

# Procedural Guarantees for the Protection of the Child: A Comparative Study between Emirati Law and Islamic Sharia

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## Abstract

This study examines procedural safeguards designed to protect children in criminal proceedings through a comparative analysis of Emirati law and Islamic Sharia, taking into account recent legislative developments and contemporary challenges in juvenile justice. It is based on the premise that children, due to their legal vulnerability and incomplete mental and psychological development, require special procedural protection to preserve their dignity and prevent abuse throughout criminal proceedings. Adopting a comparative analytical approach, the study explores the concept of procedural safeguards, their legal and Sharia foundations, and their application during the stages of investigation, trial, and execution of measures. Particular attention is given to the principle of the best interests of the child as a guiding standard that limits the powers of law enforcement authorities and directs criminal policy toward rehabilitative alternatives rather than custodial penalties. The study shows that Emirati legislation has embraced an advanced approach by establishing a comprehensive system of safeguards, including confidentiality of procedures, specialized juvenile courts, restrictions on interrogation, mandatory legal or guardian representation, and expanded use of alternative measures, all aimed at effective protection and social reintegration of the child. In parallel, Islamic Sharia is shown to have established early and robust foundations for procedural child protection through principles such as gradual accountability, discernment, avoidance of punishment in cases of doubt, and prioritization of mercy and reform. The study concludes that the relationship between Emirati law and Islamic Sharia in child protection is complementary, combining procedural clarity with ethical and humanitarian values, and recommends strengthening this integration through legislative development and specialized training in juvenile justice.

**Keywords:** Procedural Guarantees, Child Protection, Comparative Study, Emirati Law, Islamic Sharia

## Introduction

The protection of children within contemporary criminal justice systems has become a defining measure of the legitimacy and sophistication of the rule of law. Over the past two decades, international legal discourse has shifted from a purely punitive conception of juvenile justice toward a right based and child centered paradigm grounded in the Convention on the Rights of the Child and related soft law instruments. This paradigm recognizes children not merely as subjects of control, but as rights holders entitled to dignity, due process, and developmental consideration. At the same time, empirical and policy debates increasingly emphasize that exposure to harsh or poorly regulated criminal procedures may produce long term psychological harm, social marginalization, and higher rates of recidivism. Within this broader social and theoretical setting, procedural safeguards for children have emerged as a central concern of both criminal law theory and governance studies, situated at the intersection of human rights, restorative justice, and preventive public policy.

Despite the growing global consensus on minimum standards, significant variation persists in how national systems conceptualize and implement procedural safeguards. Much of the existing scholarship focuses either on international normative frameworks or on domestic statutory reforms in isolation. Comparatively fewer studies explore how procedural protections operate within hybrid legal systems where statutory law coexists with religious or value based normative orders. This gap is particularly relevant in jurisdictions such as the United Arab Emirates, where positive law is enacted within a constitutional structure that recognizes Islamic Sharia as a principal source of legislation. The interaction between these two reference frameworks raises important theoretical questions about legal pluralism, normative coherence, and the translation of ethical principles into enforceable procedural guarantees.

In this context, the protection of children in criminal proceedings is not merely a technical matter of procedural regulation. Children, by virtue of their age, limited legal awareness, and developmental vulnerability, require safeguards that go beyond formal equality before the law. Neutral procedural rules may prove insufficient if they fail to account for the asymmetry of power between the child and state authorities. Contemporary legal theory therefore increasingly advocates for a differentiated procedural model that integrates deterrence with rehabilitation and educational intervention. This approach reflects an understanding that juvenile justice must reconcile criminal accountability with social reintegration, particularly in cases of children in conflict with the law, where legal considerations intersect with social and pedagogical dimensions.

The importance of procedural safeguards lies in their comprehensive scope. They extend from the initial stages of inquiry and investigation through trial and, where applicable, to the execution of measures or judgments. Core guarantees include humane treatment, the right to legal representation, confidentiality of proceedings, and the principle that deprivation of liberty must constitute a measure of last resort. While these principles are widely acknowledged in comparative legislation, their practical effectiveness depends on the clarity of statutory provisions, the institutional competence of implementing authorities, and their alignment with prevailing cultural and societal values. This reality underscores the necessity of examining not only the formal legal texts but also the normative foundations that sustain them in both positive law and Islamic jurisprudence.

Within the Emirati legal order, the legislature has demonstrated sustained commitment to strengthening child protection through specialized statutes and procedural reforms that prioritize the best interests of the child. These reforms align with the state's international obligations and its broader vision of constructing a balanced and development-oriented justice system. Measures such as limiting custodial penalties, regulating interrogation procedures, and incorporating social and psychological expertise reflect an institutional effort to operationalize child sensitive justice. However, a comprehensive assessment of these mechanisms requires situating them within the broader value framework of Emirati society, where Islamic Sharia plays a foundational normative role.

Islamic Sharia historically articulated principles that bear direct relevance to contemporary procedural safeguards. The doctrines of graduated accountability, the linkage of responsibility to discernment, and the maxim of avoiding punishment in cases of doubt collectively establish a protective orientation toward minors. Moreover, the higher objectives of Sharia, particularly the preservation of life, intellect, and human dignity, provide an ethical and philosophical foundation that transcends formal proceduralism. Engaging these principles within a comparative framework enriches the theoretical discourse by illustrating how moral objectives can inform institutional design and procedural fairness.

The justification for selecting this topic therefore rests on both theoretical and contextual grounds. Theoretically, the study addresses a gap in the literature concerning the integration of statutory juvenile justice frameworks with Sharia based normative principles within a unified analytical model. Contextually, it responds to evolving challenges facing juvenile justice systems globally, including transnational crime, forced displacement, and the increasing exposure of children to complex legal environments. In such circumstances, robust procedural safeguards constitute the first line of defense against exploitation, discrimination, and institutional overreach.

Accordingly, this study analyzes the procedural safeguards established for child protection under Emirati law and compares them with those prescribed by Islamic Sharia. It seeks to identify points of convergence and divergence, evaluate the adequacy of existing guarantees in safeguarding the best interests of the child, and contribute to the development of a coherent juvenile justice framework that harmonizes international standards with national legal and cultural particularities. By situating the research problem within its broader social and theoretical context, the study aspires to advance scholarly understanding of child sensitive justice in hybrid legal systems and to support the evolution of a more balanced and effective model of juvenile justice in the United Arab Emirates.

### *The Concept of Procedural Safeguards for Child Protection and their Legal and Sharia Foundations*

Procedural safeguards for child protection constitute a fundamental pillar of the contemporary criminal justice system, as they reflect the level of legal development of the state and its ability to balance law enforcement with the obligation to protect vulnerable groups. Due to their limited awareness and incomplete psychological and social maturity, children are more susceptible to violations during criminal procedures. This requires subjecting such procedures to strict controls that prevent abuse of public authority. Accordingly, reliance on general criminal procedural rules alone is no longer sufficient.

Instead, it has become necessary to establish special safeguards that take into account the child's particular status and prevent legal procedures from becoming instruments of psychological or social harm (Boushaala, 2023).

From a terminological perspective, procedural safeguards refer to the set of rules and mechanisms governing how law enforcement, investigative, and judicial authorities deal with children, ensuring respect for their fundamental rights from the very first moment of their interaction with the criminal justice system. These safeguards include the right to dignified treatment, the right to defense, confidentiality of proceedings, restrictions on detention or custody, and the involvement of specialized social institutions in monitoring the child's situation. The importance of these safeguards lies in their substantive nature, as they aim to prevent harm to the child's psychological integrity or social standing due to a legal procedure that may be temporary in nature (Ghribi and Ghribi, 2021).

Within the framework of positive law, procedural safeguards for child protection are grounded in a modern philosophy that views the child as a developing human being rather than merely a potential offender. This orientation is reflected in modern legislation, including Emirati law, through the adoption of a reformative approach that prioritizes educational measures over traditional punishments and imposes restrictions on investigative authority when dealing with children. These safeguards are considered part of public procedural order, such that their violation results in the invalidity of the procedure or legal accountability, granting them binding force beyond mere moral or advisory value (Habaz, 2020).

In Islamic Sharia, the legal foundation of procedural safeguards for child protection is based on an integrated system of jurisprudential and purposive rules that preceded many modern legal principles in substance. Sharia established the absence of criminal responsibility prior to full legal capacity and linked accountability to reason and discernment. This constitutes a core procedural safeguard preventing arbitrary prosecution of children. Sharia also emphasized the principle of avoiding punishment in cases of doubt, a rule with deep procedural implications that grants judges discretionary authority to protect defendants, particularly children, from unjust consequences (Al Ketbi and Al Issawi, 2020).

Procedural safeguards in Islamic Sharia are distinguished by their ethical and value-based philosophy, which considers the protection of human dignity as a governing principle of judicial procedures. The objectives of Sharia, particularly the preservation of life and intellect, require judges and investigators to exercise extreme caution when dealing with children and prohibit any procedure that may cause psychological or social harm, even if it is formally lawful. This purposive dimension grants procedural safeguards a degree of humane flexibility that rigid legal texts sometimes lack (Ali Husni Al Junaidi and Al Doush, 2021).

A comparison between the legal and Sharia foundations of procedural safeguards for child protection reveals a broad convergence in objectives and outcomes despite differing reference frameworks. Although Emirati law is based on modern statutory legislation, it aligns with Sharia in the substance of protection, particularly in limiting responsibility, prioritizing the best interests of the child, and avoiding harsh punishment. This convergence enhances the legitimacy of procedural safeguards and grants them a dual dimension combining legal obligation with societal and moral acceptance (Naif Jalil Al Madhhan, 2020).

*The Principle of the Best Interests of the Child and its Impact on Criminal Procedures*

The principle of the best interests of the child is one of the central principles that has reshaped the philosophy of contemporary criminal justice. The child is no longer viewed merely as a party to criminal proceedings, but rather as a central subject around whose needs and protection procedures must be structured. This principle is based on the assumption that any legal procedure that fails to achieve the child's interest or causes psychological or social harm is inherently flawed, even if it satisfies formal legal requirements. Accordingly, the best interests principle has become an objective standard for assessing the legality of criminal procedures involving children (Ghribi and Ghribi, 2021).

The impact of this principle is particularly evident during the pre trial stage, especially in inquiry and investigation procedures. It obliges law enforcement and investigative authorities to minimize their intervention in the child's life to the necessary minimum and to avoid procedures that may lead to social stigmatization or long-term psychological harm. It also requires the adoption of investigative methods appropriate to the child's age, capacity for understanding, and ability to express themselves, while prohibiting any form of coercion or moral pressure, thereby ensuring the validity of the child's will and statements (Boushaala, 2023).

During the trial stage, the principle of the best interests of the child influences the organization of hearings and the management of criminal proceedings. It justifies the establishment of specialized juvenile courts and the preference for confidentiality over publicity to protect the child from moral harm and defamation. It also requires judges to consider the child's personal and social circumstances when assessing evidence and determining responsibility, rather than focusing solely on the criminal act in isolation. In this sense, the judge becomes an active participant in achieving procedural protection for the child (Habaz, 2020).

This principle also plays a crucial role in determining measures and sanctions, guiding criminal policy toward favoring reformative alternatives over custodial penalties. The best interests of the child dictate that the purpose of criminal intervention is not punishment in itself, but rehabilitation and social reintegration. Consequently, traditional penalties are reconsidered when they are shown to cause greater harm than benefit, and are replaced with educational or therapeutic measures appropriate to the child's age and needs (Gosgen and Melman, 2024).

In Islamic Sharia, the principle of the best interests of the child is rooted in the objectives of Sharia, which prioritize the preservation of life, intellect, and human dignity. Sharia adopted gradual accountability, linked responsibility to full awareness, and prioritized the prevention of harm over the pursuit of benefit. Although these principles are not formulated under the explicit label of the best interests of the child, they serve the same function by guiding judges to consider the child's condition and circumstances before adopting any procedure that may result in serious harm (Al Ketbi and Al Issawi, 2020).

A comparison between the application of the best interests principle in Emirati law and Islamic Sharia reveals substantial harmony in objectives despite differences in formulation and sources. Emirati law codifies this principle through clear legislative provisions, while

Sharia derives it from comprehensive ethical and purposive rules. This convergence enhances the effectiveness of criminal procedures involving children and grants them dual legitimacy, legal and Sharia based, thereby contributing to the development of a more just and sustainable juvenile justice system (Naif Jalil Al Madhhan, 2020).

*The Age of Criminal Responsibility and the Regulation of Accountability in Islamic Sharia and Emirati Law*

Determining the age of criminal responsibility is one of the most sensitive issues in criminal policy, due to its direct connection with the rights of the child and protection from procedural arbitrariness. Criminal responsibility is not established merely by the commission of a criminal act, but requires the presence of discernment, awareness, and the ability to comprehend the legal consequences of conduct. In the case of children, these elements cannot be presumed absolutely, but are conditioned by age, psychological, and social factors that subject criminal accountability to strict controls aimed at achieving preventive rather than punitive justice (Habaz, 2020).

In contemporary criminal law, the age of criminal responsibility is viewed as a dividing line between the absence or mitigation of responsibility on one hand and full accountability on the other. This approach has led to the adoption of specialized legislation for children that distinguishes them from adults in terms of procedures and sanctions. Modern legislative trends do not rely solely on a fixed age threshold, but rather adopt a graduated system of accountability that takes into account the development of the child's cognitive capacity and grants judges discretionary authority to assess the child's mental and psychological condition at the time of the offense (Boushaala, 2023).

In the Emirati context, the legislator has adopted a balanced approach to the age of criminal responsibility, combining legal protection with considerations of public order. Special rules have been established to mitigate criminal accountability for children and to replace traditional penalties with reformative and educational measures suited to their age and needs. The legislator has also restricted judicial discretion in imposing sanctions by linking it to the principle of the best interests of the child, thereby ensuring that children are not subjected to procedures or penalties that exceed their capacity or cause lasting harm (Ghribi and Ghribi, 2021).

In Islamic Sharia, the age of criminal responsibility is not defined by a rigid numerical standard, but rather by the criterion of legal capacity based on puberty, reason, and discernment. Sharia distinguishes between the non-discerning child, the discerning child, and the adult, assigning different legal consequences to each stage. The non-discerning child bears no criminal responsibility, the discerning child is subject to disciplinary rather than punitive measures, and full criminal responsibility is established only upon complete puberty and sound mind. This graduated approach constitutes one of the most important safeguards protecting children from unjust accountability (Al Ketbi and Al Issawi, 2020).

Islamic jurisprudential rules demonstrate a profound humanitarian dimension in regulating child accountability, particularly through the principle that legal liability is lifted from the child until maturity. This principle carries clear procedural implications by preventing full accountability before legal capacity is complete. Moreover, the principle of avoiding

punishment in cases of doubt provides judges with wide discretion to refrain from imposing penalties when diminished awareness or incomplete criminal intent is evident. This approach reflects Sharia's commitment to protecting children from the harsh consequences of criminal accountability (Ali Husni Al Junaidi and Al Doush, 2021).

A comparison between Islamic Sharia and Emirati law in determining the age of criminal responsibility reveals substantial convergence in substance despite methodological differences. While Emirati law relies on age thresholds combined with reformatory measures, Sharia relies on capacity and discernment combined with gradual discipline. This convergence results in a complementary legal framework that protects children from arbitrariness and enhances the legitimacy of the juvenile justice system by integrating modern legal formulations with established Sharia principles (Naif Jalil Al Madhhan, 2020).

#### *Safeguards During the Inquiry and Investigation Stage Involving Children*

The inquiry and investigation stage is considered one of the most critical phases of criminal proceedings for children, as it involves direct interaction with law enforcement and investigative authorities and may result in long term psychological and social consequences. Due to their inherent vulnerability, children are more susceptible to fear, authority pressure, and suggestion, rendering their statements during this stage questionable unless surrounded by strict procedural safeguards. Therefore, the establishment of special safeguards during inquiry and investigation is both a legal and ethical necessity aimed at protecting children from abuse and ensuring the validity of their will and the legality of procedures taken against them (Boushaala, 2023).

Interrogation is among the most sensitive procedures involving children, as it requires cognitive and expressive abilities that children may not fully possess. Procedural safeguards therefore require that interrogation methods be adapted to the child's age and psychological condition, while avoiding suggestive or complex questions that may lead to involuntary or uninformed admissions. Interrogation must also take place in an appropriate environment free from intimidation or excessive formality, thereby achieving investigative objectives without compromising the child's psychological wellbeing (Ghribi and Ghribi, 2021).

One of the most significant safeguards during the investigation stage is the requirement that a legal guardian, custodian, or lawyer be present during interrogation. The presence of an adult provides psychological and legal support for the child and prevents investigative authorities from dealing with the child in isolation. It also ensures oversight of the legality of procedures and facilitates immediate intervention in the event of violations. This safeguard represents a practical manifestation of the right to defense, as children cannot effectively exercise this right without appropriate legal or familial assistance (Habaz, 2020).

The prohibition of coercion or psychological pressure occupies a central position among procedural safeguards during investigation, particularly in cases involving children. Coercion extends beyond physical violence to include threats, intimidation, or deception regarding punishment, practices that may compel children to confess to acts they did not commit or exaggerate their statements. Consequently, any statements obtained through coercion or psychological pressure are deemed legally invalid, as they constitute a serious violation of the child's dignity and right to a fair trial (Al Ketbi and Al Issawi, 2020).

Islamic Sharia provides a strong doctrinal foundation for these safeguards through jurisprudential rules emphasizing freedom of will and the validity of consent in confessions. Islamic jurisprudence requires that confessions be made freely and consciously, and invalidates them if obtained through coercion or fear. This protection is even more pronounced when dealing with children, given their limited awareness and susceptibility to influence. The principle of avoiding punishment in cases of doubt further serves as a procedural safeguard preventing reliance on confessions tainted by coercion or lack of discernment (Ali Husni Al Junaidi and Al Doush, 2021).

A comparison between Islamic Sharia and Emirati law regarding safeguards during inquiry and investigation reveals substantial harmony in substance despite differences in form. Emirati law codifies these safeguards through binding procedural provisions, while Sharia derives them from comprehensive jurisprudential and purposive principles granting judges broad authority to protect children from unjust procedures. This integration enhances procedural justice and limits the risks of abuse, ensuring that criminal intervention achieves its reformatory purpose without infringing upon the fundamental rights of children.

#### *Safeguards of a Fair Trial for Children before Competent Courts*

The criminal trial constitutes the most sensitive stage of criminal proceedings, as it represents the moment when responsibility is determined and legal consequences are imposed on the child. Given the fragile legal position of children, subjecting them to the same trial procedures applied to adults constitutes a violation of the principle of justice, as it may result in severe psychological and social harm. This necessitates the establishment of special safeguards for ensuring a fair trial for children, aimed at protecting them from publicity and stigmatization and ensuring that the trial serves as a means of reform rather than mere punishment (Ghribi and Ghribi, 2021).

Confidentiality of hearings is one of the most important safeguards of a fair trial for children, as it seeks to protect them from defamation and preserve their reputation and social future. While publicity is a fundamental principle of fair trials for adults, it becomes a serious risk in cases involving children, potentially causing lifelong stigma. Therefore, confidentiality is justified as a mechanism for achieving the best interests of the child and preventing the trial from becoming a tool of social exclusion rather than justice (Habaz, 2020).

Another essential safeguard is the assignment of child cases to specialized juvenile courts or judges with appropriate legal, social, and psychological training. The role of the juvenile judge extends beyond the application of legal texts to understanding the behavioral, familial, and social contexts surrounding the child. This specialization constitutes a genuine procedural safeguard, as it reduces rigid legal application and contributes to more balanced and just judgments (Boushaala, 2023).

The specificity of child trial procedures is also reflected in reducing excessive formality during hearings and adopting methods appropriate to the child's age and ability to understand and participate. A fair trial does not merely guarantee the child's presence, but ensures their comprehension and ability to express themselves without fear or intimidation. Consequently, restrictions are imposed on courtroom language, evidence presentation, and child

questioning to prevent psychological pressure that may affect the validity of the child's will or testimony (Al Ketbi and Al Issawi, 2020).

Islamic Sharia provides firm foundations for fair trial safeguards for children through principles emphasizing concealment, mercy, and gradual accountability. Sharia discourages defamation and considers concealment a legitimate objective, particularly when the offender is a minor. It also emphasizes the judge's role in considering the defendant's personal circumstances and refraining from adjudication in isolation from social context, thereby granting the trial a humane character consistent with the child's particular status (Ali Husni Al Junaidi and Al Doush, 2021).

A comparison between Islamic Sharia and Emirati legislation regarding fair trial safeguards for children demonstrates clear convergence in objectives, namely protecting children from the negative consequences of criminal trials and ensuring procedural justice prior to substantive justice. Emirati law regulates these safeguards through explicit provisions on confidentiality and juvenile courts, while Sharia derives them from ethical and purposive principles. This convergence enhances the effectiveness of the juvenile justice system and affirms the possibility of legislative development within a framework consistent with Sharia based values.

#### *Alternative Measures to Custodial Penalties in Cases Involving Children*

Modern legal experiences have demonstrated that custodial penalties, particularly when applied to children, often produce negative consequences that far exceed their deterrent purpose. Placing children in correctional institutions may deepen deviant behavior rather than reform it and may contribute to social stigmatization and severance from family and educational environments. Consequently, contemporary criminal policy has shifted toward adopting alternative measures as reformative tools aimed at addressing the underlying causes of delinquent behavior rather than merely punishing the child (Habaz, 2020).

Alternative measures to custodial penalties are defined as non punitive interventions imposed on children for the purpose of behavioral correction and social reintegration without resorting to imprisonment or detention. These measures include warnings, placement under parental supervision, placement in care or rehabilitation institutions, and participation in educational or therapeutic programs. The significance of these measures lies in their consideration of the child's age and psychological characteristics and their alignment with the principle of the best interests of the child, which constitutes the cornerstone of juvenile justice (Ghribi and Ghribi, 2021).

In Emirati legislation, alternative measures occupy a central position within the juvenile justice framework. The legislator has sought to restrict custodial penalties to the narrowest possible scope by introducing reformative measures proportionate to the nature of the offense and the personality of the child, while granting judges broad discretion in selecting the most appropriate measure. This approach reflects legislative awareness of the dangers posed by custodial penalties to children and a commitment to balancing community protection with safeguarding the child's future (Boushaala, 2023).

In Islamic Sharia, the fundamental approach to dealing with juvenile offenders is reform rather than punishment, as reflected in the distinction between punishment and discipline. Sharia does not permit the application of full hudud or discretionary penalties to non adult children, but instead prescribes disciplinary measures aimed at correcting behavior without inflicting severe harm. This approach represents a manifestation of mercy and gradual accountability, viewing the child as an object of care and guidance rather than repression (Al Ketbi and Al Issawi, 2020).

Reformative measures in Islamic Sharia are grounded in clear objectives, foremost among them the preservation of life and intellect and the prevention of moral corruption before it escalates. Discipline in Sharia is not an end in itself, but a means to achieve moral and social rectitude, aligning closely with modern philosophies of alternative measures. Moreover, Sharia's emphasis on the role of family and community in child rehabilitation enhances the effectiveness of such measures and reduces the negative impact of direct institutional intervention (Ali Husni Al Junaidi and Al Doush, 2021).

A comparison between Islamic Sharia and Emirati law regarding alternative measures to custodial penalties reveals significant harmony in objectives despite differences in tools and formulation. Emirati law codifies these measures through clear statutory provisions and procedural mechanisms, while Sharia derives their legitimacy from well established jurisprudential and purposive principles. This integration contributes to the development of a more humane and effective juvenile justice system and confirms that alternative sanctions do not undermine justice, but rather represent a deeper and more meaningful realization of it.

#### *The Role of the Judge and Discretionary Authority in the Procedural Protection of the Child*

The judge is a central pillar of the juvenile justice system, as discretionary authority represents the practical instrument through which procedural guarantees are transformed from rigid legal texts into effective protection for the child. The particular nature of child related cases requires the judge to go beyond a literal application of legal provisions and to consider the child's personality, as well as social and psychological circumstances, in order to achieve a balance between the requirements of justice and the protection of the best interests of the child. However, despite its necessity, this authority raises a delicate issue concerning its limits and the need to ensure that it does not deviate into arbitrariness or lead to inconsistency in judicial decisions (Ghreibi & Ghreibi, 2021).

Judicial discretion in child related cases is manifested in several powers, most notably assessing the degree of the child's responsibility, selecting the most appropriate measure for the child's situation, and evaluating evidence in light of the child's age and capacity for understanding. This discretion acquires particular importance because legal texts, regardless of their precision, cannot encompass all possible factual situations. Consequently, the judge becomes an active agent in achieving procedural justice, provided that discretion is exercised within clearly defined legal and objective limits (Boushaala, 2023).

In Emirati legislation, the legislator has been keen to grant judges wide discretionary authority in child related cases, while simultaneously subjecting it to a set of guarantees aimed at preventing arbitrariness. This authority has been explicitly linked to the principle of

the best interests of the child, and judges are required to provide reasoned decisions for judgments and measures taken, thereby allowing subsequent judicial review. Reasoned judgments constitute one of the most important tools for regulating discretion, as they oblige the judge to clearly state the factual and legal grounds upon which the decision is based (Habbaz, 2020).

The limits of discretionary authority are also evident in the obligation imposed on judges to respect the special nature of juvenile procedures and to refrain from subjecting children to procedural and substantive rules originally designed for adults. A judge does not have the right, under the pretext of discretion, to override procedural guarantees afforded to children, such as the right to defense, the confidentiality of proceedings, and the prohibition of coercion. Any breach of these guarantees constitutes an abuse of authority, even if it is justified by an intention to achieve public interest or deterrence (Nayef Jalil Al-Madhhan, 2020).

In Islamic Sharia, judicial discretion occupies a central position, as Sharia based adjudication is founded on the principle of *ijtihad* in achieving justice. Nevertheless, this discretion is not absolute, but rather restricted by strict Sharia rules, such as the maxim “no harm and no harassment” and the principle of avoiding punishment in cases of doubt. These restrictions become even more pronounced when the case involves a child, where mercy and reform are prioritized over reprimand and punishment, thereby limiting any arbitrary use of judicial authority (Ali Husni Al-Junaidi & Al-Doush, 2021).

A comparison between Islamic Sharia and Emirati legislation reveals that both grant judges broad discretionary authority in protecting children, albeit with different points of reference. Emirati law relies on procedural regulation, reasoning, and judicial oversight, whereas Sharia relies on purposive and ethical regulation. This convergence contributes to the development of a balanced judicial model that ensures effective procedural protection for children without undermining the principle of the rule of law.

#### *The Integration of Islamic Sharia and Emirati Legislation in the Procedural Protection of the Child*

The integration between Islamic Sharia and Emirati legislation in the field of procedural child protection represents one of the most distinctive features of the UAE legal system. Emirati legislation is not based on a rupture with Sharia reference, but rather seeks to incorporate it within a modern legal framework that responds to international standards and the requirements of a contemporary state. This integration is particularly evident in juvenile justice, where Sharia values converge with legislative objectives in protecting children from arbitrariness and harm (Boushaala, 2023).

Harmony between the two systems is reflected in their adoption of the best interests of the child as a governing principle of criminal procedures. Emirati legislation explicitly enshrines this principle, while Islamic Sharia derives it from the objectives of preserving life, intellect, and human dignity. This convergence enhances the legitimacy of procedural guarantees and grants them both legal and moral dimensions, which contributes to their social acceptance and effective implementation (Ghreibi & Ghreibi, 2021).

Integration is also evident in the determination of the age of criminal responsibility and the rules governing accountability. Emirati law adopts age as a criterion combined with reformative measures, whereas Sharia relies on the criteria of legal capacity and discernment, coupled with gradual accountability. Despite methodological differences, the ultimate objective is the same, namely protecting the child from unfair accountability and preventing the imposition of procedures or sanctions that are disproportionate to the child's cognitive and psychological capacities (Habbaz, 2020).

Nevertheless, this integration is not devoid of certain areas of divergence, particularly with regard to procedural formulation and detailed codification. Sharia relies on general and flexible rules, whereas Emirati legislation adopts detailed and precise legal provisions. At times, this divergence may lead to a gap between legal texts and practical application if it is not supported by a purposive understanding and a legislative spirit consistent with Sharia reference (Al-Ketbi & Al-Essawi, 2020).

Opportunities for legislative development lie in strengthening this integration by expanding the scope of procedural alternatives, enhancing the role of specialized judiciary, and improving coordination between judicial and social institutions. It is also possible to benefit from Sharia principles in reinforcing the reformative nature of procedures, thereby limiting punitive tendencies and enhancing the effectiveness of criminal intervention in child related cases (Ghosgan & Melman, 2024).

In conclusion, the integration between Islamic Sharia and Emirati legislation in the procedural protection of the child presents an advanced model that combines authenticity and modernity. This integration goes beyond theoretical reconciliation to the construction of a procedural system capable of protecting the child, achieving justice, and ensuring social stability. Developing this integration remains a strategic option for strengthening the juvenile justice system in the United Arab Emirates.

#### *Procedural Guarantees at the Stage of Executing Measures and Judgments Against the Child*

The stage of executing measures and judgments is among the most sensitive phases of criminal proceedings involving children, as procedures move from a theoretical judicial framework to practical reality that directly affects the child's life and future. Even if investigation and trial procedures fully comply with legal guarantees, any breach during the execution phase may render such protection ineffective. Accordingly, procedural guarantees at the execution stage constitute a natural extension of the principle of child protection and a fundamental safeguard against the transformation of reformative measures into disguised punishments with negative psychological and social consequences (Habbaz, 2020).

Procedural guarantees at the execution stage consist of a set of rules governing the manner in which measures or judgments imposed on a child are implemented, in a way that takes into account the child's age, psychological condition, and educational needs. This includes the requirement that measures be executed in specialized institutions that adhere to humanitarian and educational standards, the prohibition of placing children in mixed environments with adults, and the assurance of continuity in education, healthcare, and family contact. The importance of these guarantees lies in transforming execution from a

purely punitive process into a reformative one aimed at reintegrating the child into society (Ghreibi & Ghreibi, 2021).

In Emirati legislation, attention to the execution stage is reflected in the emphasis on the reformative character of measures applied to children and their subjection to continuous judicial and administrative oversight. The legislator has ensured that execution is not left to the absolute discretion of executive authorities, but rather placed under the supervision of competent courts, thereby guaranteeing respect for the rights of the child and preventing deviation from reformative objectives. This approach embodies the principle that justice does not end with the issuance of a judgment, but continues until its fair execution is completed (Boushaala, 2023).

Judicial oversight at the execution stage constitutes one of the most important procedural guarantees for protecting children. The judge, as the authority that issued the measure, remains responsible for monitoring its suitability to the child's condition and for modifying or terminating it if its justifications cease to exist. Such oversight also allows intervention in cases of abuse or violations of the child's rights within execution institutions, thus preventing reformative measures from becoming sources of psychological or social harm (Nayef Jalil Al-Madhhan, 2020).

In Islamic Sharia, the execution of disciplinary or corrective measures is subject to strict controls based on the principles of reform and mercy, rather than harm or retaliation. Disciplinary action in Sharia must be proportionate, aimed at correction rather than injury, and must take into account the child's age and capacity for endurance. Sharia also emphasizes the responsibility of guardians and society in supervising and reforming the child, instead of relying solely on closed institutions that may deepen feelings of isolation or stigmatization (Al-Ketbi & Al-Essawi, 2020).

Relevant juristic rules governing discipline and execution reflect a clear humanitarian dimension, as they prohibit anything that may cause harm to life or intellect, in line with the objectives of Sharia in preserving human dignity. The principle of "no harm and no harassment" serves as a general standard governing the execution of any measure imposed on a child, preventing the continuation of measures that are proven to cause harm exceeding their benefit. This approach highlights the importance of flexibility in execution and the avoidance of rigidity in applying measures (Ali Husni Al-Junaidi & Al-Doush, 2021).

A comparison between Islamic Sharia and Emirati legislation in regulating procedural guarantees at the execution stage reveals significant convergence in objectives, particularly in prioritizing reform and protecting the child from harm. Emirati law relies on clear regulatory and oversight mechanisms, while Sharia relies on flexible ethical and purposive constraints. This integration enhances the effectiveness of execution and ensures its alignment with the best interests of the child, affirming that true justice is achieved not merely through issuing judgments, but through their proper execution as well (Ghosgan & Melman, 2024).

## Conclusion

This study concludes that procedural guarantees for the protection of the child are no longer a secondary organizational issue within criminal legislation, but have become a structural component of modern criminal justice and a genuine indicator of the extent to which a state respects human rights and is committed to protecting vulnerable groups in society. The analysis demonstrates that the child, by virtue of legal and psychological status, requires a distinct procedural approach based on protection and prevention before reprimand and punishment. This necessitates a reconsideration of many traditional concepts associated with criminal responsibility and judicial procedures.

The study further shows that Emirati law has adopted an advanced legislative approach to procedural child protection by establishing an integrated system of guarantees that extend from the investigation stage through trial and into the execution of measures. This approach is reflected in restricting the powers of law enforcement and investigation authorities, entrenching the principle of the best interests of the child, adopting alternative measures to custodial penalties, and establishing specialized juvenile courts. It is noteworthy that the Emirati legislator has not treated these guarantees merely as international obligations, but has sought to harmonize them with the social and cultural specificities of the state.

Conversely, the study reveals that Islamic Sharia laid early and solid foundations for procedural child protection through juristic and purposive rules based on gradual accountability, the requirement of discernment and understanding, avoidance of punishment in cases of doubt, and prioritization of mercy and reform over punishment. Despite differences in formulation from modern legal texts, these rules converge in essence and purpose, while also providing an ethical and humanitarian dimension that enhances their legitimacy and effectiveness.

The study also highlights that the relationship between Islamic Sharia and Emirati legislation in the field of procedural child protection is one of integration rather than conflict. Emirati law codifies and regulates guarantees through clear procedures, while Sharia provides a value based and purposive reference that helps guide judicial discretion and prevent abuse. This integration represents one of the strongest features of the juvenile justice system in the United Arab Emirates.

In light of these findings, the study recommends the continued development of legislation and procedures related to juvenile justice, the enhancement of specialized training for judges, prosecutors, and law enforcement officers, and the expansion of reformative measures in order to ensure effective child protection and genuine procedural justice. Protecting the child is not merely a legal objective, but a strategic investment in social stability and the future of society.

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