severe punishments in Sharia. For instance, as can be seen in Tables 11-11.6 (Appendix 1).

It would appear that displaying variables inside the judicial decisions, noting the frequency and percentage, should provide a clearer picture about the corrections that can be achieved. Thus, to describe the percentages and frequencies for the offences in this chapter, we can see in Table 11 that four crimes are already fixed in Sharia, yet some of their conditions had not been met, so discretionary punishments are applicable, such as undetermined flogging and jailing. This represented 39.2% or 135 cases for theft offences. With regard to the crime of adultery, this comprised 7.8% or 35 cases, while drugs and alcohol

[253]- Please see Chapter Four, pp.98 and 109 onward.

crimes constituted 17.2% or 59 cases. Furthermore, Hirabah crime was committed 35.8% of the time, or in 123 cases.

These discretionary sentences varied, even for the same crime, such as theft.[254] It is argued here that the main reason could be that the law has not been codified, and there is no Tadwin or any criteria upon which the judge can prescribe the sentences. However, many Saudi judges were confused and prescribed paradoxical decisions, even when some of them depended on the legal maxims. Alkhunain (2010, p.81), who was seen a stereotype for other judges, wrote on how to determine discretionary punishment. Alkhunain posited that discretionary punishment should be similar to fixed penalties for similar crimes. Thus, for the crime of promoting drugs, the discretionary penalty of flogging was similar to that for drinking alcohol, a fixed penalty. Unfortunately, Alkhunain's paper has arguably not assisted in reforming the situation with regard to this research since many judges have prescribed combined punishments (i.e. severe flogging with long jail terms). Further, there are no similar punishments for some discretionary crimes that are comparable to those with fixed penalties in Islamic law. For example, in theft crimes where the conditions for the fixed penalty (i.e. cutting the right hand off) are missed, the discretionary penalty, however, is not, and cannot be, similar to the fixed one.

Tables 11.1-11.6 show that there are significant differences in all three punishments (discretionary lashes, jail and fixed lashes) for the four crimes that are the focus of this thesis (adultery, theft, the consumption of alcohol and/or drugs, and Hirabah). For adultery, the jail penalty is the highest, at 222.63 months (Table 11.1). In contrast, alcohol and drugs punishment are the lowest, with jail terms of 95.18 months. Both crimes have alternatives in terms of punishments according to Alkhunain (2010); for example, jail may not be an appropriate sentence for adultery and alcohol since these two crimes can both be altered in lashing (i.e. because their fixed penalties were whipping, yet the judges herein mixed jail with discretionary lashing). Muhammadin (2011) argued that we can alter jail sentences in other social, economic and personal ways, but did not clarify what precisely what he meant, such as house arrest or curfews, or even fines. Nor did he provide a plan for applying his aim. For adultery, discretionary lashes also numbered the highest, at 224.78 (Table 11.3), and again, the crime of alcohol and drugs consumption was the lowest in discretionary lashes at 132.68. The fixed lashes penalty was the highest for alcohol crime at 209.42 (Table 11.5), while theft crimes had the lowest rate with 162.54. One of the most remarkable notes here is that judges are combining fixed and discretionary penalties. Moreover, through looking at Table 11.5 we can see something rather strange, which is that theft has a fixed lashes penalty other than cutting hand off. The reason why this sounds strange is that theft does not have a fixed lashes penalty, so the verdict might be vague or accommodated wrongly or not accurately (i.e. the case was accommodated as theft while inside the case the culprit admitted that he/she

[254] - See Chapter Four, pp.112 and 123 onwards.

had drunk alcohol, but not theft, so the judge prescribed two penalties: one was for theft and the other was for alcohol).

5.3.6 Juveniles' verdicts: previous convictions

There are no significant differences in all three penalties (discretionary lashes, jail and fixed lashes) in relation to juveniles' precedents, as can be seen in Tables 12-12.5 (Appendix 1). This indicates that precedents were not taken into account by judges when dealing with juveniles' crimes. However, precedents were written down by a public prosecutor so as to trace the juvenile's situation in order to maximize the penalty when the crime was committed for a second time, according to what we have seen in the previous cases presented in this study. Alotaibi (2003, p.464) reported that according to Saudi ulema's fatwa number (1/43) and the Saudi juveniles' system, they are allowed to record juveniles' precedents if they are aged 15 and above in a special file in the court. Yet, Alkhunain (2010, p.96) has forgotten to exempt juveniles from having their sentences increased in cases of recidivism, so it is understood that his paper advised judges to consider precedents in the verdicts even if the accused is a juvenile.

5.4 Summary and recommendation

We have discussed Ta'zir and Qisas in this chapter in conjunction with SPSS analysis and the results thereof. Thus, in Qisas crime, we found that some juveniles were judicially subject to retribution (i.e. they were put to death). This was evident, for example, in case numbers 35314533/3 (2014), 35440121/84 (2014) and 35430024/5 (2014). Subsequently, all of the Qisas cases were examined analytically, cases which I had collected from the three aforementioned courts in Riyadh. This analysis has allowed some critical points to be deduced from them. First, murder crimes were wrongly classified from being semi-intentional into being intentional, such as case no. 35314533/3 (2014) or ignoring the Qisas types completely (i.e. was it intentional, semi-intentional or faulty?), as could be seen in case no. 28/81/267 (2013), or classifying murder crime into a Hudud crime, such as case no. 35440121/84 (2014). Secondly, failing to mention the juveniles' ages occurred repeatedly, such as in case numbers 28/81/267 (2013), 28/20/270 (2013) and 29/14/213 (2013). Indeed, this discretionary practice by Saudi judges has been commented upon critically throughout this research. For example, see cases discussed in Chapters Three and Four.

Thirdly, inconsistent practices by juveniles' judges were evident in Qisas cases. Some judges stopped hearing the suit until the personal claimant came and asked for his rights, such as occurred in case numbers 0000/4 (2012) and 35403531/2 (2014). However, other judges continued hearing a case without the presence of the personal claimant, such as case no. 35440121/84 (2014). Fourthly, some Qisas cases involved other crimes such as crimes of murder and sodomy (e.g. case no. 35403531/2,

2014) or murder and Hirabah (e.g. case no. 0000/4, 2012). As a result, confusion was found in applying association-theory, such as when the juvenile is joined by an adult or another juvenile,[255] which was additionally found in case no. 35430024/5 (2014). Finally, contradictions were apparent in verdicts related to crimes of wounding and causing injuries since I could not find any mention of the Arsh (i.e. compensation), nor the reason why it was not mentioned, as was demonstrated in case no. 29/14/213 (2013).

Moving on to summaries on Ta'zir crimes and their penalties in the Saudi juveniles' system, I only found jailing and flogging in the judicial applications related to juveniles. Otherwise, the other penalties (e.g. admonition, reprimand, threat, fine and seizure of property) were dismissed or, at best, mentioned in very rare cases (to the degree that they were statistically not effective to be mentioned or input in the SPSS). This led me to analyse Ta'zir penalties via SPSS further. In short, the tables indicated in the text above show that there are strong relations between factors such as gender and age groups in Saudi juveniles' verdicts with associates, while there are no strong relations between both gender and age grouping in relation to juveniles' judicial precedents. Furthermore, there were considerable inconsistencies in the discretionary lashes and jail punishments with regard to both genders, except in respect of fixed lashes. Additionally, there were substantial differences in the discretionary lashes, fixed lashes and jail penalties with regard to juveniles' associates, the four discretionary crimes and age groups. However, there were no statistical differences in those three punishments with regard to the juveniles' judicial precedents. Thus, the inconsistency extended to cover almost all the four thematic areas in the Saudi juveniles' system (i.e. codification/Tadwin, the age of criminal liability, crime classification, and punishment). Some potential solutions have been discussed in earlier chapters, except for the classification of crimes and consistency in sentencing, as these were left until now, in order to develop a clearer picture of juvenile crime and punishment.

I would strongly suggest that juveniles' crimes classification and punishments should be re-organised again into distinct procedures, rather than focusing on penalising. The names of crimes cannot be altered in Sharia law,[256] but crimes can, however, be classified according to their punishment in Islam. Hence, we saw Hudud, Qisas and Tazir penalties. Yet, in juveniles' crimes, we cannot rely on punishment since they are not capable of withstanding such penalties, and thus we need to concentrate on two elements – rehabilitative and corrective procedures. Rehabilitative procedures can be defined according to Aljundi (1986, p.70) as being "diverse policies that involve varied educational, economic and social procedures against juveniles". Such rehabilitative procedures would be applicable to juveniles aged between 11-15 years old, as discussed in Chapter Three. Additionally, these varied rehabilitative processes can be, but

[255] -For more detail, refer to Chapter Four, p.98.
[256] - As evident in Chapter One, pp.37-41 onwards.

not limited to, returning the juveniles formally to sound parents/guardians,[257] sending the juveniles to an appropriate vocational, industrial or commerce institutions to be trained,[258] involving the juveniles in certain duties (e.g. attending useful lectures etc.), exercising admonition and reprimand, and finally, depositing the juveniles in social welfare institutions or appropriate hospitals. In short, these rehabilitative processes can derive their legitimacy from Sharia policy as long as they do not breach Sharia interests in upholding goodness and preventing evil (Ibn Alqayim, 2014, p.16).

In contrast, corrective procedures are a bit stronger than rehabilitative ones. Therefore, corrective processes are only applied to juveniles who have committed serious crimes (e.g. murder, Hudud crimes) and those aged 15-18 years old. Further, these corrective procedures can involve some other people (i.e. juveniles' relatives in paying the blood money). Examples of these procedures can include, but are not limited to, financial corrective punishment (e.g. blood money, fines, seizure of property or the item used in the crime, being dismissed from their employment) and negative corrective procedures for freedom (e.g. temporary imprisonment in an appropriate social institution, exile). Please note that, the time span for these procedures varies from person to person, and place to place. However, it is the responsibility of the legislative and judicial authorities in Saudi to decide which time span is most beneficial for juveniles, bearing in mind determining an appropriate maximum amount for those procedures in order to employ the principle of individualization of punishments and legislation. Until then, I beg to move the motion in Saudi Shura to discuss these vital matters, since I have identified these problems and suggested some possible solutions for them.

[257] - The Prophet said in the Hadith "the child's right over his/her parents is to educate and guide him/her". Hence, the parents must be more honest in their parental responsibilities as to take the matter of bring up the children seriously.

[258] - Omar Ibn Alkhattab, the second successor caliph, said “when I see a wonderful teenager, I would ask does he have a job? If not, it would be a shame.”

Chapter Six: conclusion

It has seen that the Saudi legal system does not clearly and thematically recognize juveniles in prosecution. One reason for this is that juveniles have no laws that organize their legal-judicial affairs. Instead, we find laws related solely to social-administrative issues. However, those laws supposedly related to juveniles in Saudi have not addressed systematic issues such as determining the age of criminal liability for minors, or the need to provide classification for their crimes. There have also been, as noted, inconsistent penalties and contradictions between theories (i.e. what is written as laws, which include controversial terminologies e.g. juveniles, minors, Tifl, Tadwin, Taqnin) and the judicial practices (i.e. what happens in front of courthouses). Through his professionalism, combined with experience as a paralegal for some years and his work as an academic lecturer, the researcher has been able to support his claims via judicial applications from the general, criminal and juveniles' circle courts in Riyadh, Saudi Arabia.

Methodologically, I integrated a mixed methods approach using different analytical methods. The benefit of integrating a mixed methods approach can be presented in two things; the contextualization of case file data and the statistical evaluation of case file data. Both reflect two separate methodological perspectives, and added greater depth to the case files. The aim of this study was to identify some substantial problems relating to the Saudi juveniles' system. I could not, to the best of my knowledge, find any research conducted to thematically and statistically address this vital topic. Herein, I summarise the findings from across the five chapters.

Chapter One was dedicated to exploting the case study material. In the second chapter, it was shown that the problem of codification in the Saudi juveniles' system is based on two factors. The first element relates to terminologies (e.g. codification and Tadwin) and the second relates to the disadvantages that result from codification, such as commitment to law (not Sharia), blocking Ijtihad and altering Sharia regulations. In fact, the second element could be a result of the first factor according to Matter (2013 p.15). Tadwin and codification are different, the former (Tadwin) is registering a knowledgethat can involve Islamic rationales and resources (e.g. texts from the Quran), whereas the latter (codification) is binding and can alter Sharia (e.g. excluding Islamic resources from the codes). In other words, codification may not express its belongings to Islamic resources.

In codification we cannot be sure about preserving the Islamic credo and jurisprudence. Since 1972, the general presidency of scholarly research and Ifta in Saudi illegalized codification in the light of Sharia law. However, according to Dekmejian (2003, p. 403) the constitutional and social life in Saudi may have been affected by some new thinkers. This resulted in many serious calls to establish a codification

of Islamic law s. In this regard, the Saudi government issued its constitutional law/Nizam, stating that Islam is its religion and the Quran and Sunnah of the Prophet are its resources of law.

Some writers such as Alsahli (2007), Alrashid (2008), Shuga'a (2015) and Aljura'y (2015) believe that these nizams were types of codification, since they were regulating important affairs relating to crucial topics such as criminal procedures, In contrast, others such as Matter (2013) and Alahow (2015) think that they were not codifications at all, since they were governed by Shria sovereignty in Saudi. As a result, the situation seems, to some extent, vague and overlapping between terminologies. There is also fear that there could be some negative results from codification.

This thesis advances the idea that Tadwin could be the best solution. One reason for this is that Tadwin is compatible with Saudi constitutional law, as Tadwin will preserve the Islamic ideological root. Secondly, despite Tadwin being binding in the sense that the rules gathered in the Mudawanah (the book) it gives sthe judge a chance to recuse if he is not satisfied with the registered rule (Tadwin). This recusing must be rationalized through Islamic perspectives in the light of either basic or branch resources. Therefore, Tadwin requires scholars and specialized people to get involved closely to collect, then select what is the Rajih (the qualified) opinion from different juristic views. This means that Tadwin will have slight different processes with regard to codification. These procedures vary as they are just suggestions. These processes are scientific and procedural operations. The former refers to which resources can be determined to extract rules and regulations relating to juveniles, whereas the latter belongs to executive management.

With regard to the scientific operation of Tadwin, Alalfi (2015, p.152) reported that we can differentiate between three types of rules in Islam; Sharia, Fiqh (juristic) and Ijtihadi (renewable) regulations. What is more, Sharia rules are binding, since they are based on fixed texts such as the Quran, Sunnah and an authentic consensus. However, Fiqh (juristic) regulations can be based on speculation (Zanni), therefore, it might be subject to change according to a different time, place and people following different reasons. Hence, these juristic rules are not binding. Furthermore, the sources for these juristic rules can be found in any of the four juristic schools (i.e. Hanafai, Maliki, Shafie and Hanbali), as well as the books of Islamic legal theory (Usul Alfiqh), legal maxims and Fatawa books.

The third cluster is the Ijtihadi (renewable) rules (i.e. things that have not had any given rules from Sharia nor from Fiqh (juristic) rules, because they are new matters). Herein, we can rely more on customs, collective Ijtihad via institutions and contemporary legal notions resulting from practices by any nations (e.g. the British), in which they are not against Sharia. In short, these could be the main three types of rules in Islamic law generally and in the juveniles' system specifically. However, those three types should have certain procedural operations in order to make the most of them. Otherwise, we

will return to the starting point where we discussed codification again and again (if we don't apply a certain methodological approach to these three types of resources, we may not be able to establish a proper Tadwin for juveniles).

With regard to procedural operation, we have stated that the involvement of the General Presidency of scholarly research and Ifta in Saudi is crucial. Therefore, within these two procedures, Tadwin will hopefully eradicate, or at least, minimize inconsistency in the Saudi Juveniles' system, which we saw throughout chapters 3, 4 and 5.

In Chapter Three, we saw that the juveniles' statutes in Saudi are separated and contain real contradictions. Furthermore, while the law of SOH stated that it will accommodate discreet juveniles who are aged between 7 and 18 years old, the law of CIG stated that it will generally accommodate girls whose ages do not exceed 30 years. It seems that these two laws of SOH and CIG cannot, in any way, be regarded as proper statutes for juveniles. One reason for this is that both of them pertain to social affairs, but not the legal and judicial affairs of juveniles. Another reason is that both of them contradict the international convention on child's rights, which necessitates the determining of a minimum age for juveniles' criminal liability below which they do not possess any criminal responsibility. Unfortunately, the Saudi juveniles' system may have dual standards with regard to theory and judicial practice. Moreover, in judicial practice Saudi juveniles' judges tend to apply the Hanbali doctrine as detailed in Chapter Two of this thesis. This Hanbali juristic doctrine claims that the age of puberty, hence criminal liability, will be attained at 15 years of age. However, a child can be mature before 15 years old if the natural physical things appeared on his/her body. Alharthi (2012), Alna'iem (2011), Alhariqy (2001), Ma'bdah (2011) reported that this opinion is followed by almost all Muslim ulema except Abu Hanifa, some Maliki scholars such as Alhattab (2003) and Ibn Hazm (1988). In addition, Abu Hanifa argued that the age of puberty for boys is 18, but for girls it is 17 years However, some Maliki scholars have argued that it is 18 years old for both boys and girls. What is more, both sides here back up their words by the same evidence from the Quran and logic. Thus, we already discussed their proofs, followed by critical discussion on Abu Hanifa's differentiation between boys and girls with regard to their age. Providing that the age of criminal liability should be at 18 years old.

As discussed throughout this thesis the Saudi Islamic juveniles' system has just determined that the time span for childhood is from 7 till 18 years of age for boys and untill 30 years old for girls. However, in proving puberty the judge will be the only one who deciedes whether the defenednt is juvenile. Unfortunately, this is not the only weakness within the Saudi juveniles' system, as there is another instruction by the decision of Saudi's justice minister, number 310 on 30/4/1974. In elaborating this decision, minors aged 15-18 years old will go on trial according to the following:

1- If the committed crime involved homicide, injuring or cutting, then the juvenile will be sent to the general or criminal court. Hence, they can be subject to fixed penalties (i.e. Hudud and Qisas crimes), because the age of puberty is 15 years old according to the Hanbali doctrine.
2- If the crime does not involve homicide, injuring or cutting, then the juvenile will be delivered to the so-called juveniles' court inside the (SOH) for boys or (CIG) for girls. Consequently, the minor will not be subject to fixed penalties, but might get a severe corrective punishment (Alsaifi, 1995).

Despite this, Truskowska (2001) continued to confirm that the wrong practices came from those of the CPVPV (i.e. the religious police) in Saudi, as they applied too vague Islamic laws which cannot be condemned in Saudi at all. The author also tried to prescribe two possible answers for this problem in Saudi. First, that all laws in Saudi, not just the juveniles' system, need to be revised so as to oblige Saudi to comply with international laws, especially human rights. Another solution put forward was for Saudi to apply a gentler brand of Islamic authority. From such viewpoints it is concuded that Ahadiths can critically be pertaining to religious affairs solely, such as prayers, fasting and so on. Hence, Ma'bdah (2011 p. 207) argued that the age of Ibadaat (i.e. religious affairs) should be 15 years old for boys and girls. Consequently, children learn how to pray and so on from a reasonably early age, that is, 7 years old. Although, the age of Muamalaat (e.g. criminal responsibility) needs more awareness and cautiousness. Therefore, this should be at the age of 18 years old for both genders, as the majority of juristic doctrines do not differentiate between boys and girls in terms of age.

In chapter four, we critically and evidently saw that there is no different classification for juveniles' crimes in Saudi Arabia from that of adults. Further, the only Article that may categorize some crimes is that of the Abu Dhabi document in Article 19. However, it has misleadingly over-classified the crimes into more than three, which is the traditional categorization of crimes in Islamic law, the same as in the Saudi juveniles' system. For instance, in Sharia, by a proxy Saudi legal system, there is no such term as the crime of life imprisonment, yet prison itself is a type of discretionary punishment (Awadh, 2008). Another example is that the crime of murder is exactly classified under the crime of Qisas (i.e. the crime of murder does not have a separate classification in Islam according to Alshammary 2012, p.79).

Within the thesis discussion was applied to four fixed crimes, Zina (adultery), drinking Alkhamr (alcohols and drugs) Sariqah (theft) and Hirabah (armed robbery). Subsequently, each crime's definition, its legislative text and some important applications to each crime from Riyadh's general, criminal and juveniles' circle courts were examined. Those applications clearly showed us how miserable juveniles' situations are when facing punishments that are mainly ordered for adults' crimes. This led to unexpected verdicts from juveniles' judges in their decisions. For example, there were ten

critical points that related to those judicial cases above.[259] Further, those judicial verdicts show us that despite the fact that these crimes are fixed, juveniles' judges exceeded the fixed number of lashes[260]. In other words, if the fixed crimes' conditions are not met, the juveniles' judge will still have the discretionary authority to prescribe a long jail sentence or other sentences such as discretionary lashes. Consequently, this could be against the determination of both the crime and its penalty.

The researcher postponed discussion of Qisas and Ta'zir crimes to Chapter Five because of their characteristics. Aljundi (1986 p.257) wrote that Ta'zir crimes are confidently more appropriate to juveniles' abilities either bodily or intellectually as well as Ta'zir crimes, which are so wide so as to cover any unfixed crimes by Sharia law. In Chapter Five it was found, with regard to Qisas crimes, that some juveniles were judicially subject to retribution (i.e. they were put to death). For example, see our discussion on cases (no. 35314533/3, 2014), (no. 35440121/84, 2014) and (no.35430024/5, 2014). After that we analytically examined all of the Qisas cases, which had been collected from the three courts in Riyadh. It was concluded that, firstly, there was a wrong classification for murder crimes, from being semi-intentional into being intentional such as case (no. 35314533/3, 2014) or ignoring the Qisas types completely (i.e. was it intentional, semi-intentional or faulty?) (e.g. case no.28/81/267, 2013) or classifying the crime of murder into a Hudud crime such as case (no. 35440121/84, 2014). Secondly, there were occasion when the juveniles' ages were ignored for instance in cases (no.28/81/267, 2013), (no.28/20/270, 2013) and (no.29/14/213, 2013). I have critically commented on this discretionary practice by Saudi judges throughout this research. For example, see the cases discussed in chapters 3 and 4.

Thirdly, inconsistent practices from juveniles' judges in Qisas cases occurred, so while some of them stopped hearing the case until the personal rights' claimant came and asked for his right such as cases (no.0000/4, 2012) and (no.35403531/2, 2014), other judges continued the hearing without the presence of the personal rights' claimant such as (no. 35440121/84, 2014). Fourthly, some Qisas cases involved other crimes such as crimes of murder and sodomy (e.g. case no.35403531/2, 2014) or murder and Hirabah, such as case (no.0000/4, 2012). As a result, confusion in applying association-theory (i.e. if the juvenile is joined by an adult or another juvenile) occurred and this was found in case (no.35430024/5, 2014). Finally, there were contradictions in verdicts relating to the crimes of wounding and injuries, see case (no.29/14/213, 2013).

Moving on to summaries of Ta'zir crimes and their penalties in the Saudi juveniles' system, I only found jailing and flogging in the judicial applications relating to juveniles. Other penalties (e.g. admonition,

---

[259] - See p.100 onward of this thesis, please.

[260] - Which is 100 whips in Non-Muhsan adultery, 40 or 80 lashes for alcohol, as it depends on the applicable juristic doctrine, despite the fact that Saudi judges are ordered by King Abdul Aziz to apply mainly Hanbalisim.

reprimand, threat, fine and seizure of the property) were dismissed or, at least only mentioned in rare cases. Statistically, they were not of sufficient number to be mentioned or input in the SPSS. This what made me further analyse Ta'zir penalties via SPSS. Appendix 2 show us that there are strong relations between factors such as gender and age grouping in Saudi juveniles' verdicts with associates, while there are no strong relations between both gender and age grouping in relation to juveniles' judicial precedents. Furthermore, there was great inconsistency in the discretionary lashes and jail punishments with regard to both genders, except with regard to fixed lashes. Additionally, there were great differences in the number of discretionary lashes, fixed lashes and jail penalties with regard to juveniles' associates, the four discretionary crimes and age groupings. However, there were no statistical differences in those three punishments with regard to the juveniles' judicial precedents. Thus, there were issues pertaining to inconsistency over almost all of the four thematic areas in the Saudi juveniles' system (i.e. codification/Tadwin, the age of criminal liability, crimes' classification and punishment).

Recommendations:

Given all of these issues, I would strongly suggest that juveniles' crimes classification and punishments should be re-organised into distinct procedures rather than focusing on penalising. However, since crimes' names cannot, as noted in Chapter One, be altered in Sharia law, they will need to be classified according to their punishments. Hence, we saw Hudud, Qisas and Tazir penalties. However, in juveniles' crimes we cannot rely on punishments, since they are not capable of it, so we need to concentrate on two things; rehabilitative and corrective procedures. Rehabilitative proceedings can be defined according to Aljundi, (1986, p.70) as "mixed of diverse polices involves varied educational, economic and social procedures against juveniles".

These rehabilitative procedures will be applicable to juveniles whose ages are between 11-15 years old, as discussed in Chapter Three. Moreover, these varied rehabilitative processes can include returning the juveniles formally to their good parents/guardians, sending the juveniles to an appropriate vocational, industrial or commercial institution to be trained, or involving the juveniles in certain duties (e.g. attending some useful lectures etc.), admonition, reprimand, finally, depositing the juveniles in social welfare institutions or appropriate hospitals. These rehabilitative processes can derive their legitimacy from Sharia policy as long as they do not breach Sharia interests in spreading uprising goodness and preventing evilness (Ibn Alqayim, 2014, p.16).

That said, and of concern within the thesis is the fact that corrective procedures are a bit stronger than rehabilitative ones. Therefore, corrective processes are only applied to juveniles who have committed serious crimes (e.g. murder, Hudud crimes) and whose ages are between 15 and 18 years. These corrective procedures can involve some other people (i.e. juveniles' relatives in paying blood money). Examples of these procedures include, but are not limited to; financial corrective punishment (e.g. blood money, fines, seizure of the property or the item used in crimes, dismissal from the job) and negative

corrective procedures for freedom (e.g. temporary imprisonment in an appropriate social institution and exile). However, the time span for these procedures varies from person to person and from one place to another and this is important because situations are very different. Although, it is the responsibility of the legislative and judicial authorities in Saudi to statistically decide which time span is most beneficial for juveniles, bearing in mind determining an appropriate maximum amount for those procedures in order to employ the principle of individualization of punishments and legislations. Until then, I beg to move the motion in Saudi Shura to discuss these vital matters since I have identified the problems and suggested some possible ansewrs to them.

Appendix 1: Statistical tables

Table 1: Juveniles' Gender

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	235	86.7	87.0	87.0
	Female	35	12.9	13.0	100.0
	Total	270	99.6	100.0	
Missing	System	1	.4		
Total		271	100.0		

Table 2: Gender by Associates Cross-tabulation[261]

			Associates		
			Yes	No	Total
Gender	Male	Count	259	57	316
		% within Gender	82.0%	18.0%	100.0%
		% within Associates	90.2%	100.0%	91.9%
		% of Total	75.3%	16.6%	91.9%
	Female	Count	28	0	28
		% within Gender	100.0%	0.0%	100.0%
		% within Associates	9.8%	0.0%	8.1%
		% of Total	8.1%	0.0%	8.1%
Total		Count	287	57	344
		% within Gender	83.4%	16.6%	100.0%
		% within Associates	100.0%	100.0%	100.0%
		% of Total	83.4%	16.6%	100.0%

[261] - To interpret the above output from Tables 2-2.2, we can see that there is no violation for the Chi-square assumptions since more than 80% of cells have a frequency of more than 5. This can be found in the footnote signalled "a" of Table 2.1. Subsequently, the main value we are interested in is the Pearson Chi-square (Table 2.1). However, since we have a 2 by 2 table (i.e. each of the variables have only two categories), then we should look at a continuity correction in the second row because this is Yates's correction for continuity, which compensates for overestimates of the Chi-square value when used with 2 by 2 tables. In our example, the continuity correction value is 4.819 with an associated significance level of .028; this is presented in the column labelled Asymp. Sig. (2-sided). Consequently, there is a significant difference as the associate significance level is less than .05 (i.e. it is .028 in the case above). This does mean that there is a strong relation between gender and associates in juveniles' verdicts in Saudi Arabia, so judges are already aware of that. For instance, in Table 2.1 it appears that while 82% of male juveniles are associated with others when committing crimes, 100% of girls commit crimes in association with others.

Table 2.1: Chi-Square Tests for Gender by Associates Cross-tabulation

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	6.054[a]	1	.014		
Continuity Correction[b]	4.819	1	.028		
Likelihood Ratio	10.627	1	.001		
Fisher's Exact Test				.007	.005
Linear-by-Linear Association	6.036	1	.014		
N of Valid Cases	344				

a. 1 cells (25.0%) have expected count less than 5. The minimum expected count is 4.64.

b. Computed only for a 2x2 table

Table 2.2: Symmetric Measures for Gender by Associates[262]

		Value	Approx. Sig.
Nominal by Nominal	Phi	-.133-	.014
	Cramer's V	.133	.014
N of Valid Cases		344	

[262] - We will now investigate the size effect. Hence, the size effect can be found in Table 2.2, so in this case we should depend upon the Phi Coefficient criteria as we only have 2 by 2 tables. Therefore, it appears that the Phi value is -.133, which is considered a small effect using Cohen's (Pallant, 2013, p.228) criteria of .10 for small effect, .30 for medium effect and .50 for large effect.

Table3: Gender by Precedents Cross-tabulation[263]

			Precedents			
			Yes	No	Not specified	Total
Gender	Male	Count	86	164	66	316
		% within Gender	27.2%	51.9%	20.9%	100.0%
		% within Precedents	96.6%	89.6%	91.7%	91.9%
		% of Total	25.0%	47.7%	19.2%	91.9%
	Female	Count	3	19	6	28
		% within Gender	10.7%	67.9%	21.4%	100.0%
		% within Precedents	3.4%	10.4%	8.3%	8.1%
		% of Total	0.9%	5.5%	1.7%	8.1%
Total		Count	89	183	72	344
		% within Gender	25.9%	53.2%	20.9%	100.0%
		% within Precedents	100.0%	100.0%	100.0%	100.0%
		% of Total	25.9%	53.2%	20.9%	100.0%

Table3.1: Chi-Square Tests for Gender by Precedents

	Value	Df	Asymp. Sig. (2-sided)
Pearson Chi-Square	3.942[a]	2	.139
Likelihood Ratio	4.560	2	.102
Linear-by-Linear Association	1.600	1	.206
N of Valid Cases	344		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 5.86.

[263] - To explain the above output from Tables 3-3.2, we can see that there is no violation of Chi-square assumptions since more than 80% of cells have a frequency of more than 5. As stated above under Table 3.1, 0 cells (0.0%) have an expected count of less than 5. The minimum expected count is 5.86. Further, since there is a 2 by 3 table, whereby one variable (gender) has only two categories while the other (precedents) has three categories, a continuity correction is not pertinent. However, in this example, the Pearson Chi-square value is 3.942 with an associated significance level of .139. This is presented in the column labelled Asymp. Sig. (2-sided). Consequently, there is no significant difference as the associated significance level is more than .05 (i.e. it is .139 in our case above). This does not mean that there is a strong relation between gender and precedents in juveniles' verdicts in Saudi Arabia, so judges should not take this into account while prosecuting juveniles' offences. For instance, in Table 3 it appears that while 51.9% of juvenile boys had no precedents, juvenile girls with no precedents numbered 67.9%. In addition, while the proportions of those boys and girls who had precedents seem close together (i.e. boys are 27.2 and girls are 10.7), there are similar proportions for those juveniles who had not specified their precedents (i.e. boys are 20.9 and girls are 21.4). Unfortunately, the judicial situation for juveniles in Saudi is that judges and the Prosecutor-General tend to take juveniles' previous convictions into account while prosecuting them; see for example our discussion on cases in Chapter Three (from p.68) and Chapter Four (from p.96).

Table3.2: Symmetric Measures for Gender by Precedents[264]

		Value	Approx. Sig.
Nominal by Nominal	Phi	.107	.139
	Cramer's V	.107	.139
N of Valid Cases		344	

Table 4: Ranks for sentences_lashes by Gender[265]

	Gender	N	Mean Rank	Sum of Ranks
sentences_lashes	Male	316	168.07	53111.00
	Female	28	222.46	6229.00
	Total	344		

Table 4.1: Test Statistics on sentences_lashes by Gender

	sentences_lashes
Mann-Whitney U	3025.000
Wilcoxon W	53111.000
Z	-2.793-
Asymp. Sig. (2-tailed)	.005

Table 4.2: Report on sentences_lashes by Gender

Gender	N	Std. Deviation	Median
Male	316	347.546	80.00
Female	28	195.246	200.00
Total	344	337.711	90.00

264 - The size effect can be found in Table 3.2, so in this case we should depend upon Cramer's V criteria as we have 2 by 3 tables. Cramer's V criteria take into account degrees of freedom, so it appears that the value is .10 which is considered a small effect using Cramer's V (Pallant 2013, p.228) criteria (for three categories, which is of .07 for small effect, .21 for a medium effect and .35 for a large effect).

265 - To elaborate, the output from Mann-Whitney U test above shows there are no violations of the SPSS assumptions in Table 4 above as SPSS does not indicate anything about this. the main value that we need to look at here is the Z value. This can be found at in the table titled Test Statistics (Table 4.1). The Z value is -2.793 so the result is very significant (i.e. the differences between males and females in the sentences-lashes are statistically important). As a result, according to Table 4, the mean ranks for males is (168.07), while for females it is (222.46). However, Pallant (2013, p.237) reported that when statistical differences are found, we should report the median scores instead of mean rank because the statistical analysis here is non-parametric. The median score for males is 80 while it is much more severe for females, with 200. This, again, emphasizes the unsuitability in discretionary lashes between boys and girls, let alone in one gender only, as has been demonstrated in analytical cases in Chapters Two, Three, Four and [early] Five.

Table 5: Ranks for sentences_jail by Gender[266]

	Gender	N	Mean Rank	Sum of Ranks
sentences_jail	Male	316	168.22	53157.50
	Female	28	220.80	6182.50
	Total	344		

Table 5.1: Test Statistics on sentences_jail by Gender

	sentences_jail
Mann-Whitney U	3071.500
Wilcoxon W	53157.500
Z	-2.698-
Asymp. Sig. (2-tailed)	.007

Table 5.2: Report on sentences_jail by Gender

Gender	N	Std. Deviation	Median
Male	316	29.798	6.00
Female	28	16.237	18.00
Total	344	28.933	7.00

Table 6: Ranks for sentences_fixed by Gender[267]

	Gender	N	Mean Rank	Sum of Ranks
sentences_fixed	Male	316	172.48	54504.50
	Female	28	172.70	4835.50
	Total	344		

[266] - To Interpret, there are no violations of the SPSS assumptions in table 5 above as SPSS doesn't indicate anything about this. the main value that we need to look at here is the Z value; this can be found in the table titled Test Statistics (table 5.1). The Z value is -2.698 so the result is really significant (i.e. the differences between males and females in the sentences_jail are statistically important as it is proven that the significance level is .007, which is much lower than .05). As a result, according to table 5 the mean rank for males is (168.22), while for females it is (220.80). However, Pallant (2013) reported that when statistical differences are found, we should report the median scores instead of the mean rank. Unfortunately, SPSS doesn't provide this immediately with the results above, so we need to make extra efforts to gain the median scores as shown above in table 5.2 The median scores for males in table 5.2 is 6 months while it is much more severe for females with 18 months. Please note that in respect to jail sentence, the researcher uses months in counting the jail's length, yet in jailing less than a month (i.e. 10 or 19 days) it will be rounded up (e.g. 19 days means a month, while 10 days might mean nothing!).

[267] - To detail, there are no violations of the SPSS assumptions in table 6.1 above as SPSS doesn't indicate anything about this. The main value that we need to look at here is the Z value, this can be found in the table titled Test Statistics (table 6.1). The Z value is -.024 so the result is not really significant (i.e. the differences between male and female in the sentences_fixed are statistically not important as it is proved that the significance level is .981, which is much more than .05). As a result, according to table 6 the mean ranks for males are (172.48), while for females are (172.70). Therefore, there is no need for median scores instead of mean rank. The reason for this is that the fixed lashes is already determined by Allah. Hence, we should not find any variations in it except in Khamr fixed penalty since there are different juristic opinions about it (i.e. whether 80 or 40 lashes). Although, Saudi juveniles' judges are applying Hanbali doctrine which specifies Khamr fixed penalty at 80 lashes as we have seen in chapter four.

Table 6.1: Test Statistics on sentences_fixed by Gender

	sentences_fixed
Mann-Whitney U	4418.500
Wilcoxon W	54504.500
Z	-.024-
Asymp. Sig. (2-tailed)	.981

Table 7: Age_group

		Value	Count	Percent
Standard Attributes	Label	<none>		
Valid Values	1	7-15 years old	28	8.1%
	2	16-18 years old	287	83.4%
	3	19-30 years old	29	8.4%

Table 7.1: Age_group * Precedents Cross-tabulation

			Precedents			
			Yes	No	Not specified	Total
Age_ group	7-15 years old	Count	6	13	9	28
		% within Age_group	21.4%	46.4%	32.1%	100.0%
		% within Precedents	6.7%	7.1%	12.5%	8.1%
		% of Total	1.7%	3.8%	2.6%	8.1%
	16-18 years old	Count	78	151	58	287
		% within Age_group	27.2%	52.6%	20.2%	100.0%
		% within Precedents	87.6%	82.5%	80.6%	83.4%
		% of Total	22.7%	43.9%	16.9%	83.4%
	19-30 years old	Count	5	19	5	29
		% within Age_group	17.2%	65.5%	17.2%	100.0%
		% within Precedents	5.6%	10.4%	6.9%	8.4%
		% of Total	1.5%	5.5%	1.5%	8.4%
	Total	Count	89	183	72	344
		% within Age_group	25.9%	53.2%	20.9%	100.0%
		% within Precedents	100.0%	100.0%	100.0%	100.0%
		% of Total	25.9%	53.2%	20.9%	100.0%

Table 7.2: Chi-Square Tests on Age_group * Precedents

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	4.266[a]	4	.371
Likelihood Ratio	4.117	4	.390
Linear-by-Linear Association	.327	1	.567
N of Valid Cases	344		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 5.86.

Table 7.3: Symmetric Measures on Age_group * Precedents

		Value	Approx. Sig.
Nominal by Nominal	Phi	.111	.371
	Cramer's V	.079	.371
N of Valid Cases		344	

Table 8: Age_group * Associates Crosstabulation

			Associates		
			Yes	No	Total
Age_group	7-15 years old	Count	27	1	28
		% within Age_group	96.4%	3.6%	100.0%
		% within Associates	9.4%	1.8%	8.1%
		% of Total	7.8%	0.3%	8.1%
	16-18 years old	Count	231	56	287
		% within Age_group	80.5%	19.5%	100.0%
		% within Associates	80.5%	98.2%	83.4%
		% of Total	67.2%	16.3%	83.4%
	19-30 years old	Count	29	0	29
		% within Age_group	100.0%	0.0%	100.0%
		% within Associates	10.1%	0.0%	8.4%
		% of Total	8.4%	0.0%	8.4%
	Total	Count	287	57	344
		% within Age_group	83.4%	16.6%	100.0%
		% within Associates	100.0%	100.0%	100.0%
		% of Total	83.4%	16.6%	100.0%

Table 8.1: Chi-Square Tests on Age_group * Associates

	Value	Df	Asymp. Sig. (2-sided)
Pearson Chi-Square	10.979[a]	2	.004
Likelihood Ratio	16.976	2	.000
Linear-by-Linear Association	.172	1	.678
N of Valid Cases	344		

a. 2 cells (33.3%) have expected count less than 5. The minimum expected count is 4.64.

Table 8.2: Symmetric Measures on Age_group * Associates

		Value	Approx. Sig.
Nominal by Nominal	Phi	.179	.004
	Cramer's V	.179	.004
N of Valid Cases		344	

Table 9: Ranks for sentences_jail by Age_group[268]

	Age_group	N	Mean Rank
sentences_jail	7-15 years old	28	120.48
	16-18 years old	287	172.93
	19-30 years old	29	218.52
	Total	344	

Table 9.1: Test Statistics on sentences_jail by Age_group

	sentences_jail
Chi-Square	14.041
df	2
Asymp. Sig.	.001

[268] - To interpret the output of Tables 9-9.1 numerically, there are no violations for the SPSS assumptions in Table 9. The main values pertinent here are the Chi-square, degree of freedom (df) and significance level values; these can be found in the table titled Test Statistics (Table 9.1). The Chi-square value is 14.041 so the result is very significant (i.e. there are huge differences in jailing juveniles according to their age group). As a result, according to Table 9, the mean ranks for juveniles aged 7-15 years old is 120.48, while for those aged 16-18 years old it is 172.93. Also, the mean ranks for juveniles aged 19-30 is 218.52, so this indicates that the last age group gets the most severe jail sentences. While they look like adults, they were given the most severe sentences as juveniles. There was something ambiguous here. Pallant (2013, p.243) stated that if we find significant differences between variables, then we should report the mean instead of the median. This was done in Tables 9 and 9.1.

Table 9.2: Ranks for sentences_lashes by Age_group

	Age_group	N	Mean Rank
sentences_lashes	7-15 years old	28	107.46
	16-18 years old	287	174.25
	19-30 years old	29	218.00
	Total	344	

Table 9.3: Test Statistics

on sentences_lashes by Age_group

	sentences_lashes
Chi-Square	18.383
Df	2
Asymp. Sig.	.000

Table 9.4: Ranks for sentences_fixed by Age_group[269]

	Age_group	N	Mean Rank
sentences_fixed	7-15 years old	28	160.00
	16-18 years old	287	173.74
	19-30 years old	29	172.26
	Total	344	

[269] - To explain the output from Tables 9.4-9.6: there are no violations for SPSS assumptions in Table 9.4 as SPSS does not indicate this. The main values that are relevant are the Chi-square, degree of freedom (df) and significance level values; these can be found in the table titled Test Statistics (Table 9.5). The Chi-square value is 2.410 so the result is not really significant (i.e. there are huge differences in fixed penalties for juveniles according to their age group, as it is proved that the significance level is .300, which is more than .05). As a result, according to Table 9.4 the mean ranks for juveniles aged 7-15 years old was 160.00, while for those aged 16-18 years old it was 173.74. Also, the mean ranks for juveniles aged 19-30 was 172.26, indicating no statistical importance. We can see from Table 9.6 that the median for all three groups is .oo.

Table 9.5: Test Statistics

on sentences_fixed by Age_group

	sentences_fixed
Chi-Square	2.410
Df	2
Asymp. Sig.	.300

Table 9.6: Report on sentences_fixed BY Age_group

Age_group	N	Std. Deviation	Median
7-15 years old	28	.000	.00
16-18 years old	287	21.759	.00
19-30 years old	29	23.363	.00
Total	344	21.033	.00

Table 10: Ranks on sentences_lashes by Associates[270]

	Associates	N	Mean Rank	Sum of Ranks
sentences_lashes	Yes	287	178.47	51220.50
	No	57	142.45	8119.50
	Total	344		

[270] - To explain the output from Tables 10-10.2, we can see that no violations for the SPSS assumptions. The main relevant value is the Z value; this can be found in the table titled Test Statistics (Table 10.1). The Z value is -2.515 so the result is very significant (i.e. the differences between juveniles who had associates and those who did not in the sentences_lashes are statistically important as it is proved that the significance level is .012, which is lower than .05). As a result, according to Table 24, the mean ranks for juveniles who had associates is (178.47), while for juveniles who did not have associates is (142.45). According to Table 10.2, the median scores for juveniles who had associates is 100.00 while it is much lower for those who did not, by 60.

Table 10.1: Test Statistics on

sentences_lashes by Associates

	sentences_lashes
Mann-Whitney U	6466.500
Wilcoxon W	8119.500
Z	-2.515-
Asymp. Sig. (2-tailed)	.012

Table 10.2: Report on sentences_lashes by Associates

Associates	N	Std. Deviation	Median
Yes	287	363.830	100.00
No	57	86.290	60.00
Total	344	337.711	90.00

Table 10.3: Ranks on sentences_jail by Associates[271]

	Associates	N	Mean Rank	Sum of Ranks
sentences_jail	Yes	287	183.54	52675.00
	No	57	116.93	6665.00
	Total	344		

Table 10.4: Test Statistics on sentences_jail

by Associates

	sentences_jail
Mann-Whitney U	5012.000
Wilcoxon W	6665.000
Z	-4.646-
Asymp. Sig. (2-tailed)	.000

[271] - For Tables 10.3-10.5, there are no violations for SPSS assumptions. The most relevant value is the Z value; this can be found in the table titled Test Statistics (Table 10.4). The Z value is -4.646 so the result is very significant (i.e. the differences between juveniles who had associates and those who did not in the sentences_jail are statistically important as the significance level is .000, which is lower than .05). As a result, according to Table 10.3, the mean ranks for juveniles who had associates is (183.54), while for juveniles who did not have associates it is (116.93). According to Table 10.5, the median scores for juveniles who had associates is 12.00, while it was much lower for those who had not by 1.00.

Table 10.5: Report on sentences_jail by Associates

Associates	N	Std. Deviation	Median
Yes	287	30.801	12.00
No	57	7.356	1.00
Total	344	28.933	7.00

Table 10.6: Ranks on sentences_fixed by Associates[272]

	Associates	N	Mean Rank	Sum of Ranks
sentences_fixed	Yes	287	166.62	47819.00
	No	57	202.12	11521.00
	Total	344		

Table 10.7: Test Statistics on sentences_fixed by Associates

	sentences_fixed
Mann-Whitney U	6491.000
Wilcoxon W	47819.000
Z	-5.475-
Asymp. Sig. (2-tailed)	.000

Table 11: Offence

		Value	Count	Percent
Standard Attributes	Label	<none>		
Valid Values	1	Theft	135	39.2%
	2	Adultery	27	7.8%
	3	Drugs and alcohol	59	17.2%
	4	Hirabah (armed robbery)	123	35.8%

[272] - Elaboration on the output from Tables 10.6 and 10.7: there are no violations for SPSS assumptions in the table above. The main value that is pertinent is the Z value; this can be found in the table titled Test Statistics (Table 10.7). The Z value is -5.475 so the result is very significant (i.e. the differences between juveniles who had associates and those who had not in the sentences_fixed are statistically important as it is proved that the significance level is .000, which is lower than .05). As a result, according to Table 10.6, the mean ranks for juveniles who had associates was 166.62, while for juveniles who did not have associates it was 202.12.

Table 11.1: Ranks on sentences_jail by Offence[273]

	Offence	N	Mean Rank
sentences_jail	Theft	135	161.41
	Adultery	27	222.63
	Drugs and alcohol	59	95.18
	Hirabah (armed robbery)	123	210.76
	Total	344	

Table 11.2: Test Statistics on sentences_jail by Offence

	sentences_jail
Chi-Square	63.154
df	3
Asymp. Sig.	.000

Table 11.3: Ranks on sentences_lashes by Offence[274]

	Offence	N	Mean Rank
sentences_lashes	Theft	135	152.76
	Adultery	27	224.78
	Drugs and alcohol	59	132.68
	Hirabah (armed robbery)	123	201.79
	Total	344	

[273] - Interpretation of the output from Tables 11.1 and 11.2: there are no violations for the SPSS assumptions in the table above. The main values pertinent are the Chi-square, degree of freedom (df) and significance level values; these can be found in the table titled Test Statistics (Table 11.2). The Chi-square value is 63.154 so the result is very significant (i.e. there are huge differences in lashing juveniles according to their age group, as it is proved that the significance level is .000, which is lower than .05). As a result, according to Table 39, the mean rank for theft is 161.41, while for adultery this is 222.63. Also, the mean rank for drugs and alcohol is 95.18, and for Hirabah (armed robbery), it is 210.76, so this indicates that the sentence for adultery is the most severe punishment, but why? There might be something ambiguous here.

[274] - Interpretation of the output from Tables 11.3 and 11.4: there are no violations for SPSS assumptions in this table above. The main values that are relevant are the Chi-square, degree of freedom (df) and significance level values; these can be found in the table titled Test Statistics (Table 11.4). The Chi-square value is 33.365 so the result is very significant (i.e. there are huge differences in lashing juveniles according to their age group, as it is proved that the significance level is .000, which is lower than .05). As a result, according to Table 41, the mean rank for theft is 152.76, while for adultery it is 224.78. Also, the mean rank for drugs and alcohol is 132.68, and for Hirabah (armed robbery) it is 201.79, which indicates that the sentence for adultery is the most severe in terms of discretionary lashes.

Table 11.4: Test Statistics on sentences_lashes by Offence

	sentences_lashes
Chi-Square	33.365
Df	3
Asymp. Sig.	.000

Table 11.5: Ranks on sentences_fixed by Offence[275]

	Offence	N	Mean Rank
sentences_fixed	Theft	135	162.54
	Adultery	27	173.17
	Drugs and alcohol	59	209.42
	Hirabah (armed robbery)	123	165.58
	Total	344	

Table 11.6: Test Statistics on sentences_fixed by Offence

	sentences_fixed
Chi-Square	49.849
Df	3
Asymp. Sig.	.000

Table 12: Ranks on sentences_jail by Precedents[276]

	Precedents	N	Mean Rank
sentences_jail	Yes	89	176.42
	No	183	174.73
	Not specified	72	161.99
	Total	344	

[275] - Interpretation of the output from Tables 11.5 and 11.6: there are no violations for SPSS assumptions in the table above. The main values relevant are the Chi-square, degree of freedom (df) and significance level values; these can be found in the table titled Test Statistics (Table 11.6). The Chi-square value is 49.849 so the result is very significant (i.e. there are huge differences in lashing juveniles according to their age group as it is proved that the significance level is .000, which is lower than .05). As a result, according to Table 43, the mean rank for theft is 162.54, while for adultery it is 173.17. Also, the mean rank for drugs and alcohol is 209.42, and for Hirabah (armed robbery) 165.58, which indicates that drug and alcohol sentences are the most severe punishment in terms of fixed lashes, but why? There is no clear answer from the judges.

[276] - The results here indicate that there are no significant differences in jail sentence with regard to precedents of juveniles as the significance value shown in Table 12.1 is .59, which is more than (.05/ P value). Additionally, there are no significant differences in lash sentences with regard to precedents according to Table 12.3, as the P value is .454, which is more than .05. In addition, according to Table 12.5, there are also no important differences in the fixed lashes penalty with regard to precedents since the P value is .743, which is more than .05.

Table 12.1: Test Statistics on sentences_jail by Precedents

	sentences_jail
Chi-Square	1.047
Df	2
Asymp. Sig.	.592

Table 12.2: Ranks on sentences_lashes by Precedents

	Precedents	N	Mean Rank
sentences_lashes	Yes	89	177.70
	No	183	175.02
	Not specified	72	159.67
	Total	344	

Table 12.3: Test Statistics on sentences_lashes by Precedents

	sentences_lashes
Chi-Square	1.581
Df	2
Asymp. Sig.	.454

Table 12.4: Ranks on sentences_fixed by Precedents

	Precedents	N	Mean Rank
sentences_fixed	Yes	89	169.63
	No	183	174.06
	Not specified	72	172.08
	Total	344	

Table 12.5: Test Statistics on sentences_fixed by Precedents

	sentences_fixed
Chi-Square	.593
Df	2
Asymp. Sig.	.743

Appendix 2: General summary of the verdicts

Case	Gender M / F	Associates Yes / No	Type of associates No-J-A-SH-NoSpe	Minor's age	Nationality	Type of court G-C-JC	No of judges	Offence	Verdict	Duration / quantity	Precedents Yes- No- NotSpe	Type of precedents	Place of prison
1	M	Yes	A	18	Saudi	G	2	Drugs promotion	prison+correctional whips+fine+banning from travel	4 years' jail+300 lashes+4 years no travel	No	NotMen	Malaz Jail
2	F	Yes	A	30	Saudi	G	3	Homicide/ murder	prison+correctional whips	1 year's jail+300 lashes	No	NotMen	Women prison
3	M	No	no	17	Saudi	G	3	Homicide/ murder	retribution/Qisas (general)	Not applicable	No	NotMen	Social Observation House
4	M	Yes	A	17	Saudi	G	3	Homicide/ murder	relinquishment versus compensation+ fixed penalty for intoxication+prison	80 lashes+10 years' jail	No	NotMen	Malaz Jail
5/ 1	M	Yes	Sh	17	Saudi	G	3	Homicide/ murder	fine+compensation for the wound+retribution (Qisas)	Not specified	No	NotMen	Social Observation House
5/ 2	M	Yes	Sh	17	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge	2 years' jail+200 lashes	No	NotMen	Released
5/ 3	M	Yes	Sh	18	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge+ confiscation	5 years' jail+500 lashes	No	NotMen	Malaz Jail
5/ 4	M	Yes	Sh	18	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge+ confiscation	5 years' jail+500 lashes	No	NotMen	Malaz Jail

5/ 5	M	Yes	Sh	19	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge+ confiscation	5 years' jail+500 lashes	No	NotMen	Malaz Jail
5/ 6	M	Yes	Sh	17	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge	2.5 years' jail+300 lashes	No	NotMen	Released
5/ 7	M	Yes	Sh	18	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge	2.5 years' jail+300 lashes	No	NotMen	Released
5/ 8	M	Yes	Sh	19	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge	2.5 years' jail+300 lashes	No	NotMen	Released
5/ 9	M	Yes	Sh	21	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge	2 years' jail+250 lashes	No	NotMen	Released
5/ 10	M	Yes	Sh	26	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge	4 years' jail+400 lashes	No	NotMen	Released
5/ 11	M	Yes	Sh	19	Saudi	G	3	Homicide/ murder	prison+correctional whips+pledge+confiscatio n	2 years' jail+250 lashes	No	NotMen	Released
5/ 12	M	Yes	Sh	18	Saudi	G	3	Homicide/ murder	innocent	Not applicable	No	NotMen	Released
6	M	Yes	A	17	Saudi	G	3	Homosexuality + murder	quashing of the case (suit is not revised)	Not applicable	NotSpe	NotSpe	Social Observation House
7	M	Yes	J	17	Saudi	G	3	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	50 lashes+3 years' jail	No	NotMen	Social Observation House
8	M	Yes	A	17	Saudi	G	3	Theft	quashing of the case (the guilty party is being obliged or absent or not eligible)	Not applicable	No	NotMen	Social Observation House
9/ 1	M	Yes	J	18	Saudi	G	3	Theft	prison+correctional whips	2 years' jail+300 lashes	No	NotMen	Malaz Jail
9/ 2	M	Yes	J	18	Saudi	G	3	Theft	prison+correctional whips	1 year's jail+150 lashes	No	NotMen	Malaz Jail
10	M	Yes	A	18	Saudi	G	3	Theft	fixed penalty for theft	Not applicable	No	NotMen	Malaz Jail
11	M	Yes	A	18	Egyptian	G	3	Theft	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Malaz Jail
12/ 1	M	Yes	Sh	17	Saudi	G	3	Theft	prison+correctional whips	6 years' jail+800 lashes	Yes	Theft	Malaz Jail
12/ 2	M	Yes	Sh	16	Saudi	G	3	Theft	prison+correctional whips	6 years' jail+800 lashes	Yes	Theft	Malaz Jail

12/ 3	M	Yes	Sh	17	Saudi	G	3	Theft	prison+correctional whips	4 years' jail+600 lashes	Yes	Theft	Malaz Jail
13/ 1	M	Yes	J	17	Palestinian	G	3	Theft	prison+correctional whips	6 years' jail+600 lashes	No	NotMen	Malaz Jail
/ 2	M	yes	J	18	American	G	3	Theft	prison+correctional whips	6 years' jail+800 lashes	No	NotMen	Malaz Jail
14/ 1	M	Yes	Sh	18	Saudi	G	3	Theft	prison+correctional whips	4years' jail+400 lashes	Yes	Theft	Malaz Jail
/ 2	M	Yes	Sh	18	Saudi	G	3	Theft	prison+correctional whips	2 years' jail+200 lashes	Yes	Theft	Malaz Jail
/ 3	M	Yes	sh	18	Egyptian	G	3	Theft	prison+correctional whips	2 years' jail+200 lashes	Yes	Theft	Malaz Jail
15/ 1	M	Yes	J	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	1 year's jail+50 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Saudi	G	3	Armed robbery/ Herabah	suspending of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
/ 3	M	Yes	J	17	Saudi	G	3	Armed robbery/ Herabah	suspending of the case (until the whole parties are come/ delivered)	Not applicable	No	NotMen	Released
/ 4	M	Yes	J	17	Saudi	G	3	Armed robbery/ Herabah	suspending of the case(until the whole parties are come/ delivered)	Not applicable	No	NotMen	Released
16/ 1	M	Yes	Sh	19	Saudi	G	3	Theft	prison+correctional whips	7 years' jail+700 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	Sh	18	Saudi	G	3	Theft	prison+correctional whips	7 years' jail+700 lashes	No	NotMen	Malaz Jail
17	M	Yes	A	17	Saudi	G	3	Theft	prison+correctional whips	6 years' jail+600 lashes	Yes	Theft	Social Observation House
18	M	Yes	A	14	Saudi	G	3	Theft	prison+correctional whips	4 years' jail+300 lashes	No	NotMen	Social Observation House
19	M	Yes	A	18	Saudi	G	3	Theft	prison+correctional whips	1 year's jail+300 lashes	No	NotMen	Malaz Jail
20/ 1	M	Yes	Sh	18	Saudi	G	3	Theft	prison+correctional whips	2 years' jail+500 lashes	NotSpe	NotSpe	Malaz Jail

/ 2	M	Yes	Sh	17	Saudi	G	3	Theft	prison+correctional whips	2 years' jail+500 lashes	No	NotMen	Social Observation House
21/ 1	M	Yes	Sh	17	Saudi	G	3	Theft	prison+correctional whips	10 years' jail+1000 lashes	Yes	Theft	Malaz Jail
21/ 2	M	Yes	Sh	17	Saudi	G	3	Theft	prison+correctional whips	3 years' jail+300 lashes	Yes	Theft	Malaz Jail
22/ 1	M	Yes	J	18	Sudani	G	3	Theft	prison+correctional whips	10 months' jail+150 lashes	Yes	Theft	Malaz Jail
22/ 2	M	Yes	J	18	Yemeni	G	3	Theft	prison+correctional whips	2 years' jail+300 lashes	Yes	Theft	Malaz Jail
23	F	Yes	A	24	Indonesian	G	3	Adultery	prison+correctional whips	18 months' jail+300 lashes	Yes	Adultery	Women's Prison
24	F	Yes	A	30	Sri Lankan	G	3	Adultery	prison+correctional whips	18 months' jail+300 lashes	No	NotMen	Women's Prison
25	F	Yes	A	24	Sudani	G	3	Adultery	prison+correctional whips+pledge+confiscation	3 years' jail+300 lashes	No	NotMen	Women's Prison
26/ 1	F	Yes	Sh	29	Saudi	G	3	Adultery	prison+correctional whips	3 years' jail+300 lashes	No	NotMen	Women's Prison
/ 2	F	Yes	Sh	25	Saudi	G	3	Adultery	prison+correctional whips+ fixed lashes for intoxication	2 years' jail+200 correctional lashes+80 fixed lashes for intoxication	No	NotMen	Women's Prison
27	F	Yes	A	25	Indonesian	G	3	Adultery	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Women's Prison
28	F	Yes	A	26	Indonesian	G	3	Adultery	prison+correctional whips	1 year's jail+200 lashes	No	NotMen	Women's Prison
29	F	Yes	A	22	Indonesian	G	3	Adultery	prison+correctional whips+recommendation of deportation	2 years' jail+200 lashes	No	NotMen	Women's Prison
30	F	Yes	A	21	Indonesian	G	3	Adultery	prison+correctional whips	30 months' jail+250 lashes	No	NotMen	Women's Prison
31	F	Yes	A	20	Saudi	G	3	Adultery	prison+correctional whips	18 months' jail+250 lashes	No	NotMen	CIG
32	F	Yes	A	30	Indonesian	G	3	Adultery	prison+correctional whips	11 months' jail+90 lashes	No	NotMen	Women's Prison
33	F	Yes	A	30	Indonesian	G	3	Adultery	prison+correctional whips+recommendation of deportation	2 years' jail+300 lashes	No	NotMen	Women's Prison

34	F	Yes	A	24	Indonesian	G	3	Adultery	prison+correctional whips	18 months' jail+200 lashes	No	NotMen	Women's Prison
35	F	Yes	A	21	Indonesian	G	3	Adultery and drinking whisky	fixed penalty for intoxication+correctional whips and jail+banning from travel	4 years' jail+600 lashes+80 lashes	No	NotMen	Women's Prison
36	F	Yes	A	20	Bengali	G	3	Adultery	prison+correctional whips+recommendation of deportation	5 years' jail+750 lashes	No	NotMen	Women's Prison
37/ 1	F	Yes	A	30	Indonesian	G	3	Adultery	prison+correctional whips	4 years' jail+600 lashes	No	NotMen	Women's Prison
37/ 2	F	Yes	A	27	Filipino	G	3	Adultery	prison+correctional whips	4 years' jail+600 lashes	No	NotMen	Women's Prison
38	F	Yes	A	23	Indonesian	G	3	Adultery	prison+correctional whips	6 months' jail+50 lashes	No	NotMen	Women's Prison
39	M	Yes	A	18	Saudi	G	3	(Kidnapping& attempted lewdness) armed robbery/ Herabah	prison+correctional whips	3 months' jail+90 lashes	No	NotMen	Released
40/ 1	M	Yes	Sh	17	Saudi	G	3	Theft (armed robbery/ Herabah)	prison+correctional whips	7 years' jail+700 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	Sh	17	No ID	G	3	Theft (armed robbery/ Herabah)	prison+correctional whips	1 year's jail+100 lashes	Yes	Theft	Social Observation House
41/ 1	M	Yes	Sh	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips+pledge+ confiscation	2 years' jail+200 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	Sh	15	No ID	G	3	Armed robbery/ Herabah	prison+correctional whips+pledge+ confiscation	2 years' jail+200 lashes	No	NotMen	Social Observation House
/ 3	M	Yes	Sh	16	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips+pledge+ confiscation	1 year's jail+100 lashes	No	NotMen	Social Observation House
42/ 1	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	suspending of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
/ 2	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness)	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	NotMen

								armed robbery/ Herabah					
43/ 1	M	Yes	Sh	17	Saudi	G	2	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	Sh	17	Saudi	G	2	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	No	NotMen	Social Observation House
44/ 1	M	Yes	J	18	Yemeni	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	6 months' jail+90 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	suspendion of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Social Observation House
45/ 1	M	Yes	Sh	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	suspendion of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
/ 2	M	Yes	Sh	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	7 years' jail+600 lashes	No	NotMen	Malaz Jail
46/ 1	M	Yes	Sh	17	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Released
/ 2	M	Yes	Sh	17	Palestinian	G	3	Armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Released
/ 3	M	Yes	Sh	17	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Released
/ 4	M	Yes	Sh	17	Palestinian	G	3	Armed robbery/ Herabah	prison+correctional whips	52 months' jail+100 lashes	No	NotMen	Released
47	M	Yes	J	18	Mali	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	5 years' jail+70 lashes	No	NotMen	Malaz Jail
48/ 1	M	Yes	J	18	Saudi	G	3	Theft (armed robbery/ Herabah)	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Malaz Jail

/ 2	M	Yes	J	18	Sudani	G	3	Theft (armed robbery/ Herabah)	prison+correctional whips	42 months' jail+350 lashes	No	NotMen	Malaz Jail
/ 3	M	Yes	J	16	Saudi	G	3	Theft (armed robbery/ Herabah)	prison+correctional whips	42 months jail+350 lashes	No	NotMen	Released
49	M	Yes	A	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	innocent	Not applicable	No	NotMen	Social Observation House
50/ 1	M	Yes	J	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	Yes	Homosexuality	Social Observation House
/ 2	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Social Observation House
51/ 1	M	Yes	J	14	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	10 months' jail+100 lashes	No	NotMen	Malaz Jail
52	M	Yes	A	18	Mali	G	3	(Drinking alcohol and theft) armed robbery/ Herabah	prison+correctional whips	7 years' jail+50 lashes	No	NotMen	Malaz Jail
53/ 1	M	Yes	Sh	18	No ID	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	Sh	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail

54	M	Yes	A	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Social Observation House
55	M	Yes	A	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+50 lashes	No	NotMen	Released
56/ 1	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Released
/ 2	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	No	NotMen	Released
57/ 1	M	Yes	J	17	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	3 years' jail+300 lashes	Yes	Rebellion	Social Observation House
/ 2	M	Yes	J	17	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Social Observation House
58	M	Yes	A	17	Saudi	G	3	Armed robbery/ Herabah	fixed penalty for intoxication+correctional whips and jail+banning from travel	2 years' jail+150 lashes+80 lashes	No	NotMen	Social Observation House
59	M	Yes	A	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	6 months' jail+80 lashes	No	NotMen	Released
60/ 1	M	Yes	Sh	16	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+1000 lashes	NotSpe	NotSpe	Released
/ 2	M	Yes	Sh	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+1000 lashes	NotSpe	NotSpe	Released
/ 3	M	Yes	Sh	16	Saudi	G	3	(Kidnapping & lewdness)	prison+correctional whips	3 years' jail+1000 lashes	NotSpe	NotSpe	Released

								armed robbery/ Herabah					
/ 4	M	Yes	Sh	16	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+1000 lashes	NotSpe	NotSpe	Released
61	M	No	No	18	Saudi	G	2	(Adultery) armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Malaz Jail
62/ 1	M	Yes	J	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	J	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
63/ 1	M	Yes	Sh	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	Sh	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
/ 3	M	Yes	Sh	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
/ 4	M	Yes	Sh	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Social Observation House
64	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	8 years' jail+1000 lashes	No	NotMen	Malaz Jail
65	M	Yes	A	18	Saudi	G	3	Several thefts (armed robbery/ Herabah)	prison+correctional whips	8 years' jail+800 lashes	No	NotMen	Malaz Jail
66	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips+pledge+ confiscation	6 years' jail+800 lashes	No	NotMen	Malaz Jail
67/ 1	M	Yes	A	17	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	10 years' jail+3000 lashes	No	NotMen	Social Observation House

/ 2	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	8 years' jail+2500 lashes	No	NotMen	Malaz Jail
/ 3	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	10 years' jail+3000 lashes	No	NotMen	Malaz Jail
68	M	No	No	17	Chadi	G	3	Armed robbery/ Herabah	prison+correctional whips+recommendation of deportation	3 years' jail+400 lashes	Yes	Theft	Social Observation House
69	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	3 years' jail+300 lashes	No	NotMen	Malaz Jail
70/ 1	M	Yes	J	18	Saudi	G	3	Armed robbery/ Herabah	quashing of the case (indictments are not enough)	Not applicable	NotSpe	NotSpe	Malaz Jail
/ 2	M	Yes	J	16	Saudi	G	3	Armed robbery/ Herabah	quashing of the case (indictments are not enough)	Not applicable	NotSpe	NotSpe	Social Observation House
71	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	6 years' jail+600 lashes	NotSpe	NotSpe	Malaz Jail
72*	M	no	No	16	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	11 months' jail+98 lashes	NotSpe	NotSpe	Released
73*	M	Yes	J	16	Saudi	G	1	(Kidnapping & lewdness) armed robbery/ Herabah	quashing of the case (not specialised court)	Not applicable	NotSpe	NotSpe	Released
74/ 1	M	Yes	Sh	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+300 lashes	NotSpe	NotSpe	Malaz Jail
/ 2	M	Yes	Sh	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	NotSpe	NotSpe	Social Observation House
75	M	Yes	A	18	Saudi	G	3	Armed robbery/ Herabah	prison+correctional whips	18 months' jail+200 lashes	Yes	Theft	Malaz Jail
76	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+500 lashes	NotSpe	NotSpe	Social Observation House
77/ 1	M	Yes	J	18	Saudi	G	3	(Kidnapping & lewdness)	prison+correctional whips	6 years' jail+600 lashes	NotSpe	NotSpe	Malaz Jail

								armed robbery/ Herabah					
/ 2	M	Yes	J	18	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	NotSpe	NotSpe	Malaz Jail
/ 3	M	Yes	J	17	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	6 years' jail+600 lashes	NotSpe	NotSpe	Social Observation House
/ 4	M	Yes	J	15	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	NotSpe	NotSpe	Social Observation House
/ 5	M	Yes	J	16	Saudi	G	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	NotSpe	NotSpe	Social Observation House
78	M	Yes	A	18	Saudi	G	2	(Kidnapping & lewdness) armed robbery/ Herabah	quashing of the case(indictments are not enough)	Not applicable	NotSpe	NotSpe	Malaz Jail
79	M	Yes	J	18	Yemeni	G	3	(Adultery) armed robbery/ Herabah	fixed penalty for fornication (not married)	100 lashes+deportation for 1 year(i.e exile)	NotSpe	NotSpe	Malaz Jail
80/ 1	M	Yes	Sh	15	Saudi	G	3	Theft (armed robbery/ Herabah)	suspending of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
/ 2	M	Yes	Sh	16	Saudi	G	3	Theft (armed robbery/ Herabah)	suspending of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
/ 3	M	Yes	Sh	16	Saudi	G	3	Theft (armed robbery/ Herabah)	suspending of the case(until the whole parties are come/ delivered)	Not applicable	No	NotMen	Released
81/ 1	M	Yes	Sh	16	Saudi	G	2	Theft (armed robbery/ Herabah)	prison+correctional whips	15 years' jail+1000 lashes	NotSpe	NotSpe	Malaz Jail
/ 2	M	Yes	Sh	17	Saudi	G	2	Theft (armed robbery/ Herabah)	prison+correctional whips	15 years' jail+1000 lashes	NotSpe	NotSpe	Malaz Jail

/ 3	M	Yes	Sh	16	Saudi	G	2	Theft (armed robbery/ Herabah)	prison+correctional whips	15 years' jail+1000 lashes	NotSpe	NotSpe	Malaz Jail
/ 4	M	Yes	Sh	16	Saudi	G	2	Theft (armed robbery/ Herabah)	prison+correctional whips	15 years' jail+1000 lashes	NotSpe	NotSpe	Malaz Jail
82*	F	Yes	A	20	Saudi	C	3	Adultery	prison+correctional whips	2 years' jail+200 lashes	NotSpe	NotSpe	NotMen
83	M	Yes	A	17	Saudi	C	3	Homosexuality	prison+correctional whips	6 months' jail+60 lashes	No	NotMen	Malaz Jail
84/ 1	F	Yes	J	18	Syrian	C	3	Homicide/ murder	retribution/Qisas (assassination)	Not applicable	NotSpe	NotSpe	Women's Prison
/ 2	M	Yes	J	18	Syrian	C	3	Homicide/ murder	retribution/Qisas (general)	Not applicable	NotSpe	NotSpe	Malaz Jail
85/ 1	M	Yes	J	15	Saudi	C	3	Theft	prison+correctional whips	18 months' jail+150 lashes	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	Saudi	C	3	Theft	prison+correctional whips	18 months' jail+150 lashes	NotSpe	NotSpe	Social Observation House
86	M	Yes	A	16	Pakistani	C	3	Theft	prison+correctional whips	1 year's jail+150 lashes	No	NotMen	Social Observation House
87	M	Yes	A	18	Saudi	C	3	Theft	prison+correctional whips	3 years' jail+300 lashes	No	NotMen	Malaz Jail
88*	M	No	No	17	Saudi	C	3	Theft	prison+correctional whips	18 months' jail+150 lashes	Yes	swerving by car	Social Observation House
89	M	No	No	17	Saudi	C	3	Theft	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Social Observation House
90/ 1	M	Yes	J	18	Saudi	C	3	Theft	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	J	17	Saudi	C	3	Theft	fixed penalty for intoxication+correctional whips and jail+banned from travel	4 years' jail+80 lashes+400 lashes	Yes	Theft	Social Observation House
/ 3	M	Yes	J	17	Saudi	C	3	Theft	fixed penalty for intoxication+correctional whips and jail+banned from travel	4 years' jail+80 lashes+400 lashes	Yes	Theft	Social Observation House

91	M	Yes	A	17	Saudi	C	3	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
92	M	Yes	A	15	Saudi	C	3	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
93/ 1	M	Yes	Sh	18	Saudi	C	3	Theft	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	Sh	17	Saudi	C	3	Theft	prison+correctional whips	6 months' jail+60 lashes	No	NotMen	Social Observation House
94/ 1	M	Yes	Sh	17	Saudi	C	3	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	Sh	17	Saudi	C	3	Theft	prison+correctional whips	8 months' jail+80 lashes	NotSpe	NotSpe	Social Observation House
95	M	Yes	A	17	Syrian	C	3	Armed robbery/ Herabah	prison+correctional whips+pledge+ confiscation	1 year's jail+180 lashes	No	NotMen	Social Observation House
96/ 1	M	Yes	J	18	Sudani	C	3	Armed robbery/ Herabah	innocent	Not applicable	Yes	Theft	Malaz Jail
/ 2	M	Yes	J	17	Sudani	C	3	Armed robbery/ Herabah	prison+correctional whips	1 year's jail+150 lashes	No	NotMen	Social Observation House
/ 3	M	Yes	J	18	Saudi	C	3	Armed robbery/ Herabah	prison+correctional whips	1 year's jail+150 lashes	Yes	Rebellion	Malaz Jail
97	M	Yes	J	17	Saudi	C	3	Theft (armed robbery/ Herabah)	prison+correctional whips	2 years' jail+200 lashes	NotSpe	NotSpe	Social Observation House
98/ 1	M	Yes	J	18	Syrian	C	3	Armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	Yes	Drugs abuse	Malaz Jail
/ 2	M	Yes	J	18	Syrian	C	3	Armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	No		Malaz Jail
99/ 1	M	Yes	J	16	Yemeni	C	3	Armed robbery/ Herabah	prison+correctional whips	5 years' jail+500 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Sudani	C	3	Armed robbery/ Herabah	fixed penalty of Hirabah	Fixed penalty of Hirabah	Yes	Theft	Social Observation House

100/1	M	Yes	J	18	Chadi	C	3	Armed robbery/ Herabah	prison+correctional whips	4 years' jail+400 lashes	No	NotMen	Malaz Jail
/ 2	M	Yes	J	18	Chadi	C	3	Armed robbery/ Herabah	innocent	Not applicable	NotSpe	NotSpe	Malaz Jail
/ 3	M	Yes	J	17	Sudani	C	3	Armed robbery/ Herabah	prison+correctional whips	5 months' jail+50 lashes	Yes	Theft	Social Observation House
/ 4	M	Yes	J	17	Chadi	C	3	Armed robbery/ Herabah	prison+correctional whips	10 months' jail+90 lashes	Yes	Theft	Social Observation House
101/1*	M	Yes	J	16	Saudi	C	3	Kidnapping, lewdness and drinking alcohol (armed robbery/ Herabah)	fixed penalty for intoxication+correctional whips and jail+banning from travel	80 lashes+8 months' jail+70 lashes	NotSpe	NotSpe	Released
/ 2*	M	Yes	J	16	Saudi	C	3	Kidnapping, lewdness and drinking alcohol (armed robbery/ Herabah)	fixed penalty for intoxication+correctional whips and jail+banned from travel	80 lashes+8 months' jail+70 lashes	NotSpe	NotSpe	Released
102/1	M	Yes	J	15	Yemeni	C	3	Armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Yemeni	C	3	Armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	No	NotMen	Social Observation House
/ 3	M	Yes	J	17	Yemeni	C	3	Armed robbery/ Herabah	prison+correctional whips	1 year's jail+100 lashes	No	NotMen	Social Observation House
/ 4	M	Yes	J	17		C	3	Armed robbery/ Herabah	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Social Observation House
103/1	M	Yes	Sh	17	Yemeni	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	innocent	Not applicable	No	NotMen	Malaz Jail
/ 2	M	Yes	Sh	17	Yemeni	C	3	(Kidnapping & lewdness)	prison+correctional whips	9 months' jail+50 lashes	No	NotMen	Malaz Jail

								armed robbery/ Herabah					
104	M	No	No	18	Saudi	C	3	Theft (armed robbery/ Herabah)	prison+correctional whips	18 months' jail+150 lashes	No	NotMen	Malaz Jail
105	M	Yes	A	16	Saudi	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Released
106/ 1	M	Yes	J	16	Saudi	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	fixed penalty for armed robbery (Herabah)	Not applicable	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Saudi	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	fixed penalty for armed robbery (Herabah)	Not applicable	No	NotMen	Social Observation House
107/ 1	M	Yes	J	16	Saudi	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	suspending of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Released
/ 2	M	Yes	J	17	Saudi	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	4 months' jail+40 lashes	No	NotMen	Malaz Jail
108/ 1*	M	Yes	J	16	Saudi	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	3 years' jail+300 lashes	Yes	Homosexuality	Social Observation House
/ 2*	M	Yes	J	16	No ID	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	2 years' jail+200 lashes	No	NotMen	Social Observation House
109*	M	No	No	16		C	3	(Kidnapping & lewdness) armed robbery/ Herabah	quashing of the case (intersecting with other penalties)	Not applicable	Yes	Homosexuality	Social Observation House
110/ 1	M	Yes	J	17	Syrian	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	correctional whips only	20 lashes	No	NotMen	Social Observation House

/ 2	M	Yes	J	18	Jordanian	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	quashing of the case (indictments are not enough)	Not applicable	No	NotMen	Social Observation House
/ 3	M	Yes	J	18	Lebanese	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	correctional whips only	40 lashes	No	NotMen	Social Observation House
111*	M	Yes	J	16		C	3	(Adultery) armed robbery/ Herabah	prison+correctional whips	10 months' jail+100 lashes	NotSpe	NotSpe	NotMen
112	m	Yes	J	18	Yemeni	C	3	(Kidnapping & lewdness) armed robbery/ Herabah	prison+correctional whips	6 months' jail+50 lashes	Yes	Rebellion	Social Observation House
113/ 1	m	Yes	J	17	Saudi	C	3	Theft (armed robbery/ Herabah)	prison+correctional whips	3 years' jail+500 lashes	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	18	Saudi	C	3	Theft (armed robbery/ Herabah)	prison+correctional whips	1 year's jail+100 lashes	NotSpe	NotSpe	Malaz Jail
114/ 1	M	Yes	J	17	Saudi	C	3	Theft ((armed robbery/ herabah)	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	Saudi	C	3	Theft (armed robbery/ Herabah)	fixed penalty for intoxication+correctional whips and jail+banned from travel	80 lashes+18 months' jail+150 lashes	Yes	Theft	Social Observation House
115/ 1	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	5 months' jail+60 lashes+ 4 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Sudani	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+80 lashes+ 4 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 3	M	Yes	J	16	Sudani	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+80 lashes+ 4 months' conditional jail (in the future)	Yes	Theft	Social Observation House

116/1	M	Yes	J	13	Balushi	JC	1	Theft	prison only	20 days	Yes	Theft	Social Observation House
/ 2	M	Yes	J	11	Balushi	JC	1	Theft	prison only	15 days	No	NotMen	Social Observation House
117	M	No	No	17	No ID	JC	1	Theft	prison+correctional whips	10 months' jail+50 lashes	Yes	Theft	Social Observation House
118	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips	45 days' jail+80 lashes	No	NotMen	Social Observation House
119/1	M	Yes	J	17	Saudi	JC	1	Theft	missing or not mentioned	Not applicable	Yes	Theft	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Theft	missing or not mentioned	Not applicable	No	NotMen	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Theft	missing or not mentioned	Not applicable	Yes	Theft	Social Observation House
/ 4	M	Yes	J	17	Saudi	JC	1	Theft	missing or not mentioned	Not applicable	No	NotMen	Social Observation House
/ 5	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	1 year's jail+120 lashes+ 6 months' conditional jail (in the future)	Yes	Theft	Social Observation House
120/1	M	Yes	J	15	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	16 months' jail+120 lashes+6 months' conditional jail (in the future)	Yes	Assault	Social Observation House
/ 2	M	Yes	J	15	Saudi	JC	1	Theft	prison+correctional whips	5 months' jail+60 lashes	No	NotMen	Social Observation House
121/1	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	15 months' jail+150 lashes+ 1 year's conditional jail (in the future)	No	NotMen	Social Observation House

/ 2	M	Yes	J	15	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	15 months' jail+150 lashes+ 1 year's conditional jail (in the future)	No	NotMen	Social Observation House
122/ 1	M	Yes	J	13	Chadi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	5 months' jail+60 lashes+ 5 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Chadi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+100 lashes+ 7 months' conditional jail (in the future)	Yes	Theft	Social Observation House
123/ 1	M	Yes	J	16	Saudi	JC	1	Theft	missing or not mentioned	Not applicable	NotSpe	NotSpe	Social Observation House
/ 2*	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	15 days' jail+50 lashes+ 1 month's conditional jail (in the future)	No	NotMen	Social Observation House
124/ 1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+80 lashes+ 6 months' conditional jail (in the future)	Yes	Theft	Social Observation House
/ 2	M	Yes	J	15	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+80 lashes+ 6 months' conditional jail (in the future)	Yes	Theft	Social Observation House
/ 3	M	Yes	J	14	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+80 lashes+ 6 months' conditional jail (in the future)	Yes	Theft	Social Observation House
125	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	20 days' jail+2 months' conditional jail (in the future)	Yes	Theft	Social Observation House
126	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	6 months' jail+200 lashes+ 1 year's conditional jail (in the future)	Yes	Theft	Social Observation House

127/1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+60 lashes+ 2 months' conditional jail (in the future)	Yes	Assault	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+30 lashes+ 2 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+30 lashes+ 2 months' conditional jail (in the future)	No	NotMen	Social Observation House
128/1	M	Yes	J	17	Saudi	JC	1	Theft	prison only	2 months	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Theft	prison only	2 months	NotSpe	NotSpe	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Theft	prison only	2 months	NotSpe	NotSpe	Social Observation House
129	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	6 months' jail+30 lashes+ 1 year's conditional jail (in the future)	Yes	Theft	Social Observation House
130		Yes	Not Spec	17	Saudi	JC	1	Theft	prison+correctional whips	6 months' jail+40 lashes	NotSpe	NotSpe	Social Observation House
131	M	Yes	Not Spec	17	Saudi	JC	1	Theft	prison only	2 months	No	NotMen	Social Observation House
132	M	No	No	16	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	10 months' jail+80 lashes+ 6 months' conditional jail (in the future)	Yes	Theft	Social Observation House
133/1	M	Yes	J	17	Saudi	JC	1	Theft	Innocent	Not applicable	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Theft	innocent	Not applicable	NotSpe	NotSpe	Social Observation House

134/1		Yes	J	15	Saudi	JC	1	Theft	prison+correctional whips	15 days' jail+40 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	14	Saudi	JC	1	Theft	quashing of the case (indictments are not enough)	Not applicable	No	NotMen	Social Observation House
/ 3	M	Yes	J	13	Saudi	JC	1	Attempted theft	prison only	5 days	No	NotMen	Social Observation House
135	M	Yes	Not Spec	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	18 days' jail+50 lashes+ 30 months conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
136	M	Yes	Not Spec	18	Chadi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	1 year's jail+120 lashes+ 1 year's conditional jail (in the future)	Yes	Theft	Social Observation House
137	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary(conditional jail in the future)	15 days' jail+60 lashes+ 4 months' conditional jail(in the future	No	NotMen	Social Observation House
138	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips	10 months' jail+100 lashes	Yes	Theft	Social Observation House
139	M	No	No	16	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	6 months' jail+60 lashes+ 3 months' conditional jail (in the future)	Yes	Theft	Social Observation House
140	M	No	No	17	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+120 lashes+ 4 months' conditional jail (in the future)	Yes	Theft	Social Observation House
141/1	M	Yes	J	17	Saudi	JC	1	Theft	prison only	2 months	Yes	Theft	Social Observation House
/ 2	M	Yes	J	16	No ID	JC	1	Theft	prison only	1 month	Yes	Theft	Social Observation House
142/1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation,	7 months' jail+120 lashes+ 6 months'	Yes	Theft	Social Observation House

									summary (conditional jail in the future)	conditional jail (in the future)			
/ 2	M	Yes	J	16	Saudi	JC	1	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
143	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	18 months' jail+250 lashes+ 1 year's conditional jail (in the future)	Yes	Theft	Social Observation House
144/ 1*	M	Yes	J	16	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+80 fixed lashes+ 4 months' conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
/ 2*	M	Yes	J	16	No ID	JC	1	Drug abuse	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+80 fixed lashes+ 4 months' conditional jail (in the future)+40 correctional lashes	NotSpe	NotSpe	Social Observation House
/ 3*		Yes	J	16	No ID	JC	1	Drugs promotion	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+80 fixed lashes+ 4 months' conditional jail(in the future) +40 correctional lashes	NotSpe	NotSpe	Social Observation House
/ 4*	M	Yes	J	16	No ID	JC	1	Drug abuse	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+80 lashes+ 4 months' conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
/ 5	M	Yes	J	18	No ID	JC	1	Drugs promotion	prison+correctional whips+probation, summary (conditional jail in the future)	10 months' jail+140 lashes+ 6 months' conditional jail (in the future)	Yes	Drugs abuse	Social Observation House
145	M	Yes	A	15	Yemeni	JC	1	Drug abuse	fixed penalty for intoxication+correctional	80 lashes+150 lashes+1 year's jail	NotSpe	Notspe	Social Observation House

									whips and jail+banned from travel				
146/1	M	Yes	J	17	Saudi	JC	1	Drinking & possessing of alcohol	suspending of the case (until the whole parties are come/delivered)	Not applicable	Yes	Drugs abuse	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Drinking & possessing of alcohol	fixed penalty for intoxication+correctional whips and jail+banned from travel	80 lashes+10 lashes	No	NotMen	Social Observation House
147	M	No	No	13	No ID	JC	1	Selling alcohol for commerce	prison+correctional whips+recommendation of deportation	3 months' jail+40 lashes	No	NotMen	Social Observation House
148	M	No	No	16	No ID	JC	1	Drinking & possessing of alcohol	fixed penalty for intoxication+prison	80 lashes+1 month's jail	No	NotMen	Social Observation House
149	M	No	No	17	Saudi	JC	1	Drinking & possessing of alcohol	fixed penalty for intoxication	80 lashes	NotSpe	NotSpe	Social Observation House
150	M	No	No	16	Saudi	JC	1	Drug abuse	prison+correctional whips+probation, summary (conditional jail in the future)	120 lashes+ 1 month's conditional jail (in the future)	No	NotMen	Social Observation House
151	M	Yes	Not Spec	24	Saudi	JC	1	Drug abuse	prison+correctional whips	14 days' jail+20 lashes	Yes	Rebellion & illegal relation	CIG
152	M	Yes	Not Spec	16	Saudi	JC	1	Drug abuse	prison+correctional whips	5 days' jail+80 lashes	No	NotMen	CIG
153	M	Yes	Not Spec	16	Saudi	JC	1	Drugs promotion	prison only	10 days	No	NotMen	CIG
154	M	No	No	16	Saudi	JC	1	Drinking & possessing of alcohol	fixed penalty for intoxication+correctional whips and jail+banned from travel	80 lashes+100 lashes+3 days' jail	Yes	Theft	CIG
155	M	No	No	15	Yemeni	JC	1	Drinking & possessing of alcohol	fixed penalty for intoxication+correctional whips and jail+banned from travel	80 lashes+60 lashes	Yes	Drug abuse	CIG
156	M	No	No	18	Saudi	JC	1	Drug abuse	fixed penalty for intoxication+prison	80 lashes+3 days' jail	NotSpe	NotSpe	CIG
157	M	No	No	17	Saudi	JC	1	Drug abuse	prison+correctional whips	7 days' jail+30 lashes	NotSpe	NotSpe	CIG

158/1	M	Yes	J	17	No ID	JC	1	Drinking & possessing of alcohol	prison only	1 month	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	No ID	JC	1	Drinking & possessing of alcohol	prison only	1 month	NotSpe	NotSpe	Social Observation House
159	F	Yes	Not Spec	19		JC	1	Adultery and drinking whisky	prison+correctional whips+probation, summary (conditional jail in the future)	30 months' jail+280 lashes+ 18 months' conditional jail (in the future)	Yes	Adultery	CIG
160/1	M	Yes	J	16	Chadi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+100 lashes+ 6 months' conditional jail (in the future	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+100 lashes+ 6 months' conditional jail (in the future	Yes	Homosexuality	Social Observation House
161/1	M	Yes	J	17	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+60 lashes+ 4 months' conditional jail (in the future	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+60 lashes+ 4 months' conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	30 lashes+ 2 months' conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
162/1	M	Yes	J	15	Saudi	JC	1	Attempted homosexuality	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	50 lashes+ 1 month conditional jail (in the future)	No	NotMen	Social Observation House
163	M	Yes	Not Spec	16	Saudi	JC	1	Homosexuality	prison+correctional whips+probation,	10 months' jail+150 lashes+ 6 months'	No	NotMen	Social Observation House

									summary (conditional jail in the future)	conditional jail (in the future			
164	M	Yes	J	17	Saudi	JC	1	Attemted homosexuality	prison+correctional whips	7 days+60 lashes	No	NotMen	Social Observation House
165/ 1	F	Yes	J	18	Saudi	JC	1	Gathering for evils	prison+correctional whips+probation, summary (conditional jail in the future)	50 lashes+ 3 months' conditional jail (in the future)	NotSpe	NotSpe	CIG
/ 2	F	Yes	J	21	Saudi	JC	1	Gathering for evils	prison+correctional whips+probation, summary (conditional jail in the future)	40 lashes+ 2 months' conditional jail (in the future)	NotSpe	NotSpe	CIG
166	M	Yes	Not Spec	18	Saudi	JC	1	Assaulting and looting	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+120 lashes+ 6 months' conditional jail (in the future)	Yes	Destruction	Social Observation House
167/ 1	M	Yes	J	19	Saudi	JC	1	Rebellion	quashing of the case (not specialised court)	Not applicable	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Rebellion	prison only	40 days	No	NotMen	Social Observation House
/ 3	M	Yes	J	15	Saudi	JC	1	Rebellion	prison only	40 days	No	NotMen	Social Observation House
/ 4	M	Yes	J	17	Saudi	JC	1	Rebellion	prison only	40 days	No	NotMen	Social Observation House
/ 5	M	Yes	J	15	Saudi	JC	1	Rebellion	prison only	40 days	No	NotMen	Social Observation House
/ 6	M	Yes	J	12	Saudi	JC	1	Rebellion	prison only	25 days	No	NotMen	Social Observation House
/ 7	M	Yes	J	17	Saudi	JC	1	Rebellion	prison only	25 days	No	NotMen	Social Observation House
/ 8	M	Yes	J	16	Saudi	JC	1	Rebellion	prison only	25 days	No	NotMen	Social Observation House

/ 9	M	Yes	J	17	Saudi	JC	1	Rebellion	prison only	25 days	No	NotMen	Social Observation House
168/ 1	M	Yes	J	16	Saudi	JC	1	Attempted theft	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+150 lashes+ 2 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 2	M	Yes	J	14	Saudi	JC	1	Attempted theft	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+150 lashes+ 2 months' conditional jail (in the future)	No	NotMen	Social Observation House
169/ 1	M	Yes	J	17	Saudi	JC	1	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	Yes	Theft	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+200 lashes+ 6 months' conditional jail (in the future)	No	NotMen	Social Observation House
170/ 1	M	Yes	J	17	Chadi	JC	1	Theft	prison+correctional whips+recommendation of deportation	10 months' jail+ open amount of lashing	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Chadi	JC	1	Theft	prison+correctional whips+recommendation of deportation	10 months' jail+ open amount of lashing	Yes	Theft	Social Observation House
171	M	No	No	17	Egyptian	JC	1	Theft	prison+correctional whips	4 months' jail+70 lashes	No	NotMen	Social Observation House
172	M	No	No	17	Mali	JC	1	Theft	prison+correctional whips+recommendation of deportation	7 months' jail+200 lashes	No	NotMen	Social Observation House
173/ 1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	5 months' jail+150 lashes+ 5 months' conditional jail (in the future	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	6 months' jail+250 lashes+ 5 months' conditional jail (in the future)	Yes	Theft	Social Observation House
174	M	Yes	Not Spec	16	Chadi	JC	1	Theft	prison+correctional whips+recommendation of deportation	6 months' jail+200 lashes	Yes	Theft	Social Observation House

175/1	M	Yes	J	12	No ID	JC	1	Theft	suspension of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Social Observation House
/ 2	M	Yes	J	12	No ID	JC	1	Theft	suspension of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Social Observation House
/ 3	M	Yes	J	11	Chadi	JC	1	Theft	suspension of the case (until the whole parties are come/delivered)	Not applicable	No	NotMen	Social Observation House
/ 4	M	Yes	J	15	No ID	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	3 months' jail+40 lashes+ 4 months' conditional jail (in the future)	Yes	Theft	Social Observation House
/ 5	M	Yes	J	15	Chadi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	3 months' jail+40 lashes+ 4 months' conditional jail (in the future)	Yes	Theft	Social Observation House
176/1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	18 months' jail+150 lashes+ 1 year's conditional jail (in the future)	Yes	Theft	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+probation, summary (conditional jail in the future)	1 year's jail+100 lashes+1 year's conditional jail (in the future)	Yes	Destruction	Social Observation House
177	M	Yes	Not Spec	15	Sudani	JC	1	Theft	prison+correctional whips	3 months+250 lashes	NotSpe	NotSpe	Social Observation House
178	M	No	No	16	Sudani	JC	1	Attempted theft	prison+correctional whips+recommendation of deportation	5 months' jail+300 lashes	Yes	Theft	Social Observation House
179/1	M	Yes	J	14	Saudi	JC	1	Theft	prison only	20 days	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	14	Saudi	JC	1	Theft	prison only	20 days	NotSpe	NotSpe	Social Observation House
/ 3	M	Yes	J	14	Saudi	JC	1	Theft	prison only	20 days	NotSpe	NotSpe	Social Observation House

180	F	Yes	A	22	Saudi	JC	1	Drugs promotion	prison+correctional whips	1 year's jail+100 lashes	NotSpe	NotMen	CIG
181	F	Yes	A	18	No ID	JC	1	Drug abuse	prison+correctional whips+pledge+ confiscation+fine	2 years' jail+300 lashes	NotSpe	NotMen	CIG
182	M	No	No	17	Saudi	JC	1	Selling alcohol for commerce	prison+correctional whips+probation, summary (conditional jail in the future)	5 months' jail+380 lashes+ 6 months' conditional jail (in the future)	Yes	Destruction	Social Observation House
183/ 1	F	Yes	J	20	Saudi	JC	1	Gathering for evils	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+80 lashes+ 6 months' conditional jail (in the future)	No	NotMen	CIG
/ 2	F	Yes	J	20	Saudi	JC	1	Gathering for evils	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+80 lashes+ 6 months' conditional jail (in the future)	No	NotMen	CIG
184	M	Yes	A	17	Saudi	JC	1	Drug abuse	prison+correctional whips+probation, summary (conditional jail in the future)	6 months' jail+300 lashes+ 5 months' conditional jail (in the future)	Yes	Assault	Social Observation House
185	M	No	No	16	Saudi	JC	1	Selling alcohol for commerce	fixed penalty for intoxication+correctional whips and jail+banned from travel+fine	4 months' jail+200 lashes+80 lashes	No	NotMen	Social Observation House
186	F	Yes	A	22	Saudi	JC	1	Drug abuse	prison+correctional whips+probation, summary (conditional jail in the future)	7 months' jail+80 lashes+ 6 months' conditional jail (in the future)	No	NotMen	CIG
187	M	Yes	A	15	Saudi	JC	1	Selling alcohol for commerce	prison+correctional whips+pledge+ confiscation	3 months' jail+150 lashes	No	NotMen	Social Observation House
188	M	Yes	A	17	Saudi	JC	1	Selling alcohol for commerce	prison+correctional whips+probation, summary (conditional jail in the future)	4 months' jail+80 lashes+150 lashes+6 months' conditional jail (in the future)	Yes	Assault	Social Observation House
189	M	No	No	16	No ID	JC	1	Drinking & possessing alcohol	fixed penalty for intoxication+correctional whips and jail+banned from travel	3 months' jail+80 lashes+150 lashes	Yes	Theft	Social Observation House

190	M	No	No	15	No ID	JC	1	Drinking & possessing alcohol	fixed penalty for intoxication+prison	80 lashes+1 month's jail	NotSpe	NotSpe	Social Observation House
191	M	No	No	17	Chadi	JC	1	Drinking & possessing alcohol	correctional whips only	79 lashes	Yes	Theft	Social Observation House
192	M	No	No	16	Saudi	JC	1	Drinking & possessing alcohol	prison only	1 month	Yes	Theft	Social Observation House
193	M	No	No	17	Saudi	JC	1	Drinking & possessing alcohol	correctional whips only	75 lashes	No	NotMen	Social Observation House
194	M	No	No	16	No ID	JC	1	Drug abuse	fixed penalty for intoxication+prison	80 lashes+15 days' jail	NotSpe	NotSpe	Social Observation House
195	M	No	No	16	Saudi	JC	1	Drinking & possessing alcohol	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+80 lashes+ 2 months' conditional jail (in the future)	No	NotMen	Social Observation House
196	M	No	No	17	Saudi	JC	1	Drinking & possessing alcohol	prison+correctional whips	2 months' jail+50 lashes	NotSpe	NotSpe	Social Observation House
197	M	No	No	17	Saudi	JC	1	Selling alcohol for commerce	prison+correctional whips+pledge+ confiscation	4 months' jail+200 lashes	No	NotMen	Social Observation House
198/ 1	M	Yes	J	16	Saudi	JC	1	Drinking & possessing alcohol	missing or not mentioned	Not applicable	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Drinking & possessing alcohol	missing or not mentioned	Not applicable	NotSpe	NotSpe	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Drinking & possessing alcohol	missing or not mentioned	Not applicable	NotSpe	NotSpe	Social Observation House
199	M	No	No	16	Saudi	JC	1	Drinking & possessing alcohol	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+80 lashes+ 3 months' conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
200	M	No	No	17	Saudi	JC	1	Car crashing	prison+correctional whips	3 days' jail+50 lashes	No	NotMen	Social Observation House

201	M	No	No	15	Saudi	JC	1	Car crushing	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+200 lashes+ 2 months' conditional jail (in the future	No	NotMen	Social Observation House
202/1	M	Yes	J	16	Saudi	JC	1	Rebellion	prison+probation, summary (conditional jail in the future)	15 days' jail+3 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Rebellion	prison+probation, summary (conditional jail in the future)	15 days' jail+3 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 3	M	Yes	J	17	Saudi	JC	1	Rebellion	prison+probation, summary (conditional jail in the future)	15 days' jail+3 months' conditional jail (in the future)	No	NotMen	Social Observation House
/ 4	M	Yes	J	16	Saudi	JC	1	Rebellion	prison+probation, summary (conditional jail in the future)	15 days' jail+3 months' conditional jail (in the future)	No	NotMen	Social Observation House
203	M	Yes	Not Spec	17	Saudi	JC	1	Rebellion	prison+probation, summary (conditional jail in the future)	20 days' jail+3 months' conditional jail (in the future	No	NotMen	Social Observation House
204	M	Yes	J	14	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+90 lashes+ 4 months' conditional jail (in the future)	No	NotMen	Social Observation House
205/1	M	Yes	J	17	Saudi	JC	1	Homosexuality	prison+correctional whips	11 months' jail+95 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Somali	JC	1	Homosexuality	prison+correctional whips+recommendation of deportation	11 months'jail+95 lashes	No	NotMen	Social Observation House
206	M	Yes	J	14	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+probation, summary (conditional jail in the future)	3 months' jail+150 lashes+ 3 months' conditional jail (in the future)	NotSpe	NotSpe	Social Observation House
207	M	Yes	J	16	Saudi	JC	1	Atttempted homosexuality	prison+correctional whips+probation,	4 months' jail+90 lashes+ 6 months'	No	NotMen	Social Observation House

									summary (conditional jail in the future)	conditional jail (in the future)			
208/1	F	Yes	A	23	Saudi	JC	1	Adultery	quashing of the case (indictments are not enough)	Not applicable	No	NotMen	CIG
/ 2	F	Yes	A	28	Saudi	JC	1	Adultery	prison+correctional whips	18 months' jail+300 lashes	No	NotMen	CIG
209/1	F	Yes	J	18	Saudi	JC	1	Adultery	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+90 lashes+2 months' conditional jail (in the future)	NotSpe	NotSpe	CIG
/ 2	F	Yes	J	24	Saudi	JC	1	Adultery	prison+correctional whips+probation, summary (conditional jail in the future)	1 month's jail+90 lashes+2 months' conditional jail (in the future)	NotSpe	NotSpe	CIG
/ 3	F	Yes	J	29	Saudi	JC	1	Adultery	prison+correctional whips+probation, summary (conditional jail in the future)	2 months' jail+200 lashes+2 months' conditional jail (in the future)	NotSpe	NotSpe	CIG
210	F	No	No	20	Saudi	JC	1	Disobedience to parents & illegal relations	prison only	3 months	NotSpe	NotSpe	CIG
211*	F	Yes	Not Spec	16	Saudi	JC	1	Prefaces to fornication	quashing of the case (the guilty party is being obliged or absent or not eligible)	Not applicable	NotSpe	NotSpe	CIG
212/1	F	Yes	J	21	Saudi	JC	1	Prefaces to fornication	prison+correctional whips+probation, summary (conditional jail in the future)	80 lashes+ 2 months' conditional jail (in the future)	No	NotMen	CIG
/ 2	F	Yes	J	19	Saudi	JC	1	Prefaces to fornication	prison+correctional whips+probation, summary (conditional jail in the future)	80 lashes+ 2 months' conditional jail (in the future)	No	NotMen	CIG
213*	M	Yes	A	16	No ID	JC	1	Injuries and wounds	prison+correctional whips	2.5 months' jail+100 lashes	No	NotMen	Social Observation House
214	M	Yes	Not Spec	17	Saudi	JC	1	Theft	prison+correctional whips	2.5 months' jail+50 lashes	No	NotMen	Social Observation House

215	M	No	No	16	Saudi	JC	1	Theft	prison+correctional whips	14 months' jail+50 lashes	Yes	Theft	Social Observation House
216	M	No	No	17	Saudi	JC	1	Theft	prison+correctional whips	5 months' jail+50 lashes	Yes	Theft	Social Observation House
217	M	No	No	15	Saudi	JC	1	Theft	prison+correctional whips	6 months' jail +40 lashes	NotSpe	NotSpe	Social Observation House
218/ 1	M	Yes	j	14	Saudi	JC	1	Theft	prison+correctional whips+pledge	3 months' jail +50 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+pledge	3 months' jail +50 lashes	No	NotMen	Social Observation House
/ 3	M	Yes	J	15	Saudi	JC	1	Theft	prison+correctional whips+pledge	3 months' jail s+50 lashes	No	NotMen	Social Observation House
219*	M	Yes	Not Spec	16	Mali	JC	1	Theft	prison+correctional whips+pledge	1 month's jail +40 lashes	No	NotMen	Social Observation House
220/ 1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+pledge	10 days' jail +50 lashes	Yes	Theft	Social Observation House
/ 2	M	Yes	J	13	Saudi	JC	1	Theft	suspending of the case (until the whole parties are come/delivered)	Not applicable	NotSpe	NotSpe	Social Observation House
221/ 1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+pledge	1 year's jail+50 lashes	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+pledge	2 years' jail+50 lashes	NotSpe	NotSpe	Social Observation House
222	M	Yes	Not Spec	17	Saudi	JC	1	Theft	prison+correctional whips+pledge	2 years' jail+50 lashes	Yes	Theft	Social Observation House
223	M	Yes	Not Spec	11	No ID	JC	1	Theft	prison+correctional whips+pledge	3 weeks+40 lashes	No	NotMen	Social Observation House

224	M	Yes	Not Spec	17	Saudi	JC	1	Theft	prison+correctional whips+pledge	2 months' jail+40 lashes	NotSpe	NotSpe	Social Observation House
225	M	Yes	Not Spec	16	Saudi	JC	1	Theft	prison+correctional whips+pledge	3 months' jail+60 lashes	Yes	Theft	Social Observation House
226*	M	Yes	Not Spec	16	Saudi	JC	1	Theft	prison+correctional whips	4 months' jail+100 lashes	No	NotMen	Social Observation House
227/ 1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips	2 months' jail+40 lashes	Yes	Theft	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips	3 months' jail+50 lashes	Yes	Theft	Social Observation House
228	M	Yes	Not Spec	15	Saudi	JC	1	Theft	prison+correctional whips	1.2 months' jail+40 lashes	NotSpe	NotSpe	Social Observation House
229/ 1	M	Yes	J	17	Saudi	JC	1	Theft	prison+correctional whips+pledge	2 months' jail+40 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Theft	prison+correctional whips+pledge	2 months' jail+40 lashes	No	NotMen	Social Observation House
230	M	Yes	Not Spec	16	Egyptian	JC	1	Theft	prison+correctional whips	1.5 months' jail+40 lashes	No	NotMen	Social Observation House
231	M	Yes	Not Spec	17	Saudi	JC	1	Gathering for evils	prison+correctional whips	7 days' jail+50 lashes	No	NotMen	Social Observation House
232	M	No	No	17	Saudi	JC	1	Drug abuse	prison+correctional whips	1 month's jail+40 lashes	No	NotMen	Social Observation House
233	M	No	No	16	Saudi	JC	1	Drug abuse	prison+correctional whips	2 weeks' jail+30 lashes	NotSpe	NotSpe	Social Observation House
234	M	No	No	17	Saudi	JC	1	Drinking & possessing alcohol	fixed penalty for intoxication	80 lashes	No	NotMen	Social Observation House

235	M	No	No	17	No ID	JC	1	Drinking & possessing alcohol	fixed penalty for intoxication+prison	80 lashes+5 days' jail	NotSpe	NotSpe	Social Observation House
236	M	Yes	Not Spec	17	Saudi	JC	1	Drug abuse	prison+correctional whips	3 months' and 20 days' jail+40 lashes	Yes	Theft	Social Observation House
237	M	No	No	16	Sudani	JC	1	Drinking & possessing alcohol	correctional whips only	90 lashes	NotSpe	NotSpe	Social Observation House
238	M	No	No	17	Saudi	JC	1	Drug abuse	prison+correctional whips	1 month's jail+60 lashes	No	NotMen	Social Observation House
239*	M	No	No	16	Saudi	JC	1	Drinking & possessing alcohol	fixed penalty for intoxication+correctional whips and jail+banned from travel	80 lashes+1 month's jail	No	NotMen	Social Observation House
240*	M	No	No	16	Saudi	JC	1	Drinking & possessing alcohol	fixed penalty for intoxication	80 lashes	NotSpe	NotSpe	Social Observation House
241	M	No	No	17	Saudi	JC	1	Drug abuse	prison+correctional whips	1 month's jail+60 lashes	No	NotMen	Social Observation House
242	M	No	No	17	Sudani	JC	1	Drug abuse	correctional whips only	60 lashes	NotSpe	NotSpe	Social Observation House
243	M	No	No	17	Saudi	JC	1	Drug abuse	prison+correctional whips	1 month's jail+70 lashes	NotSpe	NotSpe	Social Observation House
244	M	No	No	15	Egyptian	JC	1	Drug abuse	fixed penalty for intoxication+correctional whips and jail+banned from travel	3 months' jail+50 lashes+80 lashes	No	NotMen	Social Observation House
245	M	No	No	17	Saudi	JC	1	Drug abuse	fixed penalty for intoxication+correctional whips and jail+banning from travel	3 months' jail+50 lashes+80 lashes	No	NotMen	Social Observation House
246	M	Yes	Not Spec	17	Saudi	JC	1	Drug abuse	prison+correctional whips+pledge	5 months+40 lashes	Yes	drugs abuse	Social Observation House

247	M	No	No	17	Saudi	JC	1	Drugs promotion	prison+correctional whips	10 days' jail+40 lashes	No	NotMen	Social Observation House
248	M	Yes	A	16	Yemeni	JC	1	Selling alcohol for commerce	prison+correctional whips	2 months' jail+50 lashes	No	NotMen	Social Observation House
249*	F	No	No	16	Saudi	JC	1	Prefaces to fornication	correctional whips only	30 lashes	No	NotMen	CIG
250	F	Yes	Not Spec	21	Saudi	JC	1	Prefaces to fornication	correctional whips only	80 lashes	NotSpe	NotSpe	CIG
251	M	Yes	Not Spec	16	Saudi	JC	1	Homosexuality	prison+correctional whips	3.5 months' jail+50 lashes	NotSpe	NotSpe	Social Observation House
252	F	Yes	Not Spec	28	Saudi	JC	1	Adultery	prison+correctional whips	2.5 months' jail+70 lashes	NotSpe	NotSpe	CIG
253*	F	Yes	A	16	Saudi	JC	1	Prefaces to fornication	correctional whips only	90 lashes	No	NotMen	CIG
254*	F	Yes	Not Spec	23	Saudi	JC	1	Adultery	prison+correctional whips	2 years' jail+200 correctional lashes+ deporting from a place	NotSpe	NotMen	CIG
255/ 1	M	Yes	J	16	Saudi	JC	1	Homosexuality	prison+correctional whips	4 months' jail+70 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	16	Saudi	JC	1	Homosexuality	prison+correctional whips	4 months' jail+70 lashes	No	NotMen	Social Observation House
/ 3	M	Yes	J	16	Saudi	JC	1	Homosexuality	prison+correctional whips	4 months' jail+70 lashes	No	NotMen	Social Observation House
256*	M	Yes	Not Spec	16	Saudi	JC	1	Homosexuality	prison+correctional whips	2.5 months' jail+40 lashes	No	NotMen	Social Observation House
257/ 1*	M	Yes	J	16	Saudi	JC	1	Attempted homosexuality	prison+correctional whips	7 months' jail+50 lashes	NotSpe	NotMen	Social Observation House
/ 2*	M	Yes	J	16	Saudi	JC	1	Attempted homosexuality	prison+correctional whips	7 months' jail+50 lashes	NotSpe	NotMen	Social Observation House

/ 3*	M	Yes	J	16	Saudi	JC	1	Attempted homosexuality	prison+correctional whips	7 months' jail+50 lashes	NotSpe	NotMen	Social Observation House
258	M	No	No	17	Saudi	JC	1	Homosexuality	prison+correctional whips	4 months' jail+40 lashes	NotSpe	NotSpe	Social Observation House
259	M	Yes	Not Spec	16	Saudi	JC	1	Homosexuality	prison+correctional whips+pledge	2.5 months+50 lashes	Yes	Homosexuality	Social Observation House
260*	M	Yes	J	16	Saudi	JC	1	Attempted homosexuality	prison+correctional whips	7 days' jail+30 lashes	NotSpe	NotSpe	Social Observation House
261/1	M	Yes	J	15	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+pledge	1 month's jail+40 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Attempted homosexuality	prison+correctional whips+pledge	3 months' jail+50 lashes	Yes	drugs abuse	Social Observation House
262	M	Yes	J	13	Saudi	JC	1	Homosexuality	correctional whips only	40 lashes	No	NotMen	Social Observation House
263	M	No	No	16	Saudi	JC	1	Homosexuality	prison+correctional whips+pledge	5 months' jail+50 lashes	No	NotMen	Social Observation House
264/1	M	Yes	J	14	Saudi	JC	1	Homosexuality	prison+correctional whips	3.5 months' jail+70 lashes	NotSpe	NotSpe	Social Observation House
/ 2	M	Yes	J	14	Saudi	JC	1	Homosexuality	prison only	3 months	NotSpe	NotSpe	Social Observation House
265/1	M	Yes	J	17	Saudi	JC	1	Rebellion	prison+correctional whips	2 months' jail+60 lashes	No	NotMen	Social Observation House
/ 2	M	Yes	J	17	Saudi	JC	1	Rebellion	prison+ correctional whips	2 months' jail+60 lashes	No	NotMen	Social Observation House
266	M	Yes	Not Spec	17	Saudi	JC	1	Rebellion	prison only	12 days	Yes	Rebellion	Social Observation House

267*	M	No	No	16	Saudi	JC	1	Car crushing (murederer)	order of penance for faulty homicide+ quashing of the case (not specialised court)	Not applicable	NotSpe	NotSpe	Social Observation House
268*	M	Yes	Not Spec	16	Saudi	JC	1	Car crushing	correctional whips only	10 lashes	NotSpe	NotSpe	Social Observation House
269	M	Yes	Not Spec	18	Saudi	JC	1	Car crushing	prison+correctional whips+pledge	1 month's jail+60 lashes	NotSpe	NotSpe	Social Observation House
270*	M	Yes	Not Spec	16	No ID	JC	1	Injuries and wounds	prison+correctional whips+recommendation of deportation	1.5 months' jail+150 lashes	NotSpe	NotSpe	Social Observation House
271/ 1*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	12 years' jail+600 lashes	NotSpe	NotSpe	NotSpe
/ 2*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	10 years' jail+300 lashes	NotSpe	NotSpe	NotSpe
/ 3*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	7 years' jail+400 lashes	NotSpe	NotSpe	NotSpe
/ 4*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	4 months' jail+300 lashes	NotSpe	NotSpe	NotSpe
/ 5*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	6 years' jail+400 lashes	NotSpe	NotSpe	NotSpe
/ 6*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	6 years' jail+400 lashes	NotSpe	NotSpe	NotSpe
/ 7*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	6 years' jail+400 lashes	NotSpe	NotSpe	NotSpe
/ 8*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	6 years' jail+400 lashes	NotSpe	NotSpe	NotSpe
/ 9*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	6 years' jail+400 lashes	NotSpe	NotSpe	NotSpe
/ 10*	M	Yes	Not Spec	16	No ID	G	3	Adultery	jail+correctional whips	6 years' jail+400 lashes	NotSpe	NotSpe	NotSpe

Appendix 3: Correspondence

الرقم:
التاريخ:
المرفقات:
الموضوع:

المملكة العربية السعودية
وزارة العدل
[٢٧٧]
شؤون القضاة

سعادة الملحق الثقافي بسفارة خادم الحرمين الشريفين ببريطانيا **سلمه الله**

السلام عليكم ورحمة الله وبركاته وبعد:-

إشارة إلى خطاب فضيلة الأمين العام للمجلس الأعلى للقضاء رقم ١٩٧٧١ وتاريخ ١٤٣٦/٠٨/٠٦هـ الخاص بتسهيل مهمة الطالب المبتعث لدراسة الدكتوراه في تخصص القانون الإسلامي / هاجد بن عبدالهادي العتيبي بالاطلاع على بعض الأحكام القضائية المتعلقة بالأحداث من دار الملاحظة الاجتماعية ودور رعاية الفتيات بالرياض.

نفيدكم انه تم تسهيل مهمته والسماح له بالاطلاع على بعض الأحكام المتعلقة بالموضوع المراد بحثه خلال الفترة من ١٤٣٦/١١/٠٢هـ الموافق ٢٠١٥/٠٨/١٧م إلى ١٤٣٧/٠٢/٠٣هـ الموافق ٢٠١٥/١١/١٦م.

للاطلاع والإحاطة والله يحفظكم ويرعاكم...

رئيس المحكمة الجزائية بالرياض المساعد

فيصل بن عبدالله الفوزان

طبع في ١٤٣٦هـ — نموذج ٠٠٣ - ٠٧ - ١

فضيلة رئيس المحكمة الجزائية في الرياض حفظه الله

السلام عليكم ورحمة الله وبركاته، أما بعد:

أشير إلى الخطاب الوارد للمجلس برقم ١٩٧٧١ وتاريخ ١٤٣٩/٧/٢٣هـ المقدم من الطالب المبتعث من قبل جامعة المجمعة لدراسة الدكتوراه بجامعة Bangor University في تخصص القانون الإسلامي/هاجد بن عبدالهادي سهل العتيبي بشأن طلب موافقة اطلاعه على بعض الأحكام القضائية المتعلقة بالاحداث من دار الملاحظة الاجتماعية ودور رعاية الفتيات بالرياض فقط التي تخص موضوع رسالته...الخ

وبناء على توجيه معالي رئيس المجلس بالتعاون مع المذكور آمل من فضيلتكم تسهيل مهمته فيما يخص الموضوع المراد بحثه.

لاطلاع فضيلتكم، والله يحفظكم ويرعاكم.

والسلام عليكم ورحمة الله وبركاته،،

الأمين العام للمجلس الأعلى للقضاء

سلمان بن محمد النشوان

المملكة العربية السعودية
المجلس الأعلى للقضاء
(١٥٢)

بسم الله الرحمن الرحيم

المجلس الأعلى للقضاء

الرقم: ١٩٧٧١
التاريخ: ١٤٣٦/٠٨/٠٦
المرفقات:

الموضوع:

فضيلة رئيس المحكمة العامة في الرياض حفظه الله

السلام عليكم ورحمة الله وبركاته، أما بعد:

أشير إلى الخطاب الوارد للمجلس برقم ١٩٧٧١ وتاريخ ١٤٣٦/٧/٢٣هـ المقدم من الطالب المبتعث من قبل جامعة المجمعة لدراسة الدكتوراه بجامعة Bangor University في تخصص القانون الإسلامي/هاجد بن عبدالهادي سهل الحتيبي بشأن طلب موافقة اطلاعه على بعض الأحكام القضائية المتعلقة بالأحداث من دار الملاحظة الاجتماعية ودور رعاية الفتيات بالرياض فقط التي تخص موضوع رسالته...الخ

وبناء على توجيه معالي رئيس المجلس بالتعاون مع المذكور آمل من فضيلتكم تسهيل مهمته فيما يخص الموضوع المراد بحثه.

لاطلاع فضيلتكم، والله يحفظكم ويرعاكم.

والسلام عليكم ورحمة الله وبركاته،،

الأمين العام للمجلس الأعلى للقضاء

سلمان بن محمد النشوان

YSGOL ATHRONIAETH A CHREFYDD
SCHOOL OF PHILOSOPHY AND RELIGION

PRIFYSGOL
BANGOR
UNIVERSITY

29.04.2015

To whom it may concern,

Ref: Notification request for research (Saudi Cultural Bureau)

As the PhD supervisor for Hajed Abdulhadi Alotaibi, I would like to notify you that Hajed requires access to primary archive data. This is only housed in the juvenile (circle) court, which belongs to the criminal court in Riyadh. Gaining access to this data resource has been deemed a vital part of his research work. He will require access to the resources for approximately three months, from the following dates: 17/8/2015 till 16/11/2015

The School of Philosophy and Religion has granted Hajed permission to conduct this essential research, as it relates to his research work. The university believes that if access is provided then Hajed will be able to make a vital contribution to knowledge.

If you have any questions, then please feel free to notify me and I will be happy to assist.

Yours Sincerely,

Dr Farhaan Wali
Lecturer in Religious Studies, Bangor University

PRIFYSGOL
BANGOR
UNIVERSITY
1884
Gwynedd LL57 2DG

Bibliography:

Abalkhail, A. 1997. *Provisional detention in juveniles' cases and its relationship to delinquency*. Unpublished dissertation. Riyadh: Naif Arab University of Security Sciences.

Abdula'tie, H.S. 2003. *Criminal responsibility for juveniles in Islamic jurisprudence.* PhD thesis. Giza: Cairo University.

Abdulmoun'im, F. 2016. *Sharia and legal principles of criminal justice.* Alukah. [Online]. Available at: http://www.alukah.net/sharia/0/53230/. Accessed: 19 April 2016.

Abdulmoun'im, F. 2016. *The concept of punishment and its types in the comparative systems.* Alukah. [Online]. Available at: http://www.alukah.net/web/fouad/10880/35474/. Accessed: 28 October 2016.

Abu Daowd, S. 2013. *Sunan Abu Daowd.* 5th ed. Beirut: Scientific Books' House.

Abu Hayian, M.Y. 1993. *Tafsir Albahr Almuhit.* Beirut: Scientific Books House.

Abu Talib, H. 1984. *The judicial system in the Kingdom of Saudi Arabia.* Cairo: Dar Alfikr Alarabi.

Abu Zahra, M. 1998. *Crime and punishment in Islamic jurisprudence: the crime.* Cairo: Dar Alfikr Alarabi.

Abu Zahra, M. 1998. *Crime and punishment in Islamic jurisprudence: the punishment.* Beirut: Dar Alfikr Alarabi.

Abu Zaid, B. 1996. Altaqnin wa alilzam. In: Abu Zaid, B. (ed). *Fiqhul nawazil.* Riyadh, KSA: Alrisalah Institution, pp. 5-106.

Acton, C., Miller, R.L., Fullerton, D. & Maltby, J. 2009. *SPSS for social scientists.* 2nd ed. Basingstoke: Palgrave Macmillan.

Ahmad, I. 2007. Islamic law: a review essay [Review of *Crime and punishment in Islamic law: theory and practice from the sixteenth to the twenty-first century* by R. Peters. Review of *Principles of Islamic jurisprudence: according to Shii law* by M.B. Al-Sadr]. *Digest of Middle East Studies*, 16 (2). pp. 122-127.

Al Arabiya. 2006. "Deterrent" verdicts on youths in the case of harassment at "AlnahdaTunnel". *Al Arabiya.* [Online]. Available at: http://www.alarabiya.net/articles/2006/01/31/20733.html. Accessed: 20 November 2016.

Al Assaf, S. 2006. *Almadkhal ila albahth fil ulum alsuloukiah.* 4th ed. Riyadh: Alobaikan Library.

Al'aff, B. 2015. *Efforts of modern scholars in legislating Islamic jurisprudence.* Islamic University of Gaza. [Online]. Available at: http://site.iugaza.edu.ps/balaff. Accessed: 4 May 2015.

Alahow, A. 2015. *Harakat Altaqnien fi Alfiqh Alislami.* Islamic Books. [Online]. Available at: http://islamic-books.org/section.aspx?book. Accessed: 4 May 2015.

Ala'jam, Y. 2013. *Procedures related to evidence deduction and investigations in crimes committed by girls*. Unpublished dissertation. Riyadh: Naif Arab University for Security Sciences.

Alalbani, M. 1988. *Sahihul Jamie Alsaghir*. 3rd ed. Damascus: The Islamic Office.

Alalfi, A. 1976. *The criminal system in the Kingdom of Saudi Arabia.* Riyadh: Institute of Public Administration.

Al'alfi, M. 2015. *Efforts on legislating Islamic jurisprudence.* Alukah. [Online]. Available at: http://www.alukah.net/library. Accessed: 4 May 2015.

Al'alsheikh, H. (eds). 2014. The codification and documentation of Shariah rulings. *Al Riyadh*. [Online]. Available at: http://www.alriyadh.com/1004052. Accessed: 20 January 2017

Al'amidi. A. 2012. *Alihka'am fi Asul Al'ahkaam.* Riyadh: Imam Muhammad University.

Alammar, H. (ed.). 2009. The codification of "discretionary sanctions" reduces the contradictions in judges' verdicts. *Al Riyadh*. [Online]. Available at: http://www.alriyadh.com/417929. Accessed: 20 November 2016.

Alaoudh, S. 2017. The Ghilah murder and its consequences. *Islam Today*. [Online]. Available at: http://www.islamtoday.net/bohooth/artshow-32-6244.htm. Accessed: 4 June 2017.

Alashqar, O. 2005. *Entrance to Sharia and Fiqh.* Amman, Jordan: Alnafaais.

Alasroshni, M.M. 1983. *Jami Ahkam Alsighar.* Not mentioned: Not mentioned.

Alawadeh, M. 2005. *History and prospect of Islamic criminal law with respect to the human rights*. PhD thesis. Berlin: Humboldt University.

Al'Awwa, M.S. 1982. Basis of Islamic penal legislation. In: Cherif Bassiouni, M. (ed.). *Islamic criminal justice system.* New York: Oceana, pp. 127-147.

Al'azdi, M.S. 2002. *Tafsir Muqatil Ibn Sulaiman.* 2nd ed. Beirut: Scientific Books House.

Albaberti, M. No date. *Alinayah Sharhul Hidayah.* Beirut: Darul Fikr.

Albaghdadi, G. 1999. *Magma'a Aldhamanat.* Cairo: Darul Salam.

Albaihaqi, A.A. 2010. *Alsunan Alkubra'a.* 2nd ed. Beirut: Scientific Books House.

Albarkati, M. 2002. *Altarifatul Fiqhiyah.* Beirut: Darul Kutub Alilmiyah.

Albisher, K. 2001. *Fighting crime in Saudi Arabia.* Riyadh: Naif Arab University for Security Sciences.

Albishri, T. 1996. *The contemporary legal situation.* Cairo: Dar Alshurouq.

Albuhoti, M.Y. 2008. *Kashaaful Qinaa an matin Aliqnaa.* Riyadh: Ministry of Justice, KSA.

Aldubayan, A. (2011). Altajdid fi Aluqubah. *The Judicial Journal*, 1 (3), pp. 18-38.

Alfaiumi, A. 2010. *Almesbah Almunir.* Beirut: Lebanon Library.

Alfouzan, S. 2005. About so-called codifying Sharia law. *Al Jazirah.* [Online]. Available at: http://www.al-jazirah.com/2005/20050511/rj2.htm. Accessed: 20 November 2016.

Alghabash, Y. 2014. Codification: between need and luxury. *Makkah Newspaper.* [Online]. Available at: http://makkahnewspaper.com/article/49573/Makkah/%D8%A8%D8%AE%D9%8A%D8%AA-%D8%A2%D9%84-%D8%BA%D8%A8%D8%A7%D8%B4. Accessed: 20 January.

Alghazali, M. 2011. *Almustasfa men elm Alusoul.* Beirut: Dar Alnafa'ais.

Alhajjawi, M. 2011. *Al'eqna.* Beirut: Madar A'alam Alkutoub.

Alhakim, M. 2014. *Almustadrak ala Alsahihain.* Riyadh, Saudi Arabia*:* Almaiman Publishing House.

Alhariqy, M. 2001. *Juveniles' rights with regard to international conventions*. Unpublished masters' dissertation. Riyadh: Naif Arab University of Security Sciences.

Alharthi, A. 2012. Age of criminal responsibility of children. Unpublished masters' dissertation. Riyadh: Naif Arab University of Security Sciences.

Alhattab, M. 2003. *Mawahbul Jalil.* Beirut: Univers House.

Alhwaiqil, M. 2006. The verdict has come. *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/128672. Accessed: 20 November 2015.

Aljassas, A. 1985. *Asoul Aljassas.* Kuwait City: Ministry of Islamic Affairs, Kuwait.

Aljundi, M. 1986. *Jaraim Alahdath in Islamic law.* Cairo: Darul fikr Alarabi.

Aljura'y, A. 2015. *Legislating Shariah rulings between prohibition and allowing.* Islam Today. [Online]. Available at: http://www.islamtoday.net/nawafeth/artshow. Accessed: 4 May 2015.

Aljuzairi, A. 2001. *Jurisprudence upon the four Islamic doctrines.* Riyadh: Ibn Hazm's Publishing House.

Alkasany, A.M. 2010. *Bada' Alsana'i.* 3rd ed. Beirut: Scientific Books House.

Alkhunain, A. 2010. Ma'aier Taqdirul Uqubah Alta'aziriah. *The Judicial Journal,* 1 (1), pp. 56-104.

Alkilani, A. 2015. *Codifying Islamic jurisprudence in Jordan.* Islamic Books. [Online]. Available at: http://islamic-books.org/cached-version. Accessed: 4 May 2015.

Almadhi, H. 1994. *Alqhada'a fi jaraim Alahdath*. Master's thesis. Riyadh: The Arabic Center for Studies and Security Training.

Almaiman, N.A. 2001. *Altalfiq fi alijtihad wa altaqlid*. *Justice Journal,* 11 (1), pp. 1-20.

Almaliki, M. 2003. *Ahkaam Alqura'an.* 3rd ed. Beirut: Dar alkutub Alilmiyah.

Almani'ee, M. 2011. Alsin Alqanoni lil Ahdath. *The Quarterly Journal of Islamic Studies and Research,* 23, pp. 517-555.

Almardawi, A. 1986. *Alinsaaf fi Ma'arifat Alrajih Mina lkhilaaf.* 2nd ed. Beirut: Dar Ehia Alturaath Alislami.

Almarghinani, A. 2006. *Alhedyiah Sharh Albedyiah.* 2nd ed. Cairo: Darul Salam.

Almarzoqi, M. 2004. *Legislative authority in Saudi Arabia.* Riyadh: Obaikan Library.

Almawardi, A. 1994. *Alhawi Alkabier.* Beirut: Scientific Books House.

Almawardi, A. 2013. *Al'ahkaam Alsultaniah.* Cairo: Azhari Books.

Almawsili, A. 1975. *Alekhtiar fi Ta'alil Almukhtar.* 3rd ed. Beirut: Knowledge House.

Alminshawi, M.A. 2003. *Internet crimes in Saudi society.* Masters' dissertation. Riyadh: Institute of Graduate Studies. Riyadh, Saudi Arabia.

Almogren, S. 2016. Saudi lawyers' fees are illogical. *Saudi Gazette*. [Online]. Available at: http://saudigazette.com.sa. Accessed: 20 November 2015.

Almohideb, A.M. 1996. *Criminal procedures relevant to crimes of killing in the Kingdom of Saudi Arabia.* PhD thesis. Glasgow: University of Glasgow.

Almugaid, S. 2006. Satisfaction towards the penalty. *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/127183. Accessed: 20 November 2015.

Almusa'd, A. 2013. *Alahadith alwaridah fil hudud wa alta'zir wa alqisas,* PhD thesis. Alukah. [Online]. Available at: http://www.alukah.net/library. Accessed: 20 November 2016.

Al-Mutlag, F. 2003. *Juvenile delinquency in Saudi Arabia with special reference to drug users.* PhD thesis. Hull: University of Hull.

Alna'iem, A. 2011. *Protection of children in criminal law and international convention*. Unpublished master's dissertation. Riyadh: Naif Arab University of Security Sciences.

Alnasafi, A. 2008. *Alnasafi's interpretation.* Beirut: Scientific Books House.

Alnasaie, A. 2001. *Sunan Alnasaie.* Riyadh: Alrisalah Institute.

Alnawawy, Y.S. 1991. *Rawdhat Altalibin.* 2nd ed. Beirut: Islamic Office.

Alnujaimi, M. 2005. Conversion of jurisprudential rules into legal articles to suit the modern age. *Al Riyadh*. [Online]. Available at: http://www.alriyadh.com/62484. Accessed: 20 January 2017.

Alobaikan, N. 2005. Riyadh police arrest four youths who harassed two Saudi girls in Al-Nahda tunnel. *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/97820. Accessed: 20 January 2017.

Alotaibi, S.A. 2003. *Criminal Islamic encyclopedia.* Riyadh: Alrushd Library.

Alqaradawi, Y. 2001. *Madkhal Li Dirasat Alsharia Alislamiyah.* 2nd ed. Beirut: Alrisalah Institute.

Alqarafi, A. 2001. *Alfurouq.* Riyadh, Saudi Arabia: Salam House.

Alqari, A. 2005. *Majallat Alahkaam Alshariyah.* 3rd ed. Jeddah: Tihama.

Alqurtobi, M.A. 2014. *Tafsir Alqurtobi.* 4th ed. Beirut: Scientific Books House.

Alrababiyah, O. 2017. The impact of the severity of punishment in the division of crimes in Islamic jurisprudence. *Jordanian Journal of Islamic Studies,* 4 (1). Available at: https://web2.aabu.edu.jo/nara/Islamic/suportFile/412.pdf. Accessed: 20 March 2017.

Alrafie, A.M. 1978. *Almisbahul Munir fi Gharib Alsharh Alkabir.* Beirut: Darul Kutob Alilmiyah.

Alramli, M. 2011. *Mughni Almuhtaj.* 3rd ed. Beirut: Scientific Books House.

Alrashid, N. 2008. Lashing sanctions: is it time to regulate rather than relying on the discretion of the judges? *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/308847. Accessed: 20 November 2016.

Alrazi, M. 2008. *Mukhtar Alsihah.* Riyadh: Hadith House.

Alrousan, E. 2010. *Judicial individualization of punishment*. Jurispedia. [Online]. Available at: http://ar.jurispedia.org/index.php. Accessed: 20 January 2017.

Alsa'di, A. 2000. *Alsa'di's Tafsir.* Riyadh: Resala House.

Alsahli, M. 2005. Codification of Sharia-related transactions, are there any need to do so? *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/40060. Accessed: 20 November 2016.

Alsahli, M. 2006. Codification of Sharia and the completion of the legislative structure. *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/120827. Accessed: 20 November 2016.

Alsahli, M. 2007. The launching the system of sanctions and rationing provisions punitive crimes. *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/251820. Accessed: 20 November 2016.

Alsaifi, A. 1995. *The general rulings of the criminal law.* Riyadh: King Saudi University.

Alsaleh, S. 2001. *Alnuzum Alislamiyah.* Beirut: Dar Alilm.

Alsarkhasi, M. 1997. *Usul Alsarkhasi.* Beirut: Knowledge House.

Alsarkhasi, M. 2009. *Almabsout.* Beirut: Scientific Books House.

Alshafi, K. 2010. *Criminal constitutional principles in the constitutional law of Saudi Arabia*. PhD thesis. Riyadh: Naif Arab University for Security Sciences.

Alshafi, K. 2014. The consistency between crime and punishment in Saudi anti-money laundering law. *Journal of Legal and Economic Research,* Egypt, pp. 1-52.

Alshafie, M. 1991. *Ahkaam Alqura'an*. Beirut: Dar Alkutub Alilmiyah.

Alshafie, M. 2001. *Alumm.* Cairo, Egypt: Darul Wafaa.

Alshammary, A. 2012. *Classification of juvenile crimes*. Unpublished master's dissertation. Riyadh: Naif Arab University of Security Sciences.

Alshaqhaa, A. 2007. Children's rights in the Kingdom of Saudi Arabia. *Al Jazirah*. Available at: http://www.al-jazirah.com/2007/20070302/ar11.htm. Published on 02/03/2007.

Alsharif, N. 2010. Excessiveness in discretionary lashing. *Okaz.* [Online]. Available at: http://okaz.com.sa/article/309415/. Accessed: 20 January 2017.

Alshathri, A. & Aljumaih, A. 2006. The verdict in Alnahda tunnel case was a deterrent. *Al Riyadh.* [Online]. Available at: http://www.alriyadh.com/127177. Accessed: 20 November 2015.

Alshathry, A. 2007. *The rule of codifying Islamic Sharia law.* Qassim, KSA: Alsumaiy Institute.

Alshatibi, E. 1995. *Alitisaam.* Beirut: Knowledge House.

Alshatibi, E. No date. *Almwafqat.* Beirut: Knowledge House.

Alshawkani, M. 2015. *Nail Al'awtar.* 3rd ed. Riyadh: Daru Ibn Alqayim.

Alshirasi, E.A. 2003. *Almuhazab.* Beirut: Darul Ma'arifah.

Alsoufi, R. 2012. *Strategies for the justifications of Ḥudūd Allah and their punishments in the Islamic tradition*. PhD thesis. Edinburgh: University of Edinburgh.

Alsyigh, M. 2010. *The judicial rights for the children*. Riyadh: Ministry of Justice, KSA.

Altaftazani, M. 1996. *Sharh Altalwieh.* Beirut: Scientific Books House.

Altirmizy, M. 2012. *Sunan Altirmizy.* Beirut: Arabic Revival Heritage House.

Alturaiqi, A. 2015. *The Islamic sources of protected rules.* Alukah. [Online]. Available at: http://www.alukah.net/web/triqi/0/. Accessed: 4 May 2015.

Alzailai, O. 2010. *Tabyin Alhaqaiq Sharh Kanz Aldaqaiq.* 2nd ed. Beirut: Scientific Books House.

Alzarkhshy, M. 1970. *Alburha'an fi Ulumil Qura'an.* Beirut: Knowledge House.

Alzarkhshy, M. 1992. *Albahrul Mouhiet.* Beirut: Dar al-Safwa.

Alzarqaa, M.A. 2004. *Almadkhal Alfiqhi Ala'm.* 2nd ed. Damascus: Darul Qalam.

Alzughaibi, M. 2014. Juveniles' judgment. *Sauress News.* [Online]. Available at: http://www.sauress.com/anbacom/1020257. Accessed: 8 April 2014.

Alzuhaily, W. 1986. *Usul Alfiqh.* Damascus: Thought House.

Alzuhaily, W. 2014. *Efforts to codify Islamic jurisprudence*. Beirut: Darul Fikr.

A'midi, M. 1983. *Ehkam fi Usul Al'ahka'm.* Beirut: Arabic Books House.

Anderson, J.N.D. 1960. The significance of Islamic law in the world today. *American Journal of Comparative Law*, 9 (2), pp. 187-198.

Aud'a, A. 1967. *Islam and our legal situations.* 2nd ed. Riyadh, Saudi Arabia: Almaktaba Alwaqfiyah. Available at: http://waqfeya.com/book.php?bid=7259. Accessed: 20 January 2015.

Aud'a, A. 2009. *Altashri Aljinai'ee Alislami.* 2nd ed. Beirut: Scientific Books House.

Awad, A.M. 2008. The tripartite division of crimes in the Islamic jurisprudence. *Contemporary Muslim Magazine. vol.130 Lebanon.* Available at: http://almuslimalmuaser.org/index.php?option=com_k2&view=item&id=652:eltaksem. Accessed: 20 January 2015.

Ba Husain, Y. 2007. *Alqawa'idul Fiqhiah.* 5th ed. Riyadh: Alrushd Library.

Badenhorst, C. 2015. *Writing the Introduction chapter to a thesis*. [Video]. Available at https://www.youtube.com/watch?v=c2oGY1c51jc&index. Accessed: 20 January 2016.

Collin, P.H. 1998. *Dictionary of law: English-German.* 2nd ed. Teddington: Peter Collin.

Creswell, J. 2014. *Research design: qualitative, quantitative, and mixed methods approaches.* 4th ed. Thousand Oaks, CA: SAGE.

Cusick, R. 2009. *Comparing common, Continental and Islamic law, juries, judges and the state: criminal procedure in the modern society and realistically addressing procedural safeguards in the age of terrorism.* Annual Meeting of the Western Political Science Association. Chicago, March 18.

Da Silva, S., Moreira, B. & Da Costa, N. 2014. 2D:4D digit ratio predicts delay of gratification in preschoolers. *PLoS ONE,* 9 (12), DOI: 10.1371/journal.pone.0114394.

Department of Public Information, New York. 1989. United Nations standard minimum rules for the administration of juvenile justice. *Police Studies,* 12 (2), pp. 82-95.

Deshpande, R. 1983. "Paradigms lost": On theory and method in research in marketing. *Journal of Marketing,* 47 (4). pp. 101-110.

Drammeh, A. M. 2014. Methodological Approaches and Implications in Dealing with the Qur'an. *Al-Bayan journal of Quran and Hadith studies*, 12 (1), pp. 28-41

Ebrahim, H. 2013. *Codifying Islamic law: the desired hope.* Alukah. [Online]. Available at: http://www.alukah.net/culture/0/50847/. Accessed: 20 November 2015.

Esposito, J.L. 2003. *The Oxford dictionary of Islam.* Oxford: Oxford University Press.

Evans, G. No date. *MSc Statistics*. Educational memorandum. Riyadh: King Saud University Hospital.

General Authority for Statistics, KSA. 2016. *Social Houses of Ministry of Social Affairs by House 2016 in the Kingdom of Saudi Arabia.* Riyadh: General Authority for Statistics, KSA.

General Presidency of Scholarly Research and Ifta. 2015. Legislating Sharia law. *General Presidency of Scholarly Research and Ifta.* [E-journal]. 31 (3). Available at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?languagename=ar&View. Accessed: 4 May 2016.

General Presidency of Scholarly Research and Ifta. 2015. The prohibition of the demonstrations and their danger to the nation. *General Presidency of Scholarly Research and Ifta.* [E-journal]. 93 (3). Available at: http://www.alifta.net/Fatawa/fatawaDetails.aspx?BookID=2&View=Page&PageNo=1&PageID=13353&languagename=. Accessed: 7 April 2017.

Gulf Cooperation Council (GCC). 2002. *Abu Dhabi document for uniform code of juveniles in the Gulf Cooperation Council*. Riyadh: GCC.

Haider, A. & Birley, S. 1999. Integrating deductive and inductive approaches in a study of new ventures and customer perceived risk. *Qualitative Market Research,* 2 (2), pp.103-110.

Hamidullah, M. 1987. *Collection of political documents in the time of the Prophet.* Beirut: Alnafais House.

Hamzah, F. 1968. *Saudi Arabian land.* 2nd ed. Riyadh: Alnasr Library.

Hart, C. 1998. *Doing a literature review: releasing the social science research imagination.* London: SAGE.

Hart, C. 2001. *Doing a literature search: a comprehensive guide for the social sciences.* London: SAGE.

Hashas, M. 2014. Wael Hallaq, the impossible state between Islam and politics. Ribat, Morocco. [Online]. Available at: http://www.mominoun.com/articles/2361. 23 January 2014. Accessed: 20 November 2016.

Human Rights Watch. 2008. *Adults before their time.* Human Rights Watch. [Online]. Available at: https://www.hrw.org/report/2008/03/24/adults-their-time/children-saudi-arabias-criminal-justice-system. Accessed: 20 November 2014.

Ibn Abdin, M.A. 2000. *Hashiat Ibn Abdin.* Beirut: Thought House.

Ibn Abdulbarr, Y. 1987. *Alkafi.* 1st ed. scientific books' house: Beirut, Lebanon.

Ibn Alhajib, O. 1973. *Sharhul A'zud.* Cairo: Azhari Faculties Library.

Ibn Aljuazi, A.A. 2002. *Zad Almasir.* Beirut: Islamic Office.

Ibn Almulaqin, O. 2011. *Albadrul Mounir.* Beirut: Scientific Books House.

Ibn Almundhir, M. 1991. *Alijma'a (The consensus).* Cairo: Shabab Aljamia'a Institution.

Ibn Alqayim, M. 1999. *I'elaam Almuaqeen.* Cairo: Egyptian Library.

Ibn Alqayim, M. 2014. *Alturuq Alhukmiah.* 3rd ed. Riyadh: Dar Altadmoriyah.

Ibn Amir Alhajj, M. 1983. *Altaqrir wa Altahbir.* 2nd ed. Beirut: Scientific Books House.

Ibn Farhoun, I. 2002. *Tabsiratul hukkam.* 2nd ed. Beirut: Scientific Books House.

Ibn Hajar, A. 1964. *Aldiraiyah fi Takhrig Ahadith Alhidaiyah.* Beirut: Alyamani.

Ibn Hanbal, A.A. 1999. *Musnad Ahmed Bin Hanbal.* 2nd ed. Riyadh: Alrisalah Institute.

Ibn Hazm, A. 1988. *Almuhalla.* Beirut: Scientific Books House.

Ibn Majah, M. 1998. *Sunan Ibn Majah.* Beirut . Aljil House.

Ibn Mandhur, M. 2005. *Lisanul Arab.* 3rd ed. Beirut: Sadir Institute.

Ibn Muflih, I. 2003. *Almubdie sharhul Muqnie.* Beirut: The World of Books.

Ibn Nujaim, Z. 1993. *Alashbah wa alnadha'ir.* Beirut: Scientific Books House.

Ibn Qudamah, A. 1999. *Almughni.* 4th ed. Beirut: The World of Books.

Ibn Qudamah, A. 2005. *Alsharhul Kabir.* Beirut, Lebanon: World Books House.

Ibn Qudamah, A. 2011. *Rawdhat Alnadhir.* Riyadh: Alrushd Library.

Ibn Rajab, A.A. 1998. *Alqawa'aid.* Cairo: Dar Ibn Affaan.

Ibn Rushd, M. 2014. *Bediyatul Mujtahid.* Jeddah: Dar Al'awraq Althaqafiah.

International Islamic Committee for Woman and Child. 2003. *Child convention in Islam*. Cairo: International Islamic Committee for Woman and Child.

Itani, T. 2016. *Home page.* Clear Quran. [Online]. Available at: http://www.clearquran.com/. Accessed: 17 April 2016.

Kamali, M.H. 1991. *Principles of Islamic jurisprudence.* 2nd ed. Cambridge: Islamic Texts Society.

Khadar, A. 1982. *The criminal law.* Riyadh: Institute of Public Administration.

Khallaf, A. 1995. *The knowledge of principles of jurisprudence.* Beirut: Arabic Thought House.

Khallaf, A. No date. *The summary of Islamic legislation history*. Kuwait City: Darul Ilim. Available at: https://books.google.co.uk/books?id=bXTemiaN_r0C&printsec=frontcover&dq=. Accessed: 20 November 2015.

Kingdom of Saudi Arabia. 1975. *Law of Social Observation House (SOH).* Riyadh: Ministry of Social Affairs, KSA.

Kingdom of Saudi Arabia. 1979. *Law of care institution for girls*. Riyadh: Ministry of Social Affairs, KSA.

Kingdom of Saudi Arabia. 2007. *Judicial law 2007*. Riyadh: Government of the Kingdom of Saudi Arabia.

Kingdom of Saudi Arabia. 2013. *Criminal procedures law*. Riyadh: Government of the Kingdom of Saudi Arabia.

Kingdom of Saudi Arabia. 2015. *Executive regulations on the criminal procedures law*. Riyadh: Government of the Kingdom of Saudi Arabia.

Kumar, R. 2014. *Research methodology: a step-by-step guide for beginners.* 4th ed. Thousand Oaks, CA: SAGE.

La Placa, P. 2015. *How to write a world class paper*. Reading: University of Reading.

Lewis, B., Pellat, Ch. and Schacht, J. (eds). 1991. *The encyclopedia of Islam.* Volume II, C—G. 4th ed. Leiden: Brill.

Ma'bdah, M. 2011. Criminal responsibility in Jordanian law through Islamic law. *Jordanian Journal for Islamic Studies,* 7 (1A), pp. 205-218.

Maguire, M., Magoran, R. & Reiner, R. 2012. *The Oxford handbook of criminology.* 5th ed. Oxford: Oxford University Press.

Malekian, F. 1994. *The concept of Islamic international criminal law: a comparative study.* London: Graham & Trotman/M. Nijhoff.

Matter, S. 2013. Essays in Islamic politics. *Al Bayan Magazine*. Vol (169). [Online]. Available at: http://waqfeya.com/book.php?bid=9337. Accessed: 8 September 2016.

Meirow, E. 2014. *Analytical essay outline.* Kibin. [Online]. Available at: https://www.kibin.com/essay-writing-blog/analytical-essay-outline/. Accessed: 8 September 2016.

Ministry of Interior, Kingdom of Saudi Arabia. 1976. *Proceedings of the symposium on the effect of Islamic legislation on crime prevention in Saudi Arabia*. Riyadh, October 9-13, 1976. Riyadh: Ministry of the Interior, KSA.

Ministry of Interior, KSA. 2002. *Criminal procedures guide in Saudi Arabia.* Riyadh: Saudi National Security Press.

Ministry of Interior, KSA. 2008. *The annual statistical book, no. 35.* Riyadh: Ministry of the Interior, KSA.

Ministry of Justice, KSA. 2008. *The annual statistical book, no. 33.* Riyadh: Ministry of Justice, KSA.

Ministry of Social Affairs, KSA. 2008. *The annual statistical book.* Riyadh: Ministry of Social Affairs, KSA.

Moore, F. 2013. The Stanford marshmallow experiment. *Commentary,* 135 (3), pp. 35-45.

Muhammadin, M. 2011. Alternative procedures of detention punishment. *Judicial Journal,* 1 (2), pp. 98-132.

Musailhi, M. 2001. The right of equality between man and woman in Islamic Sharia. *Justice Journal,* 9, pp. 1-25.

Alqushairi, A.M. 2013. *Sahih Muslim.* 6th ed. Beirut: Scientific Books House.

Mustafa, I., Alzaiyat, A., Abdulqadir, H. & Alnajjar, M. (eds). 1985. *Arabic dictionary.* Cairo: Arabic Language Institute.

O'Cathain, A., Murphy, E. & Jon Nicholl 2010. Three techniques for integrating data in mixed methods studies. *BMJ: British Medical Journal,* 341 (7783), pp. 1147-1150.

Owain, Z. 2003. *Qhada Alahdath.* Riyadh: Legal Library.

Pallant, J. 2013. *SPSS survival manual: a step-by-step guide to data analysis using IBM SPSS.* 6th ed. Maidenhead: McGraw-Hill Education.

Pears, R. & Shields, G.J. 2013. *Cite them right: the essential referencing guide.* 9th ed. Basingstoke: Palgrave Macmillan.

Peters, R. 1994. The Islamization of criminal law: a comparative analysis. *Die Welt des Islams,* 34 (2), pp. 246-274.

Peters, R. 2005. *Crime and punishment in Islamic law: theory and practice from the sixteenth to the twenty-first century.* Cambridge: Cambridge University Press.

Salam, R. 2008. Thoughts on the new judicial system in Saudi Arabia. *Al Riyadh,* Article 14533. [Online]. Available at: www.alriyadh.com. Accessed: 20 November 2016.

Sanad, N.S.A., 1991. *The theory of crime and criminal responsibility in Islamic law: Shari'a.* Chicago: Office of International Criminal Justice, University of Illinois.

Saudi Gazette. 2016. Punishment in Shariah is a mercy from Allah. *Saudi Gazette*. 9 January 2016.

Seth, A. & Zinkhan, G. 1991. Strategy and the research process: a comment. *Strategic Management Journal,* 12 (1), pp. 75-82.

Shaham, R. 2002. Islamic law and legal system: studies of Saudi Arabia. *Journal of the American Oriental Society,* 122 (3), pp. 646-648.

Shahidullah, S.M. 2012. *Comparative criminal justice systems: global and local perspectives.* Burlington, MA: Jones & Bartlett Learning.

Shuga'a, A. 2015. *Jurists' stances from legislating Shariah rulings.* Organization House of Law, Yemen. [Online]. Available at: http://www.ohlyemen.org/modules.php?name. Accessed: 4 May 2015.

Smagorinsky, P. 1994. *Speaking about writing: reflections on research methodology.* Thousand Oaks, CA: SAGE.

Sonusy, M. 2013. Almualajah Aljina'iah li jara'im Alhudud Alwaqiah min Alahdath. *Journal of Faculty of Sharia and Law,* 2 (3), pp. 142-232.

Stilt, K. & Peters, R. 2008. Crime and punishment in Islamic law: theory and practice from the sixteenth to the twenty-first century. *International Journal of Middle East Studies,* 40 (3), pp. 513-515.

Taylor, D. 2010. *Writing the literature review*. [Video]. Available at: https://www.youtube.com/watch?v=2IUZWZX4OGI&list=LL6La8Cb6nkHB8NiXTn9vxAQ&index=5. Accessed: 20 November 2016.

Truszkowska, N. 2001. Irreligious police: women's rights in Saudi Arabia. *Harvard International Review,* 23 (2), pp. 10-11.

Turck, N.B. 1988. Dispute resolution in Saudi Arabia. *International Lawyer*, 22 (2), pp. 415-443.

United Nations General Assembly. 1989. *Convention on the Rights of the Child*. Geneva: United Nations.

van Donzel, E., Lewis, B. & Pellat, Ch. (eds). 1997. *The encyclopedia of Islam.* Volume IV, Iran—Kha. 4th ed. Leiden: Brill.

Wajis, N.R.N. 1996. *The crime of Hirāba in Islamic law*. PhD thesis. Glasgow: Glasgow Caledonian University.

Wali, F. 2016. Personal correspondence. [Email]. 25 May 2016.

Wali, F. 2011. *Radicalism unveiled: a study of Hizb ut-Tahrir in Britain.* PhD thesis. London: Royal Holloway, University of London.

Worster, W.T. 2014. The inductive and deductive methods in customary international law analysis: traditional and modern approaches. *Georgetown Journal of International Law,* 45 (2), pp. 483-521.

Zaidan, L. 2016. Rules for the administration of juvenile justice. *Ahewar News*. [Online]. Available at: http://www.ahewar.org/debat/show.art.asp?aid=101871. Accessed: 10 July 2016.

Zanki, N. 2014. Codification of Islamic law premises of history and debates of contemporary Muslim scholars. *International Journal of Humanities and Social Sciences,* 4 (9), pp. 127-137.