

**Lili Sulukhia\***

## **Age of Criminal Responsibility**

*This article is dedicated to the age of criminal responsibility. The relevance of this topic is defined by studying the physical and mental nature of a child and taking into account the socio-economic factors affecting him/her, it is possible to identify the problematic nature of the age of criminal responsibility.*

*The measure applied to a child committing a criminal act should be proportional to the severity and circumstances of the offense, as well as the conditions and requirements of the child considering his/her best interests.<sup>1</sup>*

*Introducing this study, a reader will be convinced that children in conflict with the law should not be treated as adults because of their limited emotional, psychological, moral, and social development.*

**Keywords:** *Child, Juvenile Justice, Punishment, Physiological problems, Physiology, Social.*

### **1. Introduction**

The question about the age at which a person's criminal responsibility should arise does not expect a response. Unfortunately, to solve this problem, legislative institutions all over the world cannot adopt a specific formula to determine a particular age.

Defining the minimum age of criminal responsibility from a doctrinal or practical perspective generates a variety of opinions, which results in the physiological and socio-economic conditions of a child developed in the process of upbringing. This, in turn, leads to the different age thresholds for criminal responsibility in each country.

The November 20, 1989 Convention on the Rights of the Child indicates that all persons under the age of 18 are considered to be children if following the legislation of any country, the child does not reach adulthood earlier. Therefore, the age of criminal liability, which begins from the age of 14 according to the Georgian legislation, is considered as a child. This period bears a resemblance to climbing a ladder, each step of which corresponds to a fuller, reorganized look of functioning.<sup>2</sup>

Introducing the discussion based on studying the scientific literature, the legislation of different countries, judicial practices, socio-economic conditions, and the psychological characteristics of the child, the reader will be allowed to assess the age of criminal responsibility established by the legislation of Georgia, which is considered to be the age of childhood in scientific terms.

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<sup>1</sup> International Standards in the Field of Juvenile Justice, UNICEF, 2011, 35, adopted by UN resolution N40/33 of 29 November 1985.

<sup>2</sup> *Berki L., Child Development, Ilia Chavchavadze University (Translator), Napolitano L. (ed.), 7<sup>th</sup> ed., Tbilisi, 2010, 13.*

## **2. The Impact of Social Factors on Adolescent Age**

The behavior of a person entirely depends on the environment, upbringing, and real living conditions.<sup>3</sup> The socialization and development of a teenager count on the family, school, and the social environment he/she grows in.<sup>4</sup> The level of socialization determines the consciousness and social experience of a human, which is directly related to the choice of behavior and manage this behavior.<sup>5</sup> When the level of socialization is higher a person chooses the right model of behavior that is acceptable to society and easily manages it.

The social conditions in which the child has to live, in particular, poverty, place of residence, and the social environment of parents, for example, unemployment, crime, etc. are significantly affected by the formation of personal development.<sup>6</sup> The process of molding a personality is a reflection of the social environment of a teenager. A severe social life results in detaining the process of personal development, which contributes to the distortion of the spiritual and psychological nature of a person in the future.

If the child is brought up in a social environment with a growing dynamic of unemployment, which raises complaints of the population about economic hardship, and a concern about various criminal offenses, he/she will not be able to grow in a healthy social environment. It shall be inadmissible for such a teenager to be required to strictly observe legislative regulations at an early age. The severity of the law may have more acute consequences for the child and the safety of the public in the future. In particular, if the law does not “forgive” a child growing up in unhealthy social conditions for the crime committed in childhood, after serving the sentence in jail he is likely to return to society as a vengeful person trying to fight against a strict regime by breaking the law again.

When making a decision on identifying the limit of criminal age, the social situation of the country must be taken into account. Also, in determining the age of criminal responsibility, the economic reality must be an unconditional and necessary component.<sup>7</sup> If the state is in a socio-economic crisis, reducing the criminal age cannot have an effective result because the rate of crime committed by children is especially higher during economic hardship. The sentence imposed on the child may make worse his/her psychological-mental state.

Accordingly, the legislator should approach the issue with a rational mindset, and considering the severe socio-economic conditions of the state, reduce the age of criminal responsibility to avoid an

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<sup>3</sup> *Andghuladze T.*, The Impact of Asocial Behavior on the Formation of the Motivational Structure of Juvenile Offenders, in the collection: Pedagogical-Psychological Issues of Criminal Behavior of Minors, Tbilisi, 1983, 5 (in Georgian).

<sup>4</sup> *Ivanidze M.*, Forensic Practice of Punishment against Minors, Collection: Problems of Juvenile Punishment and Forced Measures of Parenting Nature, *Lekveishvili M., Shalikhvili M. (ed.)*, Tbilisi, 2011, 158 (in Georgian).

<sup>5</sup> *Giorgidze A.*, Purpose of juvenile Punishment (What is the purpose of the sentence?), in the collection: Problems of the imposition of compulsory measures on juvenile punishment and parenting, *Lekveishvili M., Shalikhvili M., (ed.)*, Tbilisi, 2011, 80 (in Georgian).

<sup>6</sup> *Mikanadze G., Shalikhvili M.*, Juvenile Justice, 2nd edition, Tbilisi, 2016, 22 (in Georgian).

<sup>7</sup> *Herring J.*, The Age of Criminal Responsibility and the Age of Consent: Should They Be Any Different, Northern Ireland Legal Quarterly, Vol.67, No.3, 2016, 346.

artificial contribution to the increase in committing a crime. A country should apply the alternatives to the correct methodical upbringing of the child, which will be focused on improving the psychological-mental state to ensure the proper development of the child.

### **2.1. The Role of the Family in the Stages of Adolescence**

The family is the basic building block of society, the main task of which should be to raise legal education and awareness among adolescents.<sup>8</sup> In family relationships, people are introduced to the social, emotional, and communication components necessary for their further development.<sup>9</sup> That is why parents should apply a mechanism in the process of adolescence that will be focused on the correct physiological development of the child.

As the teenager grows older, he/she has a desire to dominate others and become more respectful. A child who experiences a rigorous, authoritarian upbringing can produce negative results.<sup>10</sup> However, a lack of control over the child can have a bad effect on forming the personality.<sup>11</sup> Thus, parents need to find a middle ground in the mentioned process. Excessive care or a paucity of attention can subsequently become an indicator of the wrong upbringing of children, which will aggravate their behaviors.

The lifestyle of parents is an external conditioning factor for determining the criminal status of the child.<sup>12</sup> In conflicting families, constant tension affects the relationship between parents and children. Forceful methods used for the upbringing of the child destroy the process of proper psychological and personal development.

To avoid violating the rights of the child, it is essential to apply the service established in the State Public Defender's Office, which works to protect the universally recognized rights and freedoms of the child and raise awareness. Everyone can apply to the mentioned agency where the provided services are free.<sup>13</sup> Such an approach encourages appeal and protects children's rights more appropriately.

To effectively solve the above problem, it is necessary to provide many multifunctional social welfare institutions in the state that defend the child from an unhealthy social environment, including protection from psychological and physical violence from family members. This strategy can avoid developing abusers fighting against crime, and maintaining public safety.

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<sup>8</sup> *Chanturia L.*, Family Factor for the Legal Education and Raising of Justice, "Current Criminal Justice Issues," #1, 2017, 143 (in Georgian).

<sup>9</sup> *Mikanadze G., Shalikashvili M.*, Juvenile Justice, 2nd Exam, Tbilisi, 2016, 22 (in Georgian).

<sup>10</sup> *Chanturia L.*, Family Factor for the Legal Education and Raising of Justice, "Current Criminal Justice Issues," #1, 2017, 143.

<sup>11</sup> Ibid.

<sup>12</sup> *Mcdiarmid C.*, After the Age of Criminal Responsibility: A Defense for Children Who Offend, Northern Ireland Legal Quarterly, Vol. 67, No.3, 2016, 331 (in Georgian).

<sup>13</sup> <<https://www.ombudsman.ge/geo/bavshvis-uflebebis-tsentrts-shesakheb>> [22.07.2023].

## **2.2. The Influence of School and the Circle of Friends**

Each age of an individual's development is characterized by some features, which are variable in terms of pedagogical-nurturing impact and social relations.<sup>14</sup> If a teenager is alienated from school and a circle of friends, there is a chance of revealing an interest in illegal activities.<sup>15</sup> The instances, school, and friendship are important contributing factors in forming a person because the issue does not refer only to learning a program but also to the improvement of the moral side.<sup>16</sup> Simultaneously, it is necessary to take control of the circle of friends chosen by the teenager because if the violation of the law for the friends is a normal behavior, in the future he is likely to be keen on similar conduct.<sup>17</sup> However, such control should be taken with standard precautions without intense interference in the relationship for providing the child with sage pieces of advice and applying methodical upbringing.

It is inadmissible to remove a child from an unhealthy social environment by coercion in the process of personal formation. A similar approach used by the older generation can arouse hatred and convey an akin attitude toward the other members of society in the future. As a result, a person will be prone to violence, and this artificial transformation can lead to becoming a criminal.

## **3. The Challenges with Determining the Age of Criminal Responsibility by Georgian Legislation**

International instruments, including the Beijing Rules, and the November 20, 1989 Convention on the Rights of the Child call for countries to establish the minimum age of criminal responsibility.<sup>18</sup> This recommendation is aimed at trying to protect the best interests of children. If following Beijing rules, the “very low” age of criminal liability for a child is not allowed, the Committee on the Rights of the Child supports increasing a relatively low minimum age to 12 years (at least) in agreement with the average age of criminal responsibility accepted by the international community<sup>19</sup>. This recommendation is attributed to the features of the mental and physiological state of a child.

According to one of the decrees of the Russian Federation of 1918, the age of criminal responsibility was determined by 17 years as in Georgia.<sup>20</sup> Following the Criminal Code of the Soviet Socialist Republic of Georgia of 1960, the age of liability was 16 years. Then, based on the Criminal Code of Georgia of June 1, 2000, the age was resolute by 14 years. In addition, on June 12, 2015, the Juvenile Justice Code defined the characteristics of the liability of a child who committed a criminal.

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<sup>14</sup> *Gobechia F.*, Psychological Peculiarities of the Development of the Social Prestige of Juvenile Offenders, in the Collection: Pedagogical-Psychological Issues of Juvenile Criminal Behavior, Tbilisi, 1983, 51 (in Georgian).

<sup>15</sup> *Ivanidze M.*, Forensic Practice of Punishment against Minors, Collection: Problems of Juvenile Punishment and Forced Measures of Parenting, *Lekveishvili M., Shalikashvili M. (ed.)*, Tbilisi, 2011, 159 (in Georgian).

<sup>16</sup> *Mikanadze G., Shalikashvili M.*, Juvenile Justice, 2nd Edition, Tbilisi, 2016, 25 (in Georgian).

<sup>17</sup> Ibid.

<sup>18</sup> *Weidkun W.*, Punishment Goals, Age-Related Issues, Separation and Specialization, Tbilisi, 2013.

<sup>19</sup> Ibid.

<sup>20</sup> *Mikanadze G., Shalikashvili M.*, Juvenile Justice, 2<sup>nd</sup> Edition, Tbilisi, 2016, 120 (in Georgian).

The above amendment was in line with the standards for international criminal justice. However, there is doubt about the admissibility of a 14-year limit of criminal responsibility in the state where a teenager is brought up in severe socio-economic conditions.

When determining the age of criminal liability, a Georgian legislator must take into account the procedure recognized by international documents and shall not fall below the 12-year limit. Besides, the environmental factors affecting the life of a teenager ought to be considered to establish a reasonable limit of criminal responsibility. A more humane approach assists in decreasing the rate of crime and responds appropriately to the universally recognized principles of liberal legislation.

Whether the 14-year limit of criminal liability set by the Georgian legislator is reasonable, a reader can discern by introducing the discussion about the features of the cognitive and psychological state of a teenager along with age changes.

#### **4. The Age of Criminal Responsibility Considering the Level of Physiological and Cognitive Development of a Child**

The adolescent turning point determines the formation of a person physiologically and socially.<sup>21</sup> Adolescence is followed by emotional instability, the need for changes in relationships, demonstrativeness, and easy adjustment to various social roles.<sup>22</sup> Outward balance is achieved at the cost of greater tension, which can lead to the development of somatic dysfunction.<sup>23</sup> An exigency of leaving childhood and being at an older age acquires social content, which has a decisive impact on determining the direction of adolescent activity.<sup>24</sup>

It is a widely considered fact that a child under the age of 10 cannot become a subject of criminal liability.<sup>25</sup> The first traits of personality start forming in the early days of life and are manifested in adolescence and later periods.<sup>26</sup> A 10-year-old is characterized as “funny,” and friendly.<sup>27</sup> However, this age is unambiguously low for criminal liability, since the brain is immature at this time, continues to make significant changes related to self-regulation, and it is hard to perceive the facts compared to people of older age.<sup>28</sup> Moreover, they consider the punishment applied by an authoritarian person even when the punishment is unfair.<sup>29</sup> Teenager's understanding of moral norms

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<sup>21</sup> *Shalikashvili M., Giorgidze A., Criminological Features of Criminal Liability of Minors, Collection: Problems of Juvenile Punishment and Forced Measures of Care, Lekveishvili M., Shalikashvili M. (ed.), Tbilisi, 2011, 17 (in Georgian).*

<sup>22</sup> *Chigogidze St., Peculiarities of the Emotional-Affective Sphere of Juvenile Offenders, Zhurn. Herald, #1, 2003, 130.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Shalikashvili M., Mikanadze G., Peculiarities of Juvenile Justice: Criminological, Criminal Legal, Penitentiary and International Law Foundations of Juvenile Justice, Tbilisi, 2011, 15 (in Georgian).*

<sup>25</sup> *McDiarmid C., An Age of Complexity: Children and Criminal Responsibility in Law, 2013, 148.*

<sup>26</sup> *Chanturia L., Family Factor for the Legal Education and Raising of Justice, “Current Criminal Justice Issues,” #1, 2017, 147.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Herring J., The Age of Criminal Responsibility and the Age of Consent: Should They Be Any Different, Northern Ireland Legal Quarterly, Vol.67, No.3, 2016, 346.*

<sup>29</sup> *Japaridze T., Causes of committing a crime by a teenager, his criminological aspects and preventive measures, “Law and World,” #9, 2018, 119 (in Georgian).*

and social agreements should be consistent with their level of cognitive development.<sup>30</sup> A ten-year-old mentally immature child who is not capable of fully assessing the events in the environment cannot be turned into an entity of criminal responsibility. In this case, the purpose of the prescribed punishment, which is related to the process of re-socialization and rehabilitation of the offender, cannot be fulfilled.

According to the mentioned above the legislator should not turn a ten-year-old mentally immature child into a legal entity. To become a criminal entity, it is necessary to know the legitimacy of the action,<sup>31</sup> otherwise, the best interests of the child will be infringed. Therefore, the legislative directive of some countries (Colorado and Louisiana) under which a 10-year-old is an entity of criminal personality needs to be criticized.<sup>32</sup> The arguments justifying the decision of the legislator to impose criminal liability for the psycho-emotionally unstable 10-year-old person are interesting to consider.

Imposing criminal liability for a 10-year-old child a legislator deliberately neglects the best interests of the child. The legislator does not properly understand the importance of the psycho-emotional instability of a teenager. He/she should always remember that harsh punishment cannot always be an unconditional guarantee of enforcing the law.

Young people begin to commit petty crimes and carry out anti-social actions in the period of 10-12 years.<sup>33</sup> However, this does not imply that a person of this age may become an entity of criminal liability by the Criminal Code. The institute to establish the age of criminal liability shall provide a person to be responsible for his/her commitment before the court and a suitable candidate for the execution of the sentence.<sup>34</sup> While determining the age limit of an entity with criminal responsibility, the following qualities must be taken into consideration: insufficient formation of a person, vulnerability, mindless behavior, carefree lifestyle, playful attitude to work, reliance upon others, dreaming, love of adventure, problems in relations with peers, etc.<sup>35</sup> Therefore, the legal systems recognizing the concept of the age of criminal liability should not set criminal responsibility at a very early age considering psychological, emotional, and intellectual maturity factors.<sup>36</sup> The variation of the body of a teenager and the metabolism greatly affects the mental state.<sup>37</sup> During this period, the child can experience frequent and sudden deterioration of mood, excessive emotionality, fantasies, unserious attitude to work, forgetfulness, difficulty, impulsivity of decision-making, and the inability to discern the consequences of their actions.<sup>38</sup>

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<sup>30</sup> *Melikishvili M.*, Theory of Moral Development, Tbilisi, 2012, 5 (in Georgian).

<sup>31</sup> *Mcdiarmid C.*, After the Age of Criminal Responsibility: A Defense for Children Who Offend, Northern Ireland Legal Quarterly, Vol. 67, No.3, 2016, 329.

<sup>32</sup> *Ivanidze M.*, Forensic Practice of Punishment for Minors, Collection: Problems of Juvenile Punishment and Forced Measures of Parenting, *Lekveishvili M., Shalikashvili M. (ed.)*, Tbilisi, 2011, 161 (in Georgian).

<sup>33</sup> *Hamilton St.*, Juvenile Justice Legislative Reform Guidelines, *UNICEF (Translator)*, Tbilisi, 2013, 21.

<sup>34</sup> *Herring J.*, The Age of Criminal Responsibility and the Age of Consent: Should They Be Any Different, Northern Ireland Legal Quarterly, Vol.67, No.3, 2016, 345.

<sup>35</sup> *Shalikashvili M.*, Types of Forced Measures of Juvenile Punishment and Foster Impact, Collection: Problems of Juvenile Punishment and Forced Measures of Parenting, *Lekveishvili M., Shalikashvili M. (eds.)*, Tbilisi, 2011, 101 (in Georgian).

<sup>36</sup> *Rice G., Thomas T.*, James Bulger A Matter of Public Interest, International Journal of Children's Rights, Vol.21, No.1, 2013, 7.

<sup>37</sup> *Mikanadze G., Shalikashvili M.*, Juvenile Justice, 2<sup>nd</sup> edition, Tbilisi, 2016, 13 (in Georgian).

<sup>38</sup> *Shalikashvili M., Giorgidze A.*, Criminological Features of Criminal Liability of Minors, Collection: Problems of Juvenile Punishment and Forced Measures of Care, *Lekveishvili M., Shalikashvili M. (ed.)*, Tbilisi, 2011, 18 (in Georgian).

Accordingly, the criminal liability for a mentally, psychologically, and emotionally unbalanced 12-year-old can be considered justified with the special social environment created in the state. In addition, the means applied to achieve the goal (ensuring the enforcement of the law) should be the only necessary measure.

Based on the recent development of scientific research, adolescents and adults process emotions in different areas of the brain.<sup>39</sup> Taking into account these aspects, juvenile crime is perceived as a normal manifestation in society because everyone has ever violated the law during their teenage years.<sup>40</sup> Thus, the size of the sentence for the child who has committed a criminal act should be selected with the utmost caution to achieve the purpose of punishment and ensure the protection of the best interests of the child.

Scientifically, a new period of adolescence begins from about the age of 11-12 years, which is associated with cardinal changes in the body.<sup>41</sup> A person aged 12-16 already has a great interest in the human inner universe and an irresistible desire to be identified with another person.<sup>42</sup> Following psychologists, serious changes are made during the development of a person aged 14-16 years, in particular, progressing the functions of the intellectual spheres such as perception, attention, memory, thinking, and willpower, which, in turn, determine the ability of a person to be criminally responsible.<sup>43</sup>

A Georgian legislator should allow a child to partially complete biological processes and become an entity of criminal liability from the age of 16. The need to establish this recommendation at the legislative level is supported by the general social development of the country, according to which the legislator does not face a 14-year limit of criminal liability. Increasing the age of criminal liability, the best interests of the child are protected and simultaneously, it ensures unburden courts. If petty criminal acts are often detected at the age of 16, it is reasonable to create crime-fighting groups, which can develop targeted prevention programs for “risk” groups under the age of 16.<sup>44</sup>

In different countries of the world, there are alternative support systems that are focused on preventing adolescents from getting into a penitentiary facility as much as possible.<sup>45</sup> Paragraph 3 of

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<sup>39</sup> Ibid.

<sup>40</sup> *Mikkanadze G., Shalikashvili M.*, Juvenile Justice, 2<sup>nd</sup> Survey, Tbilisi, 2016, 16, see quote: Kaiser, g., 1985, 225-228.

<sup>41</sup> *Shalikashvili M., Giorgidze A.*, Criminological Features of Criminal Liability of Minors, Collection: Problems of Juvenile Punishment and Forced Measures of Parenting, *Lekveishvili M., Shalikashvili M. (ed.)*, Tbilisi, 2011, 16 (in Georgian).

<sup>42</sup> *Chanturia L.*, Family Factor for the Legal Education and Raising of Justice, “Current Criminal Justice Issues,” #1, 2017, 147 (in Georgian).

<sup>43</sup> *Giorgidze A.*, Purpose of Juvenile Punishment (What is the purpose of the sentence?), in the collection: Problems of the imposition of forced measures on juvenile punishment and parenting, *Lekveishvili M., Shalikashvili M., (ed.)*, Tbilisi, 2011, 79.

<sup>44</sup> *Hamilton St.*, Juvenile Justice Legislative Reform Guidelines, *UNICEF (Translator)*, Tbilisi, 2013, 21.

<sup>45</sup> *Imerlishvili I.*, Juvenile Justice in Georgia and International Standards, Collection: Protection of Human Rights and the Democratic Transformation of the State, *Corkelia K. (ed.)*, Tbilisi, 2020, 76, see citation: specialized juvenile courts, juvenile judges or similar institutions established in the following European countries: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, England/Wales, France, Germany, Greece, Hungary, Ireland, Italy, Kosovo, Netherlands, Northern Ireland, Poland, Portugal, Scotland, Serbia,

Article 40 of the Convention on the Rights of the Child shares the above opinion and indicates that the authorities should establish as many institutions as possible for children who have violated legal orders. The state ought to take control over the behaviors of young people which is justified by the intention of protecting them.<sup>46</sup>

In the Swiss state, before a teenager is sentenced to imprisonment, there are several types of alternative punishments: the appointment of a personal caregiver authorized to provide temporary care for a child which assists him/her in finding the solutions to problems of life; making children undergo therapies who are addicted to drugs or alcohol, etc.<sup>47</sup> Similar trends should be introduced in Georgia. Legal leverage abstains biologically and psychologically immature persons from taking criminal responsibility, protects their rights, and in turn, contributes to the preservation of legal order in the country. The state should create a healthy socio-legal environment for adolescents that will be focused on their moral development. The development will be perfect only if the action committed by the child at the initial stage is not evaluated as a case of crime. The issue should be assessed in a correct, rational manner along with the assistance of specialists who work extensively on problematic cases.

## 5. Conclusion

When the age of criminal liability is determined in the law, it should be considered in the context of protecting the rights of the child. It must be focused on the standards for an individual approach. A teenager should be enabled to properly prepare for the process of growing.<sup>48</sup> The legislator ought to facilitate this process by setting a reasonable limit on the age of criminal liability.

To select the logical age limit of criminal responsibility, the legislator must take into account the socio-economic conditions in which the adolescent has to be raised. In addition, all the physiological factors characteristic of the child should be taken into account, which subsequently leads to the development of the child as an adult.

Severe economic conditions in the country or a circle where a teenager is experiencing constant psychological violence by family members or friends are very high risk of becoming an adult prone to criminal activity in the future. Against the backdrop of harsh social conditions, the enforcement of the punishment for the child provided by the criminal law cannot be effective. A fair punishment for the

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Slovakia, Spain and Turkey: Gensing, A., Jurisdiction and characters of Juvenile criminal procedure in Europe: *Dunkel, F., Grzywa, J., Horsfield, P., Pruin I. (EDS.), Juvenile Justice Systems in Europe, Vol.4, 2nd ed, (Forum Verlag Godesberg: Monchenbladbach 2011),1614. Separate juvenile courts, juvenile judges, or similar institutions in the South Asian region is based in Afghanistan [Afghanistan Juvenile Code, 2005, Section 9], India [ Indian Juvenile Justice (Care and Protection) Act, 2000, sections 4 and 29], a specialized juvenile court in Africa, juvenile judges or similar institutions, for example, based in Ghana [Juvenile Justice Act, 2003 (ACT 653), Part II], Kenya [Act on Children 2001, Part VI, South Africa [Child Justice Act, 2008], Chapter 9, Section 63-67.*

<sup>46</sup> *Mediarmid C., Don Cipriani, Children's Rights and the Minimum Age of Criminal Responsibility, Social & Legal Studies, Vol.21, No.1, 2012, 150.*

<sup>47</sup> *Mikanadze G., Shalikashvili M., Juvenile Justice, 2<sup>nd</sup> Examination, Tbilisi, 2016, 122 (in Georgian).*

<sup>48</sup> *Herring J., The Age of Criminal Responsibility and the Age of Consent: Should They Be Any Different, Northern Ireland Legal Quarterly, Vol.67, No.3, 2016, 344.*



child must serve to educate him/her.<sup>49</sup> That is why there should be many institutions for socio-legal protection in the country to defend the best interests of a child and maintain public law. In this regard, the state is compelled to properly fulfill the positive obligation imposed on it.

The primary goal of the institutions for socio-legal protection shall ensure a rational assessment of the criminal commitment and eliminate the possibility of repeated acts. The threat will be reduced by providing the teenagers with future employment. The rehabilitation process can be considered successful when a teenager develops a sense of respect for the rights of other people and becomes a responsible person.

To determine a reasonable limit of the age of criminal liability, the legislator must take into account not only social factors but also the psychological features of the adolescent. As mentioned above, since emotionality, impulsivity, indifference, and imprudence are especially exacerbated against the background of cardinal changes in the body of teenagers under the age of 16, the legislator does not turn such children into criminally responsible entities.

After imposing criminal liability, a person is implied to be responsible for his/her commitment and a suitable candidate for the execution of the sentence. Considering psychological characteristics and the above reasoning factors, a child under the age of 16 cannot be regarded as an entity of criminal liability and a relevant candidate for the execution of the sentence. If a person of this age commits a criminal act, the state shall apply an alternative support system, and rehabilitation institutions that help the teenager to correctly appraise the actions performed by him/her. The law shall not artificially hinder this process by imposing criminal liability.

Thus, taking into account the physiological factors and socio-economic conditions of a teenager, the legislator must take into account the above recommendations, which means increasing the age of criminal liability to 16 years. Taking this step, the state will fully protect the positive obligation imposed on it, which is reflected in the proper implementation of the principles recognized by the international standards for protecting the rights of children.

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<sup>49</sup> *Gamkrelidze O.*, Punishment Fair and Punishment Unfair, “Life and the Law”, #1(22), 2016, 5 (in Georgian).

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