



CHILDREN BELOW THE AGE OF CRIMINAL RESPONSIBILITY IN SIERRA LEONE: MEASURES, RIGHTS, PROCEDURE, PARTICIPATION

National Report for AIMJF's Comparative and Collaborative Research.

Niños por debajo de la edad de responsabilidad penal en Sierra Leone: medidas, derechos, procedimiento, participación

Informe nacional para la investigación comparativa y colaborativa de la AIMJF

Enfants n'ayant pas atteint l'âge de la responsabilité pénale à Sierra Leone: mesures, droits, procédure, participation

Rapport national pour la recherche comparative et collaborative de l'AIMJF

Judiciary of Sierra Leone

Abstract: The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on children below the age of criminal responsibility. The article explains the applicable measures and the procedure adopted, the child's rights and his or her participation in the Protective and Justice System in Sierra Leone.

Resumen: El documento es parte de una investigación colaborativa organizada por la Asociación Internacional de Juventud y Familia (AIMJF) sobre niños por debajo de la edad de responsabilidad penal. El artículo explica las medidas aplicables, el procedimiento adoptado, los derechos del niño y su participación en el sistema de protección y de justicia en Sierra Leone

Résumé : Le document fait partie d'une recherche collaborative organisée par l'Association Internationale des Magistrats de la Jeunesse et de la Famille (AIMJF) sur les enfants n'ayant pas atteint l'âge de la responsabilité pénale. L'article explique les mesures possibles d'application et la procédure adoptée, les droits des enfants et leur participation dans le système de protection et de justice à Sierra Leone.

Introduction

The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) represents worldwide efforts to establish links

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between judges from different countries, promoting transnational judicial dialogue, in order to provide better conditions for a qualified attention to children based in a human rights approach.

To do so, AIMJF organizes research on international problems facing the operation of the courts and various laws relating to youth and family and training programs.

The aims of this research are to identify similarities and discrepancies among countries and to develop a cartography of measures, procedure, rights and participation of children below the minimum age of criminal responsibility.

This national report is based on a questionnaire prepared by AIMJF.

Questionnaire

1. General Information

1.1 Minimum Age of Criminal Responsibility in Sierra Leone

In Sierra Leone, the minimum age of criminal responsibility is 14 years. This means that a child under the age of 14 cannot be held criminally liable for any offence, as they are presumed incapable of forming the necessary criminal intent (*mens rea*).

This is established under Section 70 of the Child Rights Act, 2007.

1.2. Is there more than one minimum age?

No. The minimum age of criminal responsibility in Sierra Leone is 14 years, as set out in the Child Rights Act 2007.

Is the *doli incapax* rule applicable? Yes. For children aged 10 to 13, the *doli incapax* rule can apply — meaning the prosecution must prove that the child had the maturity and understanding that their act was seriously wrong, not just mischievous.

How does it work? Courts assess the child's maturity through social

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inquiries, welfare officer reports, and sometimes expert opinions.

2.

2.1. Age Assessment

Is the rule applied? Yes, for children below 14 years.

How is assessment made? Through court discretion, social welfare reports, and sometimes psychological evaluations.

Is there a specific methodology? No formal written protocol, but reports from welfare and child protection services are used.

Who assesses the child? Magistrates, with input from social workers, probation officers, and sometimes psychologists.

Is the child heard? Yes, the child is usually questioned during proceedings.

Does the child have legal assistance? Yes, legal representation is mandatory (Legal Aid or private lawyer).

Can the child challenge the assessment? Yes, through their lawyer, and appeals can be made.

2.2. Age Assessment How is age assessed? When no birth certificate is available, age is assessed through: Physical examination by a medical officer

School records, baptismal certificates, or witness statements

Social inquiry reports by child welfare officers

Is there a formal procedure? Yes, but it is often informal and discretionary, especially in juvenile courts or police stations. Courts may rely on expert evidence (e.g. medical or social welfare reports).

Is the child heard? Yes. The child is usually heard, especially in juvenile or family courts.

Does the child have legal assistance? Yes, in principle. Children are entitled to legal representation, especially in criminal or immigration matters.

Can the child challenge the conclusion? Yes. Through legal

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representation, the child may challenge the findings in court or request a re-evaluation.

3.1. Police Intervention

Are they brought to a police station? No, not mandatory. Children under the minimum age (14 years in Sierra Leone) are not criminally liable, so they are not usually detained or charged.

When might they be brought in? Only in exceptional cases:

To identify the child
To protect the child or others

For welfare or safety assessments by Family Support Unit (FSU)

What happens instead? The child is referred to parents, guardians, or social welfare services. Police must notify the Ministry of Gender and Children's Affairs.

3.2. What must the police do? Refer the case to the Family Support Unit (FSU) immediately, Notify the Ministry of Gender and Children's Affairs and child's parent or guardian, Ensure the child is treated in a child-friendly and non-threatening manner,

Legal guarantees for the child:

Right to a lawyer or legal aid

Right to have a parent/guardian present during questioning

Right to remain silent

Right to be held separately from adults (if detained)

Can the child be imprisoned? Generally no, especially if under the minimum age of criminal responsibility (14 years)

If detained (in rare cases), it must be:

For the shortest appropriate time

In juvenile facilities only

With court approval or emergency risk justification

Maximum detention without charge:

Not more than 72 hours, and even this is exceptional

4.1. Measures

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Yes, a child below the age of criminal responsibility (under 14 years) cannot be prosecuted but non-criminal measures can be applied.

Possible Measures Include: Social welfare intervention (through the Ministry of Ministry of Gender and Children's Affairs), Counselling and psychosocial support, Parental guidance or supervision orders, Referral to child protection services or safe homes, Community-based rehabilitation programs

Educational or behavioural support

4.2. Out-of-Home Placement for Children Below the Age of Criminal Responsibility

Yes, out-of-home placement is possible but only as a protective measure, not as punishment. When the child is at risk, when the child's family environment is unsafe or unable to provide care, if the child requires psychological or health support not available at home.

Types of Placement:

Foster care, Childcare institutions or homes, Approved schools (for care and education), Health or rehabilitation facilities

For How Long:

Not fixed by law—depends on the best interest of the child.

Reviewed periodically by child welfare authorities or the court.

Should last only as long as necessary and aim at reintegration with family whenever possible.

5. Procedure

5.1. Who imposes such measures?

Family Support Division of the Police,

Social Welfare Officers,

Children's Court (Magistrates' Court with child jurisdiction), or

Ministry of Ministry of Gender and Children's Affairs through care orders. Decisions are made in the best interest of the child.

5.2. Is there a legal procedure for determining these measures?

Yes.

5.3. Are alternative resolution mechanisms allowed (e.g. mediation or

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restorative justice)?

Yes.

Diversion, mediation, and family conferencing are encouraged.

Aimed at rehabilitation, reconciliation, and restoration, not retribution.

Supported by both the Child Rights Act and international standards (e.g. UNCRC).

6.1 Assessment

Is there any kind of assessment of the child for the imposition of such measures (on vulnerabilities, risk, rights violations)?

Yes. Before imposing any protective or corrective measures on a child, an assessment is generally conducted to evaluate the child's vulnerabilities, risks, and any violations of their rights. This ensures that decisions are made in the child's best interests and tailored to their specific needs.

Who assesses the child?

The assessment is typically carried out by qualified professionals such as social workers, child protection officers, psychologists, medical practitioners, or juvenile justice officials. Often, a multidisciplinary team collaborates to provide a comprehensive evaluation.

Is there a protocol or guideline on how to assess the child?

Yes. Many jurisdictions and international standards prescribe formal protocols or guidelines that outline how to conduct child assessments. These guidelines usually emphasize child-friendly approaches, confidentiality, respect for the child's voice, and consideration of the child's age, gender, culture, and disability. They also include the use of standardized tools or checklists to assess risks and vulnerabilities systematically.

7.1. What are the rights of the child in this procedure (legal and procedural guarantees)?

Right to be heard: The child has the right to express their views freely in all matters affecting them, with due weight given according to their age

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and maturity (UN CRC Article 12).

Right to legal representation: The child is entitled to legal counsel or a guardian ad litem to protect their interests during the procedure.

Right to be informed: The child must be informed in a child-friendly manner about the nature of the measures, the procedure, their rights, and possible consequences.

Right to confidentiality: The child's privacy and personal information should be protected throughout the process.

Right to non-discrimination: The child must be treated equally without discrimination based on race, gender, disability, or other status.

Right to timely procedures: The process should be conducted without undue delay to avoid prolonged uncertainty or harm.

Right to participation: The child's views must be actively sought and taken into account.

Right to protection from harm: The child must be protected from any form of abuse, neglect, or unfair treatment during the procedure.

7.2. Does the child have the right to refuse any of these measures? Or to challenge in court any of these measures?

Right to refuse: Generally, depending on the jurisdiction and the child's age/maturity, the child may have the right to refuse certain measures, especially if the measure significantly affects their liberty or welfare.

However, in some cases (e.g., protective custody), refusal may not prevent the measure if it's deemed necessary for the child's safety.

Right to challenge: The child, usually through a legal representative, has the right to challenge or appeal the imposition of measures before a competent court or tribunal. The court must review whether the measures respect the child's rights and best interests.

7.3. What happens if the child does not fulfil the obligations inherent to the imposed measures?

Responses vary by jurisdiction but typically include:

Review and reassessment: Authorities may review the child's situation to understand the reasons behind non-compliance (e.g., lack of support, misunderstanding).

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Supportive interventions: Additional guidance, counseling, or support services may be offered to assist the child in fulfilling the obligations.

Sanctions: If non-fulfillment is persistent and unjustified, and if legally permitted, there may be consequences such as stricter supervision, warnings, or, in juvenile justice contexts, referral to court for further measures.

Protection focus: Importantly, any response must continue to respect the child's rights and aim to support their development and welfare rather than punitive measures alone.

8.1. Is it possible that the justice system gets involved in these situations?

Yes. The justice system often gets involved in child-related cases such as:

Imposing measures (e.g., child protection orders, placement outside the home)

Reviewing or modifying existing measures

Addressing resistance by the child or family to comply with imposed measures

Hearing cases related to the child's welfare, protection, or delinquency

Purpose of involvement: To ensure that measures comply with the law, protect the child's rights and welfare, and resolve disputes related to the child's care or conduct.

Branches involved:

Youth courts or juvenile courts (for cases involving offenses or juvenile delinquency)

Family courts (for custody, protection orders, or family-related matters)

Child protection courts or tribunals (specialized bodies in some jurisdictions)

Criminal courts (in serious cases involving crimes against children or child offenders)

8.2. In case of involvement of the justice system, can you briefly describe the procedure?

The procedure usually involves:

Filing a petition or application by social services, parents, guardians, or

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the child's representative.

Notification to the child, parents, and relevant parties.

Hearing before a judge or magistrate where evidence and assessments are presented.

The child often has the right to be heard in a child-friendly manner, sometimes through legal counsel or guardian ad litem.

The court decides whether to impose, modify, or revoke measures based on the child's best interests and legal criteria.

There may be periodic reviews and follow-up hearings to monitor the child's situation.

8.3. What are the rights of the child in this procedure?

The child has the right to:

Be informed about the procedure and decisions in a way they understand.

Be heard and participate actively.

Have legal assistance or representation (legal aid may be available).

Challenge or appeal decisions or measures imposed by the court.

Confidentiality and protection from harm during proceedings.

9. Assistance or Support

9.1. Besides imposed measures, are there other kinds of assistance available on a voluntary basis?

Yes. Many systems offer voluntary support services to children, such as:

Counselling, family support programs, community services Therapy, trauma counselling, mental health services. Health check-ups, treatment for injuries, specialized pediatric care.

These services aim to support the child's wellbeing proactively, often without formal court involvement.

10. Child Participation

10.1. Is the child heard in this procedure? By whom? At which stage?

Yes, the child is usually heard.

The child may be heard by judges, social workers, psychologists, or legal representatives.

This usually happens during initial assessment, hearings, or interviews before decisions are made.

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10.2. Is the child heard more than once? How many times?

Often, yes. The child can be heard multiple times depending on the case complexity and procedural steps (e.g., initial hearing, review hearings). The number varies by jurisdiction.

10.3. Is there a protocol or guideline on how to hear the child?

Yes. Protocols typically focus on:

Using child-friendly language and environment

Ensuring the child's voluntary and informed participation

Protecting confidentiality and minimizing trauma

Involving trained professionals in interviewing children

If you want, I can provide an example of such a guideline from international standards or specific countries.

11. Legal Implications

11.1. Is there any record of legal infringement committed by children below the age of criminal responsibility? Are these records considered once the child reaches criminal responsibility age?

Many jurisdictions do not record or formally register offenses by children below the age of criminal responsibility, as these acts are not considered criminal.

Where records exist (e.g., social or welfare files), they may sometimes be taken into account for supportive or protective measures, but they are generally not used for prosecution once the child reaches criminal responsibility age unless reoffending occurs.

11.2. In case of damages, what rights and remedies does the victim have regarding the child and the family (besides financial)?

Victims typically have rights to:

Restorative justice processes: Mediation, apology, reconciliation facilitated between victim and child/family.

Protection and safety measures: To prevent further harm or intimidation.

Psychological support and counselling.

Community-based remedies: Such as community service or engagement programs involving the child.

Legal systems increasingly emphasize non-financial remedies that

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promote healing and reintegration.

12.1 Ongoing Reforms in Child Protection and Justice

1. Child Rights Act (2024)

Sierra Leone has enacted the Child Rights Act 2024, a comprehensive piece of legislation that strengthens the protection of all children in the country. This Act addresses various issues, including protection from early or forced marriage, neglect, child trafficking, and harmful practices such as female genital mutilation (FGM). It aims to ensure that children's rights are upheld and that they are protected from all forms of abuse and exploitation.

2. Justice Sector Reform Strategy (2024–2030)

The Government of Sierra Leone has developed a Justice Sector Reform Strategy for the period 2024–2030. This strategy seeks to consolidate gains made in improving access to justice, accelerate transformation, and advance the rule of law. It includes plans for the renovation of justice facilities, construction of alternative detention centers, recruitment of judicial staff, and expansion of legal aid services. The strategy also emphasizes the importance of public awareness and community engagement in accessing justice services.

3. Prohibition of Child Marriage Act (2024)

In July 2024, Sierra Leone's President signed the Prohibition of Child Marriage Act into law. This legislation criminalizes the act of marrying or entering into a union with a child under the age of 18. It includes provisions for enforcing penalties on offenders, protecting victims' rights, and ensuring access to education and support services for young girls affected by early child marriage.

4. Ministry of Social Welfare Strategic Plan (2024–2028)

The Ministry of Social Welfare has developed a strategic plan for 2024–2028, focusing on the protection and welfare of children, women, persons with disabilities, and other vulnerable groups. The plan builds on existing legal and policy frameworks and aims to improve the delivery of social

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services, enhance coordination among stakeholders, and ensure that vulnerable populations receive the support they need.

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