

Top ten action points on responses to children under the minimum age of criminal responsibility (MACR) who are involved in offending behaviour

- 1 Increasing the MACR to at least 14 years and removing the 'doli incapax' rule so that only one appropriate MACR is set.
- 2 Regulating that children under the MACR (and their parents/caregivers) fall within the mandate of the social welfare system and when children (and their parents/caregivers) come into contact with the child justice system, the child justice system should immediately refer these cases to the social welfare system.
- 3 Ensuring that children under the MACR shall never be deprived of their liberty, including through administrative or other processes where they are placed in residential care facilities or correction centres where they are not free to leave at will.
- 4 Considering children used by adults for criminal activities as child victims of crime and guaranteeing that they are entitled to all the rights of child victims and witnesses, including access to justice to get a timely remedy for the violation of their rights.
- 5 Empowering children under the MACR (and their parents/caregivers) to know and claim their rights, including legal empowerment, and enabling them to express their views freely in all matters affecting them.
- 6 Conducting investigative interviews with children under the MACR by specially trained interviewers only, preferably social service workers or psychologists, and always in a child-sensitive and gender-sensitive manner and in a child-friendly environment.
- 7 Never considering records of children under the MACR as criminal records and never using such records in criminal proceedings when the child is at or above the MACR or a (young) adult.
- 8 Developing and implementing family-based and community-based programmes or services which prioritizes early intervention and the prevention of coming into conflict with the law, and are tailored to the needs and circumstances of children under the MACR, as well as their parents/caregivers and wider family.
- 9 Establishing intersectoral collaboration on programmes or services for children under the MACR and their parents/caregivers, to include child justice, social welfare, education, social protection and health services, working with CSOs/NGOs, to develop intersectoral guidelines and organize capacity building initiatives for relevant professionals.
- 10 Supporting families and parents/caregivers to prevent family-child separation, prioritizing family-based alternative care if necessary for children under the MACR, to be organized by the social welfare system and reviewed regularly by the court.