

A Comparative Study of the Age of Criminal Liability for Children in Islamic and Pakistani Law

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Abstract: The concept of criminal liability for a child is an important and complex issue in Islamic and Pakistani law. In Islamic law, there is a stage called "*mukhaffafa*" which reduces criminal responsibility from the age of seven to fifteen years. During this stage, the judge is given discretion to decide on disciplinary measures based on the child's understanding and awareness. Islamic law also allows for measures to be taken for the rehabilitation of the child, taking into account psychological, economic, and social factors. In Pakistani law, the determination of the implementation of disciplinary measures is solely based on legal procedures, and there is no such stage as "*mukhaffafa*." However, Pakistani law recognizes the need for child's rehabilitation and has legal provisions for this purpose. The comparative study of Islamic and Pakistani law reveals some similarities and differences. While both systems recognize the need for the child's rehabilitation, Islamic law places greater emphasis on the psychological and social factors of the child, while Pakistani law focuses more on legal procedures. Additionally, Islamic law has a specific stage of *mukhaffafa*, while there is no such stage in Pakistani law. Overall, the criminal liability of a child is a complex issue that requires a balanced approach that considers both the legal procedures and the rehabilitation needs of the child. While Islamic and Pakistani law have different approaches, both systems recognize the importance of rehabilitating children who have committed crimes.

Keywords: Islamic law, Pakistani law, criminal liability, child, age, stages of development, rehabilitation, punishment, comparative study.

Introduction. In a human community, both adults and children commit crimes. However, there is a definite distinction between these two groups' responsibilities. This obligation has been clearly distinguished in Islamic law. This is due, in part, to differences in criminal intent, which have an impact on how a crime turns out. Due to the fact that when a minor commits a crime, their behavior can differ from that of an adult in several ways, including freedom of will, power of choice, perception, discernment, or consciousness, modern laws have made an effort to codify this distinction in the laws based on it. Adults possess these aspects of a human being in a fully formed and developed state. These qualities are constantly evolving during the childhood stage, and once adulthood is attained, they are completed to a specific, overall limit. Legal precedent has shown that an adult person's comprehension, awareness, and consciousness are comparable to those of other members of society. In contrast, people lacking in these qualities are taken into account when it comes to accountability when they are still in their formative years. Even if they commit a crime, their lack of awareness and maturity excuses them from punishment. There are specific, unusual rules and guidelines concerning minors' responsibilities in this regard. We find a lot of discussion on these subjects in legal publications and jurisprudential ideas.

Definition of infancy: A child is referred to by a variety of names in Islamic law. They are "*as-sabiy*," "*al-tifl*," "*al-ghulam as-saghir*," and "*al-hadath*," which are the most often used ones. In Arab nations, the phrase "*al-hadath*" is more commonly known and utilized in modern legal jargon. Since all of these terms are used interchangeably, their meanings and concepts are condensed and abbreviated.

Lexical definition: "*al-tifl*" is defined lexically. A young child, either human or animal, is an infant.⁽¹⁾ According to Ibn Qudamah (620 AH), technically, an infant is defined as a person under the age of seven." Because the term "*(tifl)*" infant appears in both the singular and plural forms in several Quranic texts.

"He is the One Who created you from dust, then from a sperm-drop, then from a clinging clot; then He brings you forth as an infant, then [He allows you to reach] maturity, then [you become] old age—though some of you die before that—and so that you may reach a predetermined term; perhaps you may [learn to] use your reason."⁽²⁾ .

"And when children among you reach puberty."⁽³⁾

1. The term "*al-sabi*" has multiple definitions, including "youth," "adolescence," and "a small boy who has not yet reached puberty."⁽⁴⁾

2. A youngster is referred to as an *al-sabi* in Arabic from birth until puberty.

al-sabi is therefore more precise than simply using the terms "youth" or "adolescence".

According to Islamic law, a person is referred to as a "child" if they lack the capacity to understand and make rational decisions as a result of their intellectual limitations, which prevent them from understanding the true nature of things and from making good decisions and avoiding bad ones as a result of their early incomplete mental and religious development.

Calculating the Minority's Age

The age of minority is split into three phases by the Muslim jurists:

1. Indiscriminating minors at this point

2. The modest discrimination stage

3. The maturity stage:

First Stage: Indiscriminating Minor Stage: This stage lasts until the age of seven and begins at birth.⁽⁵⁾ The child is bereft of their capacity for understanding at this point. In this stage, the youngster is referred to as non-discriminating.⁽⁶⁾

The age of discernment cannot be predicted, and this is a fact. When it first occurs and when this phase is over are both unknown. The age of discernment in children may start before they turn seven, and there is also a chance that there will be a delay because of variations in awareness and discriminating environments, as well as in the children's mental and physical capacities.⁽⁷⁾

According to a Hadith reported in *Sahih Bukhari*, "Mahmud bin Al-Rabi narrated: I saw the Prophet (peace be upon him) making *Takbeer* with a pebble in his hand while he was performing *Salat* in my house, and I was a boy of five at that time." Some kids can develop this sense of discrimination even at the age of five.⁽⁸⁾

The jurists are in agreement that children reach the end of the stage of discernment (*sha'oor*) at the age of seven. The age restriction is also important to prevent any disruption of the

rulings. In order to make it easier for the judge to decide whether or not insight has been acquired, discernment is conditional on age. The age restriction has been placed at seven years as a result. Before the age of seven, a child is regarded as ignorant. At this age, the majority of children learn how to discern. Based on the principles of the majority rule system, discernment is not legally recognized before the age of seven years because judgments are made based on the majority of jurists. As a result, the first stage of minority starts with the child's birth and lasts until the child turns seven.⁽⁹⁾

The stage of discrimination (awareness): Literally, "*mumayyiz*" is a person who makes distinctions between things. As a result, when we use the term "*mumayyiz*," we indicate elevating one thing over another.⁽¹⁰⁾

In addition to its lexical meaning, the legal experts have not provided a separate technical definition of "*mumayyiz*." They define a "*mumayyiz*" as someone who has the ability to distinguish between good and bad, who comprehends the complexity of numerous issues, and who can distinguish between purchasing and selling transactions. This knowledge extends beyond the common interest to include a grasp of personal interests.

Seven years old is when this stage starts, and it lasts until puberty. A person who reaches the age of puberty, which according to the majority of Islamic jurists is fifteen years old, is regarded as an adult for legal reasons even if they have not yet attained physical maturity. The definition of puberty age, however, is a topic of debate among lawyers; this matter will be covered in the third stage.⁽¹¹⁾

Hanafi jurist Zaylai (743H) comments that Considering the Prophet's (peace be upon him) advice to "command your children to pray when they reach the age of seven, discipline them for it when they reach the age of ten, and separate their beds (during sleep)," as well as what was mentioned in the account of Amir al-Mu'minin Ali ibn Abi Talib's (may Allah be pleased with him) conversion at age seven, it is because this is the age at which a child typically develops the capacity to comprehend evident matters and distinguish between them.

Some scholars contend that it is a realistic issue of interpretation rather than a specific period of time, because every person has unique perceptions and capacities. Because of this, they connected it to their capacity to understand their interests and what was good for them and bad for them. Others argued that it was a person who understood conversations and behaved

appropriately, while some asserted that it was the capacity to understand purchase and sale.
(12)

The stage of adulthood: The stage of adulthood is achieved between the ages of seven and the start of puberty. According to the majority of jurists, puberty begins at the age of fifteen; therefore, everyone who reaches this milestone is regarded as an adult under the law, whether or not they have really experienced puberty.

Puberty is described linguistically as "reaching a place or state," which is another way of saying, "I reached the place." Similar to this, when a boy experiences a wet dream and is regarded as having attained puberty, it is as though he has arrived at the age of obligation and responsibility.⁽¹³⁾

The end of infancy in a person, which makes them responsible for carrying out religious duties, is referred to as "*bulugh*." As an alternative, it alludes to a child having the ability to leave their childhood and enter another state. According to Ibn Amir Al-Hajj, the term "*bulugh*" (adulthood) refers to the conclusion of the "*sighr*," or stage of infancy, meaning that once a person attains mental maturity, they are obligated to carry out all religious duties. A person's intelligence can be inferred from their remarks and behavior. It can be considered that if they continue acting in the same manner, their intellect is firmly grounded in justice. Their lack of intelligence will be taken into account if there is a change in their behavior and attitude. However, when a person reaches the age of adulthood, it is thought that their intellect has matured to a moderate level and is now also connected to their sense of religious duty. Everything is being done for the benefit of the public at large.⁽¹⁴⁾

When a person reaches adulthood, it is a sign that their intellect has reached a mature level, though it is also possible that they have already acquired that level of development before then. Being an adult signifies that one's intellect has attained the pinnacle of excellence. In the event that a person has not been afflicted by a condition that impairs their legal capacity, such as insanity, the completion of their intellect at the time of reaching adulthood is taken into account. As human cognition is an internal affair, the *Shari'ah* has provided the standard and basis of adulthood for human comprehension and understanding. As a result, it is said that this comprehension exists in adulthood, and *Shari'ah* has made it simpler for the accountable party by lightening their load and providing them with convenience.

The Prophet (peace be upon him) said: "The pen has been lifted from three: the sleeper until he wakes up, the child until he reaches puberty, and the insane until he regains his sanity.

⁽¹⁵⁾. This is the basis of their argument.

Methods of Puberty Determination: In Islamic law, there are two recognized ways to do so:

1. Natural method, or physical signs and cues.
2. Estimating age, also known as *Taqdiri* puberty,

The natural process of puberty is based on bodily indicators and signals. Whether it is a boy or a girl, the appearance of these symptoms signals the start of puberty. Jurists generally concur on some of these signals, but there are disagreements about others.

Jurists concur that the start of menstruation for a girl or the release of semen for a boy signals puberty.

A marker of puberty may or may not be the development of pubic hair below the navel, but jurists disagree on this point.

First Opinion:

This viewpoint claims that the development of pubic hair is a sign of puberty. People think that puberty is indicated by the appearance of thick, coarse hair around the pubic region of both sexes, which needs to be clipped. However, puberty cannot be associated with sparse and fine hair, which even young children might have.

They base their case on a Hadith that Atiyyah al-Qurazi (may Allah be pleased with him) related, according to which he stated: "Since I was a member of the *Banu Qurayzah* prisoners' clan, and they used to look at us. Anyone with pubic hair was slain, whereas those without it were not. I was set to go since I was one of those people without pubic hair. In light of this, it may be said that pubic hair is a sign of puberty, whereas its lack indicates pre-puberty."⁽¹⁶⁾

This hadith is evidence that the growth of pubic hair is a sign of puberty because it is a physical external sign that applies to the majority of individuals. Both males and females are considered equally in this regard. Like wet dreams, it is also proof of puberty.

Second opinion:

The Hanafi jurists disagree with the majority view and believe that a boy's pubic hair growth is not a sign that puberty has begun for him. For boys, the onset of ejaculation, nocturnal emissions, or pregnancy are signs of puberty. The sign for a girl is menstruation or pregnancy. If any of these signs are absent, age will determine puberty. They support their argument with a statement from the Quran that contradicts the idea that puberty necessitates the growth of pubic hair:

"And those who do not reach puberty."⁽¹⁷⁾

There are children who haven't had their first menstruation or ejaculation yet. Due to the Prophet's (pbuh) statement that "the pen is lifted from three persons: the young child until he reaches puberty, the sleeping person until he awakens, and the insane until he regains consciousness."⁽¹⁸⁾

As a result, every jurist in the past and present has agreed that a child's status as a minor is terminated the moment she or he ejaculates or starts menstruating, respectively. Because Atiyah al-Qurazi is an unnamed person and the only thing we know about him is from this narration, the Hadith of Atiyah al-Qurazi, which mentions the Prophet ordering the slaughter of a child whose pubic hair had grown, is unacceptable as evidence. A contradiction exists between this Hadith and the aforementioned Quranic verse as well.⁽¹⁹⁾

Determining the Age of Majority: There are multiple opinions among the jurists on determining the age of majority.

First Opinion:

The age of majority is fifteen years. This is the opinion of the majority of jurists, including those from the Shafi'i, Hanbali, and Hanafi schools, which include Imam Abu Yusuf and Imam Muhammad. Their argument is as follows:

I. Abdullah bin Umar (may Allah have mercy on both of them) narrated: "Allah's apostle (peace be upon him) called me to present myself before him on the eve of *Uhad* when I was just fourteen years old, and he did not permit me to take part in the battle. However, he called me on the eve of *Khandaq* when I was fifteen years old, and he permitted me to take part in the battle."⁽²⁰⁾

2. The Prophet (peace be upon him) said: "When the child reaches the age of fifteen, his rights become established, his obligations are fixed, and the *Hadd* (punishment) is imposed upon him (for violations).⁽²¹⁾

Their opinion is that a child's rights and obligations are established at the age of fifteen, and they are then responsible for any violations and subject to punishment. This comprehension emphasizes the significance of turning fifteen as a turning point in a person's legal and religious obligations.

This hadith serves as the foundation for the following arguments:

The Prophet's (peace be upon him) approval of Samurah ibn Jundub, even though he was under the age of fifteen, lends credence to the argument based on the narration of Ibn Umar and the permission given to him by the Prophet (peace be upon him) regarding maturity at the age of fifteen. The Prophet (peace be upon him) is claimed to have agreed to his plea when he reportedly said, "O Messenger of Allah, you granted Rafa'ah (permission to fight) and returned me, while I am of the same age as Rafa'ah." The Prophet (peace be upon him) then commanded the two of them to engage in combat; after Samurah defeated Rafa'ah, the Prophet gave him permission.⁽²²⁾

Ibn al Qayam(751AH)The Hadith of Ibn Umar (may Allah be pleased with him), wherein he was presented to the Prophet (peace be upon him) for combat at the age of fourteen, but the Prophet did not permit him, is the greatest evidence provided for establishing the age at fifteen years. The Prophet then gave him permission when he was presented at the age of fifteen. Even if this hadith is believed to be reliable, it does not demonstrate that the permission was given in accordance with reaching puberty. Instead, it's possible that the Prophet (peace be upon him) initially disapproved of him because he was too young and incapable of fighting, but after he was fifteen, the Prophet began to approve of him. Even if this hadith is believed to be reliable, it does not demonstrate that the permission was given in accordance with reaching puberty. Instead, it's possible that the Prophet (peace be upon him) first disapproved of him because he was too young and incapable of fighting, but after he was fifteen, the Prophet began to approve of him and gave him permission. He was not questioned on whether or not he had nocturnal emissions as a result. The Prophet (peace be upon him) is also subject to the same connection that Allah, the Almighty, has made between the application of the law and the occurrence of nocturnal discharge. With the

exception of what Ibn Umar said concerning permission and denial, the Prophet (peace be upon him) doesn't provide any explicit command defining the age of puberty. As a result, the legal responsibility of a child is determined by age, which has caused controversy among jurists.⁽²³⁾

The Hanafi jurist Jassas al-Razi (370H) comments that the fact that the Battle of *Khandaq* occurred in the fifth year and the Battle of *Uhud* in the third year following the Prophet's departure to Medina makes the situation confusing. Why, then, did these two occurrences happen a year apart? The ability to fight is not, however, simply based on attaining puberty; a mature person may be barred from combat owing to weakness, while a non-mature person may be allowed due to their strength and capacity for combat and weaponry. Rafea ibn Khadeej and Sa'murah ibn Jundub both accepted this. When it was predicted that Sa'murah would be defeated, he ordered a wrestling competition in which Rafea defeated Sa'murah, who gave the order without seeking clarification.⁽²⁴⁾

The following are some possible counterarguments to the points raised above:

Even though the aforementioned data suggests puberty, it does not preclude the existence of other distinct indications of puberty. Even if we take nocturnal emission as a sign, due to its irregularity and lack of uniformity, the beginning of physical development is not necessarily a sign of puberty.

The second opinion:

A man must be eighteen years old, and a woman must be seventeen. This is Imam Abu Hanifa's viewpoint. He bases his claim on a statement made by Abdullah ibn Abbas (may Allah be pleased with him) in reference to the Quranic verse that reads,

"And do not approach the property of an orphan except in the way that is best, until he reaches maturity."⁽²⁵⁾

Abdullah ibn Abbas' opinion is that the word "in the passage which relates to the age of 18. He clarified that it refers to an orphan who turns 18 years old."⁽²⁶⁾

Another Quranic verse lends weight to this interpretation.

"And until they are of marriageable age, test the orphans in [their] capacities. Then, if you believe they have solid judgment, give them access to their stuff. Likewise, do not consume it hastily or in excess with the expectation that it will mature."⁽²⁷⁾

This verse's argument is used because no one can attain marriageable age before they have reached puberty. The ability to be responsible, on the other hand, is a different issue and cannot be gained before the age of eighteen. According to one interpretation of the word "*ashudd*" in the first line, men's reproductive capacity peaks around the age of eighteen, but women develop this capacity more quickly, so the difference, which is one year, should be smaller.⁽²⁸⁾

Third Opinion:

The Malikis assert that the legal age of majority is 18, and they justify this position by drawing a parallel to Imam Abu Hanifa's establishment of his school of thought based on Abdullah bin Abbas' opinion. The Malikis, on the other hand, have set the legal age of majority at 18 for both men and women, which is where Imam Abu Hanifa's school of thought differs from theirs.⁽²⁹⁾

Fourth Opinion

19 years of age. Imam Ibn Hazm is credited with having this opinion. Tradition has it that Imam Abu Hanifa held the age of nineteen to be the age of male maturity.

The actions of Prophet Muhammad served as the foundation for Imam Ibn Hazm's school of thought. In his opinion, when a person reaches puberty, they immediately join the category of adults. When a child reaches a certain age, it is generally accepted that they are regarded as adults. It should be fifteen years old instead of nineteen, which is not acceptable. Because this age is fixed at fifteen, it should be understood that each person's experience with puberty is unique. This will result in some people becoming adults and some people continuing to be minors.

The group of adults in their twentieth year will therefore include someone who has attained the age of nineteen. Then nobody will be left in the group of kids. If a person is still regarded as a child even after turning nineteen, it will be because of a medical condition rather than because they have not yet gone through puberty.⁽³⁰⁾

Islamic law is regarded as being the first in the world to fully discriminate between adolescents and adults in terms of criminal responsibility. Its tenets provide the most recent

guidelines upon which contemporary statutory laws governing minors' accountability are based. Islamic law has seen substantial development, but it hasn't included any principles that weren't already there in Islamic jurisprudence. A child under the age of discernment is not subject to criminal prosecution for the offenses they commit, according to Islamic law. Due to their lack of mental capacity or unintended transgressions, they are not punished. In the same way, sanctions have no impact on them. However, they are liable for making up for any harm or damages they do to other people before they reach adulthood.

Throughout the stage of discernment, which starts about age seven and lasts until adulthood, they become capable of comprehending the religious precepts. In terms of testing and assessment, the child achieves the goal set forth by the holy rule during this time. However, they continue to be intellectually underdeveloped and physically frail, frequently driven by immature urges. They are therefore held accountable for their conduct, but due to their young age and poor cognition, original punishments are not meted out to them out of respect for their growth and comprehension.

Secondly, it is not appropriate to hold a youngster responsible for acting in a manner that is against Islamic law. Instead, it pertains to disciplinary accountability. Because the child needs discipline more than they need fear and punishment, it is not a criminal offense. This strategy is far from severe and harsh. The goal is to rehabilitate and perfect the child so that they can contribute positively, wisely, and morally to society. The state is in charge of deciding on the proper disciplinary punishment for the child based on the situation, time, and place.

Islamic law links the requirement of achieving the age of discernment to the idea of responsibility and the implementation of general laws. Whether a person is male or female, they are recognized as fully responsible persons if they are deemed adults based on any indication of reaching maturity. They are subject to the same laws and rules as other men and women. This has received unanimity of opinion from several jurists. The obligations, limitations, and other rules that come with puberty apply to both males and females, according to scholarly consensus. The majority of jurists hold that the specific laws for a discerning child continue until the age of fifteen, if natural signs of maturity do not exist.

According to the majority of jurists, it is at the age of fifteen, which is supported by evidence. However, Abu Hanifa and those who agreed with him considered it to be eighteen years old. At this stage, the legal responsibilities and obligations of the *Shariah* are imposed on the individual, subject to its conditions, and they are subject to the *Sharia* penalties and all the

rules that apply to adults. They also receive their property if they reach the age of maturity. If they reach the age of maturity but are foolish, then the punishment continues until they become guided, according to the majority of jurists, and until the age of twenty-five, according to Abu Hanifa, at which point the punishment is lifted even if they have not become guided.

The first point is to follow Imam Abu Hanifa's teachings and act on them from the perspective of legitimate policy and interest.

Regarding financial matters, "maturity" means the ability to manage financial affairs and utilize money properly. Financial competence is associated with maturity, not just reaching a certain age. While scholars have not specified a particular age for maturity, they do have opinions on how long to wait for maturity to occur or to reach twenty-five years of age, as Abu Hanifa has proposed, to bring about social and economic change and meet the needs of society. Therefore, it is permissible for a guardian to determine a specific age for maturity, as long as it does not exceed what Abu Hanifa has suggested, from the perspective of legitimate policy and interest.

Secondly, statutory laws do not rely on natural signs of puberty; rather, they rely on age. For example, the Egyptian civil law has set the age of puberty and maturity at twenty-one lunar years, as have other laws. The Pakistani, Iraqi and Turkish laws set it at eighteen years. Criminal laws have also specified the age of puberty: the Egyptian law on juvenile delinquents sets it at eighteen years, as do the Pakistani, Iraqi, Syrian, and Emirati laws. Once a boy reaches this age, he enters the stage of adulthood and is liable to full criminal accountability, subject to all penalties, as long as he has no legal disability.

Prior to this age, that is, the age of discernment, up to fifteen years of age, the penalty is disciplinary and corrective, as stated in the law on juvenile delinquents.

If a person is over fifteen years old but has not reached eighteen years of age, the original penalty stipulated in the criminal law does not apply to them, but they will be subject to a lighter penalty.

Definition of the Age of Minority and Majority in Pakistani Law: Pakistani law's minority definition and majority age. An "adult" is defined as a person who has attained the age of eighteen under Section 299A of the Pakistan Penal Code, while a "minor" is defined as a person who has not attained the age of eighteen in Section 2(i). According to the Juvenile Justice System Ordinance 2000, a "child" is someone who is under the age of 18 at the time

of the offense. Regardless of gender, the Majority Act of 1875 set the legal age of majority at eighteen. The *Hudood* of *Zina* (Adultery), *Qazaf* (slandering chaste woman with Adultery), *sariqa* (Theft), and Ordinances of 1979 further stipulate that a person who commits the crimes of *Zina*, *Qazaf*, and *sariqa* must be a male who is at least 18 years old and a female who has entered puberty, which is defined as 16 years old.⁽³¹⁾

Precedents of the Courts

The Supreme Court of Pakistan has declared in a judgment that a culprit who is 16 years old is not legally recognized to be an adult in any situation and would instead be regarded as a child.⁽³²⁾

In a different decision, the court recognized the accused's school transcript as proof of age of majority under Section 299 of the Pakistan Penal Code. However, the case must be brought to a medical board at a hospital in order to determine the accused's age.

The court, in its decision, argued that while contemporary medical jurisprudence describes the effects of puberty, it does not provide a clear definition. In Islamic law, for a male to be considered an adult, the beginning of puberty is required, while for a female, the onset of menstruation is considered a sign of puberty.⁽³³⁾

The decision of the Federal Shariat Court indicates that the presence of physical signs in a person is sufficient for the assumption of responsibility. While the age of puberty has been defined in Pakistani law, there is no clear definition of childhood. The age of 18 for males and 16 for females has been prescribed in the *Zina* (Enforcement of *Hudood*) Ordinance, while the age of 16 has been set in the *Qazf* (Enforcement of *Hadd*) Ordinance. The Enforcement *Hudood* Ordinance (1979) also prescribes the age of 18 for matters related to property.⁽³⁴⁾

The age of majority is commonly set at 18 years old in Pakistan, according to a review of the aforementioned laws. The age of majority is set at 16 years for female offenders in *Hudood* laws, which is an unusual exception. What's notable is that this distinction hasn't been contested as being outside of Islam in any of the Federal Shariat Court's rulings. This discovery shows that the Pakistani legislature is siding with Imam Abu Hanifa's opinion rather than the viewpoint of the jurists of the dominant majority.

It's interesting to note that no single branch of Islamic thought has agreed to establish the legal age of majority for women accused of crimes at 16. For instance, Imam Abu Hanifa places the age restriction at 17, while Imam Ibn Hazm places it at 19, for both genders. Despite these conflicting opinions, the Pakistani legislature chose 16 as the legal majority age for females, which is a unique choice. Unfortunately, they haven't offered a good justification for this particular decision. It is plausible that the Hanafi jurist Zalaye's justification, which maintained that the question of comprehension should be viewed as a practical one unrestricted by a fixed time frame, is correct.

The Hanafi jurist Zalaye's justification, which maintains that the question of comprehension should be viewed as a practical one unrestricted by a fixed time frame, is plausible and correct.

On a different note, the Federal Shariat Court suggests that it should be sufficient for a person to bear responsibility just to have bodily signs. While the legal term of puberty has been established in Pakistan, there does not appear to be a clear definition of childhood, which leaves the law open to considerable interpretation.

The Stages of Infancy and the Pakistan Penal Code: The Pakistan Penal Code Section 82 that was repealed stated:

"Nothing is an offence, which is done by a child under the age of seven."

The amended provision now reads:

"Nothing is an offence which is done by a child under the age of ten."

The Pakistan Penal Code section 83 that was repealed stated: "Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion."

The amended provision now reads:

"Nothing is an offence which is done by a child above ten years of age and under fourteen, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion."⁽³⁵⁾

The legislature has raised the age threshold in Section 82 from seven to ten years and in Section 83 from twelve to fourteen years as a result of this amendment, extending the protection from legal liability to a broader group of children.

The Pakistani penal code states that a child's crime is not considered a crime if they commit it before the age of ten. However, Islamic *Shariah* states that the first stage of a child's life is from birth to seven years, during which they lack the appropriate understanding and responsibility. This stage is called "*sabi ghair mumayyiz*," meaning they are not discerning, and therefore, no crime is considered committed by them.

The age limit for minors in Pakistan penal code is ten years, while the repealed law imposed a seven-year age limit for non-discerning minors. The legislature amended the second stage from ten to fourteen years, extending from seven to puberty or nearer to puberty.

The weak stage of a child's age from seven to fifteen years is referred to as the "*Makhafafa*" stage in Islamic law, which reduces responsibility for criminal acts. The Islamic *Shariah* has devised measures for minor reform to eradicate crime from its roots, considering psychological, economic, and social benefits. The reform and discipline of minor offenders aim to mitigate the dangers of crime, and the commission of a crime before the age of fifteen does not pose a threat to the social system of Islamic society.

Conclusion: The age of criminal liability for children in Islamic law is a complex and multifaceted topic that requires careful consideration. Islamic law emphasizes distinguishing between children and adults in criminal responsibility, considering their maturity, understanding, and discernment. It aims to ensure justice, rehabilitation, and overall well-being. Scholars argue for a fixed age of criminal liability, while others advocate for a flexible approach considering a child's mental and intellectual development. Rehabilitation and education are prioritized over punitive measures. The approach to the age of criminal liability may vary across Muslim-majority countries, as legal systems are influenced by cultural norms, social conditions, and traditions. The evolving field of study requires ongoing dialogue, research, and collaboration among scholars, policymakers, and stakeholders to ensure fair and just treatment of children within the Islamic legal framework.

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