

International Standards for Juvenile Responsibility

The age of criminal responsibility and treatment of juveniles varies under different models. They can be largely described as the Welfare Model, the Retributive Model, and the Restorative Model. Please see below for a description of 28 countries.

- **Canada:** The age of criminal responsibility is 12 years under the Youth Criminal Justice Act of 2003. The Criminal Code of Canada, section 13, states "No person shall be convicted of an offence in respect of an act or omission on his or her part while that person was under the age of twelve years."
 - Youth aged 14 to 17 may be tried and/or sentenced as adults under certain conditions, as described in Section 61 of the act. All trials take place in a youth court under the Youth Criminal Justice Act, but for certain offences and in certain circumstances a youth may receive an adult sentence.
- **England & Wales:** The minimum age of criminal responsibility is 10 years old under a series of Acts, including the Children and Young Persons Act 1933 (as amended by s 16(1) and Children and Young Persons Act 1963). Those below this age are considered *doli incapax* and thus incapable of forming criminal intent.
 - For children to whom preventive methods do not apply, for example, due to the seriousness of the offense, or who have exhausted them, the juvenile justice system then operates in the form of a Youth Court, which hears cases of ten to eighteen year olds. This youth court was established to prevent children and young people from entering into contact or associating with adult suspects during any phase of a trial.
 - Notably, only those offenders over the age of fifteen may be sentenced to detention in a young offenders' institution, although this latter restriction does not apply to children aged ten and over convicted of murder.
- **Ireland:** The age of criminal responsibility was raised from 7 to 12 years of age in 2006 under an amendment to the Children Act of 2001. The Children's Court has the power to deal with both offending and non-offending children up to 18 years of age – this represents a change from the previous legislation where the court had jurisdiction over children under 17 years only.
 - The court may take mitigating factors such as the child's age and level of maturity into consideration when determining the nature of any penalty imposed, unless the penalty is fixed by law while the fourth principle posits that the penalty imposed on a child for an offence should be no greater (and may be less) than that which an adult would receive for the same offence.
- **France:** While the onset of criminal responsibility in France is age 13, children aged 10-12 may be brought before child court judges solely for the purpose of applying security measures, provided that child is at risk. Accordingly, it is possible to apply a minimum

age excluding serious offenses. Sentencing young person's who are at least 13 but not yet 17 happens as an exception; as a rule, "educational security measures" are applied instead.

- From 10 to 13 years of age, educational penalties can be imposed on minors (such as the confiscation of an object, for example). If the minor concerned does not comply with the penalty, he or she may be placed in a household or a specialized centre for juvenile offenders.
- **Italy:** Article 97 of the Italian Penal Code states that a person who has not yet reached the age of 14 at the moment when he /she commits a crime must not be punished.
 - A person who has reached the age of 14 but not 18 at the time of committing a crime and who is "capable of understanding and willing" must be punished but the punishment may be reduced.
- **Netherlands:** Children under the age of 12 cannot be held criminally responsible under the Children's Rights Act and Code of Criminal Procedure of the Netherlands.
 - Similarly juvenile law can be applied to young people aged 18–20 years who function mentally at a much younger age.
- **Germany:** The minimum age of criminal responsibility is 14 years under The Juvenile Welfare Act (JWA).
- **Sweden:** The definition of "young offenders" in Sweden is offenders who have reached the age of 15 but have not yet turned 21. The age of criminal liability is 15 and 21 was previously the year in which one came of age. Today the age has been lowered to 18, but special circumstances still apply to offenders aged between 18 and 20.
 - Young offenders can be sentenced to special sanctions for young people, but also to other sanctions. The special sanctions "youth care" and "youth service" are based more on the best interests of the child and on the young person's social situation than on the penal value of the crime. Closed youth detention is, on the other hand, intended as an alternative to prison in the case of especially serious crimes, and is determined entirely on the basis of the penal value of the offence.
- **Belgium:** Children aren't criminal responsible below the age of eighteen. The youth court imposes no punishments like in adult courts, but 'educational measures under the Youth Protection Act of 1965 modified May 15th 2006.
 - Besides criminal cases, the youth court is also competent to try cases of children in need of care, and deviant behaviour (i.e. truancy). In practice, it occurs that the police demand juveniles to participate in educational training such as traffic courses or to restore small damages. If the deviant behaviour of a young person reveals a "problematic educational situation," they can refer him (and his parents) to social support agencies (yet without conditions).
- **India:** The Indian Penal Code sets the minimum age of criminal responsibility at 7 years under Section 82 (the doli incapax provision) - "Nothing is an offence which is done by a child under seven years of age."

- Section 83 of the Code specifies the age within which children are presumed doli incapax unless the prosecution proves otherwise. This section states, “Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.”
- There is no concept of punishment in the Juvenile Justice Act. The law provides for different kinds of orders that may be passed by the Juvenile Justice Board dealing with offences committed by children below the age of 18 years. These include:
 - Allow the juvenile to go home after advice.
 - Direct the juvenile to participate in group counselling.
 - Order the juvenile to perform community service.
 - Order the parent or the juvenile himself to pay a fine.
 - Direct to be released on probation of good conduct.
 - Directing to be sent to a special home subject to a maximum period of three years irrespective of the nature of offence committed.
- **Pakistan:** Section 82 of the Pakistan Penal Code sets the age of criminal responsibility for most offences at seven, while Section 83 it is presumed that children between case of children between 7 and 12 years of age are doli incapax the prosecution and so the prosecution must prove the child knew their acts were “seriously wrong.”
- **Sri Lanka:** Minimum age of criminal responsibility is set at eight years.
 - Between eight and twelve years, the judge has discretionary powers to hold a child criminally accountable, or not, based on judge’s judgment on whether the child has attained sufficient maturity of understanding the nature of consequences of his conduct on that occasion. Children above 12 years can be charged with criminal liability regardless of they have attained sufficient maturity to understand the nature and the consequences of their conduct. Children between 14- 16 are considered as young persons. Children between 16 and 18 are treated as adults by the criminal justice system.
- **Maldives:** Minimum age of criminal responsibility is set at 10 years under Law on the Protection of The Rights of Children.
- **Singapore:** The Act determines the jurisdiction of the Juvenile Court for persons aged 7 to under 16 year olds under Children and Young Persons (Amendment) Act of 2001.
 - Institutionalization of a young offender is considered only as a last resort after all else have failed and when it becomes sufficiently clear that committing a young Offender to an institution is really in his/ her best interest.
- **Philippines:** A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

- **Malaysia:** Malaysian Penal Code stipulates 10 to be the age of attainment of criminal responsibility but children between 10 and below 12 who have not shown sufficient maturity may be absolved from criminality as well.
- **China:** The age of criminal responsibility is 14 years old.
 - China holds more than 60 percent of juvenile offenders in custody (either prison or administrative detention) and places only 30 percent on probation.
- **Japan:** The age of criminal responsibility is 14 years old. Treatment of cases of delinquent children under 14, therefore, is in accordance with educational and welfare perspectives.
 - Children under fourteen years old, however, are handled primarily by the child guidance center, as provided by the Child Welfare Law, when they have committed acts, which, if committed by a person aged fourteen or over, would constitute a crime.
- **Israel:** Children under the age of twelve are not criminally liable. Generally, such children are put in the care of the child protection services, and their acts are likely to constitute grounds for determining that the minor needs protection under the Youth (Care and Supervision) Law 5720-1960.
- **Saudi Arabia:** The minimum age for criminal responsibility has reportedly been raised from 7 to 12, but reports are inconsistent and the rise does not apply to girls or in qisas cases.
 - There are three types of offences – qisas (punished by retaliation), hadd (for which the prescribed penalty is mandatory), and ta'zir (for which the punishment is discretionary).
- **New Zealand:** The age of criminal responsibility is 13 years except for murder/ manslaughter where the age limit of 10 applies.
 - New Zealand has separate justice processes for children under 17 years old – the child offending process for 10 to 13 year olds and the youth justice process for 14 to 16 year olds. The separate systems are based on the premise that the vulnerability of younger people and their generally more immature judgement means that they ought to be treated differently from adult offenders.
 - Both processes have a dual focus on accountability and rehabilitation.
- **Brazil:** Children under the age of twelve are not criminally responsible. Juvenile delinquency is covered under the provisions of the Statute of the Child and Adolescent.
 - Delinquent youths may be sentenced to any of six “socio - educational measures”: warning, reparations, community service, probation semi liberty, and confinement in a detention center. The strictest of these measures, detention should be imposed only when individually warranted, in exceptional circumstances, and for the shortest possible time. This principle conforms to the standard set forth in the Convention on the Rights of the Child, which provides that arrest, detention, and

imprisonment of a child “shall be used only as a measure of last resort and for the shortest appropriate period of time.”

- **Peru:** Children under the age of twelve are not criminally responsible.
 - In Peru, the majority of juvenile offenders are incarcerated, even in cases of petty crime, with close to 68% having sentences of three years or less.
- **Argentina:** The age of criminal responsibility is 16 years old. At present, children between 14 and 16 years old are subject to a protective regime that considers them not subject to criminal responsibility but at the same time deprives them of any procedural rights; as a result, they are regularly, arbitrarily deprived of their freedom.
- **Bolivia:** 12 is the age of social responsibility and 16 of criminal responsibility under Code on Children and Adolescents – Protection, Responsibility and Jurisdiction.
 - The application of Bolivian law is differentiated into two age groups: The first group comprises adolescents of 12 to 15, whose processing is governed by the Code for Children and Adolescents, and is headed by the Judges of Children and Adolescents. Criminal acts of young people from the ages of 16 to 18 are governed by the criminal laws for adults (Penal Code and the Criminal Procedure Code) and are the responsibility of judges and courts for adults.
- **Costa Rica:** The age of criminal responsibility is 12 years-old under the Juvenile Criminal Justice Act. When considering measures applicable to children, the Juvenile Criminal Justice Act further divides them into two legal categories: firstly, children between 12 and 15 years of age, and secondly, children between 16 and 18 years of age (Article 4) In Costa Rica there are 2 main organisations responsible for minors deprived of liberty.
 - The National Programme for the Attention of the Penal Juvenile Justice Population, which depends on the Ministry of Justice, is responsible for the implementation of the alternative sanctions. According to Article 131 of the Juvenile Criminal Justice Act, the detention term may be up to 15 years when applied to minors between 15 and 18 years old and up to 10 years when applied to minors between 12 and 15 years old. Furthermore, according to Article 139, minors between 12 and 15 years old shall be kept apart from minors between 15 and 18 years old.
- **Mexico:** The age of criminal responsibility is 10 years-old. Children between 11 and 18 years of age are subject to special courts for juvenile offenders.
 - Juveniles are assisted by Guardianship Councils, which are responsible for the care and protection of juvenile defendants. Children that are accused of committing an infraction must be treated fairly and humanely. Ill treatment, incommunicado detention, psychological coercion or any other action impairing the child’s dignity or physical or mental integrity during legal proceedings are prohibited.

- **Egypt:** Juvenile offenders under the age of 15 are for the most part not subject to punitive measures from the state under Chapter Eight (“The Criminal Treatment of Children”) of Child Law 12 of 1996 and its implementing regulations.
 - Measures for children “vulnerable to delinquency” and children under 15 who commit crimes range from a rebuke to commitment to a social welfare institution or specialized hospital for up to three years; The penalty for children over sixteen who commit crimes punishable by death is a minimum of ten years imprisonment, or a minimum of seven years imprisonment for crimes punishable by permanent hard labor.
- **South Africa:** There are 3 categories of children and persons that the Child Justice Act of 2008 applies to:
 - 1. Children below 10 years at the time of the commission of the offence – section 9 sets out procedures that apply to children under 10 years of age who have committed a crime
 - 2. Children aged 10 years and older but younger than 18 years at the time of arrest or when the summons or written notice was served on them
 - 3. Persons who are 18 years or older but under 21 years of age and who committed an offence when under 18 years of age – Prosecutions will issue directives on how this section is to be applied in practice.
 - Based on the severity of the offence, a child may be placed in a child and youth care centre. If a child is 14 or older he / she may be placed in a specified prison

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