

Criminal Responsibility of Children under Malaysian Law; Time for a Re-Evaluation

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Abstract: Minimum age of criminal responsibility refers to the age at which children can be reasonably and fairly imposed liability for their criminal actions. The issue on determination of minimum age of child criminal responsibility still remains as a controversial issue among juvenile justice systems around the world. Current practice discloses that there is no uniformity among various juvenile justice systems in selecting and setting the minimum age of child criminal responsibility. This paper attempts to specifically focuses on current Malaysian law relating to the age at which children can be reasonably and fairly held criminally responsible for their actions. The paper will analyze legal issues pertaining to current minimum age of criminal responsibility under Malaysian law, with reference to the international standards, recent findings of scientists and psychologists and practices adopted by various legal systems. It will also lays down grounds and justifications for possible legal reform on this aspect of law.

Key words: Children • Criminal • International Laws • Minimum Age

INTRODUCTION

One of the most controversial areas of juvenile justice policy lies in the determination of the minimum age of criminal responsibility (MACR). Legally, the concept of criminal responsibility refers to the criteria attributed to a person who has committed an offence against the law with certain sanctions [1]. In the context of children's criminal liability, it refers to the age at which a child can be held accountable for his or her criminal actions. The determination of the minimum age of criminal liability is central to the principles of any juvenile justice system as it represents how a society and its system view the status of childhood. It also reflects the characteristics, both progressive and repressive, of each juvenile justice system [2]. Research into various juvenile justice systems across the world reveals that there is a divergence of policies and practices adopted when determining the minimum age of criminal responsibility of children. Considerable attention and discussion have been directed towards the principles and rules governing the imposition of the minimum age of criminal responsibility for children.

This article focuses on criminal responsibility of children under Malaysian law. First part of the article

briefly explains the legal approaches in conceptualization of criminal responsibility in light of existing theoretical insights. Second part of the paper examines current Malaysian law's position concerning legal regulations, principles and practice on criminal responsibility of children. Third part, which is the focus of this article, attempts to critically analyse grounds to justify a call for re-evaluation of Malaysian law on criminal responsibility of children. The final part concludes the discussion and provides recommendations that could be considered towards improvement of current Malaysian legal framework on criminal responsibility of children.

Conceptualization of Child Criminal Liability: The last two decades have marked a notable shift in the legal approach and policy underpinning the juvenile justice system. Many legal systems have shown an inclination to adopt a more punitive approach when dealing with children in conflict with the law. This approach has given rise to the debate regarding a better way to conceptualize the criminal responsibility of children. As a general principle, criminal responsibility should be imposed only on persons who can sufficiently understand and be aware of the nature and consequences of their action [3].

Broadly, the discussion on the conceptualization of the child's criminal responsibility can be divided into at least 2 categories [4]. The first category emphasizes the discussion on the capacity of the child, while the second category focuses on the principle of immunity from prosecution.

Some legal scholars have argued that the age of criminal responsibility should be determined by looking at the capacity of the children [5]. The capacity consists of two main elements, namely cognitive and volitional [6]. While the former refers to the ability of a person to understand the requirements of the law as well as the nature and consequence of his action, the latter is concerned with the ability of a person to have full control of his or her actions and behaviour with reference to the requirements of the law. It is a well-established principle of criminal law that both elements of capacity must be proven before a person can be held accountable for any criminal act. Based on this principle, any child cannot be held criminally liable unless it can be proven that he or she has sufficient capacity to understand the nature and consequences of his or her act. In other words, the proponent of this view perceived that a child's criminal responsibility holds that only children who possess sufficient capacity are accountable for their criminal actions. However, it is practically difficult to draw a specific demarcation line between the child who reaches the age of capacity and the child who has not yet reached that level. This is due to the fact that children develop their capacity gradually but at an unsteady and inconstant rate. The development varies from one person to another, depending on various relevant factors such as maturity, intelligence and other factors.

On the other hand, some scholars expound that the concept of the criminal responsibility of children may be founded on the principle of immunity from prosecution [8]. Instead of focusing on the complex process of determining the capacity of a child concerned, this principle puts a specific limit as the age of immunity from prosecution. This approach, which chooses to disconnect the notion of age of criminal liability from the element of capacity, places more emphasize on the goal and aim of the juvenile justice system rather than the requirement of capacity. Based on this principle, a child below the specified age is automatically absolved from any criminal liability without the need to inquire into his or her capacity. Conversely, any child above the specified age is deemed answerable to the criminal charge, as with adults. It is argued that the decision not to hold the child accountable for the criminal responsibility can neither be

based on psychological or philosophical consideration [9] nor on the age of moral development of the child [10]. Instead, this decision should be founded on the conscious criminal policy and societal experience in dealing with children as offenders. The focus should be given on the value of the juvenile justice system. It is this value that overrides the approach of treating children as responsible agents based on the *mens rea* or capacity. It is clear from the argument of those who support the view of the immunity from the prosecution's approach that the value and goal of the juvenile justice system that override the need to punish the child [11].

In short, the discussion on the age of criminal responsibility can be broadly founded either on the approach of capacity or immunity from the prosecution. The above discussion reveals that the main difference between these two approaches merely lies on the philosophy, rationale and goal that govern the method in justifying the exoneration of child criminal liability. Despite the differences, these two approaches collectively share a common essential point that children at a certain age should be excused from criminal liability.

The Minimum Age of Criminal Responsibility under

Malaysian Law: Historically, Malaysian juvenile justice was drafted based upon English Law. Therefore, it incorporates similar legal principles contained in the English law. The Common law doctrine of *doli incapax* still remains the overarching governing principle in determining criminal liability of children under Malaysia law. Though this doctrine has been abolished in England, this principle is still widely applied in many Commonwealth countries such as Malaysia, Australia, Canada, Hong Kong, Singapore and New Zealand. The words "*doli incapax*" is a Latin word which literally means "incapable of wrong. [12]" This principle is based on the notion that children at a certain age are incapable of discerning between evil and good. Therefore, it is unfair and improper to impose liability on this category of children. Based on this premise, the principle of *doli incapax* provides protection for children from criminal liability. It provides a legal presumption that children are incapable of committing crime unless it can be proven otherwise.

Under current Malaysian law, the child below the age of ten years old is conclusively regarded as incapable of committing crimes [13]. They are completely absolved from any criminal liability. This position, which incorporates the principle of irrebuttable presumption of *doli incapax*, is similar to the former position under

English law. It should be noted that previously this section fixed the age of seven as the age of irrebuttable presumption. However, by virtue of amendment to the Penal Code in 1976, the age of seven was raised to the age of ten years old [14]. Therefore, ten marks the beginning age of criminal liability in Malaysia.

With regard children between ten and twelve years old, Section 83 of the Penal Code provides that he or she is incapable of committing crimes. However, this presumption is rebuttable by producing evidence to the contrary. It should be noted that Section 83 is included under Chapter IV of the Penal Code, which provides for a general defence to criminal charge. It means that the irrebuttable presumption under Section 83 operates as a defence. Therefore, if any child between the age of ten and twelve years old is alleged of committing any criminal offence, the prosecution may charge him or her at court without any restriction. He or she is deemed as capable of committing crime. The defence cannot raise a preliminary objection at the early stage of trial to challenge his ability to commit crime. Instead, the child accused is only permitted to raise the defence of *doli incapax* in the event the court calls him to enter his defence. If called to enter defence, the child may raise the defence of *doli incapax* to rebut the presumption of *doli incapax*. The defence may bring all relevant evidence to prove this fact. If the defence manages to prove to the satisfaction of the court that the child does not possess sufficient maturity of understanding to commit crime, then the court shall order the child to be acquitted. The burden of proof is on the defence to prove that the child lacks the capacity to commit crimes [15]. The standard of proof required on the part of the defence is on the balance of probabilities [16]. It is the duty of the court to evaluate the evidence tendered by the defence to determine whether the child has attained sufficient capacity or not. If the court finds that the child has not attained the age of capacity, he or she will be exempted from any criminal liability. On the other hand, if the court finds that the child has attained sufficient maturity of understanding to realize what they are doing or to judge the nature and consequences of their conduct, the court will proceed and determine their liability based on the evidence. In determining the defence of *doli incapax*, Malaysian court follows the principle of English law, which is the test of mischievous discretion. Among the factors taken into consideration in determining this include the conduct of the child accused, his family background, evidence obtained during the police investigation, education background, expert evidence and others [17].

Based on the above observation, it can be concluded that the MACR in Malaysia is currently fixed at the age of ten years old. The Penal Code merely absolves the children below the age of ten years old from any criminal responsibility. With regard to the child above the age of ten years old and twelve years old, they are subjected to the rebuttable presumption of *doli incapax*. The child under this category is presumed as incapable of committing a crime unless proven otherwise. The child above the age of twelve years old is subjected to full criminal responsibility similar to an adult.

Grounds for Re-Evaluating Malaysian Law on Criminal Responsibility of Children:

As discussed in the preceding paragraphs, criminal responsibility of children under Malaysian law is currently set at the age of ten years old. It is submitted that the current status of child's criminal responsibility in Malaysia is apparently low and consequently fails to protect the interests of children. Therefore, there is an urgent need to re-evaluate the current status of child's criminal responsibility under Malaysian law and reform it accordingly. Basically, there are several grounds that warrant the call for re-evaluation of Malaysian law on child's criminal responsibility;

The Current MACR under Malaysian Law Does Not Measure up with the International Standards:

The international standards relating to the MACR can be found directly or indirectly in various international instruments. However, the specific requirement on the minimum age of criminal responsibility of children is mentioned in the provisions of the United Nation's Convention on Right of Children (the "CRC") and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the "Beijing Rules"). Article 40 (3) (a) of the CRC specifically mentions a mandatory requirement for each state party to establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law. This provision imposes the duty on each state party to fix a minimum age of criminal responsibility for children in order to protect them from any criminal prosecution. Each state party is given discretionary power to set the MACR, taking into consideration various factors such as social and cultural development, history, religion, political status, experience and others. Unfortunately, the CRC is silent on the exact minimum age of responsibility. Nevertheless, guidelines on the implementation of the CRC's requirement on the MACR can be found in various periodical reports and general comments issued by the

Committee on the CRC. The Committee on the CRC has closely monitored the implementation of the requirement of the MACR by state parties. Between 1993 and 2008, the Committee has made 160 comments and suggestions on the MACR to 117 states parties [18]. The Committee also has specifically addressed the issue of the MACR in the Committee's General Report on the *Children's Rights in Juvenile Justice* issued in 2007 for the reference of each state party [19]. The report, inter alia, recommended that the age of twelve and above is the appropriate age for the MACR. Therefore, the state parties should not set the MACR below the age of twelve for their respective countries.

In addition, the Beijing Rules also provides guideline on the MACR. Article 4 of the Beijing Rules clearly requires the state parties not to fix the age of criminal responsibility at too low an age level, taking into consideration of the facts of emotional, mental and intellectual maturity [20]. This stand is taken in appreciation of the fact that the development of child differs from one place to another place, depending on various factors such as social and culture development, history, religion, political status, experience and others [21]. Undoubtedly, these factors have direct effects in influencing the development of physical, mental and intellectual capacity of children. Acknowledging this fact, the Beijing Rules leave the state parties with discretionary power to determine the minimum age of responsibility. The flexibility provided by the Beijing Rules is however subjected to the requirement that the age of criminal responsibility shall not be fixed too low. The commentary to Article 4 of the Beijing Rules stresses that fixing the age of responsibility too low may render the notion of responsibility to become meaningless.

Apart from the CRC and the Beijing Rules, reference to other international documents indicates that there is no direct provision made to the minimum age of child criminal responsibility. However, several general provisions of these documents may still be taken into consideration as indirect guidelines in setting the minimum age of child criminal responsibility. Provisions relating to right to fair trial [22], the right of children to special protection [23], the prohibition from any torture and discrimination [24] as outlined in the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), the UDHR and the European Social Charter (ESC) can be used as general guidelines in determining the minimum age for child criminal responsibility. Despite the absence of a specific provision on the MACR, the Committees responsible for the

implementation of these international instruments have issued various comments to state parties on the issue. For example, the Committee on the ICCPR, in its concluding observation on Kenya, commented that the MACR in Kenya which is fixed at eight years old is too low. The committee recommended that the MACR in Kenya should be increased in line with the requirement of Article 24 of the ICCPR [25]. Besides that, the Committee responsible for the European Charter of Justice commented that the MACR in England which is fixed at the age of ten years old is manifestly low and therefore not in conformity with the Article 17 of the Charter [26].

Based on the discussion in the preceding paragraphs, it can be concluded that the international instruments requires that the MACR should not be set too low. The committee of the CRC has further elaborated the principle by specifying that the MACR should be set at the age of twelve or above. By using the international standard on this aspect as a benchmark, it is obvious that the current MACR under Malaysian law, which is ten years old, does not measure up with the international standard set by the international legal instruments. Even though the present Malaysian law adopts the rebuttable presumption of *doli incapax* to be used when determining the criminal liability of the child between the age of ten and twelve years old, it is still below the international standard as this presumption is rebuttable. It means the protection provided for the child between the ages of ten and twelve years old is not absolute. Due to this fact, the committee on the CRC, in its report, has expressed concerned over the low age of criminal responsibility under the Malaysian criminal justice system [27]. The committee has further urged the Malaysian legislative to raise the minimum age of criminal responsibility to at least the age of 12 or any higher age level [28].

Recent Findings of the of Psychologists and Scientists:

Undoubtedly, the findings of the scientists and psychologists are one of the prime factors in determining criminal responsibility of children. For many years, psychologists and scientists have continuously explored the development of children. The findings of their research have generated remarkably comprehensive literature on various aspects of the development of children such as physical, mental, psychological and emotional development, as well as brain maturation, cognition, maturity and others. With the advancement of recent technology and science, scientists and psychologists have managed to produce more useful and vital discoveries on the relationship between the age and

development of children's capacity. It is interesting to examine the importance of the recent findings of scientists and the psychologists and to assess their impact in the changing legal landscape and perspective of child justice, particularly on the issue of the criminal responsibility of children.

Findings of Psychologists: In terms of the psychological development of children, there are numerous studies conducted by the psychologists who explore the possibility of holding them accountable for their actions and behaviour. Among them, Jean Piaget [29] is regarded as the renowned psychologist in this area. His theory on the cognitive development of children is arguably the most influential theory of child development [30]. Though Piaget's theory has been frequently challenged and criticized by later psychologists, it has not been negated. In fact, later approaches and theories are found to be merely identifying additional important aspects of development, or modification of Piaget's theory [31].

According to Piaget [32], cognitive development can be classified into four main phases, namely -Sensorimotor stage (birth - 2 years of age), Preoperational stage (ages 2-7), Concrete operations (ages 7-11) and Formal operations (beginning at ages 11-15). Based on the Piaget's theory, the child at the age of seven is said to have the ability to think and make decisions independently. However, the child is only capable of forming abstract reasoning when he reaches the age of eleven. The theory also indicates that only the child at the stage of formal operations, which comprises the age of between eleven and fifteen, has reached the level of maturity that is equal to an adult.

Apart from Piaget, the theory of moral responsibility pioneered by Kohlberg is also very popular in relation to the discussion of child development and responsibility. According to Kohlberg [33], each person undergoes three phases of moral development, namely the pre-conventional, conventional and post-conventional phases. Based on the Kohlberg theory, children that reach the conventional morality stage have attained the minimum level of maturity. Children at this stage, from eleven and above, are capable of differentiating between right and wrong.

In addition, there is considerable evidence from psychologists that indicate that adolescents are much less capable of making sound decisions and easily succumb to stressful conditions and peer pressure [34]. Other research disclosed adolescents' lack of future orientation about the consequences of their actions choices [35]. The findings showed that they tend to focus

on the immediate rather than long term effects and consequences of their choices and decisions.

Findings of Scientists: Besides psychologists, remarkable findings by scientists have also contributed to new insights on child development. For example, scientists found that cognitive functioning and the physical brain of a child develop continuously before and after puberty until into the early twenties [36]. Other research by scientists concluded that the capacity of young people to form judgments continues to develop until they reach their early twenties [37]. Further, the research on brain development and the cognitive functioning of adolescents revealed that parts of the brain concerned with judgement, impulsive behaviour and foresight develop in the twenties rather than the teen years [38]. With regard to the development of the pre-frontal cortex, parts of the brain responsible for emotional processing mature during early adolescence, which is particularly important for decision-making and impulse control. This part of the brain was found to be one of the slowest areas to develop [39]. In addition, findings by neuroscientists disclose that two key developmental processes, namely myelination and the pruning of neural connections, continue to develop during adolescence into adulthood. Myelination refers to the disposition of a layer tissue around nerve fibres, which provide the insulation to transfer electrical signals from one neuron to another [40]. In recent years, scientists have managed to develop techniques and methods in identifying the cognitive structural development during adolescence.

Apart from that, the invention of non-invasive brain imaging techniques, particularly Magnetic Resonance Imaging (MRI), has enabled scientists to examine detailed three-dimensional images of the living human brain [41]. The MRI technique provides data regarding the on-going maturation of the frontal cortex into adolescence. It also enables scientists to study the changes in the frontal and parietal regions of brain in relation to the cognitive development [42]. The studies based on these MRI techniques disclose dramatic changes of brain occurred during teenage phases of development, which in turn affect their function and ability to respond to information [43]. As a result, teenagers are more likely to have poor impulse control, succumb to peer pressure, be short sighted and influenced by emotions [44]. These factors may affect the ability of teenagers to make rational decisions. It is interesting to note that technological advancement has enabled them to explore various techniques in analysing the correlation between capacity development and responsibility.

There is no doubt that these findings and theories have so far provided useful guidelines in assessing the age of child criminal responsibility. In fact, these findings and theories have served as the main source of guidance for society's laws and policies on child's criminal responsibility. To illustrate this, United States courts' decision for example acknowledge the importance and impact of psychological and scientific findings on legal principles pertaining to children. In recognizing these findings, the Supreme Court in the case of *J.D.B v. North Carolina* came to the conclusion that children are different from adults in the sense that they lack maturity in their judgment, problem solving and decision-making capabilities [45]. Therefore, children should no longer "be viewed as miniature adults." [46] Legal recognition on the scientific and psychological evidence on development of children has convincingly persuaded the courts to re-evaluate child law in United States, which consequently led to the abolishment of the child death penalty [47], mandatory life imprisonment without parole for homicide [48] and life imprisonment without the possibility of parole for non-homicide crimes [49]. These decisions marked the acknowledgement of scientific and psychological findings in bringing about change to juvenile justice.

Undoubtedly, the findings and theories of scientists and psychologists based on recent sophisticated and advanced technology should be regarded as crucial pieces of evidence. These findings have convincingly established the fact that children are fundamentally different from adults in terms of psychological, physical, intellectual and mental development as well as maturity. The impact of these findings is enormous to the extent they are supposed to be treated as changing the legal landscape and the perspective on child criminal responsibility under criminal law. Specifically, it is submitted that evidence from scientists and psychologists should serve as a concrete basis for the reform of various principles of juvenile justice, including redefinition of criminal responsibility of children, reformulation of a comprehensive and separate justice system and others.

Based on the above discussion, it is submitted that the findings of psychologists and scientists do not support the appropriateness of the imposition of criminal responsibility on children as young as ten years old under current Malaysian law. The findings and theories by the psychologists and scientists point out that there is a significant variation between individuals in acquiring developmental skills [50]. More importantly, these findings also reveal that the intellectual competences of children below the age twelve is far less sophisticated

compared to children between the ages of twelve and eighteen [51]. These theories and findings strongly indicate that children of a young age do not possess the experience and emotional maturity to control their impulsivity and to understand the nature and consequences of their actions. Therefore, it is unreasonable, inappropriate and unsafe to impose criminal responsibility to children of a young age.

The Ill-Defined Concept and Vagueness of the Doctrine of Doli Incapax:

As mentioned above, the common law doctrine of *doli incapax* still remains the overarching governing principle in determining criminal liability of children under Malaysia law, though it has been abolished in England. Before its abolishment, the application of the principle of *doli incapax* in England was controversial and had been subjected to vehement criticism. There were various instances where legal scholars and judges opposed the application of this principle and questioned its relevancy. For example, Williams G. (1954) described this principle as a reflection of 'an outworn mode of thought' and as being 'steeped in absurdity,' considering the way the children were dealt with by the criminal system [52]. The criticism also could be found in the ruling of the courts in various decided cases. In the case of *C (A Minor) v DPP*, [53] Laws J opined that the application of the *doli incapax* principle is necessary under the previous draconian law since the punishment provided were harsh and cruel. However, this principle was no longer relevant under the modern juvenile justice system in which the punishments are rehabilitative or restorative in nature. To sum up, Laws J described the principle of *doli incapax* as contrary to good sense, illogical, divisive and perverse [54]. In addition, the contention those children in the modern society develop quicker than before due to the advancement of technology and the education system was also cited as a reason to justify its abolishment [55]. Apart from that, there was also an argument that the *doli incapax* principle caused difficulty on part of the prosecution in proceeding with the case [56]. This difficulty resulted in the discharge or discontinuance of prosecution, which in turn affected the interest of justice and the victims. Based on these reasons, the principle of *doli incapax* was also alleged to be out-dated and no longer necessary [57].

As a matter of comparison, the application of the *doli incapax* in Malaysia faces the same criticisms and challenges that used to be encountered by English law before the abolishment of the principle. For example, the application of rebuttable presumption under section 83 of

the Penal Code to determine criminal responsibility of children between the age of ten and twelve by the Malaysian courts has been subjected to criticism due to the issues of issue of ill-defined doctrine, vagueness of procedure and inconsistency of practice. The study revealed that the magistrates admitted difficulty in application of the principles of *the doli incapax* due to lack of specific guideline and standardized practice [58].

It is clear that the current application of *doli incapax* in Malaysia is in dire need of reform. The current law, which exposes a child as young as ten years old to criminalization, is obviously in violation of international standards of criminal responsibility.

Current Practices of Various Legal Systems:

The practices of various legal systems across the world also serve as a reliable ground to re-evaluate Malaysian law on the child's criminal responsibility. Based on record, the age range from 7 to 18 has been chosen as the minimum age of responsibility under different legal systems [59]. The record also reveals that majority of legal systems adopt the age of twelve and above as the age of criminal responsibility [60]. For example, in Canada, Ecuador, Lebanon and Turkey it stands at 12 years, in France, Poland and Greece it is 13, in Italy, Latvia, German, Spain, Hungary and Australia, Mongolia, Korea, Azerbaijan, Bulgaria, Lithuania and China it is 14, in Sweden, Finland and Denmark, Norway, Czech Republic it is 15, in Cuba, Argentina, the Russian Federation and Hong Kong it is 16 and in Belgium it is 18 [61]. The fact that the majority of legal systems choose the age of 12 and above as the minimum age of criminal responsibility should serve as solid ground to trigger Malaysian legislative to re-evaluate their current minimum age of criminal responsibility of children.

The above discussion indicates that there are solid grounds to re-evaluate the Malaysian law relating to the MACR.

RECOMMENDATIONS AND CONCLUSION

It can be summarized that the current MACR under Malaysian law, which is set at the age of ten years old, is apparently low and does not correspond with the international standards. The discussion also reveals that the application of current law on the determination of child criminal responsibility, which is governed by the principles of the doctrine of *doli incapax*, is ineffective due to lack of clarity, vagueness, ill-defined procedure and out-datedness. The time has come for Malaysian

legislative to stand back and re-evaluate the philosophy and principles that underpin the approach to the criminal responsibility of children.

It is suggested that the current MACR under Malaysian law should be increased to at least the age of twelve years old or any higher age. Ideally, a new threshold for the age of criminal liability must not only take into consideration international standards and practices but also other factors such as recent findings of psychologists and scientists on the physical, mental and psychological development of children. Due attention must also be given to finding studies on the true nature, characteristics, personality, maturity and vulnerability of children. In addition, related factors such as socio-politics, culture, religion and history should also be taken into consideration. Appreciation of all these factors may help determine fair and appropriate laws, policies and practices on the criminal liability of children.

In addition, it is also suggested that the application of the doctrine of *doli incapax* in determining criminal liability of children to be re-examined, largely due to its lack of clarity, vagueness, ill-defined procedure. Among the options available is to duly consider the approach adopted by English legal system, which is to completely abolish the application of the doctrine of *doli incapax*. Alternatively, in the event the government prefer the option to retain the doctrine of *doli incapax*, it is pertinent to properly address all legal issues pertaining to its concept, procedure and practice.

To conclude, determining an appropriate age for child criminal responsibility is an essential aspect of juvenile justice. It is not merely a process of selecting, fixing and applying an age limit for criminal responsibility of children. Instead, it is an exercise in drawing the line on the competency of children to be subjected to criminal responsibility. This process is regarded as a central principle of any juvenile justice system as it represents how a society and its system view the status of childhood.

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