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Duration and Age of Child Criminal Responsibility

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Abstract

From the beginning of life to the time of puberty, man develops several stages of development that has the desired biological and psychological characteristics and the successful entry into his social life, along with the values, norms and accepted patterns of social behavior that involves the children and the youth. The issue of maturity is one of the most important issues for punishing child offenders. The maturity is the end of childhood and the beginning of a new phase in human life. Therefore, the criterion of the title of the age limit was determined for the development of criminality. In practice, instead of providing "legal maturity," the penal authorities assumed the definition of religious maturity as a predicate of the meanings contained in civil rights in accordance with sexual maturity, and on this basis, 9-year-old girls and 15-year-old boys is considered to be a criminal offense for seniors as adults, while in most countries in the world, children generally have no criminal responsibility until the age of 18, in the event of a crime, they are responsible for educational and other measures, focusing on social rejection.

Keywords: Criminal Responsibility, Children, Sharia Maturity, Age

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Introduction

The issue of solving child offenders in Iran is one of the most important issues over the last two decades at the same time as a controversy in our policy. The perceptions of child sexually-minded children, especially children, are criminal offenses.

Children had the same needs and characteristics as adults, and thus had the same rights and duties as adults, but gradually and with increasing awareness of different dimensions of their existence and personality, this approach changed.

The findings of educational science, psychology, sociology and criminology have revealed the significant differences between adults and adults from different perspectives, and national legislators, following these scientific findings as well as international conventions, have distinct rights and duties for children (Najafi Abrandabadi, 2001: 17). Thus, the period of differential approach to children began with one of the most important of which, from the perspective of the present paper, is a differential approach to the crime and delinquency of this age group. Different attitudes, which are subordinate to differentiation on the basis of criminal criteria, have led to apply different criminal policies, strategies and specific measures to children (Najafi Abrandabadi, 2003: 58-59).

Although the uncontrollable increase in abnormal behavior and behavioral deviations in adolescents and young people, and consequently the rising population of criminals in recent years, have led officials to abandon stereotypical standards and to take into account the criteria of modern criminal law, but the main pillars of child labor law are the same as the age of criminal prosecution (Age of full criminal liability), the minimum age for non-custodial and criminal responses to criminal offenders are still in line with the needs of the community and the international regulations accepted by our country from shortcomings, shortcomings and many problems.

The explanation is that since based on the sources of jurisprudence, the age of the child to be responsible for the recognition of a person attaining the age: religious maturity, then committing a crime before reaching this stage, no responsibility (Najafi Tavana, 2003: 46) does not criminalize the subject. After reaching this age, the perpetrator is subjected to criminal punishment and criminal offense similar to that of the adult offender. Iran's laws have been drafted on this basis after the Islamic Revolution.

Article 49 of the Islamic Penal Code excludes children from criminal responsibility in the event of a crime. According to Note 1, the term means that the child is a person who has not reached the age of maturity. Therefore, "religious maturity" is the basis for assessing the criminal responsibility of individuals.

Criminal liability means the ability to assign a crime to individuals and the possibility of imposing punishment on them (Nourbaha 2003: 210; Bushehri, 2000: 39). Criminal liability is a trait that is always associated with a person and does not relate to a crime. It is not possible to impose these consequences except on those who impose sanctions. Because of the extent to which the perpetrator's responsibility and punishment should be commensurate with his level of understanding and understanding, the penalty for punishment has been reduced to a lesser extent for children, according to their perceptions. Full criminal responsibility requires perception. It is perfect, therefore, one who has an incomplete perception must lack of a complete criminal responsibility (Zalmai 1983:71).

By examining the criminal systems of different Islamic countries, it can be seen that the gradual increase of criminal responsibility has been accepted in many of them. This increase is sometimes provided by law in stages, and sometimes the judge has been given the opportunity to take appropriate action against the

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crime. Children even have less criminal responsibility than adults, even after perceiving the results of a criminal act (distinguish). Generally, lawmakers are easily seduced or influenced by their little experience and vulnerability, and cannot oppose and disobey the elders (Rabi'e et al. 1995: 216-229), in a just system, punishment and responsibility are always determined in accordance with perception. The emergence of perceived and deliberate will is gradual in the individual; therefore, the competence of a person to assume responsibility is gradually complete, with a degree of severity and weakness and is dependent on the person's perception of the criminal acts (Zalami, 1983 c 71:1; Shourbaji 1405; 319-320; Abu Amer 151:1981). The growth of rational power is not the same in people (Abu Amer 1981: 192-194), but there is not the possibility of medical examination of each person for issuing a verdict for rational growth in any country. Therefore, lawmakers have introduced a certain age as a growth indicator through scientific review and with the use of laws and signs. Thus, the criminal law of the minor or the system of child justice has been formed with the age indicator. This index is not the same in all countries (Mehra 2007: 86-87)

The speed of the passage from each stage of growth to the other is subject to the social and educational conditions governing each country (Silami 2001 c 6: 2618). In general, in different countries of the world, the fair determination of the minimum criminal liability in relation to the rational understanding and development of children and the classification of children is also considered at the minimum age and maximum age of criminal responsibility. Nevertheless, persecution and support do not still have a specialized form in many countries (Winter 2000:158).

Maturity and Criminal Responsibility

Maturity refers to the age at which the people grow up and become legally responsible (Moein, 2002, p. 1, p. 836). For a person to be held responsible in criminal matters, the attribution of that error or fault must be attributed to him, therefore we are not be able to punish a child who has committed a criminal offense for that act; the hypothetical and legal condition is that all persons at a certain age have sufficient physical and intellectual development and have the power of distinguishing and recognizing good and gentiles have their own deeds. Given the fact that separation is not occurring in different individuals at one time, different legislators have set age for maturity and criminal liability in different ways. The laws of different countries vary between the ages of 14 and 21, but most countries consider the age of adolescence to be 18 years old. (Goldouziyan, 2005: 240). One of the most well-known and valid rules of jurisprudence, which forms the basis of any human responsibility, is the general condition of the duty. The maturation is from the root of the blossom, namely, reaching, fullness, and development. Which are maturity, the wisdom of will, and science to sanctity. (Walidi, 1994: 260), and is meant to be the basis for the advent of a child for the growth of sexual power, and the adult has the power to steer with his opposite sex. (Ardebili, 2009: 106).

The verse 6 of the Nisa Sura and 59th verse of the Surah of al-Nour refer to this issue, and there are also hadiths such as "After the period of probation, there is no orphan". For physical maturation, symptoms such as semen excrement, hair growth around the penis, etc., and there are differences in this case. About the age of puberty, Shiite scholars have almost agreed on the age of puberty in boys ending 15 lunar years and entering the age of 16, and with girls ending 9 lunar years and entering the age of 10 years. But there are differences between Sunni jurisprudents (Asghari, 2008: 26).

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Allameh Tabatabai, in the commentary of Al-Mizan, has stated that for a child to capture his possessions, that is, his power of distinction is required to distinguish between the profit and the loss of the condition, while the person is able to understand the goodness of the verbs as soon as he is mature, and enjoy the same Sensual quality is sufficient to be responsible for his actions. (Ardebili, ex: 106) Therefore, according to Allameh, maturation in human beings is the reason of perfection and makes him responsible for his actions, and there is no longer any need to prove his distinctive power, but whether the law, in addition to maturation, is also a condition of distinction or no.

The distinguish means the child's awareness of the fact that he has committed an illegal act or is contrary to social systems, in fact the distinctive authority is the same power that allows a person to distinguish between permitted acts and forbidden acts (Goldouziyan , Ibid: 231)

General Penal Code

The French Penal Code of 1810 called France the Napoleonic Law in Article 66 he has set a minimum age of 16 years. The Penal Code of Iran's General Penal Code, also adapted to the law of France, and by looking at the religious regulations, set three age groups for children.

- Children under the age of 12 who had a childhood and Absolute non-distinction.
- Children between 12 and 15 years of age who have a childhood disorder and relative disability;
- People between 15 and 18 years old

In the Penal Code, the criminal responsibility of persons responsible for the implementation of two conditions was distinction and maturity (Baheri, 2001: 298), the court considered the child's age when committing a crime for determining the punishment, and full freedom to determine the age of the accused with any means It was possible (Baheri, ibid: 298)

Has anyone changed their power of discretion about people between the ages of 15 and 18 years old?

Article 36 g.m. a "The adults who were over 15 years of age, but not reached the age of 18, were sentenced to imprisonment at the time when they were committing a crime, while the loss would not be for 5 years, and if the perpetrator They will be punished less than half the minimum and more than half the punishment of committing the same crime."

Some argue that the law does not specify whether the legal status of a purely ethnic minority in an individual over 15 years of age (Ali Abadi, 1964: 296) is unalterable, so that, in principle, the UAE, in accordance with Article 1322 of the Civil Code It is possible to make a statement that is irrevocable, and in this article, too, the lyrics are not invariable, but the reason is contrary to that.

Minimum age of criminal responsibility

The minimum age for legal liability is not the same in the laws of all countries. In most countries, the minimum age for the child or the age of non-liability and the period of incomplete criminal responsibility for children is specified (Rabah 1987: 9-10). Although some lawyers and legislators have opposed the definition of minimum age for criminal responsibility. In their view, the court must be able to intervene in matters relating to the child, regardless of the child's age, whenever it is expedient (Ali 11: 1405). Increasing the minimum age in some countries has been surprisingly difficult. One of the reasons may be the duality of the community's attitudes toward children, which is seen in various aspects of the law, especially in areas of criminal justice (Gillian 2004: 190- 189). Children below the age stipulated in these rule are usually ineligible and unpunished if they commit an offense. But this does not apply to all laws,

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and determining the minimum age for criminal responsibility does not always mean legal immunity before that age. For example, in France, the minimum age for criminal responsibility is 13 years, but 10-year-old children may also be forced to appear before a judge. As the determination of the minimum age does not allow the presence of a child in court. For example, in Scotland, where age is 8, the child's presence in the courts is designed to prevent adolescents from reaching the age of 16, except for very heavy offenses against formal courts. (UNICEF 1997: 9)

In the Convention on the Rights of the Child, a child is a person who has not reached the age of 18 unless he has lowered the age of maturity in a legislative country (Article 1 of the Convention on the Rights of the Child, adopted on November 20, 1989). From the jurisprudential point of view, the minor is a person who has not reached puberty (Langroudi, 1993: 7). The age and maturity of Sharia in girls 9 and in boys are 15 years of the entire lunar.

The jurists have mentioned periodically according to the clean criteria for childhood:

A) From birth up to the age of seven, jurists believe that the child is called inappropriate in this period. This stage does not have any criminal responsibility and cannot be tricked or guilty;

B) From the age of seven to the age of puberty, the child is called immature children during this period;

C) From the age of puberty, in this case, the individual is responsible for the criminal liability (Mousavi Bojnourdi, 2009: 21-24).

The responsibility is one of the most important concepts in criminal law. The criminal responsibility is the separation between crime and punishment (Mohaghigh, 2011: 23). Thus, criminal responsibility is a personal obligation to respond to the consequences and consequences of committing an offense. Or in the concept of criminal responsibility, is a person's ability or personality to bear the criminal consequences of his criminal conduct (Mirsaidi, 2004: 21). According to this definition, there is a criminal liability for organs, which include criminal offense and fault. A criminal offense is composed of two elements of perception and authority. Perception in criminal law means the power and ability to understand and distinguish between the nature of the verbs and the moral and social effects that are being borne (Mirsaidi, 2004: 113). In terms of criminal law, the discretion is freedom of conduct and deed of the particular condition of the subject at the time of the commission of the crime, without the psychological relationship between the subject and the crime directly involved in it (Mirsaidi, 2004: 165). The perception and will of the individuals evolve over time and grow in tandem with the stages of growth. Growth in the word means guidance, and it is a situation in a person that prevents the loss of wealth and it is used in irrational ways, and from a legal point of view it is the growth of the quality of the soul that its holder can benefit and harm in the development of civil or good And he believes in the development of a criminal case, and they say such a person (Ja'fari Langroudi, 1967: 334). Therefore, if physical growth and mental development are gathered together in childhood, childhood actually ended, so in most countries, following the ancient Roman rights, they set a certain age indicating the age of puberty and growth. The law is said to be (Emami, 1964: 344). Therefore, the legal assumption is that all individuals who have sufficient physical and mental development at a certain age have a distinct power and recognize the goodness of their deeds and, according to The fact that distinction is not occurring at the same time in different individuals makes legislators different from the age of legal maturity in a different way than the criminal liability. Ned (Goldouziyan, 2006: 240).

The age of criminal responsibility, in the particular or relative sense, is the age at which children reach a degree of development and maturity who can be considered a crime and naturally subject to criminal

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penalties for children. This age varies in different European countries and sometimes fluctuates between 7 and 16 years. For example, in Switzerland, 7 years, England 10 years, the Netherlands 12, Germany 14, and Spain and Portugal 16 years old (Taddayon and Bagherinejad, 2007: 31-32). The age of adulthood is the age at which a teenager will normally be subject to adult criminal penalties (Tedin and Bagherinejad, p. 18) and, like other adults in the community, have a total criminal liability for all acts contrary to their law, and the difference They will not be with them, and they will be punished and punished like they are.

Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child, as the most important normative document on children's rights (Nyazpoor 2012: 187), recognized a set of rights in various fields for children and, in parallel, assigned duties to this The age group (which, in accordance with the definition of article 1 of the convention, includes all persons under the age of eighteen) imposed on member states, some of which have direct links to the criminal justice system. In particular, according to article 40, paragraph 3, of the Convention on the Rights of the Child, member states are encouraged to determine at least the age of children below the age of majority who are unaccounted for. What was the most appropriate age for the minimum age for criminal responsibility was that there was a lot of controversy in the process of drafting the convention, which ultimately did not make it possible to determine the minimum age for criminal liability in the convention. However, the United Nations Committee on the Rights of the Child, which is responsible for the implementation of this Convention in the member states, concluded in its General Explanation Note No. 10 of 2007 that the minimum age for criminal liability of less than 12 years was internationally acceptable. Not accepted. At the same time, it strongly recommends that the minimum age for criminal responsibility be extended to between 14 and 16 years of age (Report of the UN Committee on the Rights of the Child, 11: 007-007). The scientific findings also reinforce the view that the minimum age for criminal responsibility should be raised to around 14 years. Research suggests that the brain's frontal lobes, which play a large role in human decision making, do not grow well until about the age of 14. This, in the area of criminal responsibility, means that decisions made by people who are not of the same age Compared to adults, it's more of an excitement than preliminaries, and even some other research suggests that the brain is not fully developed in relation to some of the elements required for attributing criminal responsibility until the early 20's McDeire Mead 2013: 155).

Child Criminal Responsibility Criminal Perspective

School name	The basis of criminal liability
Classical school	The basis for criminal responsibility is moral responsibility (Mohseni, 2003, p. 17), and in the case of children, criminal responsibility should be proportionate to the wisdom and liberty of their will. For this reason, the legislator should reduce the amount of their punishment (Shambiyati, 2001, 32)
Neoclassical school	For children and for the Jews who do not have sufficient reason and distinction, the judge should relieve the perpetrator of criminal responsibility in proportion to the degree of reason and discriminating the perpetrator: the theory of "defective responsibility" that the neoclassical instigator had, The

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	attention of the legislature was in different countries (Shambiyati, 1999, 204 and 205) (Walidi, 1999, p. 110).
Realistic school	The school emphasizes internal factors (inheritance ...) and external (social, cultural, etc.) in creating a crime and the best way to combat child offenders is to determine the appropriate response to the true character of the child victim. (Shambiyati, 2001, pp. 44-45). The realization of a school forms a kind of social responsibility as a substitute for moral responsibility. In this regard, the issue of "Hazardous State and Provisional Measures" (even before the crime) was raised by this school, which does not emphasize punishment alone (Ghafouri Gharavi, 1980: 317)
Extreme Social Defense School	This school is completely opposed to all conventional criminal law establishments and institutions, such as crime, crime, criminal responsibility and punishment ... and believes that old sentences should be left to social defense measures, such as preventive measures for social and defense education. (Mohseni, 2003: 256)
School of Social Defense moderation	The social defense jersey evolved into a revision of the existing system of guaranteeing existing criminal acts (Ashouri, Najafi Ebne-Abadi, ibid: 93-107). The proponents of this school are prior to taking corrective measures to enforce the necessary punishment. In the New Social Defense School, the identification of a criminal personality and the filing of a personality, containing the physical and psychological characteristics of the criminal biology and social life, along with the case file for the best law enforcement measures has been considered. In addition, the most important impact of the new social defense school in the legislative system of the countries is the drafting of child-related laws (Walidi, 1999, pp. 123-125)

Changes in the age of criminal responsibility in the Islamic Penal Code 2013

The age of criminal responsibility in Iran

Chapter 10 of the Islamic Penal Code of Iran (approved in 2013) is dedicated to punishments and measures for the provision of children and adolescents. According to Article 88 of this Act, children and adolescents who commit offenses and their age at the time of commission are not less than 15 years old, the court shall, as the case may be, adopt one of the following decisions: 1) Submission to parents or parents Or guardian of the law by committing to discipline and caring for the good conduct of the child or adolescent. Whenever the court considers it expedient, it may, depending on the case, assume the child's guardian's responsibility to do things in favor of the child's education and reform, such as introducing him to a social worker or psychologist and other professionals, sending a child or adolescent to an educational and cultural institution to study or professionalism, the action required to treat or leave the child or adolescent under the supervision of the doctor, preventing the harmful relationship between the child and the adolescent with specific persons or places designated by the court; 2) surrender to other natural or legal persons that the court The expediency of the disability of parents, parents or guardians of a child or adolescent or lack of access to them. 3) Advice, warning, notice of a written commitment to non-

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repetition of the offense by a court judge; 4) keeping in the center of the moon up to one year for first-degree crimes.

According to the same article, the commission of one of the crimes of punishment or retribution is not the same in an immature twelve to fifteen lunar years with the immature under the age of. In addition, the Children's and Juvenile Court may, in the light of the investigations carried out, as well as the social worker's reports of the child or adolescent and his or her behavior, whenever the child or adolescent's interest justifies, revise his decision.

Article 89 of this law is devoted to juvenile offenders between fifteen and eighteen years of age. The penalties mentioned in this law include: keeping in the center of reformation from two to five years in the case of offenses punishable by law from grade one to three; keeping in the center of reforming from one to three years for crimes that The punishment of their punishment is Tahrir grade four; maintenance in the center of rehabilitation from three months to one year, or cash payment from ten million to four million rials, or a hundred and eighty to seven hundred and twenty hours of free public services for crimes punishable by law They are punishable by grade five; cash payment from one million to ten million rials or sixty to one hundred and eighty years Free public services in the case of offenses punishable by law; they are punishable by a sixth sentence; a fine of up to one million rials is payable in respect of offenses punishable by a seven-eight-year penalty. The Iranian legislator's approach to punishment is based on the age and severity of the crime committed with the aim of educating and educating the adolescent. Also, in Article 90, the court has been given the power to revise one vote in its opinion based on reports of the child or adolescent and his behavior at the correctional center, and reduces or maintains the maintenance period by one-third or to give the child or adolescent to the guardian or legal guardian. The court's decision to appeal shall be taken if the child or adolescent has at least one fifth of the period of retention in the correctional center. Although the court's decision is definitive, the use of conditional release and other statutory redundancies is not prohibited.

In the gradual system, the two concepts of the minimum age for criminal responsibility "and the age of criminal maturity" differ from each other. The minimum age for criminal responsibility is at least the age that, in the criminal justice system, one finds the ability to be prosecuted in a criminal court. It does not mean that from this age you can see with him, like adult offenders, the age of maturity is the age at which a person completes criminal responsibility and is punished as an adult (Chipriani , 2009: 13)

The determination of the age of sexual maturity as the basis for the age of criminal responsibility, in addition to having controversy in the domestic legal system in the country (Nobahar, 2012: 168-161 and Rohami, 2002: 181-176), is also a ground for criticizing international authorities. He had been monitoring the rights of the child. Examples include the periodic reviews of the UN Committee on the Rights of the Child, as the monitoring body for the implementation of the Convention on the Rights of the Child. The committee expressed concern in its 2000 review of the status of children's rights in Iran, including the fact that adulthood was the criterion for defining the child and constituted a discrimination between a boy and a boy regarding criminal responsibility (Committee's opinion) United Nations Children's Rights in Iran Report, 2000: paragraph 22). In his 2005 survey, he again expressed concern and demanded that the child's definition be free of gender discrimination, and in paragraph 72 of his report, he explicitly expressed concern over the low minimum age for criminal responsibility in Iran. The first step was taken to change this situation in the Children's Crime Prevention Bill, in which the gradual system of Criminal Responsibility for Children was foreseen: a) up to 9 years free of criminal responsibility; b) 9 to 12 years;

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answers Educational - Corrective and C) 12 to | 15 years of educational-punitive responses; d) aged 15 to 18 years offset punitive responses (Sabadakuhifar, 2009: 252).

With the introduction of the Islamic Penal Code, these provisions were reflected in some of the changes to the bill, and finally, in the form of articles 88 to 95, chapter 10 of the second part of the first book of the 139th Islamic Penal Code, entitled "Punishments and Measures for the Provision of Children and Children Teens ". In this law, there is no change in the legal age of adulthood, and according to Article 147, the maturity of girls and boys is nine and fifteen, respectively, in the entire lunar year. But at least two significant changes have taken place in this area. First, there are two different systems for imprisonment and other punishments, and there are different responses in the area of the crime of crime, based on the type of crime committed and the age group of the perpetrators. In the following, we will examine in two separate sections the criminal responsibility of children for crimes against homosexuality on the one hand, and punitive and punitive crimes on the other.

1.2. Enhancement crimes

In the Islamic Penal Code of 2013, the criminal responsibility of children, without distinction of gender, is subject to a gradual system, and different responses are provided for different age groups of children. Each of these groups will be examined separately.

1.1. 2. Age group of 9 to 12

Article 88 of the Islamic Penal Code of 2013 stipulates that children aged 9 to 15, in the case. The commission of crimes against crime shall be subject to one of the decisions set out in paragraphs (a) to (e) of this article. However, since according to Note 1 of this article, the decisions referred to in paragraphs "T" and "E" apply only to children and adolescents from twelve to fifteen years, the measures applicable to the age group of 9 to 12 years are limited to the foregoing In the paragraphs "A" to "C" of this Article.

In substance, the reactions the legislator has anticipated about this age group. They have a therapeutic aspect (Jamshidi, 2003: 73). In the technical sense, the concept of this article is that a child under the age of 9 cannot be the subject of any decision in the criminal justice system, even corrective and care decisions. In other words, these children are not subject to criminal proceedings. In this regard, the position of the Islamic Penal Code of 1392 is different from the former Islamic Penal Code because under Article 49 of that law, children were deprived of criminal responsibility, but they were "supervised by the court" with the care of the children and "the children of the Rehabilitation and Development Center" Was. Thus, in the previous law, no minimum age for offender children was anticipated, regardless of age. According to Note 2, article 49 of the above-mentioned law, if a physical punishment was necessary for the upbringing of the child, this possibility was foreseen to the court, but in the Islamic Penal Code 1392, for children under the age of nine years, no reaction, even correctional Just imagine that these children are not prosecuted. Naturally, their legal punishment has also been abolished for physical punishment.

2.1.2. Age group of 12 to 15 years

In the case of a 12 to 15 year old age group, the legislator has shown more rigor and has made it possible for some punitive measures to be imposed in addition to the corrective actions referred to in the preceding paragraph. According to Note 1, Article 88, a child or adolescent of 12 to 15 years of age who is committing an offense of crime may, in addition to the measures specified in the preceding paragraph, be

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subject to the reaction provided for in paragraphs (a) and (e) of this article. Particularly the response to paragraph "E", which is maintenance in the center of reformation for three months to one year, has a strong punitive aspect. The following clause stiffens this age group and stipulates that if these children and adolescents commit offenses of grade 1 to 5, they must necessarily be deployed to a correctional center for 3 months to 1 year, and the judge cannot respond to other responses, such as surrendering to qualified or warning individuals, and to commit to non-repeat offenses. The legislator has used Article 88 as "children and adolescents" between the ages of 9 and 15. However, this article only used the term "children" before the final adoption of this law and the bill proposed to the Islamic Consultative Assembly. Thus, in the proposed bill, Article 88 was virtually dissuading the boys because the girl who passed between the age of 15 and her maturity status in Article 147 and was not considered a child. But Article 88 of the Parliament, using the broader definition of "children and adolescents" includes both girls and boys. Given this degree, a girl who has passed the age of puberty and, according to the famous Imams' jurists, has found complete criminal responsibility until it's not over 15 years old, if he commits a crime, he will face similar discriminatory responses to your male counterpart. This important change is part of the bug flour on former rules have been resolved in terms of discrimination between girls and boys of criminal responsibility.

3.1.2. Age group of 15 to 18 years old

Upon reaching the age of 15 years, girls and boys who commit offenses are subject to Article 89 of the Islamic Penal Code 2013, up to the age of 15 years. This article stipulates that criminals of this age group, depending on the type of crime, are sentenced to one of the punishments mentioned in the article, the most severe of which is five years of maintenance in the center of reformation and the mildest of them are also fined. This age group, that is, teenagers between the ages of 15 and 18, is among those who are at the mercy of differences in the definition of the child in domestic laws and international documents. From the perspective of international documents, most notably in the context of the present article of the Convention on the Rights of the Child, a child is a person aged less than eighteen years. But according to domestic laws of Iran, the highest age at which a person can be called a child is fifteen years of the entire lunar (fourteen and seven solar months), which is specific to male children. There was no specific regulation for this age group (15 to 18 years old) in the former Islamic Penal Code, and these individuals had complete criminal responsibility. But the Islamic Penal Code of 1392 provides for special guarantees for this age group and places them under a different military function than adults (over eighteen years of age). Although the legislator did not explicitly increase the age of criminal responsibility, but with the prediction of a gradual system of criminal responsibility, he expanded his educational and educational support to include those below the age of eighteen, with no readings from the sources of jurisprudence, they cannot be considered as a "baby letter." The precision of the method of punishment imposed on persons between the ages of 15 and 18 in Article 89 of the Islamic Penal Code 2013 illustrates this fact, for example, in Section A of the Article 89 It has been stipulated that a juvenile offender committed a first-degree offense of at least one third, to be held in the center of correction for a period including two to five years are sentenced. In this way, keeping in the center for 2 to 5 years is replaced by grades 1 through 3. The minimum level of imprisonment of grade 3, ten years, and the highest degree of imprisonment in grade one is also life imprisonment. As a result, the legislator for the age group of 15 to 18 years has replaced the detention in the center for 2 to 5 years for more than 10 years to life imprisonment, which

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reflects the victimization of the punitive and degenerate approach and his attention to There is a corrective approach to this age group.

2.2. Excessive and punitive crimes

According to the famous promise of the Imam's jurists, a person who has passed the age of adulthood is full and full of criminal responsibility (Mehrpur, 2013: 146), and naturally in the event of a crime, his sentence is like an adult. But the legislator has tried, while respecting these religious rules, to keep pace with the international obligations of children's rights in this regard as well.

The main rules of the legal system governing the commission of punitive and punitive crimes by individuals | Under the age of eighteen, it is explained in Note 2 of Article 88 and Article 91 of the Penal Code of 2013. Note 2 of Article 88 of the Islamic Penal Code of 1392 stipulates that if a person "immature" who is in the age group of 12 to 15 lunar years commit an offense punishable by punishment or punishment, then one of the measures mentioned in sections "t" or " Article 88 ("Warning or Receiving Written Commitment to Non-Repetition of Crime" and "Maintenance in the Rehabilitation Center for 2-5 Years" respectively), if the minor committed such crimes is less From the age of twelve, according to the following section, one of the measures referred to in paragraphs (a) to (c) of article 88 (which is of a corrective, corrective and caring nature).

There are a few points should be mentioned about this note:

First, unlike the sanctions that apply to a less-than-nine-year-old group, it is not possible to apply any response in the law; in the case of jealous and retaliatory crimes, at least in theory, it is possible that the judge will respond to one of these reactions Paragraphs A to C provide for the application of Article 88. This documentary statement is in accordance with Note 2, Article 88. The explanation that the paragraph above stipulates that a juvenile should commit a crime or a retributive retribution if it is between the ages of 12 and 15 is sentenced to the reactions set forth in Sections T and C and "otherwise" the reactions are listed in clauses "A" to "C". The term "otherwise" refers to the hypothesis that a juvenile offender is under the age of twelve, without considering at least the age for these types of reactions. As a result, a child who has not reached the age of nine years, in the case of committing crimes of inferiority, is not the subject of the criminal justice system's response, and even corrective measures are not foreseen. However, in the case of committing the maximum amount of crime or retaliation by him, it is possible to apply the educational and care responses referred to in paragraphs (a) to (c) of article 88.

Second, the upper part of this note applies only to "boys" because the subject is immature from 12 to 15 years of age. Since under Article 147 of the same law, a girl aged over 9 years old is considered to be adult, the meaning of the 12 to 15 year old immature adult referred to in this note is merely an immature male (male). Thus, there is a difference between girls and boys: a girl who has more than nine months of full moonlight, in the case of committing a crime, is punishable by reprimand or retaliation, will be sentenced to the amount or retaliation, as the case may be, but until the age of fifteen years There is no lunar month, instead of limitation or retaliation, one of the measures and care and punishment responses referred to in Article 88.

The issue rose by article 88, paragraph 2, of the Islamic Penal Code of 2013, is whether this note can be considered as a step forward in the provision of children's rights in the field of criminal justice. In other words, is this note more useful than the similar provisions of the former Islamic Penal Code and more consistent with the scientific objectives of child justice? The answer to this question involves an in-depth

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review of the type of reaction to these delinquent children in the former law and the current Islamic Penal Code.

In the Islamic Penal Code of 1370, immature boys committed a criminal offense or reprisal against qisas were subject to the general rule set forth in Article 49, which were exempted from punishment, and - "Their training, in the opinion of the court, is the responsibility of the head of children and the caregiver of the Pediatric Rehabilitation Center " Was. In this way, the court could have handed over to a child a child under the age of fifteen years who had committed a crime or had suffered retribution, or for a period of time to be sent to a correctional center. In the Islamic Penal Code of 2013, such a person, in the judgment of the judge and his age, is convicted of being held in the center, or a milder reaction, such as warning and notice by the judge, applies to him. Thus, and contrary to what may seem at first glance, Note 2 of Article 88 has changed a lot, and six penalties have not caused the punishment or punishment of children to commit suicide. 6 The former Islamic punishment also has almost the same responses in such children had predicted delinquency.

However, contrary to Note 2 of Article 88, Article 91 of the Islamic Penal Code of 2013, a serious development and six penalties have committed excessive punishments or retaliation against juvenile offenders. This article introduced three situations as factors of the fall or retaliation and required the judge to; in this case, commit the perpetrator instead of the punishment or retaliation, based on his age group, to condemn one of the above punishments in this chapter. These three situations include:

A. Failure to understand the nature of the offense committed by the perpetrator

B) Lack of understanding of the crime committed by the perpetrator

C) Doubtfulness in the development or rational perfection

Thus, a girl or boy under the age of eighteen years (which, in contrast to Articles 88 and 89, does not specify that it is 18 years of the entire lunar), who commit a crime as a punishment or retribution, and one of the above states according to his case, "according to his age," he will be sentenced to "punishments prescribed in this chapter". There are two points to note in this article:

Are any materials that have resulted in a fall in punishment or retaliation that do not have the power to end the punishment? For example, if a person under the age of eighteen cannot be condemned for "doubt in his wisdom", is it reasonable to convict him of enhancement? On the other hand, unless the punishment of his crime was strictly limited and now he has been abandoned because of a doubt. What is the rationale for replacing this punishment with enhancement? Basically, can anyone convicted of a person who has doubts about his wisdom?

Secondly, the type of reaction in Article 91 remains ambiguous. The legislator, after expressing the fall of the punishment or retaliation, has issued a general decree that he commits "according to his age" to the "penalties prescribed in this chapter", that is, the tenth chapter of the second part of the first book of the Islamic Penal Code 1392 condemned. Gets But what about the "punishments" that the legislator has set out for them? Does the legislator refer to the reactions referred to in Article 88 or its Note 2 or Article 89? The answer to this question is not easy. In particular, the legislator, by specifying that he must also consider his "age" in determining the punishment for the perpetrator, has added to this ambiguity. Explain that in this chapter, three categories of reactions have been considered for crimes committed by children:

First, children between the ages of 9 and 12 commit crimes of lawfulness, which are faced with the reactions referred to in paragraphs (a) to (c) of article 88.

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Second, children between the ages of 12 and 15 commit crimes of imprisonment or retaliation or retribution, which are encountered by the reactions referred to in Article 88, paragraphs (e) and (e).
Third, children between the ages of 15 and 18 commit offenses against the punishment imposed by Article 89, and these penalties are also categorized according to the degree of commission of the offense.
The question is, when the legislator refers in Article 91 to the "punishments mentioned in this chapter", which of the three types of measures are considered above. In this regard, two points can be made: First, according to the age of the perpetrator of the punishment or the punishment for retaliation (for which he has been sentenced for any of the above reasons, his retribution or retaliation), one of the types of measures mentioned above applies to him Gets That is, if they are in the age group of 9 to 12 years old, the reactions in paragraph 88 (a) to (c), if they are in the age group of 12 to 15 years old, are the responses referred to in paragraphs (a) or (e) of Article 88 and If they are between the ages of 15 and 18, the measures under article 89 of the Islamic Penal Code apply to him. The legislator's emphasis on Article 91 that the response should be commensurate with age should justify this view. But the objection is that the legislator in Article 91 explicitly speaks of the "punishment" of the perpetrators, while the same legislator, knowingly and deliberately, refuses to use the term "punishment" for the responses referred to in Article 88 and refuses to the term "decisions" has been used by them. In other words, according to the legislator, the response measures referred to in Article 88 are not punishable and hence reference to "penalties in this chapter" cannot be referred to in Article 91. The legislator has only used the term "punishment" in Article 89, and therefore it may be argued that his referral to the punishment in Article 91 also applies to the responses referred to in Article 89. This interpretation is also more consistent with legal logic because it maintains the balance between penalties: in general, at the highest degree of severity, punishment and retribution. Afterwards, they are paid off and at a lower level than all of them; correctional measures are taken by children and adolescents. Thus, the opinion of the legislature is that a teenager, who has been abandoned for limitation or retaliation for the reasons set forth in Article 91, is faced with punishable punishments with discretion and tolerance. These penalties are also mentioned in Article 89. Therefore, it can be said that a teenager who has been deprived of his or her retribution has been sentenced to the punishments mentioned in Article 89. But unfortunately, this perception does not solve the problem and does not remove the ambiguity that the legislature created in Article 91 because, firstly, Article 91 stipulates that committing "on the basis of his age" shall be sentenced to one of the penalties of this chapter, but Article 89 covers only one age group (15 to 18 years old), and the status of other age groups committing a criminal offense, or who have suffered retaliation, is unclear. Secondly, in Article 89, various punishments are imposed based on the type of crime (maintenance at the center of correction, cash and public services). It is not clear, then, that if the judge wants to condemn the perpetrator to the punishment referred to in Article 89, then what kind of punishment is to be taken into consideration. Is freedom of absolute action and can apply any one of the sanctions as they wish? The positive answer to this question does not seem to be a satisfactory solution, since in this case; much confusion will emerge in judicial proceedings. On the other hand, how can one admit that the legislator in defamation, as described above, has specified exactly the kind of criminal response to children, but in the retaliation and retaliation, this has given the judge absolute freedom of action?
These are ambiguities that arise from article 91 of the Islamic Penal Code, and the legislator, without regard to them, has issued a general ruling on Article 91. Indeed, the legislator's focus on justifying a

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punishment or retaliation in this article has led to a failure to pay sufficient attention to punishments that replace the punishment or retaliation and cannot predict the correct order for alternative assumptions.

Table 2: Age classification of children's criminal responsibility

group	Age		Type of crime	Legal Documentation	Punishment and security measures
first group	Children under 9 years		--	M 146 f m 1	Bidding action
Second group	Children and adolescents 9-15 years old	9-12 years old	Enhancement	m 88	Paragraph A to P
		Immature 9-12 year	punishment or retaliation	Note 2 Article 88	Paragraphs A to C of Article 88
		12-15 years old	enhancement	Note 1 of Article 88	Paragraph (d) to (e) of Article 88
		Immature 12-15 Years old	punishment or retaliation	Note 2 Article 88	Paragraphs A to C of Article 88
Third group	Teens 15-18 years old		enhancement	Article 89	Paragraphs A to C of Article 88
	Under 18 years		punishment or retaliation	Article 91	Adult sentences except in the absence of criminal prosecution

Conclusion

One of the most important issues in all countries is about juvenile delinquency. Because children and adolescents are more vulnerable to extreme risk of delinquency than adults, due to their specific age and physical, psychological and social conditions. In this regard, governments develop criminal policies, one of which is the appropriate legislation on children and adolescents, including criminal and material criminal law, as the legal criminal law. In Iran, before and after the revolution, there is a different criminal policy in relation to this age group regarding the determination of the age of criminal responsibility as well as measures appropriate to this age group. This paper examines this issue and then examines the legislator's approach to the Islamic Penal Code of 2013. From the analysis of the legal material of the new law, it can be concluded that:

1. The legislator has made significant development and innovation by placing a separate section on the subject of punishments and educational and pedagogical measures for children and adolescents;

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2. The age of criminal responsibility in the new law is the same age of maturity for girls and boys;
3. Intellectual development of children and adolescents along with the criminal responsibility of reason, maturity and power as a new factor in criminal responsibility in the criminal justice system of the country has been entered;
4. The legislator's attention to the conversion of punitive damages and retaliation of adults aged 15 to 18 to punishment if the absence of rational growth has been achieved;
5. Determination of non-lethal penalties for freedom and alternative sentences of imprisonment and attention to the socialization of juvenile offenders;
6. Considering the postponement of the issuance of a warrant and the suspension of the execution of punishment in all the crimes committed by this age group, the elimination of the criminal offense of all convictions, appeals, conditional release, and punitive sentences of this age group is different from the crimes of adults older than 18 years, therefore The new law, inspired by the jurisprudential doctrines and criminology, seems to be inspired by the issue of gradual and diminished children's responsibility in proportion to their intellectual development and their clean power, taking into account the theory of reduced responsibility and the age of criminal prosecution in determining the type and extent of criminal responsibility Children and adolescents have taken measures to address the issue of differential criminal policy.

Recommendations: Although the new law adopts punishments and measures for the education of children and adolescents, many of the challenges of legislative criminal policy, children's and adolescents' laws and high-quality past are proposed:

1 Guardianship measures for the age group under the age of 9 who have reached the level of separation are determined, as stated in Article 146, which is considered to be non-null care, but not referred to in Chapter 10;

2 The minimum penalty is specified in Article 89, because it is not clear what the discount rate is to be set at least in half.

3 Shortly after the implementation of the new research law on the impact of the implementation of penalties and measures for the education of children and adolescents on the level of social reintegration of this age group.

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