Child offenders and their rights

Children are a particularly vulnerable group in our society, deserving of protection. They are commonly associated with innocence. However, there is an exception to every rule and when reading headlines such as "14-year-old girl found guilty of murder"; "Pupil, 16, murders grandmother with sword"; and "Boy, 13, kills 14-year-old"; we are understandably shocked by the heinous crimes committed by children. We then wonder how the criminal justice system will be dealing with these child offenders.

- By Kotie Geldenhuys

Legislative developments

Over the past couple of years, there have been significant developments in legislation that determines how the criminal justice system deals with child offenders. The Child Justice Act 75 of 2008 (CJA), which came into operation on 1 April 2010, sets new standards for the protection of the child offender by establishing child justice courts (see more below).

The CJA has established a criminal justice system for children (persons younger than 18) that entrenches and expands upon the principles of restorative justice in the criminal justice system. It ensures that children are held responsible and accountable for crimes they have committed. Section 2(c) of the CJA provides for the special treatment of children in the justice system. Mukwende (2014) states that this provision aims to break the cycle of crime and promote safe communities by encouraging the implementation of re-socialisation and re-education programmes for child offenders.

Dealing with child offenders

Sections 72 and 76 of the CJA empower a court, when sentencing children, to consider alternative sentencing options such as supervision by a probation officer or another person and detention in a child and youth care centre. Alternative sentencing options under the CJA include the following:

- **Diversion** of children from the criminal justice system (see Chapter 8, which stretches from sections 51 to 62 of the CJA)

  Mbambo (2005) states that diversion, namely the channeling of children into appropriate re-integrative programmes and services where the intervention of the formal court system is required, is not necessary. A child who acknowledges responsibility for what s/he did wrong can be diverted to an appropriate programme and thereby avoid the stigmatising effects of the criminal justice system. Diversion gives a child offender a chance to avoid prosecution and a criminal record. At the same time, the programmes teach the child to take responsibility for his/her actions and to avoid further trouble. Diversion can happen at any stage of the criminal justice process (Brink, 2010). Although the process of diversion is not an entirely new concept within the child justice context, it is now formally introduced as one of the central features of the CJA.
Restorative justice sentences

Diversion is widely considered to provide children in conflict with the law with a better opportunity of being successfully reintegrated into society than they would have by dealing with their behaviour through the formal criminal justice system. Some people regard diversion as a "soft option", but that is not the case. According to Terblanche (2012), there is abundant evidence that suggests that, the more deeply child offenders get involved with the formal criminal justice system, the greater the chances are that they will, as adults, live a life of crime.

- Restorative justice involves the idea that offenders must make amends for what they have done and must initiate a healing process for themselves, their families, the victims and the community at large. The main goal of restorative justice is to prevent re-offending and for offenders to rejoin the law-abiding community. Restorative justice has been entrenched as the basis for the approach in all criminal proceedings involving child offenders since April 2010. Section 73(1) of the CJA provides for restorative justice sentences. A child justice court that convicting a child of an offence may refer the child to a youth care centre. In terms of section 76(2) of the CJA, a child may remain in a youth care facility only until s/he reaches the age of 21 years.

- Making restitution
- Protecting victims through the prevention of re-offending
- Promoting reconciliation

(2013).

Child and youth care centres

A child justice court may sentence a child offender to compulsory residence in a child and youth care centre. In terms of section 56(2) of the CJA, a child may remain in a youth care facility only until s/he reaches the age of 21 years.

- Correctional supervision

Section 75 of the CJA allows a child justice court that has convicted a child of an offence to impose a sentence involving correctional supervision in terms of section 276(1)(h) of the CPA.

Despite the general perception that the CJA does not deal with child offenders as seriously as other legislation, one must remember that its objectives are focused on the rehabilitation and reintegration of the child into the community. It therefore offers different sentencing options, ranging from community-based sentences to a maximum sentence of 25 years' incarceration. An example of a case in which a high sentence was imposed is the case of DPP v P (363/2005) [2005] ZACSA 276(1)(h) of the CPA.

The best interest of the child

According to section 28(2) of the Constitution, a "child's best interests are of paramount importance in every matter concerning the child". However, in Centre for Child Law v Minister of Justice and Constitutional Development and Others 2009 (6) SA 632 (CC), and 2009 (2) SACR 477 (CC), the Constitutional Court explained in paragraph 29 that, although "the child's interests are 'more important than anything else'," this does not mean "that everything else is unimportant". As the "child's best interests" is not an unlimited right, other rights also have to be taken into account and, when necessary, given effect to (Terblanche, 2012).

A child's best interests play a vital role in the interpretation of any statutory provision affecting child offenders. Courts have wide discretionary powers to ensure that effect is given thereto.

Treating children differently

Mukwende (2014) argues that children should be treated differently from adults, not for sentimental reasons but because of their greater physical and psychological vulnerability to pressure from others. For this reason, sentences for young offenders are somewhat more lenient than those for adults. This is clearly illustrated in the case of DPP v P (363/2005) [2005] ZACSA 127; [2006] 1 All SA 446 (SCA) (1 December 2005) in which a 12-year-old girl, P, was accused of murdering her grandmother in
2002. The girl approached two drunk men, namely Vusumuzi Tshabalala and Sipho Hadebe, in the street close to the house of her grandmother and asked them to help her to kill her grandmother, whom she alleged, while crying, had killed both of her parents. P promised that the men could take whatever they wanted from the house. She also promised to have sexual relations with one of them in return for killing her grandmother. The two men followed the girl into the house, where she once again asked them to kill her grandmother, who was lying asleep on a bed. P had earlier placed sleeping tablets in some tea that she had made for her grandmother. She handed kitchen knives to the men. Hadebe proceeded to strangle her grandmother, which resulted in her death, but the girl was not satisfied and insisted that they also cut her throat. After doing this, P gave the men some jewellery, a video recorder, a satellite decoder and some clothing in return for having committed the murder. The men were arrested and charged with the murder of the deceased. On 2 October 2002 they pleaded guilty before the High Court in Pietermaritzburg and were each sentenced to 25 years’ incarceration.

The girl’s explanation for her participation in the killing was that she had done so on the instructions of an erstwhile boyfriend of the deceased’s daughter, who offered her money to kill the deceased. Her evidence was that the plan to kill the deceased had been hatched by this boyfriend. The High Court, who also tried P, rejected the girl’s version and found that she had acted of her own free will, with no external coercion. The motive for the murder is not known, but it might have been due to an argument that she and her grandmother had had about her relationship with a man of 20, whom she had spoken to on the phone so much that she ran up a telephone bill of approximately R2000 in one month. P chose to stay with her grandmother instead of living with her mother after her father had committed suicide.

P provided the murderers with knives and watched while they carried out her evil command. She also callously allowed her six-year-old brother to enter the room when her sordid mission had been accomplished. The deceased was unaware of what was happening because P had drugged her by putting sleeping tablets in her tea. It is clear that this murder was premeditated.

The sentence imposed by the High Court was that the passing of sentence was to be postponed for a period of 36 months, on condition that the accused complied with the conditions of a sentence of 36 months of correctional supervision in terms of section 276(1)(h) of the CPA. These conditions included provisions relating to house arrest, schooling, therapy, supervised probation and the performance of community service.

The State/prosecution, however, appealed to the Supreme Court of Appeal in Bloemfontein (the SCA) against the sentence imposed by the High Court in Pietermaritzburg on P, arguing that the sentence was too lenient given the gravity of the offences committed by the accused.

On appeal, the SCA, inter alia, held that, in spite of her age and background, the accused had acted like an “ordinary” criminal and should have been treated as such. She had no mental abnormalities and something which the SCA noted in particular was that she was able to pass herself off as (and in many respects acted like) someone of about 18 years of age. The SCA held that there can be no question that, at the best of times, the sentencing of a juvenile offender is never easy and is far more complex than the sentencing of an adult offender. The SCA added that it is even worse if the youthful offender concerned is a child, as in this case. The court considered the Constitution as well as international instruments, such as the United Nations Convention on the Rights of the Child (1989), during the appeal.

The SCA’s judgment further explained that every chapter of this sordid tale reveals the evil-mindedness of the accused. According to the SCA, one of the more worrying aspects of the case is that no motive was given for the killing. “Which makes it imperative for this court to consider a sentence that would to some extent ensure that those who come into contact with her are protected”. The SCA remarked that, “although the High Court in Pietermaritzburg gave anxious consideration to the matter”, it agreed with the State/prosecution that “it failed to have sufficient regard to the gravity of the offence”. The sentence of the postponement of the passing of sentence, even when coupled with correctional supervision (as imposed by the said High Court), was, according to the SCA, inappropriate in the circumstances and left one with a sense of shock and a feeling that justice was not done. The SCA also added that “if it [the SCA] had been the court of first instance, it would have seriously considered imposing a sentence of incarceration”.

The SCA further added that one would expect a person of that age to have been remorseful, but that this 12-year-old girl had shown no remorse. While the killers were still in the grandmother’s house, after they had committed the murder, the accused telephoned her 20-year-old boyfriend in an attempt to fabricate an alibi.

The appeal was heard during November 2005. The SCA confirmed that incarceration of children should be a measure of last resort. However, after taking everything into consideration, the SCA replaced the sentence imposed by the High Court with a sentence in the following terms:

- The accused was sentenced to seven years’ incarceration, the whole of which was suspended for five years on condition that the accused is not again convicted of an offence of which violence is an element, committed during the period of suspension and for which she is sentenced to a term of incarceration without the option of a fine.
- The accused was also sentenced to 36 months of correctional supervision in terms of section 276(1)(h) of the CPA. On the following conditions:
  - that she be placed under house arrest, in the care and custody of her mother and legal guardian for the duration of 36 months, on the conditions set by the court;
  - that she be confined to the flat occupied by her mother except in certain circumstances such as attending school during normal school hours, attending official school activities falling outside of normal school hours as sanctioned by the principal of the school, attending a NICRO programme and other life skills training and therapeutic courses, activities or counselling, and receiving
medical and/or dental treatment as determined by a medical doctor or dentist;

- that the accused render 120 hours per year of community service, in addition to her school curriculum activities, when she attains 15 years of age; and

- that the correctional officer is ordered to visit the flat where the accused will be living at least four times per month and to phone the accused at irregular intervals to ensure compliance by the accused with the terms of her confinement.

**Arresting children**

Police may not arrest children under the age of ten years. Such a child must be handed over to his/her parents or a guardian and the police must notify a probation officer that a child under the age of ten years is alleged to have committed a crime. Children over the age of ten years may not be arrested for any offence listed in Schedule 1 of the CJA unless there are compelling reasons justifying the arrest. See sections 9 and 10 of the CJA.

If a warrant of arrest has been issued against a child, the police official who arrests that child must:

- inform the child of his/her rights;
- inform the child of the nature of the allegation made against him/her;
- explain to the child the immediate procedures to be followed; and
- notify the child’s parent, an appropriate adult or guardian of the arrest.

See section 20 of the CJA.

Any child who has been arrested and remains in custody must be taken to the magistrates’ court as soon as possible, but not later than 48 hours after arrest. This rule applies regardless of whether or not an assessment of the child has been done - see section 20(5) of the CJA (www.blacksash.org.za/index.php/your-rights/children/item/you-and-your-rights-criminal-justice).

**Probation officers**

Probation officers play a pivotal role in the sentencing of child offenders, as they have an intimate knowledge of the social factors relevant to the matter at hand. Courts recognise the importance of this issue and therefore place considerable weight on probation officers' reports in order to make determinations of equitable sentences. When compiling their reports, probation officers must consider the guidelines enumerated by the Court regarding sentencing children to child and youth care centres. Thus, all alternatives to detention must be considered and such alternatives must be placed before the court (Courtenay, 2012).

Section 20(5) of the CJA provides that a police official must inform a probation officer within 48 hours of the arrest of a child, but does not stipulate what the probation officer is required to do after being informed of the arrest of the child. The Probation Services Act 116 of 1991 introduces assessment of children by probation officers as a legal requirement for the first time in South African law. In section 1 of Act 116 of 1991, an “assessment” is defined as “a process of developmental assessment or evaluation of a person, the family circumstances of the person, the nature and circumstances surrounding the alleged commission of the offence, its impact on the victim, the attitude of the alleged offender in relation to the offence and any other relevant factor and, in the case of a child, also means an assessment as contemplated in the CJA”.

Section 4B of Act 116 of 1991 further stipulates that all arrested children who are not released must be assessed by a probation officer as soon as is reasonably possible, but before the child’s first appearance in court. It also provides that if a child has not been assessed by the time s/he is brought to court, the court may extend the time for the child to be assessed by periods not exceeding seven days at a time following his/her first court appearance (Brink, 2010).

Chapter 5 (which stretches from sections 34 to 40) of the CJA provides that every child who is alleged to have committed an offence must be assessed. Section 9 of the CJA deals with the way in which children under the age of ten years, who therefore have no criminal capacity, should be dealt with (see section 7 of the CJA). It provides that children under the age of ten years must be assessed within seven days after the probation officer has been notified by a police official that an offence has been committed. Brink (2010) notes that assessing this group of children does not imply that the child is criminally liable for the incident that led to the assessment.

According to Brink (2010), the purpose of assessment is to (a) establish the age of the child, (b) determine whether a child may be in need of care, in order to refer the child to a children’s court, (c) establish which placement option is best suited to the child, (d) gather information relating to any previous convictions, previous diversions or pending charges in respect of the child, (e) establish the prospect of diversion of the matter, (f) determine whether the child has been used by an adult to commit the crime in question and (g) formulate recommendations for the release of the child to prevent pre-trial detention.

The CJA also provides for a preliminary inquiry which is, according to section 43(1), an informal, pre-trial procedure which is inquisitorial in nature. In terms of section 43(2), the objectives of the preliminary inquiry are to consider the probation officer’s assessment report, to establish whether the matter can be diverted before plea and what diversion options are suitable, and to determine whether or not the matter must be referred to a children’s court.

*An inquisitorial system is one where a suspect may be questioned against his/her will.*

**Children and pre-trial detention**

Section 30 of the CJA provides that a child of 14 years and older, who has been charged with an offence listed in Schedules 1 or 2 of the CJA, may only be sent to a correctional centre to await trial if there are substantial and compelling reasons to justify it. In addition, section 30(2) of the CJA provides that, where a child is older than 14 years but younger than 16 years, and has been charged with an offence listed in Schedule 3 of the CJA, s/he may only be detained in a correctional centre if there are compelling reasons to justify it. The Director of Public Prosecutions, or an authorised prosecutor, must also issue a certificate that shows that there is sufficient evidence to institute a prosecution against the child.

If the decision is made to detain the child before his/her first appearance at a preliminary inquiry, the police official concerned must, in terms of section 21 of the CJA and depending on the
age of the child and the alleged offence, consider placing the child in an appropriate child and youth care centre. If there is no centre near the court, or if there are no places available in the centre, the child can be held in a police cell or lock-up pending his/her first appearance. However, a child who is held in police custody must be:

- detained separately from adults (and boys must be held separately from girls);
- detained in conditions that will reduce the risk of harm to that child, including the risk of harm caused by other children;
- permitted to receive visits from parents, appropriate adults, guardians, legal representatives, social workers, probation officers, health workers, religious counsellors, etc;
- provided with immediate and appropriate healthcare in the event of any illness, injury or psychological trauma; and
- provided with adequate food, water, blankets and bedding.

(Criminal Law (Sexual Offences) Act 105 of 1997 (CLA), section 50(2)(a) provides with immediate and appropriate healthcare in the event of any illness, injury or psychological trauma; and

Provided that section 50(2)(a) of the Criminal Law (Sexual Offences) Act 105 of 1997 (CLA), which stipulates the provision of immediate and appropriate healthcare, does not distinguish between adult offenders and child offenders. The majority judgment of the Constitutional Court in Centre for Child Law v Minister of Justice and Constitutional Development and Others 2009 (6) SA 632 (CC) and 2009 (2) SACR 477 (CC) has declared the provisions of the minimum sentencing regime, which are subsections 51(1), 51(2), 51(5)(b) and 51(6) of the CLAA, unconstitutional and invalid to the extent to which they apply to persons who are under the age of 18 years at the time of committing the crime (Mukwende, 2014).

Section 51(2) of the Criminal Law Amendment Act 105 of 1997 (CLA), in which the minimum sentences for certain specified serious offences are stipulated, does not distinguish between adult offenders and child offenders. The majority judgment of the Constitutional Court in Centre for Child Law v Minister of Justice and Constitutional Development and Others 2009 (6) SA 632 (CC) and 2009 (2) SACR 477 (CC) has declared the provisions of the minimum sentencing regime, which are subsections 51(1), 51(2), 51(5)(b) and 51(6) of the CLAA, unconstitutional and invalid to the extent to which they apply to persons who are under the age of 18 years at the time of committing the crime (Mukwende, 2014).

Sentencing in a child justice court is regulated by Chapter 10 of the CJA. Section 68 of Chapter 10 states that a child justice court must, after convicting a child, impose a sentence in accordance with Chapter 10. This section not only mandates child justice courts to impose their sentences in terms of the CJA, but also provides the first set of boundaries within which sentencing should take place (Terblanche, 2012).

There are two limitations on sentencing in the CJA. The first is that no child may be sentenced to life incarceration. However, in terms of section 77(4) of the CJA, a child may be sentenced to 25 years’ incarceration. The second is that, if a child has been sentenced to incarceration in a residential facility in a child and youth care centre (previously known as a secure care centre or a reform school) and the facility is no longer in operation, or a child’s sentence has been reinstated, the child may be kept in a correctional centre until a vacancy arises. According to Jules-Macquet (2014), there are 13 of these child and youth care centres in South Africa.

Should a child offender’s name be added to the National Register for Sex Offenders?

During May 2014 the Constitutional Court held in J v NDPP and Others 2014 (2) SACR 1 (CC) that section 50(2)(a) of the Criminal Law (Sexual
1. Convicted a person of a sexual offence against a child or a person who is mentally disabled and, after sentence has been imposed by that court for such offence, in the presence of the convicted person, or
2. Made a finding and given a direction in terms of section 77(4) or 78(6) of the Criminal Procedure Act 51 of 1977, that the person is by reason of mental illness or mental defect not capable of understanding the proceedings so as to make a proper defence or was, by reason of mental illness or mental defect, not criminally responsible for the act which constituted a sexual offence against a child or a person who is mentally disabled, in the presence of that person, must make an order that the particulars of the person be included in the Register.

(b) When making an order contemplated in paragraph (a), the court must explain the contents and implications of such an order, including section 45 (of Act 32 of 2001) to the person in question.

The Constitutional Court, however, held that automatic inclusion on the Register violated a child's right in terms of section 28(2) of the Constitution to have their best interests taken into account as the paramount consideration in every matter affecting the child. The Court further held that the individual circumstances of children should be taken into account and that they should be given the opportunity to be heard by the sentencing court regarding the placement of their details on the Register. The Court decided that sentencing courts should be given the discretion to decide whether to place a child's name on the Register or not.

This decision came following the case of S v U 2013 (2) SACR 599 (WCC) which went before the Western Cape High Court by way of automatic review in terms of section 85(1)(a) of the CJA. The accused (J) was 14 years old when he was charged for the rape of a seven-year-old boy and two six-year-old boys in contravention of section 3 of the Act 32 of 2007. He was further also charged with assault with intent to cause grievous bodily harm for stabbing a 12-year-old girl. He pleaded guilty to all four charges and was convicted in the magistrates' court (the child justice court). J was assisted by his mother and was legally represented. In relation to the three rape charges, he was sentenced to five years' compulsory residence in a child and youth care centre and a further three years' incarceration thereafter. On the assault charge, he was given a suspended sentence of six months' incarceration. In addition, the court made a supplementary order in terms of section 50(2) of Act 32 of 2007 that the applicant's particulars be entered into the Register.

Once a person's details are in the Register, section 41(1) of Act 32 of 2007 provides that they may not:
1. Be employed in a position where they will work with children;
2. Hold any position that places them in a position of authority, supervision or care of children;
3. Be granted a licence or approval to manage, operate or carry on an entity, business or trade in relation to the supervision or care of children or where children are present; or
4. Become foster parents, kinship caregivers, temporary safe caregivers or adoptive parents.

If a sex offender fails to disclose any previous sexual offences against children or persons with mental disabilities to an employer, licensing authority or childcare authority, this will result in criminal sanction. A sex offender's details can only be removed from the Register under limited circumstances, excluding circumstances where a person was sentenced to a period of incarceration of more than 18 months or has two or more convictions of a sexual offence against a child or a mentally disabled person.

In the case of J v National Director of Public Prosecutions supra, the court held that this meant that, in the stipulated circumstances, the accused's particulars may never be removed from the Register. Section 50(2)(a) applies to "a person convicted of a sexual offence against a child or a person who is mentally disabled" and, importantly in this case, "a person" applies to both children and adults.

The Western Cape High Court ex mero motu (of its own accord) asked the regional magistrate and the Director of Public Prosecutions whether the magistrate was competent to make an order in terms of section 50(2) of Act 32 of 2007, in light of the objectives of the Child Justice Act, as well as section 28 of the Constitution. Both responded in the affirmative and recommended that the High Court confirm it. A full bench of three judges (in S v U supra) heard the matter during August 2013 and held that section 50(2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 may violate the child offender's rights by requiring the particulars of a child offender to be included in the Register. The said High Court went on to hold that "because of the consequences and impact of the inclusion of an offender's name in the Register, the rights of such offender ... whether a child or an adult, would indeed be violated".

It was argued that inclusion fails to consider the long-term effects on the child offender and is not in line with the objectives and principles of the CJA, which places children offenders in a different category from adult offenders and recognises their unique and vulnerable position in society. The amicus curiae (friend of the court) agreed that section 50(2) violates a number of the constitutional rights of child offenders and undermines the objectives of the Register. The automatic inclusion of their details on the Register ignores the rights of child offenders, such as the right to be protected against degradation and the right not to have their well-being, moral or social development placed at risk. It was argued on behalf of J that inclusion fails to consider the long-term effects on the child offender and is not in line with the objectives and principles of the Child Justice Act, as stated above (Hansungule, 2014).

The State argued that placing offenders' details on the Register is not an infringement of their inherent dignity. The contents of the Register are not made public, as only certain categories of people can access the contents of the Register through an application process.
However, after considering the arguments put forward by all the parties, the Western Cape High Court declared section 50(2) of the Act 32 of 2007 constitutionally invalid on the basis that it unjustifiably infringes on the rights of offenders, whether they are children or adults. The High Court suspended the declaration of invalidity for 18 months and ordered that, in the interim, certain words be read into the provision. The matter came before the Constitutional Court for confirmation.

On 6 May 2014 the Constitutional Court handed down a judgment declaring section 50(2)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 unconstitutional. In a unanimous judgment, it held that section 50(2)(a) of the Act 32 of 2007 infringes on the right of child offenders to have their best interests considered of paramount importance in terms of section 28(2) of the Constitution. The Register fulfils a vital function in protecting children and persons with mental disabilities from sexual abuse. However, the court said, the limitation of the child offender’s rights is unjustifiable because a court has no discretion whether or not to make the order and because there is no related opportunity for child offenders to make representations. The Court differed from the High Court in that it limited its declaration of constitutional invalidity to child offenders. It held that the constitutionality of the provision in relation to adult offenders was not properly argued before the Court.

The Court suspended the declaration of invalidity for 15 months to give the legislature an opportunity to correct the constitutional defect. For the record to be removed or expunged, an application must be made to the Director-General of Justice and Constitutional Development. If the Director-General is satisfied that the application meets the requirements, s/he will issue a “Certificate of Expungement” www.blacklash.org.za/index.php/your-rights/children/item/you-and-your-rights-criminal-justice).

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It is shocking to see how children turn to violence to solve problems. How could a teenager become so angry, violent and antisocial in just a few years of life? Is the violent society they are growing up in to blame or is it something as simple as lack of discipline? No matter the reason, it is important to remember that they are still children and have special rights that protect them within the criminal justice system. Not all of us agree with the legitimate provisions as many feel that these children are criminals and must be treated as such. Prior to the CJA coming into operation, the authorities dealt with child offenders in the same way as they did with adult offenders, but research has shown that children who were treated in such a way, had a greater chance of leading a criminal life in adulthood. Only time will tell whether dealing with child offenders differently than with adult offenders, will have a positive outcome.

List of references

DPP v P [2006] 1 All SA 446 (SCA) (1 December 2005)
J v NDPP and Others 2014 (2) SACR 1 (CC)
**Crimes that children in South Africa typically committed**

Jules-Macquet (2014) has found that the crime categories for both children (any persons younger than 18) and youths under the age of 25 are very similar in ranking:

1. Aggression-related offences - 45% (or 378) children and 50% (or 26,884) youths
2. Economic-related offences - 27% (or 2,229) children and 30% (or 16,310) youths
3. Sexual offences - 23% (or 198) children and 13% (or 6,978) youths
4. Other - 4% (or 33) children and 5% (or 2,432) youths
5. Narcotic-related offences - 1% (or 8) children and 2% (or 1,267) youths

**Criminal children in the UK**

In January 2015, the Daily Mail in London reported that children who are barely old enough to walk have been questioned by police over an astonishing range of crimes, including rape, theft, assault and vandalism. Police have quizzed a four-year-old accused of rape in London, a five-year-old for the same crime in Surrey, a five-year-old on suspicion of "incest" in Cheshire and two three-year-olds for sexual offences in Durham.

The figures gathered from 34 of the 45 forces in the United Kingdom, collated under the Freedom of Information Act, show that 5,665 crimes were committed by children under the age of eight in the last four years. Alarmingly, crimes committed by children under the age of eight reached a four-year high in 2014, with 1,713 recorded offences. The vast majority of these crimes were criminal damage or vandalism (2,376), followed by shoplifting, theft and dishonesty (1,279) and assault or acts of violence (985). There were 35 rapes, of which 24 were committed in London.

Laurence Lee, who represented ten-year-old John Venables (one of the two children who abducted James Bulger from a shopping mall and tortured and killed him) in 1993, said that teenagers recruit younger children to commit crime on their behalf as they know that they (the younger children) cannot be prosecuted.

On 25 May 1968, a day before her 11th birthday, Mary Bell strangled four-year-old Martin Brown. Then, on 31 July 1968, she and her friend, Norma Bell (no relation to Mary) took part in the strangulation of the three-year-old Brian Howe. Police reports concluded that Mary Bell had gone back to the body after killing him to carve an "M" into his stomach with a razor. This was then changed, using the same razor but with a different hand, to an "N". Mary Bell also used a pair of scissors to cut off bits of Brian Howe's hair and part of his genitals. Because the girls were so young and their testimonies contradicted each other, precisely what happened has never been entirely established. Martin Brown's death was initially ruled as an accident, as there was no evidence of foul play. Eventually, his death was linked to Brian Howe's killing and in August 1968, the two girls were charged with two counts of manslaughter. Mary was released in 1980 with court ordered anonymity. In 2003, the courts awarded her and her daughter anonymity for life (http://listverse.com/2007/11/23/top-10-evil-children/).

In 1998, the 14-year-old Joshua Phillips bludgeoned his eight-year-old neighbour, Maddie Clifton, to death and hid her body beneath his bed. Seven days later, his mother noticed something leaking from beneath the bed. Joshua claimed that he had accidentally hit Maddie in the eye with his baseball bat, causing her to scream. In his panic, he said, he dragged her to his home where he hit her again and then stabbed her 11 times. His story failed to convince a Florida jury, who convicted him of first-degree murder and sentenced him to life in prison in 2000. His mother is still appealing his conviction based upon the fact that he was given an adult penalty for his crime (http://listverse.com/2007/11/23/top-10-evil-children/).