

A Comparative Study of Juvenile Criminal Responsibility in the Criminal Law of Iran and Azerbaijan

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Differential judicial proceedings and the adoption of special mechanisms concerning individuals who, due to their age, have not yet reached intellectual, physical, and psychological maturity constitute essential requirements of a fair trial system. Therefore, it is necessary to devise appropriate and effective mechanisms that, while providing a suitable response to unlawful conduct, also emphasize the proper education and rehabilitation of juveniles. Iran and Azerbaijan, recognizing these necessities and in harmony with international legislative trends, have attempted to establish special conditions and regulations concerning juvenile delinquency. Nevertheless, the degree and nature of legislative decision-making in this area, as in other fields of lawmaking, are influenced by the differing cultural and historical conditions of each country. The laws of both states prescribe a specific age for the commencement of criminal responsibility. In this regard, Azerbaijan, by adopting approaches such as a gradual system of criminal responsibility and applying identical regulations to both girls and boys, demonstrates greater conformity with international conventions and covenants.

Keywords: *Child, Gradual System of Criminal Responsibility, Immediate System of Criminal Responsibility*

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1. Introduction

Juvenile criminal responsibility and the manner of responding to juvenile delinquency are among the principal concerns and contested issues among scholars in various fields, especially criminal law. Contemporary criminal law has recognized that criminalization and punishment are not simple or rudimentary matters, and that it is inappropriate to impose punishment merely by focusing on the criminal conduct without considering the offender's condition. The era in which punishment was prescribed for objects, animals, the mentally incompetent, minors, and every being lacking intent and will has come to an end. To achieve the objective of punishment—as one of the aims of criminal law—it is inevitably necessary to pass through the bridge of criminal responsibility. The vulnerability and fragility of

young persons create the need to establish a judicial and regulatory system proportionate to their condition; the first prerequisite for achieving this objective is to acquire a deep understanding of the characteristics of this age group from different perspectives. To attain such understanding, especially in legal debates, comparative studies are regarded as one of the most common and illuminating methods. In this regard, the multiplicity of commonalities in the subjects under study is highly important in comparative analysis; accordingly, Iran and Azerbaijan have been selected as the subject of this study because of their numerous commonalities in various fields, including religion, culture, and history. In its initial steps, Iranian statutory law, namely the General Penal Codes enacted in 1925 and 1973 and the Law on the Establishment of Juvenile Courts enacted in 1959, adopted a measured approach and selected a



gradual system of criminal responsibility. However, under the Penal Codes of 1982 and 1991, and in accordance with the view of a number of jurists, the issue of juvenile criminal responsibility was divided into two periods: before and after maturity. In other words, by adopting an immediate system of criminal responsibility and setting different minimum ages for girls and boys, the legislator exposed itself to extensive domestic and foreign criticism. Following numerous objections, especially from international bodies, and given the necessity of drafting regulations consistent with contemporary needs and aligned with developments in criminology, sociology, psychology, and educational sciences, the legislator decided to introduce several changes and reforms in the Penal Code enacted in 2013, particularly in the field of discretionary offenses. However, fewer changes were made with respect to offenses subject to fixed Islamic punishments and retaliatory punishments because of certain jurisprudential considerations. Subsequently, the Law on the Protection of Children and Adolescents was also enacted with the same differential and protective approach toward these age groups.

The Republic of Azerbaijan is among the countries that gained independence from the former Soviet Union in 1991, and the current principal basis of its criminal legislation is the resolution of October 13, 1995. The nature of legislation in Azerbaijan concerning juvenile criminal law, both before and after independence, has been more consistent with international laws and principles. In particular, in recent years, because of certain political issues and efforts to join the European Union, this conformity and harmonization have become more serious, and the influence of the relevant conventions, such as those concerning the rights of the child and the Beijing Rules, is clearly visible in the area of juvenile criminal responsibility. From a general perspective, it becomes clear that the issue of children's rights has always enjoyed a special status in Azerbaijani criminal law and that international guidelines have been taken into consideration (Naghiyev & Hacizade, 2014).

This article conducts a comparative study of juvenile criminal responsibility in Iranian and Azerbaijani law in order to examine and explain the similarities and differences in the laws of the two countries regarding this issue, how the concepts of child and criminal

responsibility are defined, and what measures have been provided in response to juvenile delinquency.

2. The Concept of Child and Criminal Responsibility in Iranian and Azerbaijani Law

The two concepts mentioned above constitute the principal and key pillars of the present study; therefore, their precise examination and understanding are necessary.

2.1. The Concept of Child in Iranian and Azerbaijani Law

Lexically, a child refers to a human offspring before maturity or to an immature human being. In psychological terminology, childhood encompasses a period that begins in late early childhood and ends when the individual acquires social personality and reaches physical and psychological maturity. From a criminological perspective, a delinquent child or adolescent is an individual whose personality is still being formed and who is in the process of socialization, whereas the personality of an adult offender has already been formed and is not particularly susceptible to transformation. In jurisprudential and legal terminology, a person who has not reached the age of maturity is recognized as a child, because maturity technically refers to perception and reaching a certain stage of physical and psychological development (Pour Ghahramani & Ahadi, 2014).

Determining the minimum age of criminal responsibility plays a special role in the issue of juvenile delinquency. By determining this matter, the child's capacity for the attribution of crime and for bearing criminal responsibility is recognized. Nevertheless, despite many efforts, none of the international covenants has yet succeeded in this regard, and no specific minimum age has been determined from an age-based perspective. Disagreements in this field are so extensive that it does not appear likely that this situation will change significantly in the future. Some countries have lowered the age of criminal responsibility to seven years, while others have raised it to eighteen years. There are even countries that practically lack a minimum age of criminal responsibility. This extent of divergence in views and practices, in addition to demonstrating the difficulty—and perhaps impossibility—of reaching a global consensus on this issue, also indicates that determining

the minimum age of criminal responsibility is deeply rooted in religious beliefs, social traditions, social customs, and cultural values, which differ greatly from one country to another (Gillian, 2004).

Although no minimum age of criminal responsibility has been specified in any international regulation, standards and norms have nevertheless been defined that are worthy of attention. For example, Rule 4 of the Beijing Rules states:

“The minimum age of criminal responsibility shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental, and intellectual maturity.”

Furthermore, according to Article 1 of the Convention on the Rights of the Child:

“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”

In this definition, all persons under eighteen years of age are considered children, and the term adolescent is not used.

By examining various laws, including the Civil Code and the Islamic Penal Code, it becomes clear that, from the perspective of the Iranian legislator, a child is an individual who has not reached the legally recognized religious age of maturity. In the Islamic Penal Code enacted in 2013, under Article 147, the age of maturity for girls and boys is respectively set at nine and fifteen full lunar years, and under Article 146 of the same law, immature persons are exempt from criminal responsibility. Therefore, in the new Islamic Penal Code, as in the Penal Codes of 1982 and 1991, the age of maturity is nine and fifteen lunar years; however, the difference is that the recent law pays particular attention to age in determining the type of punishment and response. On the basis of age, children and adolescents in conflict with the law may be divided into three general groups:

First, persons under nine years of age, who lack criminal responsibility; second, persons who, at the time of committing the offense, are between nine and fifteen lunar years of age, who may be classified as children or adolescents depending on the case; and third, persons who, at the time of committing the offense, are between fifteen and eighteen years of age, who are classified as adolescents. Considering Articles 88 and 89 of the same law, adolescence begins at the onset of maturity and

continues until the end of eighteen full solar years. In view of the above, it becomes clear that the end of childhood is determined on the basis of the lunar year, while the end of adolescence is determined on the basis of the solar year.

In the Penal Code of Azerbaijan, and according to Article 84-1, children are immune from criminal prosecution and punishment before the age of sixteen, without any distinction between girls and boys. However, in certain offenses, because of their significant social danger and their nature, it is presumed that children are also capable of understanding the reprehensibility and wrongfulness of their acts; in such cases, the age of criminal responsibility begins upon completion of fourteen years of age (Azerbaijan State University of, 2019).

Moreover, in a practice consistent with Article 1 of the Convention on the Rights of the Child, persons enjoy the privileges of childhood until the age of eighteen, and the social response to their criminal conduct is based more on corrective and educational measures than on punitive measures, unless, exceptionally and in a dangerous situation, the personality of the child justifies the imposition and execution of punishment. It may be for this reason that instead of the term “court judgment,” which reflects legal authority and coercion, the phrase “decisions and measures” is used (Mohammadi Iravanlou, 2016). It is worth noting that, according to Article 2 of the regulation of the Ministry of Justice, the date of birth is not the basis for calculating a person’s age; rather, calculation begins from the day after the date of birth.

2.2. *The Concept of Criminal Responsibility in Iranian and Azerbaijani Law*

After explaining the concept of child, the concept of criminal responsibility in Iranian and Azerbaijani law is now examined.

Lexically, responsibility means:

“guarantee, liability, obligation, accountability, being committed, being questioned, and being required, and it has often been defined as duty and obligation and that which a person undertakes to perform” (Allameh Falsafi, 2002).

In the criminal field, various definitions have been provided for responsibility. In one definition, it is stated that:

“A person must have the capacity and competence to bear the penal consequences of his or her act” (Mirsaeedi, 2017).

Elsewhere, it has been explained as follows:

“A responsible person is one who is questioned and called to account. Thus, responsibility is always accompanied by obligation, and the content of this obligation is acceptance of the effects and consequences of criminal conduct; however, merely committing an offense is not sufficient to place the burden of responsibility on the offender. Before that, the offender must be considered deserving of punishment” (Ardabili, 2015).

This desert is established when the perpetrator of the offense is aware of the good and bad aspects of his or her conduct; otherwise, prescribing punishment and directing criminal blame would be inconsistent with expediency and rationality.

In the criminal regulations of the Republic of Azerbaijan, no definition of responsibility has been provided either, and Article 3 of the criminal law of this country merely refers to the time at which criminal responsibility arises. If all the elements necessary for the occurrence of an offense are fully realized, criminal responsibility is established. For this reason, to find a definition of the intended concept, one must refer to doctrine. From a general perspective, it may be said that criminal responsibility arises when an individual commits conduct, whether by act or omission, for which the law has prescribed punishment, and the mental aspects of the offense—based on intent or fault, motive, and purpose—are formed in that person. The person must also have reached such a level of physical, psychological, and social development that he or she can properly understand the nature of the conduct, the consequences of the offense, and the surrounding environment (Guliyev, 2007).

Criminal responsibility is formed on the basis of the criminal-law relationship, that is, the relationship regulated by law between the state and individuals. With the commission of an offense, the rights and duties of the parties to this relationship come into discussion, and it is at this point that criminal responsibility arises (Samandarov, 2009).

Therefore, in a meaning close to the concept of criminal responsibility in Iranian law, in order to impose punishment on a violator of the law, the capacity for

attribution and the suitability for the imposition of punishment must be established. Accordingly, whenever criminal responsibility is discussed, the person addressed by criminal law must have the capacity to understand and the ability to act in accordance with the legislator’s view; for this purpose, perception, knowledge, awareness, and will—which are collectively referred to as penal capacity—come into effect (Mirsaeedi, 2007).

3. Systems of Juvenile Criminal Responsibility in Iranian and Azerbaijani Law

The criminal policies of each country reflect its type of attitude and response toward crime and criminality. In this regard, the manner and quality of confronting juvenile offenses require greater precision and attention.

3.1. Systems of Juvenile Criminal Responsibility

Two systems of criminal responsibility have been provided for the commencement of juvenile criminal responsibility. The first is the absolute or immediate system of responsibility, under which a specific age is determined for the realization of criminal responsibility, and thereafter the individual, possessing full criminal responsibility, is addressed by the legislator in the same manner as adults. In this method, upon reaching a specific age, the person suddenly moves from the stage of no criminal responsibility to full criminal responsibility.

The second system is the gradual system of criminal responsibility. Under this method, the minimum age of criminal responsibility is distinguished from the age of criminal maturity. Thus, after reaching a certain age, lighter responses than those applied to adults are initially considered. These responses are primarily educational and social in nature; subsequently, with the attainment of the age of criminal maturity, criminal responsibility becomes complete. The establishment of such a system results from the acceptance of several fundamental issues: first, the special status and characteristics of children; second, the educability of children; and third, the fact that the criminal justice system must be transformed into an educational system in relation to them, because the objective is not only to punish and intimidate them, but rather to return them to society. Institutions such as treating all offenses

committed by children and adolescents as private matters, the absence of penal-conviction consequences for them, the use of key opportunity-based responses, and similar measures are aimed at achieving this objective (Savadjouhifar & Kazemi, 2009). This latter view is grounded in the theory of criminal development (Heidari, 2015).

Theorists of criminal development believe that sexual maturity is a natural and physical phenomenon that occurs with increasing age and the attainment of bodily development and sexual maturation. Although physical development is typically accompanied by the development of mental faculties and the growth of discernment, reaching the age of sexual maturity does not necessarily mean attaining complete discernment and intellectual development, and these two phenomena do not necessarily reach completion simultaneously. Therefore, the mere appearance of signs of sexual maturity cannot be regarded as evidence of intellectual development and the completion of mental faculties. Many individuals may reach the age of maturity while their capacity for diagnosis and discernment has not developed sufficiently, and in this respect, like minors, they may be unable to distinguish good from bad or harm from benefit. Since the criterion of criminal responsibility, which arises from the applicability of the commands of the religious and legal authorities to a person, is discernment and intellectual development rather than merely physical and sexual maturity, until this faculty reaches the stage of maturity and development and the person acquires the ability to distinguish and discern, addressing the person with commands and prohibitions would be contrary to reason and justice. Thus, imposing punishment and penalty on such a person is also invalid and contrary to reason and justice (Rahami, 2002).

Another form of the gradual system is as follows: the individual lacks any criminal responsibility up to a specified age. Then the individual enters a period in which the principle is the absence of criminal responsibility, and consequently, the prosecutor must prove in each case that the offender possessed the elements of criminal responsibility in the committed offense. The prosecuting authority must prove, by presenting evidence and documents such as the child's background and the manner in which the offense was committed, that the child understood the act committed

and its consequences and nevertheless proceeded to commit the offense (Sabouripour & Alavi Sadr, 2015).

This latter system of criminal responsibility has received greater acceptance in international instruments related to children's rights. According to clauses 2 and 5 of the Geneva Declaration of the Rights of the Child, as the first international instrument specifically devoted to children, attention to rehabilitation is highly necessary, and the child's education and development must occur in such a manner that the child gains full awareness of responsibility for his or her actions. Although the above clauses do not expressly refer to the gradual nature of criminal responsibility, their wording is such that this meaning can be inferred. The necessity of emphasizing the gradual method of criminal responsibility is also repeatedly observed in the content of the Beijing Rules. Attention to the realities related to emotional, psychological, and intellectual maturity in determining the minimum age of criminal responsibility, the establishment of a judicial system and special measures based on the best interests of young persons, and the determination of criminal responses proportionate to their conditions and needs are among the matters formed on the basis of a gradual approach. In various passages of the Convention on the Rights of the Child, as the most important binding international instrument, an inclination toward gradual proceedings can be observed; for example, according to Article 37(1), it is not possible to impose death-penalty sanctions or life imprisonment on offenders under eighteen years of age.

3.2. The System of Juvenile Criminal Responsibility in Iranian and Azerbaijani Law

The system of juvenile criminal responsibility in Iranian law is formed on the basis of the types of punishments. In the field of discretionary offenses, the gradual system has been adopted, while in offenses subject to fixed Islamic punishments and retaliatory punishments, the Iranian legislator has, in principle, selected the immediate system of criminal responsibility. With regard to discretionary punishments, and according to Article 88, its notes, and Article 89, two responses are provided according to the age conditions of individuals under the titles "decision" and "punishment." According to Article 88, the sanction of "decision" is used for individuals who fall within the age range of nine to fifteen full solar years. Furthermore, through a renewed age-

based distinction in Note 1 of the same article, the inclination toward a gradual system is again established. Then, in Article 89, the situation of persons aged fifteen to eighteen years, namely adolescents, is determined through the use of the title “punishment.” Apart from the different sanctions in the two articles above, the mere use of the two different terms “decision” and “punishment” indicates the gradual nature of criminal responsibility for persons under eighteen years of age in the field of discretionary offenses.

With respect to fixed Islamic punishments and retaliatory punishments, and under the influence of certain jurisprudential considerations, the legislator’s focus is on the immediate method. In other words, according to Articles 146 and 147 of the 2013 Penal Code, girls and boys under nine and fifteen solar years of age, respectively, are considered immature and do not have criminal responsibility. Therefore, before the above ages, they enjoy complete exemption, and after reaching those ages, they have full criminal responsibility. Of course, through the enactment of Note 2 of Article 88 and Article 91, the position of immediate criminal responsibility has to some extent been softened in relation to these offenses.

In the Penal Code of Azerbaijan, considering Articles 20-1, 20-2, and 84-1, it can be understood that the gradual system of criminal responsibility has been used, and the period of non-responsibility differs depending on the offense. In this manner, for certain offenses, the age of fourteen is the basis of criminal responsibility, while in other cases, the age of sixteen is the basis. According to Article 20-1:

“Persons who have completed sixteen years of age at the time of committing an offense shall have criminal responsibility.”

However, in the next article, and through a gradual approach, the minimum age of responsibility is reduced to fourteen full years for certain offenses. In this regard, Article 20-2 states:

“If a person knowingly and intentionally commits the following offenses, provided that he or she has completed fourteen years of age, he or she shall be considered criminally responsible: intentional murder, intentional infliction of bodily injury, kidnapping, coercion or compulsion of another, rape or conduct with the characteristics of rape, theft or plunder of another’s property, bullying, threats of bodily or financial harm,

destruction of premises, terrorism, hostage-taking for any demand, use of cold weapons, firearms, and explosives to threaten and intimidate the public, use of narcotic drugs and psychotropic substances, and destruction of vehicles and roads.”

Therefore, in the aforementioned offenses, and based on the reasoning that the person understands the nature of those offenses because of the severity of their danger and harmfulness, the age of non-responsibility is reduced. It should be noted, however, that the commission of certain offenses, including desertion from service, is possible only after the age of eighteen ([Azerbaijan State University of, 2019](#)).

4. Developments in the Criminal Responsibility of Children in Iranian and Azerbaijani Law

Children and issues related to them are considered among the first objectives of revision in the enactment of new laws, to the extent that rarely has this field not undergone major changes in a new penal code. Of course, it is evident that the process of change is not the same across different countries and legal systems.

4.1. *Developments in the Criminal Responsibility of Children in Iranian Law*

At the outset, and under the General Penal Code enacted in 1925, persons under eighteen years of age were divided into three age groups on the basis of a gradual approach. According to Article 34, persons under twelve years of age were regarded as children lacking discernment, and it was not possible to issue a conviction judgment against them even partially. In Article 35, for persons aged twelve to fifteen years under the title of discerning child, if they committed a misdemeanor or felony, only the punishment of ten to fifty lashes was prescribed, and the commission of petty offenses by them was left unaddressed. Therefore, petty offenses were not accompanied by responsibility. According to Article 36, if persons aged fifteen to eighteen years committed misdemeanors or felonies, detention in a correctional institution was provided. Once again, however, the legislator remained silent regarding the commission of petty offenses. Finally, under Articles 37 and 38, advantages were provided in terms of the competent court and the non-application of recidivism rules. The Law on the Establishment of Juvenile Courts enacted in 1959 divided children into four categories:

under six years of age, six to twelve years, twelve to fifteen years, and fifteen to eighteen years. According to this law, children under six years of age lacked criminal responsibility.

The General Penal Code enacted in 1973, under the influence of new findings in psychology, sociology, and criminology, departed from previous laws in certain areas, including jurisprudential approaches. For example, according to paragraph 2 of Article 33, through the use of the title "child," the age of maturity was raised to eighteen years. Articles 33 to 36 of Chapter Eight, titled Limits of Criminal Responsibility, addressed the issue of children's responsibility. According to Article 33 of the same law, in view of the Law on the Establishment of Juvenile Delinquency Courts, in areas where a correction and rehabilitation center had not been established, special conditions were considered for different age groups. According to paragraph 1, with respect to children aged six to twelve years who committed an offense, only delivery to parents or guardians was provided, and in the absence, inaccessibility, or incompetence of such persons, delivery to public or private institutions was provided, together with an undertaking for discipline, education, and supervision of moral and personal conduct. According to paragraph 2, in relation to delinquent children aged twelve to eighteen full years, one of the following decisions would be adopted: first, delivery to parents or guardians or obtaining an undertaking for discipline, education, and supervision of the child's moral conduct; second, reprimand and advice by the court judge; and third, detention in a correctional institution. Only with respect to accused persons aged twelve to eighteen years, and only in the event of committing a felony, was it possible to issue an order for temporary detention in a correctional institution. This law also provided advantages such as non-application of recidivism rules, the possibility of one-time reconsideration of final decisions by reducing the term of conviction by up to one-fourth, or converting the decision of detention in a correctional institution into delivery to the parent or guardian.

After the Islamic Revolution of Iran, alongside extensive transformations in criminal regulations, the laws relating to children also did not remain outside the process of change, and compliance with religious standards and the well-known opinions of jurists was

prioritized. In the laws enacted in 1982 and 1991, emphasis was placed on the immediate system of criminal responsibility, and different ages were prescribed for girls and boys to pass beyond the stage of childhood. Considering Article 26 of the 1982 Law Concerning Islamic Punishments, children were free from criminal responsibility if they committed an offense, and their education, at the discretion of the court, was assigned to their guardians and, where necessary, to the correction and rehabilitation center. Note 1 of the same article stated: "A child means a person who has not reached the legally recognized religious age of maturity." Under the 1991 law as well, the age of criminal responsibility was considered equivalent to the legally recognized religious age of maturity. Neither of these laws referred to the age at which such maturity is realized; this matter was stated in Note 1 of Article 1210 of the Civil Code: "The age of maturity is fifteen full lunar years for boys and nine full lunar years for girls."

Nevertheless, in the Islamic Penal Code of 2013, some of the defects of previous laws were removed. For example, children are no longer punished if they commit offenses such as same-sex sexual conduct or false accusation of sexual misconduct. Moreover, the evident defect and difficulty in the two previous penal laws, namely that within the span of one day and through a 180-degree shift, the individual's status from the perspective of criminal responsibility would change, has been moderated in the new law, particularly in the field of discretionary offenses. The adoption of such an approach in the previous laws indicated the legislator's lack of attention to the special conditions of children; whereas the determination of a specific age for the realization of criminal responsibility should be instrumental, and the criterion of responsibility should not be merely prescriptive but rather a set of developmental indicators (Mozzanzadegan, 2013).

4.2. Developments in the Criminal Responsibility of Children in Azerbaijani Law

As stated above, Azerbaijan gained independence from the former Soviet Union in 1991; therefore, to study the legislative process in this country, it is necessary to examine the relevant laws in the former Soviet Union. The legislative development concerning juvenile offenders in the Soviet Union was almost aligned with developments in progressive countries, and in principle,

in different periods, the punishment of children was lighter than the punishment of adults. By examining the relevant criminal laws, notable instances of leniency and differentiation concerning juvenile delinquency can be observed, and to avoid excessive length, only a few examples are mentioned. For instance, under the Penal Code of 1742, corporal torture, flogging, and execution were prohibited for offenders under seventeen years of age. Following the decree issued by Catherine II in 1765, for the commission of any offense by persons under ten full years of age, only delivery to their parent or guardian was considered. Exemption from punishment with hard labor for persons aged ten to fourteen full years was another privilege for this age group (Damirli & Alasgarzade, 1999).

In 1919, the age of non-responsibility was raised to fourteen full years. The possibility of reducing punishment by up to one-half for offenders aged fourteen to sixteen years was a noteworthy achievement of the first Soviet Penal Code, enacted in 1922. In 1943, in the trial of offenders under sixteen years of age who were in a dangerous condition, the presence of specialists in educational and moral sciences became mandatory. According to the Penal Code of the Soviet Union enacted in 1958, if a sentence of imprisonment was issued for children aged fourteen to sixteen full years following the commission of offenses such as murder, intentional assault and battery, bodily injury, sexual violation, armed attack, theft, intentional damage to the property of the Soviet state or people, intentional acts leading to sabotage or accidents, and any act resulting in the derailment of a railway, a judgment for placement in an educational labor institution would be issued. This practice continued even after the country's independence, and despite the change in the governing political system, regulations related to juvenile offenses have remained in a desirable condition, and accepted international principles have been taken into account.

The current Penal Code of the Republic of Azerbaijan was enacted on October 30, 1999 and entered into force on September 1, 2000. In the adoption of the above-mentioned law, considerable attention was paid to the resolution known as "MDB"; for this reason, the penal codes of countries that became independent from the former Soviet Union share many commonalities (Imanli, 2019).

In this law, positive steps have been taken for the welfare and protection of the interests of the child and in view of international recommendations. These regulations are set out under Chapter Fourteen of the General Penal Code.

5. The Current Approach of Iran and Azerbaijan Toward Juvenile Delinquency

In the preceding sections, the concepts of child and criminal responsibility, the types of systems of juvenile criminal responsibility, and the historical development of the statutory laws of Iran and Azerbaijan in the field of juvenile delinquency were examined. This section now studies the current approach of the two countries in order to determine how, at the present stage, they respond to juvenile offenses and juvenile criminal responsibility.

5.1. The Current Approach of Iran Toward Juvenile Delinquency

In the Islamic Penal Code enacted in 2013, the legislator, through a reformative and multifaceted approach, introduced major changes concerning the criminal responsibility of immature persons and adolescents. In other words, in offenses subject to fixed Islamic punishments and retaliatory punishments, a procedure different from that applied to discretionary punishments is followed.

In offenses subject to fixed Islamic punishments and retaliatory punishments, according to Article 146, immature persons have no criminal responsibility. Before reaching the age of maturity, protective and educational measures are imposed, and after that age, punishment is determined as in the case of adults. However, according to Article 91, if mature persons under eighteen years of age do not understand the nature of the committed offense or its unlawfulness, or if there is doubt regarding their intellectual development and maturity, they shall, as the case may be and considering their age, be sentenced to the punishments prescribed in Chapter Ten, namely the punishments and protective and educational measures for children and adolescents. Therefore, in the aforementioned article, leniency and privilege have been considered for mature persons under eighteen years of age, whether girls or boys. In relation to this type of offense, attention to Note 2 of Article 88 is also useful.

In discretionary punishments, offenders are first divided into two principal categories: according to Article 88, the situation of the age group between nine and fifteen years is determined, and in Article 89, the situation of persons between fifteen and eighteen years is determined. Then, in Note 1 of Article 88, differences can be observed between the two groups of nine to twelve years and twelve to fifteen years. According to Article 88, the decisions adopted concerning persons aged nine to fifteen years include the following: delivery to parents, guardians, or legal custodians, and in the event of their incompetence, delivery to other natural or legal institutions; referral of the child or adolescent to a social worker, psychologist, or other specialists and cooperation with them, with the possibility of reviewing the decision as many times as necessary while observing the best interests of the child; sending the child or adolescent to an educational and cultural institution for education or vocational training; taking necessary measures for treatment or addiction withdrawal; preventing the child or adolescent from going to certain places; advice by the court judge; warning and admonition or written undertaking; and placement in a correction and rehabilitation center. It should be noted that, according to Note 1 of Article 88, the last two measures apply only to persons aged twelve to fifteen years. However, with respect to persons aged fifteen to eighteen years, the punishments of placement in a correction and rehabilitation center, for a longer period than that prescribed in Article 88, obligation to perform free public services, and payment of a fine have been provided. Considering Articles 90 and 93, the possibility of converting a judgment of placement in a correction and rehabilitation center into an obligation of delivery to parents or a guardian, applying mitigation rules up to half of the minimum, and issuing an order suspending prosecution in all offenses has been provided.

Furthermore, following the adoption of the Islamic Penal Code enacted in 2013, the Law on the Protection of Children and Adolescents was enacted by the Islamic Consultative Assembly. The mere adoption of such a law indicates the attention and concern of the competent legislative authorities toward the issue of children and their special conditions. The definition of child and adolescent is stated in Article 1 of this law: a child is a person who has not reached the legally recognized religious age of maturity, and an adolescent is a mature

person under eighteen full solar years of age. According to the express statement of Article 2, all persons who have not reached eighteen full solar years of age are covered by this law. According to Article 3, if the existence of certain conditions results in harm to the physical, psychological, social, or moral health, security, or educational status of the child or adolescent, the situation is considered dangerous and requires legal intervention and support for the child or adolescent. In Chapter Three, titled Crimes and Punishments, separate and specific punishments are prescribed for acts that result in deprivation of education or school dropout, death or physical injury, sexual abuse or exploitation, trafficking or transactions concerning a child or adolescent, facilitation or provision of the possibility of committing suicide, economic exploitation, and providing or selling tobacco products to children and adolescents. It is worth noting that in Article 17, with the aim of greater protection for this vulnerable age group, criminal sanctions are prescribed under certain conditions if individuals refrain from assisting a child or adolescent exposed to danger or crime. Moreover, all offenses under the aforementioned law have a public dimension. Article 39 also refers to the necessity of minimalism in dealing with offenses committed by children and adolescents, and according to Article 46, priority is given to measures that do not lead to removing the child from the family or severing contact with them.

5.2. The Current Approach of Azerbaijan Toward Juvenile Delinquency

In Azerbaijani criminal law, according to Article 84-2 of the Penal Code, two types of responses have been provided for juvenile delinquency, with the condition that the interests of the child must be considered in determining punishment and educational measures. In both of these sanctions, deprivation of liberty is possible (Naghiyev & Hacizade, 2014).

Article 85-1 refers to five types of punishment: first, fine; second, obligation to perform public services; third, obligation to perform corrective labor; fourth, restriction of liberty; and fifth, deprivation of liberty. As can be observed, lighter punishments are used for this age group compared with adults. The imposition of the aforementioned punishments is subject to the fulfillment of certain conditions. A fine may be imposed only on adolescents who have income or financial capacity, and

its amount may be determined up to a ceiling of 600 manats. The total period of public service ranges from eighty to 320 hours, with a maximum of two hours per day before the age of fifteen and three hours per day after that age. Moreover, the adolescent must have the capacity to perform it, and it is limited to times when the adolescent is free from education and essential work. Corrective labor is performed within a period ranging from two months to one year. During this period, five to twenty percent of the convicted person's income is confiscated in favor of the state. The period of restriction of liberty for an adolescent varies from two months to two years. A sentence of deprivation of liberty is issued only when the court determines that the child's correction and education are not possible except through deprivation of liberty; nevertheless, a sentence of more than ten years cannot be imposed. It should be noted that educational institutions are administered in two ways: first, institutions with general administrative rules and a lenient approach for the placement of girls and also boys who are sentenced to deprivation of liberty for the first time; second, institutions with stricter methods of custody for boys who are sentenced to this punishment for the second time or more.

Articles 85-2 to 85-4 address the manner of implementing punishments, and according to Article 86-1, the court, when determining punishment or educational measures, must pay special attention to the child's personal and family characteristics as well as the extent of the influence of other persons and the surrounding environment on the child.

If the child has committed a petty offense or a non-serious misdemeanor, the court may consider programs such as referral to rehabilitation centers, educational centers, daily vocational training, or other appropriate programs aimed at rehabilitation and reintegration of the child into society. In Article 88-4, the legislator states that these measures are implemented for the protection and support of the child, not as criminal responsibility. When offenses lack the dangerous effects mentioned in Article 88-1, only these measures are implemented, which are mostly educational and corrective in nature: first, warning regarding the committed offense and the harm caused; second, entrusting the child to parents or their substitutes or to legal organizations for correction and supervision of the child's conduct; third, compensation for material damage in view of the child's

financial situation; fourth, determining restrictions and behavioral programs for leisure time; fifth, prohibition from going to certain places; sixth, prohibition from leaving home at certain times; and seventh, obligation to study and work.

According to Article 88-2, several educational measures may be prescribed for an adolescent at the same time, and in the event of repeated violation of these measures, they may be revoked upon the proposal of institutions and the trial may be resumed.

According to Article 435 of the Criminal Procedure Code, when determining punishment, more than factors such as the type and severity of the offense, the child's condition, needs, and concern for correction and education must be considered. Attention to these matters reaches its highest level when issuing a sentence of imprisonment; therefore, in such cases, the principle is minimalism (Naghiyev & Hacizade, 2014).

6. Conclusion

After examining the relevant laws and regulations of Iran and Azerbaijan, it can be observed that both countries, with awareness of the characteristics and special conditions of young persons, have attempted to create an appropriate criminal-law environment. Ambiguities and concerns in the field of knowledge on the one hand, and the increasing awareness of their status on the other, have caused the regulations in this field to change with the adoption of each new law. In the law of both countries, reaching a specific age is necessary for the realization of criminal responsibility, although the intended age has been determined differently. With relatively similar definitions, criminal responsibility means the capacity to attribute the consequences of conduct contrary to law to the perpetrator. Criminal responses are primarily organized on the basis of observing the welfare and best interests of the child and adolescent, and they are less severe compared with punishments imposed on adults. Considerable effort has also been made to provide an appropriate response to conduct contrary to law while creating the conditions for the offender's return to society. Unlike the regulations of Azerbaijan, which have used the gradual system of responsibility, the Iranian Penal Code has made room for criticism by applying both the immediate and gradual systems of criminal responsibility at the same time. However, as noted, the Iranian legislator, in its most

recent criminal-law decisions, has attempted, through a greater understanding of the realities related to such persons and in order to moderate criticism, especially at the international level, to use the advantages of the gradual method extensively in discretionary offenses and, although to a limited extent, in offenses subject to fixed Islamic punishments and retaliatory punishments. Azerbaijani law does not consider gender in determining the age of criminal responsibility, whereas Iranian law prescribes different ages for girls and boys. It can be said that imposing punishment on a nine-year-old girl in Iranian law is a highly criticized, or at least debatable, decision. Finally, it appears that just as flexibility was shown in the Penal Code enacted in 2013 through the adoption of Article 91 and Note 2 of Article 88 with respect to fixed Islamic punishments and retaliatory punishments, the scope of changes can be expanded on the same foundations and philosophy, and the law can move closer to the necessities of a fair trial appropriate to the present age. It is not far-fetched to say that when introducing the recent changes, the legislator believed that the above regulations do not necessarily have substantive applicability in all cases and that, at least in certain respects, they were adopted instrumentally. It may even be said that the same view applies to the age difference in criminal responsibility between girls and boys.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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