Determining the age of criminal capacity

Acting in the best interest of children in conflict with the law

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Section 8 of the Child Justice Act determines that the minister of justice and constitutional development must submit a report to Parliament no later than five years after the operationalisation of the act to review the minimum age of criminal capacity. With that in mind, this article aims to explore if current procedural mechanisms used to assess the criminal capacity of children in conflict with the law are in their best interest. This article will examine criminal capacity procedural mechanisms that could hamper the best interests of children in conflict with the law.

The Child Justice Act 2008 (Act 75 of 2008, hereafter the 'Child Justice Act') is celebrating its fifth year since becoming operational on 1 April 2010.[1] This is significant, since section 8 of the act determines that the minister of justice and constitutional development must submit a report to Parliament to review the minimum age of criminal capacity no later than five years after the operationalisation of the act.[2] The decision taken in 2008 to set the minimum age of criminal capacity at 10 years was contentious to begin with, since it is lower than the recommended minimum age of 12 years proposed in General Comment No. 10.[3] The decision was also opposed by civil society organisations that made submissions to Parliament advocating for a higher minimum age of criminal capacity.[4] Even though these initial attempts to secure a higher minimum age of criminal capacity were unsuccessful, a compromise was reached to review the minimum age no later than five years after the act became operational.[5] At face value, the debate about the age of criminal capacity is limited to establishing an age at which children are believed to have the ability and maturity to appreciate the nature and impact of their actions, and the ability to assume responsibility for them. In reality the debate is more complex, since any decision is moot if the procedural mechanisms and available infrastructures are inadequate to deal with the implementation of the decision.

The Child Justice Act is regarded as an extension of the Constitution of the Republic of South Africa, Act 108 of 1996, and is also seen as a regional and international human rights instrument.[6] It is grounded in the principle that the best interest of the child is paramount in all actions concerning children.[7] With that in mind, this article aims to explore if current procedural

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mechanisms to assess the criminal capacity of children in conflict with the law are indeed in their best interest.

The review of the age of criminal capacity creates an ideal opportunity to also review if, and to what extent, the current criminal capacity assessment process upholds the rights of children in conflict with the law. As such, the article aims to stimulate critical discourse about the procedural mechanisms and practices associated with criminal capacity assessments.

The article begins with a discussion of the Child Justice Act's stipulations regarding age categorisation and the determination of criminal capacity. Critical issues that should be taken into consideration during the review of the minimum age of criminal capacity are highlighted. Assessment procedures for determining the criminal capacity of children between 10 and 14 years are described. The article concludes with a review of key challenges to the implementation of these procedural mechanisms, and how they serve the principle of upholding the best interest of children in conflict with the law.

Child Justice Act: age demarcation for criminal capacity

The age of criminal capacity refers to the age at which it is presumed that a child has the cognitive ability and maturity to distinguish between right and wrong and to understand the consequences of his or her actions. Within a child justice context, the minimum age of criminal capacity therefore delineates the age at which it is presumed that a child who commits a crime could be held responsible for his or her actions.

The special needs of child offenders are recognised in the Child Justice Act; hence it represents a rights-based approach to dealing with children under the age of 18 who come into conflict with the law.[8] In order to act in the best interest of child offenders, the act distinguishes between three age categories, namely:

- A child who is between the age of 14 and 18 years at the time of the alleged offence is presumed to have criminal capacity (*doli capax*) and is dealt with in terms of section 5 of the Child Justice Act.
- A child who is under the age of 10 years at the time of the alleged offence is presumed not to have criminal capacity (*doli incapax*) and cannot be prosecuted, but must be dealt with in terms of section 9 of the Child Justice Act.
- A child who is 10 years or older but under the age of 14 years at the time of the alleged offence is also presumed to lack criminal capacity (*doli incapax*), unless the state proves that he or she has criminal capacity in accordance with section 11 of the Child Justice Act.

With regard to children between the age of 10 and 14 years, the Child Justice Act creates a rebuttable assumption for incapacity, where the burden of evidence lies with the state.[9] The matter relating to criminal capacity must be proven beyond reasonable doubt.[10] It can therefore be argued that, in the eyes of the law, children between the age of 10 and 14 years lack criminal capacity and that criminal capacity should only be evident in exceptional cases. These exceptional cases only exist in instances where a child is found to be more mature than other children of the same age group. The test for criminal capacity, according to section 11(1) of the Child Justice Act, requires a consideration of whether a particular child could firstly distinguish between right and wrong, and secondly act in accordance with this appreciation.

The rationale behind the rebuttable assumption for incapacity is founded in the recognition of the pluralistic nature of South African society and the resulting difference in children's level of maturity and development. It is argued that differences in upbringing, physical care, socio-economic circumstances and socialisation, among other factors, have an impact on the maturity and life

experience of children.[11] The advantage of this system is that it creates a structure whereby protection from prosecution is automatically given to children under the age of 14 years.[12] In addition to the protection from prosecution, the intention is also for these children to benefit from needs-directed rehabilitative services, including counselling or therapy, accredited programmes and/or support services from accredited service providers.[13]

As mentioned, the South African minimum age of criminal capacity, 10 years, is lower than the recommended minimum age of 12 years proposed in the United Nations Convention on the Rights of the Child (UNCRC) General Comment No. 10.[14] In addition, the Committee on the Rights of the Child (the UN committee responsible for monitoring the implementation of the UNCRC) furthermore raised concerns about the practice of using a rebuttable assumption in the determination of criminal capacity. Their primary concern is that in these systems the decision about a child's criminal capacity lies with the court, and may result in discriminatory practices if court officials who don't have the necessary qualifications or experience are the ones making such decisions.[15] Even though procedural mechanisms to redress this concern are included in the Child Justice Act, in practice logistical and operational challenges discussed later in the article are seen to potentially deny child offenders the benefit of these services as intended by the act.

Criminal capacity assessment procedures

Each child who is alleged to have committed an offence must be assessed by a probation officer, except in instances where the assessment has been dispensed with in accordance with section 41(3) or 47(5) of the Child Justice Act.[16] The assessment must be undertaken at the earliest opportunity, but if the child has been arrested it must take place within 48 hours.[17]

In the case of children between the age of 10 and 14 the purpose of the probation officer's assessment report is to provide an opinion as to whether a child is believed to have criminal capacity, and also to determine if additional expert evidence is required to assess the criminal capacity of such a child.[18] The probation officer is therefore obligated to raise an opinion as to whether a child has criminal capacity; in other words, if the child is deemed to have had the ability to differentiate between right and wrong at the time of the alleged offence and to act in accordance with this appreciation.[19]

The state's burden of proof in determining criminal capacity is not exclusively the task of the probation officer, and the court is permitted to request additional information. In this regard section 11(3) of the Child Justice Act stipulates that the inquiry magistrate may order a report by a suitably qualified person, which *must* include an assessment of the cognitive, moral, emotional, psychological and social development of the child. The prosecutor or child's legal representative may also request such an evaluation.[20] In accordance with section 97(3) it was determined that a psychiatrist and clinical psychologist are deemed to be suitably competent to conduct criminal capacity evaluations.[21]

Contrary to the evaluation by psychiatrists and clinical psychologists, probation officers are not obligated to include an assessment of a child's cognitive, moral, emotional, psychological and social development in their reports.[22] It is therefore questionable whether probation officers' reports are adequate to determine criminal capacity beyond reasonable doubt, when these reports lack in-depth analysis of the child's psychosocial development and functioning. It should also be noted that in accordance with section 40(1) of the Child Justice Act, an estimation of criminal capacity is only one of many issues that probation officers

are required to make recommendations on in their assessment report. Concerns regarding the probationer officer's role in criminal capacity assessments will be discussed in more detail later in this article.

An amendment in the Judicial Matters Amendment Act 2014 (Act 14 of 2014) further complicates matters, since it imposes an obligation on inquiry magistrates and the child justice court to consider a child's cognitive, moral, emotional, psychological and social development when making a decision about his or her criminal capacity.[23] It is anticipated that this change to the Child Justice Act will result in an increase in the number of orders for criminal capacity evaluations, which could, as discussed below, contribute to an overburdening of mental health professionals who already struggle to cope with the number of referrals they receive.

Criminal capacity assessment concerns and challenges

This article set out to determine if current mechanisms used to assess children's criminal capacity are in their best interest. It is clear from the discussion of the age demarcation and criminal capacity assessment process that the issue of criminal capacity is complex, making it difficult to balance the best interest of child offenders with judicial expectations and operational imperatives. Henceforth, some of these challenges will be discussed.

Criminal capacity versus the law

Translating aspects relating to a child's psycho-social development and functioning into legal requirements to determine criminal capacity is a challenge in itself.[24] A legal obligation exists in the Child Justice Act to prove beyond reasonable doubt whether a child has criminal capacity or not. This requires a precise answer and does not make provision for opinions that imply degrees of capacity. Pillay and Willows are of the opinion that:

> Law makers would ideally wish for a precise way of establishing the absolute existence or absence of such capacity, and to then situate the presence of such capacity at a uniform chronological age. However, the psychology and mental health fields need to honestly declare that such a requirement is beyond their theoretical and research ability.[25]

Walker posits that a person's ability to appreciate the wrongfulness of his or her actions presupposes the ability to appreciate the difference between right and wrong, and that some people may perhaps only be capable of drawing this distinction in particular instances, but not in others.[26] Hence, it is proposed that the assessment of criminal capacity should be 'conduct specific'.[27] In explanation, Walker refers to *S v Dyk* (1969(1) SA 601(C)), where Justice Corbett set aside the conviction of an 11-year-old child who was the third accused in a case of housebreaking. The child's role was to watch the property before the housebreaking and to keep watch while accused one and two committed the crime. Corbett argued that even though the child might appreciate the wrongfulness of housebreaking, he might not appreciate the wrongfulness of his role when the crime was committed.[28] In this regard Walker critiques the criminal capacity procedural mechanism employed in the Child Justice Act, stating that:

> As a result of his or her intellectual immaturity, a child who is quite capable of appreciating that certain types of conduct are considered wrong in general, abstract terms, might nevertheless be incapable of engaging in the complex, abstract reasoning necessary to enable him or her to apply this generalised knowledge to his or her own conduct, at the time and in the particular circumstances in which he or she engaged in that conduct. The danger

> inherent in applying a vague, generalised right and wrong test is that, in an instance like this, such a child could well be found criminally responsible.[29]

In contrast to the purpose of the Criminal Procedure Act 1977 (Act 51 of 1977), namely to make provision for procedures and related matters in criminal proceedings, the Child Justice Act aims to introduce a less rigid criminal justice process, suitable for children in conflict with the law. This is achieved by, among other things, procedural mechanisms to ensure that the individual needs and circumstances of children in conflict with the law are assessed.[30] Although the Child Justice Act aims to act in a 'case and conduct' specific manner, putting these provisions into practice remains a challenge.

Operational challenges

Inadequate infrastructure and a lack of capacity to implement the Child Justice Act have been recognised as challenges since the Child Justice Act became operational.[31] The shortage of suitably qualified professionals to conduct criminal capacity assessments is exacerbated by the Department of Social Development's lack of funding to appoint additional staff members.[32]

In addition to performing multiple tasks in the implementation of the act, probation officers are also obligated to express an opinion about the criminal capacity of children between the age of 10 and 14 years.[33] Complaints about the quality of probation officers' reports are well documented.[34] The quality of the reports can, among other factors, be ascribed to the fact that the probation officers only have a short period in which to conduct assessments.[35] A lack of training and suitable assessment instruments were also mentioned as reasons why probation officer reports are viewed as not meeting the requirements of the court.[36]

It should also be noted that probation officers' reports are based on their subjective opinions, by any psychometric testing. It can therefore be presumed that the attitude and experience of the probation officer will have a direct impact on the quality of the report and the views expressed in the report. As a result, some magistrates prefer to request an external professional evaluation of the child's criminal capacity, even though it is expensive and time-consuming to conduct.[37]

The lack of available psychologists and psychiatrists to conduct criminal capacity assessments has been found to delay the conclusion of cases.[38] Procedurally, psychologists or psychiatrists must furnish the court with an evaluation report within 30 days after the date of the order.[39] Because of a shortage of mental health practitioners, this is often not achieved. Attempts to make use of psychologists and psychiatrists in the private sector have proven unsuccessful, due to a lack of funds to pay for consultations.[40] The lack of suitably qualified health professionals can result in assessments being done long after the alleged crime was committed. This makes it difficult to accurately determine if a child had criminal capacity at the time a crime was committed. Concerns have also been raised about the absence of valid and reliable assessment measures to determine criminal capacity, since few psychometric tests have been developed or adapted for use in South Africa's unequal and multicultural society.[41]

One-dimensional focus of criminal capacity assessments

As mentioned, section 11(3) of the Child Justice Act requires that an assessment for criminal capacity should include an evaluation of the cognitive, moral, emotional, psychological and social development of the child. Such an assessment can only be achieved through an in-depth evaluation of the child's psycho-social development and functioning.[42] The

complex relationship between biological and environmental factors that could influence the criminal capacity of a child is well recorded. Research has highlighted that assessing a child's criminal capacity should not be limited to isolated elements in the child's development and/or functioning, such as cognitive ability or emotional maturity alone. It requires a holistic evaluation of predisposing risk factors and a clinical analysis of how the comorbidity of these factors influences the child's ability to distinguish between right and wrong and to act in accordance with this appreciation.[43] Currently, only three categories of professions are deemed to be suitably qualified to conduct criminal capacity assessments, namely probation officers, clinical psychologists and psychiatrists. None of these professions has expertise in all of the areas of evaluation stipulated in section 11(3) of the Child Justice Act. Although not previously recognised, it is now acknowledged that there is a need to follow a more holistic approach by broadening the categories of suitable professions to evaluate different aspects of a child's development. In the Government Gazette No. 39751, published in February 2016, a request was made for the recommendation of other professions that could be considered as competent to conduct criminal capacity assessments.[44] The broadening of these categories would allow for a more holistic assessment of children, and help address the operational challenges associated with a shortage of people capable of conducting criminal capacity assessments.

This article proposes that in order to act in the best interest of child offenders, criminal capacity assessments should be done by a multi-professional team. Depending on the child's specific needs, such a team could include, among other professionals, social workers, clinical psychologists, occupational therapists, psychiatrists and criminologists.

Conclusion

The implementation of the Child Justice Act unequivocally contributed to improving the rights of children in conflict with the law. Nonetheless, it is clear that the complexities associated with criminal capacity assessments require critical deliberation to ensure that these assessments adhere to the best interest principle. Fundamentally, the question motivating any amendment to the age of criminal capacity should be: what would we like to achieve with the act? In this regard the Child Rights International Network (CRIN) advocates for separating the concept of responsibility from that of criminalisation, thereby moving away from a retributive to a rehabilitative paradigm in child justice.[45] Child justice in South Africa took a big step in this direction by explicitly including restorative justice principles and methods in the Child Justice Act. This allows the state to hold child offenders accountable for their actions, while offering them the opportunity to reform without being exposed to the criminal justice system.

It is furthermore proposed that greater emphasis should be placed on regulating the nature of services delivered to children under the age of 10 years, and those under the age of 14 years who are assumed not to have criminal capacity. The fact that these children are alleged to have committed an offence should be a red flag that warrants early intervention to prevent future anti-social behaviour. At present these children are dealt with in accordance with section 9 of the act, whereby the probation officer has the discretion to make recommendations regarding the nature of interventions required, if any. Currently no records or monitoring systems exist to report on the nature and extent of services to this vulnerable group. The question can therefore be asked: are these children indeed allotted the care intended by the act, or is their protection only limited to their not being prosecuted?

It is anticipated that there will be challenges with the implementation of legislation aimed at bringing about such a radical change in the child justice system. It is acknowledged that the implementation of the act may require a pragmatic and incremental strategy; aimed at bringing about a criminal justice system for children in conflict with the law.[46] That said, we should be sensitive to avoid making decisions for pragmatic reasons alone. This article proposes that instead of following a purely pragmatic approach, the restorative and rehabilitative intention of the Child Justice Act should be explored in more detail.

The review of the age of criminal capacity creates the ideal opportunity and obligation to ensure that the choices made are in the best interest of children in conflict with the law. The majority of challenges mentioned in this article are not new. It is recommended that challenges should not only be recorded in the Department of Justice and Constitutional Development's annual reports on the implementation of the Child Justice Act, but that feedback should also be given in succeeding reports on how these challenges were addressed. As Badenhorst aptly states, even though challenges will be part of the process, the true measure of success lies in the way these challenges are dealt with and how they are eliminated.[47]



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Notes

1 Child Justice Act 2008 (Act 75 of 2008), Pretoria: Government Printer, 2008 (hereafter the 'Child Justice Act').

2 Ibid., section 8.

3 Ibid., section 7; UN Committee on the Rights of the Child, General comment no. 10: children's rights in juvenile justice, 2007.

4 Child Justice Alliance, Child Justice Bill [B49-2007]: Summary of public submissions, 14 March 2008, http://www.childjustice.org.za/parl_reports/2008Mar14.pdf (accessed 19 April 2016); Child Justice Alliance, Report of the Workshop on Criminal Capacity of Children, 4 May 2011, http://www.childjustice.org.za/publications/CriminalCapacityWorkshopRpt.pdf (accessed 19 April 2016); Department of Justice and Constitutional Development, Deputy Minister of Justice and Constitutional Development, the Hon John Jeffery, MP, Address at the National Workshop on the Review of the Minimum Age of Criminal Capacity, 20 February 2015, http://www.justice.gov.za/m_speeches/2015/20150220_CrimCap.html (accessed 4 March 2016).

5 Child Justice Act, section 8.

6 Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Pretoria: Government Printer, 1996; Organization of African Unity, African Charter on the Rights and Welfare of the Child, 1999. International human rights instruments include the United Nations (UN) Convention on the Rights of the Child, 1990; the UN Guidelines for the Prevention of Juvenile Delinquency, 1990; and the UN Standard Minimum Rules for the Administration of Juvenile Justice, 1986.

7 UN Convention on the Rights of the Child, Article 3(1).

8 Child Justice Act, section 2.

9 Ibid., section 7 (a).

10 Ibid., section 11(1).

11 South African Law Commission, *Project 106 Juvenile Justice Report,* 2000, 27.

12 Ibid., 28, proposes that the presumption of incapacity, a rebuttable assumption for incapacity activated by a child's age, acts as a 'protective mantle' with the onus of evidence shifting to the state.

13 Refer to Child Justice Act, sections 9(3), 53, 56, 69.

14 UN Committee on the Rights of the Child, General comment no. 10.

15 Ibid.

16 Child Justice Act, Preamble, section 5(2).

17 Ibid., section 20.

18 Ibid., sections 35(g) and 11(3).

19 Ann Skelton and Charmain Badenhorst, *The criminal capacity of children in South Africa: international developments and considerations for a review,* Child Justice Alliance, Community Law Centre, University of the Western Cape, 2011, 24. Also refer to Maryna Human, An exploration of the criminologist's role in establishing the criminal capacity of children in conflict with the law, unpublished MA dissertation, University of South Africa, 2015, who raised concerns about the practices used to assess the criminal capacity of children in conflict with the law.

20 Child Justice Act, section 11(3).

21 Government Gazette No. 39751, 26 February 2016.

22 Child Justice Act, section 35.

23 Judicial Matters Amendment 2014 (Act 14 of 2014), Pretoria: Government Printer, 2014.

24 Child Justice Act, section 11(3). This indicates that the cognitive, moral, emotional, psychological and social development of a child should be assessed to prove criminal capacity.

25 Anthony Pillay and Clive Willows, Assessing the criminal capacity of children: a challenge to the capacity of mental health professionals, *Journal of Child and Adolescent Mental Health,* 27:2, 2015, 91.

26 Shelley Walker, The requirements for criminal capacity in section 11(1) of the Child Justice Act, 2008: a step in the wrong direction?, *SACJ,* 1, 2011, 3–-41.

27 Ibid., 36.

28 Ibid., 36–37. The cases of *Roxa v Mtshayi* (1975(3) SA 761(A) at 766 A-B), *v Pietersen* (1983(4) SA 904(E)) and *S v Ngobese* (2002 (1) SACR 562(W) at 564F-J) are also discussed to highlight the importance of conducting specific assessments in determining the criminal capacity of a child.

29 Ibid., 38.

30 Child Justice Act, Preamble.

31 Department of Justice and Constitutional Development, Annual report on the implementation of the Child Justice Act, 2008 (Act 75 of 2008); Department of Justice and Constitutional Development, 2nd Annual report on the intersectoral implementation of the Child Justice Act, 75 of 2008 April 2011–March 2012; Department of Justice and Constitutional Development, Annual departmental report on the implementation of the Child Justice Act, 2008 (Act 75 of 2008), 1 April 2013 to 31 March 2014.

32 Ibid.

33 Refer to Child Justice Act, sections 5(1) & (2), 9, 13, 28(1)(c), Chapter 5, sections 43(2)(ii), 44(c), 57, 61(3), 62(3) & (4), 71(2) & (3), 72(2)(a), 79(1).

34 Maryna Human, An exploration of the criminologist's role in establishing the criminal capacity of children in conflict with the law, MA dissertation, Unisa, 2016; Skelton and Badenhorst, *The criminal capacity of children in South Africa,* 50; T Gxubane, Agents of restorative justice? Probation officers in the child justice system, *SA Crime Quarterly,* 25, 2008, 11–16, 13.

35 Human, An exploration of the criminologist's role, 93–94. It is stated that the probation officers do not have enough time to compile a detailed report to meet the requirements of section 11(3) of the Child Justice Act.

36 Skelton and Badenhorst, *The criminal capacity of children in South Africa,* 50; Human, An exploration of the criminologist's role, 99; Gxubane, Agents of restorative justice?, 13; Human, An exploration of the criminologist's role, 94–98; Government Gazette No. 39751, 26 February 2016. The amendment of section 11(3) imposes an obligation on the inquiry magistrate of the Child Justice Court to consider the cognitive, moral, emotional, psychological and social development of a child when making a decision regarding the criminal capacity of a child.

37 Skelton and Badenhorst, *The criminal capacity of children in South Africa,* 26; Parliamentary Monitoring Group, Child Justice Act implementation: Intersectoral Committee, Young in Prison, Child Justice Alliance inputs, 23 October 2013, https://pmg.org.za/committee-meeting/16626/ (accessed 4 May 2016).

38 Child Justice Act, section 97(3). Psychiatrists and clinical psychologists may be ordered to conduct the evaluation of criminal capacity of a child. Also refer to the Child Justice Act implementation; Human, An exploration of the criminologist's role, 102.

39 Child Justice Act, section 11(4).

40 National Council of Provinces Committee, Child Justice Workshop , 27 May 2015, https://pmg.org.za/committee-meeting/20975/ (accessed 5 May 2016). Pillay and Willows, Assessing the criminal capacity of children, 94, indicate that the shortage of mental health specialists in South Africa is due to the over-extended resources of the state mental health services and the lack of interest in forensic mental health work among state-employed mental health professionals.

41 Pillay and Willows, Assessing the criminal capacity of children, 93; Department of Justice and Constitutional Development, Address by the Deputy Minister of Justice and Constitutional Development, the Hon John Jeffery; Human, An exploration of the criminologist's role, 93–94; CD Foxcroft, Ethical issues related to psychological testing in Africa: what I have learned (so far), in WJ Lonner et al. (eds), *Online readings in psychology and culture,* Center for Cross-Cultural Research, Western Washington University, 2002, http://www.wwu.edu/culture/foxcroft.htm (accessed 6 May 2016).

42 Pillay and Willows, Assessing the criminal capacity of children, 91–101.

43 For a discussion about risk factors for delinquency, see Child Welfare Information Gateway, Long-term consequences of child abuse and neglect, July 2013, https://www.childwelfare.gov/pubPDFs/long_term_consequences.pdf (accessed 14 March 2016); CL Esposito, The influence of cumulative risk factors on the cognitive abilities of low-income, African American preschool children, unpublished MA dissertation, Eastern Michigan University, Michigan, 2014, http://commons.emich.edu/cgi/viewcontent.cgi?article=1962&context=theses (accessed 14 March 2016); M Shader, *Risk factors for delinquency: an overview,* United States Department of Justice, 2000, https://www.ncjrs.gov/pdffiles1/ojjdp/frd030127.pdf (accessed 6 May 2016); GA Wasserman et al., Risk and protective factors of child delinquency, Child Delinquency Bulletin Series, 2003, https://www.ncjrs.gov/pdffiles1/ojjdp/193409.pdf (accessed 14 March 2016).

44 Government Gazette No. 39751, 26 February 2016.

45 Child Rights International Network, *Stop making children criminals,* 2013, https://www.crin.org/sites/default/files/crin_policy_paper_-_stop_making_children_criminals.pdf (accessed 9 October 2015).

46 Child Justice Act, Preamble.

47 Charmain Badenhorst, *Overview of the implementation of the Child Justice Act, 2008. Good intentions, questionable outcomes,* Child Justice Alliance, 2011, 35, http://www.childjustice.org.za/publications/ImplementationCJA.pdf (accessed 7 May 2016).