



Juvenile Criminal Responsibility: A Comparative Study of Islamic Jurisprudence and the Juvenile Justice System Act 2018

جرم میں نابالغ کی ذمہ داری: اسلامی فقہ اور Juvenile Justice System Act 2018 کا تقابلی مطالعہ

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Abstract

The criminal responsibility of minors is a distinctive issue at the intersection of criminal law, legal capacity, child protection, rehabilitation, and the rights of victims. Islamic jurisprudence does not treat childhood as a single undifferentiated legal status. Rather, it develops a graduated conception of legal capacity through ahliyyah, tamyīz, bulūgh, ‘aql, and taklīf. The Juvenile Justice System Act 2018 (JJSA 2018), by contrast, adopts a principally chronological approach and provides a special justice regime for persons below eighteen years. This article comparatively examines the Qur’anic and Prophetic foundations of juvenile responsibility, classical juristic positions on ḥudūd, qisās, ta’zīr and ta’dīb, the doctrine of ḍamān, and the principal safeguards established by the JJSA 2018. It finds substantial convergence in the objectives of justice, mercy, dignity, rehabilitation, diversion and prevention of excessive punishment, while identifying a significant conceptual difference concerning the criterion of responsibility: chronological age under the JJSA and maturity/legal capacity under classical fiqh. The article argues that this difference does not necessarily create an irreconcilable conflict. The eighteen-year threshold may operate as a protective procedural classification, while Islamic jurisprudence addresses substantive legal and moral responsibility. A harmonized model can therefore preserve statutory protection while incorporating Sharī‘ah-informed principles of graduated responsibility, restorative justice, ṣulḥ, family participation, moral rehabilitation and victim compensation through ḍamān.

Keywords: Juvenile Criminal Responsibility; Islamic Jurisprudence; Sharī‘ah; Juvenile Justice System Act 2018; Bulūgh; Tamyīz; Ahliyyah; Taklīf; Ḍamān; Rehabilitation; Pakistan.

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1. Introduction

Criminal responsibility is founded upon the principle that legal punishment must correspond to the capacity of the person who commits the prohibited act. This principle becomes particularly important in the case of children and adolescents because their intellectual, emotional, physical and social development is incomplete. Juvenile justice must therefore balance accountability with protection, rehabilitation, public safety and the rights of victims. Islamic law places justice at the centre of the legal order. The Qur'an states:

إِنَّ اللَّهَ يُأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ²

“Indeed, Allah commands justice, excellence, and giving to relatives, and forbids immorality, wrongdoing, and transgression.”

The Islamic conception of justice is consequently broader than punishment. It encompasses protection of rights, proportionality, correction of wrongdoing, prevention of harm, restoration of legitimate interests and moral reform. The Sunnah contains an explicit foundation for distinguishing children from legally responsible adults. The Prophet Muhammad ﷺ said:

رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ: عَنِ النَّائِمِ حَتَّىٰ يَسْتَيْقِظَ، وَعَنِ الصَّبِيِّ حَتَّىٰ يَحْتَلِمَ، وَعَنِ الْمَجْنُونِ حَتَّىٰ يَعْقِلَ³

“The pen has been lifted from three: from the sleeper until he awakens, from the child until he reaches puberty, and from the insane until he regains sanity.”

This hadith is foundational to the juristic doctrine that full taklīf depends upon the attainment of legal capacity. It also demonstrates why the Islamic discussion of juvenile responsibility cannot be reduced to chronological age alone. Bulūgh, tamyīz and ‘aql are central to the determination of responsibility.

The Act reflects Pakistan’s international child-rights commitments, especially the Convention on the Rights of the Child, while Article 227 of the Constitution requires laws to conform to the injunctions of Islam. Pakistan’s Juvenile Justice System Act 2018 repealed the Juvenile Justice System Ordinance 2000 and established a specialized framework for juveniles in conflict with the law. It defines the juvenile category by reference to the age of eighteen and introduces special procedures, juvenile courts, diversion, probation, rehabilitation and protections against harsh treatment. 4,5

The central question is therefore not whether the JJSA 2018 protects children it does but whether its concept of juvenile responsibility is compatible with Islamic jurisprudence. More precisely, the issue is whether the eighteen-year threshold is equivalent to the Islamic rule of non-accountability, or whether it should instead be understood as a protective procedural classification. This article argues for the latter distinction.

2 Qur'an 16:90.

3Abū Dāwūd Sulaymān ibn al-Ash'ath, Sunan Abī Dāwūd, Kitāb al-Hudūd, no. 4403; see also Muḥammad ibn Yazīd Ibn Mājah, Sunan Ibn Mājah, Kitāb al-Ṭalāq, no. 2041.

4 Government of Pakistan, Juvenile Justice System Act, 2018, Act No. XXII of 2018, §§ 2–27.

5 Constitution of the Islamic Republic of Pakistan, art. 227; United Nations, Convention on the Rights of the Child, November 20, 1989, art. 1.

This distinction is essential because juvenile status, substantive criminal responsibility, punishment, disciplinary correction and financial liability are not identical. A person may receive juvenile procedural protection while the Sharī'ah question of taklīf is governed by bulūgh and legal capacity. Similarly, exemption from ḥudūd or qīṣās does not necessarily extinguish a victim's right to compensation.

The research is directed by a set of interconnected questions arising from the conceptual difference between juvenile status and substantive criminal responsibility. It asks what constitutes the basis of juvenile criminal responsibility in Islamic jurisprudence; what legal significance should be attached to tamyīz, bulūgh, 'aql, and taklīf; how the JJSA 2018 defines and regulates juvenile status; to what extent its eighteen-year threshold corresponds with the principles and objectives of Sharī'ah; what Islamic law provides concerning ḥudūd, qīṣās, ta'zīr, ta'dīb, and ḍamān; what areas of convergence and divergence exist between the two frameworks; and how Sharī'ah principles may contribute to the reform of Pakistan's juvenile justice system.

In order to address these questions, the study pursues several objectives: to explain the Islamic jurisprudential framework of juvenile criminal responsibility; to analyze the concepts of ahliyyah, tamyīz, bulūgh, 'aql, and taklīf; to examine the relevant provisions of the JJSA 2018 and the Pakistan Penal Code; to compare the statutory age-based model with the Islamic maturity-based model; to distinguish criminal punishment from disciplinary and financial liability; to identify areas of convergence and divergence; and to formulate reforms that are consistent with justice, child protection, and the higher objectives of Sharī'ah.

Methodologically, the research adopts a descriptive, analytical, and comparative approach. The Qur'an and Sunnah constitute the primary sources of Sharī'ah, supplemented by classical works of Islamic jurisprudence and legal theory. Pakistani legislation, particularly the JJSA 2018 and sections 82–83 of the Pakistan Penal Code, is examined to establish the statutory position, while contemporary academic studies and reports are consulted to assess implementation and reform needs. The comparison is organized around four principal dimensions: legal capacity and juvenile status; substantive criminal responsibility and punishment; diversion, rehabilitation, and procedural protection; and financial liability and victim restitution. The study evaluates compatibility at the level of legal principles, substantive consequences, objectives, and Maqāṣid al-Sharī'ah rather than assuming that every modern statutory rule must have an exact classical equivalent.

The study is significant because it seeks to move beyond a simplistic opposition between “Islamic law” and “modern juvenile law.” The eighteen-year threshold of the JJSA 2018 may be understood as a protective procedural classification adopted for child welfare, whereas Islamic jurisprudence addresses the substantive question of taklīf and legal capacity. At the same time, Islamic jurisprudence offers concepts such as ṣulḥ, iṣlāḥ, tarbiyyah, ta'dīb, and ḍamān that can enrich the existing statutory framework by introducing a more comprehensive model of protected accountability—one that protects the juvenile from disproportionate punishment while preserving the rights of victims and the interests of society.

2. Ahliyyah and the Legal Capacity of Minors

This distinction demonstrates that childhood is not a state of complete legal irrelevance. A child may inherit, own property, receive gifts and possess other rights while lacking full capacity to perform every legally consequential act. Ahliyyah is one of the foundational

concepts of Islamic legal theory. Jurists distinguish between *ahliyyat al-wujūb*, the capacity to possess rights and obligations, and *ahliyyat al-adā'*, the capacity to perform legally consequential acts.⁶

The criminal-law dimension is a specialized form of legal capacity. Islamic jurisprudence therefore avoids an undifferentiated approach. It distinguishes between the very young child, the discerning minor and the person who has attained the stage of full *taklīf*. This graduated approach is directly relevant to modern juvenile justice.

3. Tamyīz and Gradual Responsibility

Tamyīz denotes discernment and the ability to distinguish matters. The juristic recognition of *tamyīz* indicates that childhood involves progressive development rather than a single legal state. A discerning child may understand instructions and consequences sufficiently to receive education and proportionate correction even though the child has not attained full *taklīf*. The Prophetic model illustrates this gradual development:

مُرُوا أَوْلَادَكُمْ بِالصَّلَاةِ وَهُمْ أَبْنَاءُ سَبْعِ سِنِينَ، وَاضْرِبُوهُمْ عَلَيْهَا وَهُمْ أَبْنَاءُ عَشْرٍ⁷

“Command your children to pray when they are seven years old and discipline them regarding it when they are ten.”

The purpose of this instruction is educational rather than the imposition of adult criminal liability. It establishes a model of instruction, habituation, supervision and proportionate discipline before full legal responsibility. Modern juvenile rehabilitation can draw an important lesson from this developmental logic.

4. Bulūgh and Taklīf

Bulūgh is a major threshold in Islamic jurisprudence because it marks the transition toward full legal and religious responsibility when the other conditions of capacity are present. The Qur'an says:

وَإِذَا بَلَغَ الْأَطْفَالُ مِنْكُمُ الْحُلُمَ فَلْيَسْتَأْذِنُوا كَمَا اسْتَأْذَنَ الَّذِينَ مِنْ قَبْلِهِمْ⁸

“And when the children among you reach puberty, let them seek permission, just as those before them sought permission.”

Classical jurists discuss physical signs of puberty and, where those signs are absent, the age at which puberty is presumed. The schools differ in details, but the central principle is that legal responsibility is connected with maturity and capacity rather than a single universal chronological threshold.⁹

⁶ Abū Hāmid al-Ghazālī, *al-Mustaṣfā min 'Ilm al-Uṣūl*, vol. 1 (Beirut: Dār al-Kutub al-'Ilmiyyah, 1993), 251–54; al-Zuhaylī, *Uṣūl al-Fiqh al-Islāmī*, 161–65.

⁷ Abū Dāwūd, *Sunan Abī Dāwūd*, Kitāb al-Ṣalāh, no. 495.

⁸ Qur'an 24:59.

⁹ 'Alī ibn Abī Bakr al-Marghīnānī, *al-Hidāyah*, vol. 2 (Cairo: Dār al-Salām, 2000), 300; Ibn Qudāmah, *al-Mughnī*, vol. 6 (Beirut: Dār al-Fikr, 1985), 215.

This creates the central comparative question. A person may be post-pubescent but under eighteen. Under classical fiqh that person may be a mukallaf; under the JJSA 2018 the person remains within the juvenile procedural regime. These rules can therefore be understood as addressing different dimensions of law.

5. Criminal Responsibility under Islamic Law

The classical juristic position generally excludes the non-mature child from the full criminal consequences applicable to an adult. The principal basis is the hadith of the lifted pen. Because ḥudūd and qīṣāṣ presuppose legal responsibility, the non-mukallaf child is not treated as an adult offender. ¹⁰

5.1 Ḥudūd

Ḥudūd are fixed sanctions for specified offences subject to strict substantive and evidentiary conditions. The legal capacity of the offender is fundamental. A non-mukallaf child is therefore not subjected to ḥadd punishment as an adult. This demonstrates that Islamic criminal law evaluates both the act and the legal status of the actor.

5.2 Qīṣāṣ

Qīṣāṣ concerns retaliation in cases of unlawful killing and bodily injury. Classical jurists generally do not impose full adult qīṣāṣ upon a minor lacking full criminal capacity. Nevertheless, exclusion from qīṣāṣ does not necessarily eliminate financial consequences such as diyah or compensation. ¹¹

5.3 Ta'zīr and Ta'dīb

Ta'zīr must be distinguished from ta'dīb of a minor. Disciplinary intervention concerning a child is primarily educational and preventive. Its objective is reform, protection and prevention of recurrence rather than adult-style retribution. This distinction provides a conceptual bridge to diversion, probation and rehabilitation under modern juvenile law.

6. Ḍamān and Victim Rights

The doctrine of Ḍamān is indispensable to a complete understanding of juvenile responsibility. Islamic law distinguishes criminal punishment from financial liability. A child may lack criminal capacity for certain punishments while damage caused to another's person or property may still generate a compensatory obligation. ¹²The Prophetic legal maxim states:

لَا ضَرَرَ وَلَا فَضْرَ ¹³

¹⁰ Abū Dāwūd, Sunan Abī Dāwūd, no. 4403; Ibn Qudāmah, al-Mughnī, vol. 9, 92–97.

¹¹ Ibn Qudāmah, al-Mughnī, vol. 9, 92–97.

¹² Al-Zuḥaylī, al-Fiqh al-Islāmī wa Adillatuhu, vol. 6, 145–70.

¹³ Mālik ibn Anas, al-Muwatṭa', Kitāb al-Aqḍiyah; Ibn Mājah, Sunan Ibn Mājah, no. 2341.

“There shall be neither harming nor reciprocating harm.”

The Qur’an also recognizes compensation for accidental killing:

وَمَا كَانَ لِلْمُؤْمِنِ أَنْ يَقْتُلَ الْمُؤْمِنًا إِلَّا خَطَاً وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَدِيَّةٌ مُسَلَّمَةٌ إِلَى أَهْلِهِ¹⁴

“It is not for a believer to kill a believer except by mistake; and whoever kills a believer by mistake must free a believing slave and pay compensation to his family.”

Ḍamān therefore supplies a restorative dimension to juvenile justice. Protecting the juvenile should not mean disregarding the victim. A balanced framework can protect the child from disproportionate criminal punishment while preserving lawful restitution and compensation. The supplied research materials identify this as a significant gap in the existing JJSA framework.¹⁵

7. Juvenile Responsibility under Pakistani Law

7.1 Pakistan Penal Code

Section 83 is particularly important because it recognizes maturity as a relevant element of criminal responsibility. Section 82 of the Pakistan Penal Code provides that an act done by a child under ten years is not an offence. Section 83 provides qualified protection for a child above ten and under fourteen where the child has not attained sufficient maturity of understanding to judge the nature and consequences of the conduct.¹⁶

7.2 JJSA 2018

The eighteen-year threshold provides certainty and corresponds with international child-rights standards. Yet it is conceptually different from the Islamic threshold of bulūgh. The JJSA 2018 adopts eighteen years as the principal threshold for juvenile status. It repealed the 2000 Ordinance and established a comprehensive juvenile justice regime.¹⁷

The more precise legal interpretation is that the JJSA creates a protective procedural category. It does not necessarily purport to declare that every person below eighteen lacks every form of moral, civil or religious responsibility. This distinction permits a principled reconciliation between the statutory system and Islamic jurisprudence.

8. Major Safeguards under JJSA 2018

8.1 Specialized Juvenile Courts and Procedure

¹⁴ Qur’an 4:92.

¹⁵ See the supplied research material, “Mujeeb Final updated thesis JJSA (11-8),” discussion of ḍamān and victim restitution.

¹⁶ Government of Pakistan, Pakistan Penal Code, 1860, Act XLV of 1860, §§ 82–83.

¹⁷ Government of Pakistan, Juvenile Justice System Act, 2018, Act No. XXII of 2018, §§ 1–2, 27.

This reflects the principle that age and developmental circumstances must influence procedure and sentencing. The Act provides specialized juvenile justice mechanisms intended to ensure that children are not processed in the same manner as adult offenders. 18

8.2 Legal Assistance

Legal assistance is particularly important because minors often lack the knowledge and resources necessary for effective participation in proceedings. The Qur'an commands:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَىٰ أَنْفُسِكُمْ أَوِ الْوَالِدِينَ وَالْأَقْرَبِينَ¹⁹

“O believers! Stand firm for justice as witnesses for Allah, even if it is against yourselves or your parents and relatives.”

8.3 Diversion

Diversion is one of the strongest features of the JJSA 2018. Suitable cases can be addressed through alternatives to formal prosecution, including apology, restitution, counseling, community service and other rehabilitative measures. 20 This has substantial conceptual affinity with *ṣulḥ* and *iṣlāḥ*. Diversion should not be understood as mere leniency; it is structured accountability aimed at repairing harm and preventing recurrence.

8.4 Probation and Rehabilitation

This rehabilitative orientation is broadly compatible with *tarbiyyah* and *iṣlāḥ* in Islamic jurisprudence. The Act recognizes probation and rehabilitation. 21

8.5 Dignity and Protection from Harsh Treatment

The Qur'an states:

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ²²

“Indeed, We have honored the children of Adam.”

The protection of juveniles from cruel, degrading and unnecessary treatment is therefore consistent with the Islamic principle of human dignity as well as contemporary child-rights standards.

9. Comparative Analysis

18 Government of Pakistan, Juvenile Justice System Act, 2018, relevant provisions concerning juvenile courts and procedure.

19 Qur'an 4:135.

20 Government of Pakistan, Juvenile Justice System Act, 2018, § 9.

21 Government of Pakistan, Juvenile Justice System Act, 2018, provisions concerning probation and rehabilitation.

22 Qur'an 17:70.

Issue	Islamic Jurisprudence	JJSA 2018
Juvenile status	Developmental/legal capacity; bulūgh and tamyīz are central	Chronological threshold of eighteen years
Full criminal responsibility	Linked to taklīf and legal capacity	Special juvenile regime below eighteen
Ḥudūd	Non-mukallaf child not subject to adult ḥudūd	Juvenile receives special statutory treatment
Qisās	Full adult qisās not imposed on non-mukallaf child; financial rights remain relevant	Protective and rehabilitative juvenile framework
Discipline	Ta'dīb and proportionate correction	Diversion, probation and rehabilitation
Victim rights	Ḍamān, diyah, ṣulḥ and restitution	Restorative mechanisms require further development
Rehabilitation	Tarbiyyah, iṣlāḥ and family/community involvement	Diversion, probation and reintegration

10. Chronological Age versus Maturity

The eighteen-year threshold has practical advantages: certainty, uniformity and protection against arbitrary classification. It also accords with the Convention on the Rights of the Child. It is therefore unnecessary to characterize the threshold itself as contrary to Sharī'ah.

Islamic jurisprudence nevertheless supplies a developmental model in which bulūgh and capacity are central. A person may attain bulūgh before eighteen and therefore become mukallaf in religious and certain legal matters. The JJSA's protective classification should thus be distinguished from substantive taklīf.

A balanced model would preserve eighteen years as the protective statutory threshold while allowing individualized consideration of maturity, psychological development, family circumstances and seriousness of the offence when determining the appropriate intervention. This approach combines statutory certainty with the developmental sensitivity of Islamic jurisprudence.

11. Diversion, Ṣulḥ and Restorative Justice

The Qur'an encourages reconciliation:

وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْدِخُوا بَيْنَهُمَا ۚ فَإِنْ بَغَتْ إِحْدَاهُمَا عَلَى الْأُخْرَىٰ فَتَمَاطَلَا عَلَى الْأُخْرَىٰ فَتَقَاتِلُوا الَّتِي تَبْغِي حَتَّىٰ تَفِيءَ إِلَىٰ أَمْرِ اللَّهِ ۚ فَإِنْ فَاءَتْ فَأَصْدِخُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا ۚ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ²³

“If two groups of believers fight, make peace between them; then if one transgresses against the other, fight the transgressing group until it returns to Allah's command. If it returns, make peace between them with justice and act fairly. Surely Allah loves those who uphold justice.”

²³ Qur'an 49:9.

In juvenile cases, *ṣulḥ* may involve acknowledgment of wrongdoing, apology, restitution, community service, family participation, counseling and supervised rehabilitation. Such a model gives the victim a voice while preserving the juvenile's opportunity for reform.

12. Family Responsibility and Tarbiyyah

The Prophet ﷺ said:

كُلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ²⁴

“Each of you is a shepherd, and each of you is responsible for his flock.”

The family is therefore an important institution in juvenile rehabilitation. Where safe and appropriate, parents or guardians should participate in counseling, rehabilitation planning and post-release supervision. This is especially relevant where offending is associated with family instability, educational deprivation, peer influence or poverty.

13. Maqāṣid al-Sharī‘ah and Juvenile Justice

The higher objectives of Sharī‘ah provide a useful framework for evaluating juvenile justice. Preservation of life requires safe detention; preservation of intellect supports education and psychological rehabilitation; preservation of dignity prohibits degrading treatment; preservation of family supports family-based rehabilitation; and preservation of social order requires effective prevention of recidivism.

A maqāṣid-based approach therefore avoids reducing Islamic juvenile justice to punishment alone. The objective is to secure justice and welfare while preventing harm. Contemporary maqāṣid scholarship likewise emphasizes evaluating legal mechanisms through their broader objectives and consequences.²⁵

14. Areas of Convergence

Both systems distinguish juveniles from ordinary adult offenders.

Both support protection from excessive or degrading punishment.

Both recognize correction and rehabilitation.

Both support proportionate intervention.

Diversion under the JJSA can be related conceptually to *ṣulḥ* and *iṣlāḥ*.

Ḍamān can strengthen the restorative dimension of juvenile justice.

Family and community participation can be grounded in tarbiyyah and social responsibility.

15. Areas of Divergence

The JJSA primarily uses chronological age, whereas classical *fiqh* emphasizes *bulūgh* and legal capacity.

24 Muḥammad ibn Ismā‘īl al-Bukhārī, Ṣaḥīḥ al-Bukhārī, Kitāb al-Jumu‘ah, no. 893; Muslim ibn al-Ḥajjāj, Ṣaḥīḥ Muslim, Kitāb al-Imārah.

25 Jasser Auda, Maqāṣid al-Sharī‘ah: A Beginner’s Guide (London: International Institute of Islamic Thought, 2008), 21–30.

The JJSA provides a uniform protective regime below eighteen, while Islamic jurisprudence differentiates developmental stages.

Islamic jurisprudence contains a more developed doctrine of financial liability through ḍamān and related mechanisms.

Islamic jurisprudence explicitly integrates moral and religious education into correction, while modern statutes generally use secular rehabilitative categories.

16. Critical Sharī‘ah Appraisal

It would be methodologically inaccurate to conclude simply that the JJSA 2018 conflicts with Sharī‘ah because it uses eighteen years as the juvenile threshold. The Act’s purpose is to regulate the state’s treatment of young persons in the criminal justice system. The protective classification can therefore be justified through maṣlaḥah, provided it does not negate legitimate rights or produce injustice.

At the same time, Islamic jurisprudence highlights the limitation of a purely age-based model: chronological age does not perfectly measure intellectual and moral development. Pakistani law itself recognizes maturity in section 83 of the Pakistan Penal Code. This suggests that the statutory system can incorporate individualized assessment without abandoning the eighteen-year protective threshold.

The strongest Sharī‘ah contribution concerns restorative accountability. Protecting a juvenile should not mean ignoring the victim. The system should distinguish exemption from adult criminal punishment from the continuing need to repair material harm. Ḍamān, ṣulḥ and family/community intervention provide a strong framework for this purpose.

17. Recommendations

1. Retain eighteen years as the principal protective threshold for juvenile procedure while clarifying that juvenile status is a protective classification.
2. Introduce structured individualized assessment of maturity, psychological development, family circumstances and offence seriousness.
3. Strengthen diversion through meaningful apology, restitution, counseling, education, community service and supervised rehabilitation.
4. Develop a statutory mechanism for victim restitution consistent with the Sharī‘ah doctrine of ḍamān.
5. Institutionalize family participation in rehabilitation plans, subject to child safety.
6. Expand education, vocational training, psychological counseling and moral-development programs.
7. Provide specialized training for judges, prosecutors, police officers, probation officers and juvenile justice personnel.
8. Reduce unnecessary pre-trial detention and strengthen community-based alternatives.
9. Establish independent oversight of juvenile detention and rehabilitation facilities.
10. Integrate maqāṣid al-Sharī‘ah—especially preservation of life, intellect, dignity, family and social order—into future reforms.

18. Conclusion

The comparative study demonstrates that Islamic jurisprudence and the JJSA 2018 begin from different legal concepts but share substantial normative objectives. Islamic jurisprudence builds criminal responsibility upon legal capacity, with *bulūgh*, *tamyīz* and *‘aql* occupying important positions in the determination of *taklīf*. The non-mature child is not subjected to the full criminal consequences applicable to a mature offender, particularly in relation to *ḥudūd* and *qisās*. Nevertheless, Islamic law does not disregard harm, correction or victim rights. *Ta’dīb*, *iṣlāḥ*, *ṣulḥ*, *ḍamān* and *diyah* demonstrate a multidimensional approach that combines mercy with accountability.

The JJSA 2018 is a significant development in Pakistan’s juvenile justice framework. Its eighteen-year threshold, juvenile courts, legal safeguards, diversion, probation, rehabilitation and restrictions on harsh treatment reflect a movement away from purely punitive criminal justice toward child-sensitive justice. The principal conceptual difference is that the JJSA uses chronological age as the basis of juvenile status, while classical Islamic jurisprudence uses maturity and legal capacity as the foundation of substantive responsibility.

This difference need not result in an absolute conflict. The eighteen-year threshold may be understood as a protective procedural standard adopted for the welfare of young persons. Islamic principles can then contribute at the level of individualized intervention, restorative justice, moral rehabilitation, family participation and victim compensation. The most appropriate model is therefore one of protected accountability: the juvenile is protected from disproportionate adult punishment, but is not rendered irrelevant to the rights of victims or the needs of society.

A genuinely effective juvenile justice system should seek not merely to punish young offenders but to correct, educate, restore and reintegrate them. The Islamic concepts of *iṣlāḥ*, *tarbiyyah*, *ṣulḥ* and *ḍamān* provide valuable jurisprudential resources for strengthening Pakistan’s existing statutory framework. The ultimate goal is a justice system that protects the child, secures the rights of the victim, prevents future harm and contributes to the moral and social rehabilitation of the offender.