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The Minimum Age of Criminal Responsibility in England: a Study on the Development and Current Status of the MACR

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**The Minimum Age of Criminal Responsibility in England:
a Study on the Development and Current Status of the MACR**

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Introduction

In 1993, two English 10-year-old boys abducted, tortured and killed two-year-old James Bulger. Not only did the gruesomeness of the act itself led to extensive media coverage, but the prosecution and sentencing of the young offenders were also at the centre of attention. Although the minimum age of criminal responsibility (MACR) of 10 years in England and Wales¹ has been installed since 1963, when under the Children and Young Persons Act 1963, the MACR was raised from 8 to 10 years, the case started a nationwide debate on how to deal with delinquent juveniles.

In popular opinion, the two offenders were seen as evil children who committed an evil crime for which they needed to be punished, while others, such as experts and politicians, stated that such young offenders are incapable of fully understanding the difference between what is right and what is wrong (Creaney, Smith & Case, 2018; The Guardian, 2019a). Despite protests against the low ages of the offenders, who were deemed fully accountable for their actions due to the MACR of 10 years, the British court sentenced them to life in prison (BBC News, 2020).

Furthermore, the murder was used to frame juvenile delinquency and to further foster the English belief in punishment (The Guardian, 2019a; The Guardian, 2019b). Five years later, the principle of *doli incapax*, was removed from juvenile justice legislation. *Doli incapax* is the principle that the prosecutors need to prove that offenders between the ages of 10 and 14 years are aware that what they did was intrinsically wrong. The decision to remove the principle from the legislation is suggested to be influenced by the James Bulger case (Goldson, 2013; The Guardian, 2019a).

Years after the murder, the case still receives much attention. The case is mainly used in discussions on accountability, culpability and the MACR. When the *doli incapax* was removed from English legislation, this was mostly done without evidence on the best practice

¹ Due to conciseness, when referring to England and Wales, from now on only England is noted, which, thus, includes both states.

and more based on ideas of fairness (Bandalli, 1998), but now, scholars, politicians and justice system experts question this approach and ask for a move towards a system with a higher MACR (e.g. Pidd et al., 2019; Pidd, 2020).

The Age of Criminal Responsibility

Discussions on the MACR do not only take place in England. The MACR is also a point of discussion in other countries, in international organisations and supranational organisations. International and supranational organisations, mostly, do not state a specific age that the MACR must be, however they establish general guidelines and requirements that the MACR's should satisfy. Examples are Article 23 of the Guidelines of the Committee of Ministers of the Council of Europe (CoE) on child-friendly justice (Council of Europe, 2011) and Article 4 of the Beijing Rules in which the United Nations (UN) expresses the wish to conform the MACR to the age of majority (United Nations General Assembly, 1985). Besides, in instances in which states do not conform to such standards and guidelines, these organisations express and act on country-specific concerns (e.g. UNICEF, 2019).

Low or non-existent MACR's are perceived to be undesirable for different reasons. One reason comes from a developmental perspective. Developmental scientists argue that the brains of children have not developed enough to make them capable of fully understanding wrong from right and the consequences of actions (Delmage, 2013; Farmer, 2011; The Royal Society, 2011). Furthermore, the youthful brains of juveniles make the regulation of behaviour, such as the reaction to impulses and decision-making more complex. There is no clear, uniform answer from which age the brain is major enough. Some say the brain has developed sufficiently at the age of 12 (e.g. Farmer, 2011; Wishart, 2018), while others set this age at 14 or 15 years (e.g. Delmage, 2013; Lewis, in Pidd, 2020).

Another reason why many organisations and scientists are in favour of high MACR's is because of the consequences of criminal responsibility for juveniles. Cipriani (2009, p. 138),

for instance, argues that the criminalisation of children has severe implications for the further lives of these children. Besides, the consequences for sanctioned juveniles are different and have more impact than they are on adults. Justice practices such as labelling and early intervention, damage and harm juveniles and can lead to, for instance, increased criminal activity, not completing education (Goldson, 2013) and recidivism (McAra and McVie, 2007).

Table 1

MACR's throughout the world.

Country	MACR	Country	MACR	Country	MACR
Australia	10 ^a	Austria	14	Belgium	18
Belarus	16	Botswana	14 ^b	Bulgaria	14
Canada	12 ^c	Croatia	16	Cyprus	14
Czech Republic	15	Denmark	15	England/Wales	10
Estonia	14	Finland	15	France	13
Germany	14	Greece	15	Hungary	14
India	7 ^d	Ireland	12	Italy	14
Kenya	8 ^b	Kosovo	14	Latvia	14
Lithuania	16	Macedonia	16	Moldova	16
Montenegro	14	Netherlands	12	New Zealand	10 ^a
Northern Ireland	10	Norway	15	Philippines	15 ^d
Poland	17 ^e	Portugal	16 ^e	Romania	16
Russia	16	Scotland	12 ^f	Serbia	14
Singapore	7 ^d	Slovakia	14	Slovenia	14
South Africa	10 ^b	Spain	14	Sweden	15
Switzerland	10	Turkey	12	Ukraine	16

Adapted from “Juvenile Justice and Crime Policy in Europe – Reform developments between justice, welfare and ‘new punitiveness’” by F. Dünkel, 2015, *Kriminologijos Studijos*, 1, p. 44-45.

a – obtained from CRIN (n.d.-a)

b – obtained from CRIN (n.d.-b)

c – obtained from CRIN (n.d.-c)

d – obtained from CRIN (n.d.-d)

e – obtained from CRIN (n.d.-e)

f – since 2019 Scotland has raised the age from 8 to 12 years (Scottish Parliament, n.d.).

Despite the efforts of international organisations, a wide variety of MACR's can be observed throughout the world, with some of them set at a very low age. In table 1 an overview of the MACR across Europe and some former English common law jurisdictions is provided².

Furthermore, in some cases, for instance, in the United States, no MACR is determined at all (JJGPS, 2017). In a study from 2009, Cipriani (pp. 97 – 110) outlines the then status of MACR's worldwide. The study shows that MACR's ranged from 0 to 16 years with a median age of 12. The average of the researched 192 countries is 10 years, however, this average "is skewed by the 23 countries classified as having MACRs of 0" (Cipriani, 2009, p. 108) and therefore, not meaningful. The variance of the population, the MACR's of 192 countries, is 20.5. This variance shows the spread of the MACR's.

There seems to be a discrepancy between what evidence says about MACR's and how some MACR's are set in practice. If juveniles do not have sufficient capacity to understand, act and reason, at least not to the same degree as adolescents do, how can they be held responsible for criminal behaviour? Something that is, thus, made possible by some MACR's. In his research on England, Goldson (2013) even found that there is widespread criminological consensus that the low MACR of 10 years is harmful and unfair and that the reluctance to change comes from the political field.

Historical Influences

Research on influences on MACR's shows that history affects the current MACR's. Cipriani (2009, p. 71) explains that historical law systems are still relevant for current law and legislation. Traditional and religious law regimes are traceable in present youth justice systems and MACR's. Taking Anglo-Saxon jurisdictions (England and its former colonies) as an example, these countries have low MACR's (Hazel, 2008). Cipriani (2009, p. 76), states that

² For more MACR's see <https://archive.crin.org/en/home/ages.html>, <https://www.economist.com/graphic-detail/2017/03/15/the-minimum-age-of-criminal-responsibility-continues-to-divide-opinion> or Cipriani, 2009, pp. 98 – 108.

this is the case since criminal law and MACR's are heavily influenced by English common law, which is somewhat punitive in nature. A prime example when reviewing this punitiveness is the incarceration rate. In a study on the incarceration rate throughout liberal democracies, Cavadino and Dignan (2006a) found that countries with common law backgrounds have the highest rates of the researched countries.

Another case for the claim that common law countries are somewhat punitive is the observed neo-correctionalist trend in England and other Anglo-Saxon jurisdictions, which includes low ages of MACR (Dünkel, 2014). This trend means an increasing focus on offender and parental responsibility, the prevention of reoffending through tough sanctions and early intervention (Dignan, 2004).

Another example is observed by Cipriani (2009, p. 76). Cipriani identified that from the former 75 English colonies, 51 countries still have a low MACR below 11 years. This contributes to the claim that common law countries have punitive tendencies.

Other historical paths also influence legislation. For example, Islamic law, in which gender inequality is present and Soviet law, in which MACR's are relatively high but legislation for offenders below the MACR is missing (Cipriani, 2009, pp. 77 - 87).

These historical influences are at the base of juvenile justice systems. Juvenile justice systems explain how countries approach juvenile justice and how they deal with their juvenile delinquents (Woolard et al., 2016, p. 176). The theory of juvenile justice systems clarifies how these systems influence the laws and regulations that organise the handling of juveniles committing criminal offences. The theory of juvenile justice systems has two main models, which are explained in more detail in the next chapter, the justice model and the welfare model. The type of juvenile justice model outlines the specific direction and approach of juvenile justice policies and systems and therefore, it is suggested by some scholars that the theory also explains the level of MACR's (e.g. Dünkel, 2014; Young et al., 2017). However, there seems

to be limited evidence and research to test and see if it is actually true that the justice model and the welfare model explain the developments and current statutes of MACR's.

In this research, the theory of juvenile justice systems is tested to analyse how certain features of the justice system influence attempts to reform the MACR in England. As set out later in more detail, the MACR in England is exceptionally low with an age of 10 years. Besides, the juvenile justice systems in England is perceived to be shaped by the justice model. This is further explained and discussed in the third chapter of this research.

The first matter to examine is the current MACR, primarily, why England maintains a low MACR while there is growing evidence that that is harmful and undesirable and while other countries do develop a high MACR with the same information. The second step in this examination of the English MACR is looking retrospectively at the developments leading up to the current MACR of 10 years. As stated above, a plausible explanation is that the juvenile justice system in place, influenced by the justice model, affects attempts to change and determines the established MACR. However, there is a lack of empirical research on this matter and it is, therefore, not yet possible to be certain that the juvenile justice models lead to a particular level of the MACR. This research is aimed at providing this empirical examination by looking at the MACR and the juvenile justice system in England. Therefore, the following research question is formulated:

Does the juvenile justice system explain the minimum age of criminal responsibility in England?

This question is researched through a content analysis in which documents portraying actions, stances and initiatives of legislators of two different periods, one leading to the last MACR change and one after the last change, are coded to learn whether features of the juvenile justice system models influence the attempts to change the MACR.

Societal and Academic Relevance

Certain MACR's are unrealistic in light of scientific evidence on the development of the brain and potential impacts, including the one of England. Consequently, the inconsistency between several, current MACR's and evidence potentially produces situations where young offenders are part of harmful, unfair and undesirable cases. In this research, this discrepancy is examined. Knowledge about why countries are maintaining low MACR'S can be a first step in changing and improving the situation since it leads to understanding which, in turn, can lead to change. Moving from a situation that is perceived to be harmful and unfair, is in practice beneficial for society as it can lead to better protection of, strengthened futures for and the necessary help to young offenders (Cashmore, 2020).

Besides being relevant to society, this research is also academically relevant. Much research has been conducted on the topic of MACR. Muncie (e.g. 2005, 2008), Goldson (2013, 2018), Dünkel (2013, 2020) and Cipriani (2009) are among the most prominent and often cited researchers in the field of juvenile justice and MACR's. However, most of the research in the field of MACR's is merely descriptive and simply outlines past, current and preferred status quo's or are comparative on only the variable of MACR. There is a limited number of systemic analyses in the literature. Contrary to most of the existing research, this research combines multiple variables to analyse and uncover an unexplored side of the MACR puzzle.

Besides, this research does not only build on research already conducted by others, it also adds to the research by examining an underresearched part of MACR's with a different research method than used in earlier research.

Lastly, in public administration decisions and the related strategies taken by political actors are examined and public policy should accommodate the interests of the societal participants (Howlett et al., 2009, pp. 4 – 6). In the case of the MACR, this means that the main consideration must be the best interest of the child and the juvenile justice practices must be

just and safe. Studying the MACR is not only in the public interest but is also of value for public administration as it adds to the broader field of policy decisions in the juvenile justice context and the treatment of children. It adds to the understanding of the government responsibility of penal practices.

Structure

The last part of this introduction is to outline the contents of this research. This research consists of five chapters. The first chapter is this introduction in which the problem surrounding the MACR is defined and embedded in a wider context of relevant concepts. This leads to the formulation of a research question and the chapter ends with an explanation of the societal and academic relevance.

In the second chapter, the theoretical framework and hypotheses are developed. In chapter three, the research design and the research method is introduced and justified. Document analysis is used as the data collection strategy with documents obtained from legislative databases. Next, the chapter explains the reasoning behind the case selection of England, the operationalisation of the dependent and the independent variable and the reasoning behind choosing content analysis as the method of analysis. The last part of this chapter revolves around the reliability and validity of these choices.

After it becomes clear what the research choices are and the data is collected, the fourth chapter focuses on the analysis of this data. In this results chapter, there is a systematic analysis of the data, guided by frequency analysis. With this analysis, the data is interpreted, discussed and reported. These results are summarised in the last chapter. Thereafter, the limitations of the research, recommendations for further research and the practical implications of the research are addressed.

Theoretical Framework

Now that the topic is introduced, the relevancy of the research is explained and the general outline of this research is provided, this chapter aims to develop a framework of the relevant concepts. Additionally, the relationships between these concepts are discussed and hypotheses are produced. This framework returns in the result section when it is combined with the empirical findings and used to answer the research question. The framework consists of the concepts of MACR, the international standard, and juvenile justice systems.

The Minimum Age of Criminal Responsibility

As stated in the introduction, the objective of this research is to explore how certain features of the justice model influence attempts to change the MACR in England. To do so, the concept of MACR is defined first and a brief overview of the MACR in England is provided.

In general, the literature refers to the MACR as the age from which juveniles can be held accountable for violating the (juvenile) criminal laws of a country (Cipriani, 2009, p. XIII; Dünkel, 2014; Goldson, 2009, 2013). However, Leenknecht et al., (2020) summarise that the variations between the definitions of MACR's across the globe are so substantial that a general definition of MACR is complex. Every country can define, interpret and outline the definition of the MACR differently. Countries cannot only determine what the definition of the MACR precisely is but also what the MACR covers. Sometimes, it is namely observed that countries have exceptions in the MACR's. The different definitions can lead to different ages being used for the same concept. Therefore, it is necessary to further specify the MACR and how it is used in this research.

Literature understands the MACR as being the lower age limit (contrary to the range between the lower and higher age limit which is just the age of criminal responsibility) (e.g. Hazel, 2008; Weijers & Grisso, 2009). However, in practice, the lower age limit is not always

a fixed limit without any exceptions and, therefore, sometimes ends up differently than in theory.

Doli Incapax

When focusing on the lower limit of MACR's, the presumption of *doli incapax* is a good illustration of an instance in which the lower age limit of MACR could be technically increased. The common law tradition forces the prosecutors to prove that juvenile offenders between certain ages (in the case of England this age was between 10 and 14 years) have the capacity to understand that their behaviour is wrong (Weijers & Grisso, 2009, p. 47). Without going into too much detail about this presumption and although it is abolished in England, it is at the base of and influenced other so-called discernment principles ensuring the same type of requirements as the *doli incapax* presumption (ibid). In 2009, Cipriani (p. 110) established that, at that time, there were 55 countries with discernment principles in their legislation.

Some scholars and human rights actors see *doli incapax* and its following principles as beneficial barriers to protect young children against low ages of MACR (Gillen, 2006). Besides, they see it as a necessary precaution as in some countries the MACR is too low which goes against the evidence on capacity mentioned in the introduction of this research (Crofts, 2003; Crofts, 2016). Nevertheless, other scholars and human rights actors believe that increasing the MACR is a better solution than having such exceptions in practice (Brown & Charles, 2019). This is mainly because some observe a dual approach in which the seriousness of the offence determines if exceptions are used or not, making it unfair in practice and unequal among cases (Crofts, 2016). It appears that when MACR's are high enough, *doli incapax* principles are undesirable and when MACR are not high enough, it is preferred to have such a protective barrier (ibid).

In some instances, discernment principles are used to go lower than the general MACR provided in the legislation. This is something that the UN voices concern about. They observe

that in some countries it is possible, in practice, to move beyond the lowest MACR limit for certain serious offences or cases in which the offender is deemed sufficiently mature (United Nations, 2007, p. 11). In Ukraine, for example, the criminal code states that the MACR is 16 years (Verkhovna Rada, 2001). However, the criminal code also lists 19 serious and violent crimes that offenders aged 14 and 15 years can be held responsible for. Examples of such crimes are rape, terrorism, murder, extortion and gangsterism.

This discussion shows that there are variations in how countries define and set MACR's which leads to an elaboration of the definition of MACR, adding the notion of general MACR. In theory, national legislations provide an age at which the formal MACR is set, the general MACR. In practice, the MACR can be different from the general MACR, the raised or lowered MACR. Combined with the discussion in the previous subparagraph, this leads to the following definition: the MACR refers to the general age from which juveniles can be held accountable for violating the (juvenile) criminal laws of a country as stipulated in national legislation. This is, thus, the age that is written down in national legislation, it depends on the country itself which age they use, the general age or the lowest possible age. However, most of the time, the general age is used to classify the MACR.

The Minimum Age of Criminal Responsibility in England and Wales

Currently, the MACR in England is 10 years as stated in the Children and Young Persons Act of 1963. Before 1963, the MACR was set at 8 years in the Children and Young Persons Act 1933. Before 1933, children aged 7 and above were deemed to have criminal capacity (Houses of Parliament, 2018).

For a long time, the MACR was in practice higher due to the *doli capax* presumption. The abolishment of *doli incapax* in 1998 as a part of the MACR has been targeted with critique due to the lowering effect it had on the MACR (Bateman, 2012). Bateman (2012) found that

the year after the abolishment, 29% more children aged 10 to 14 were found capable and thus responsible.

The International Standard

As already described in the introduction, international organisations are involved in the field of MACR's. In this research, the stances of the two significant and most relevant organisations are considered in determining what the international standard of MACR's in the context of this research is. Knowing the international standard is useful as it places the MACR of England in the context of what is broadly defined as acceptable levels.

The United Nations.

The UN is a relevant actor due to its manyfold efforts to, not only enhance the right of children in the juvenile justice systems in general but also with regards to the MACR specifically. Furthermore, the UN also specifically targets countries by calling out practices deemed inappropriate. An example is when the South African government wanted to raise the MACR from 7 to 10 years and the UN remarked that the age of 10 is still relatively low (United Nations, 2000, p. 6).

Throughout the literature, two main sources of the UN are highlighted as significant and at the base of MACR international law (Cipriani, 2009; Crofts, 2009, 2016; Goldson, 2013). One source is Article 4 of the Beijing Rules and provides: "In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity" (United Nations General Assembly, 1985, p. 3). According to Cipriani (2009, p. 110), 169 of the 192 UN member states have recognised the concept of MACR.

This article does not provide a specific age as a reasonable lower limit but expresses the will to formulate the lower limit. Cipriani (2009, p. 55) explains that setting an age was unfeasible at that time due to political implications coming from different historical, legal and

cultural traditions. This makes the provision rather weak as the interpretability of maturity makes differences possible. Moreover, it somewhat recognised that some states might not have the concept of MACR in their legislation at all and this article officially only regards countries that do have MACR in their legislation (ibid).

The second source is Article 40.3.a of The United Nations Convention on the Rights of the Child and provides: “The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law [shall be sought to be promoted by State Parties]” (United Nations General Assembly, 1989, p. 11). This effort also received criticism, mainly since the UN aims to establish guidelines on the MACR but does not even mention the term itself (Cipriani, 2009, pp. 55 - 56). Besides, scholars find the description vague as the only matter to determine the MACR seems to be capacity (Cipriani, 2009, p. 56). This leaves substantial room for interpretation of the concept of capacity, which is, even more, the case as the word presumed is used. Therefore, the article is not a rule and lacks guidance, leaving even more to the interpretation of the countries. With this article, the UN makes its own role increasingly difficult as it makes it hard to target national policies (Gillen, 2006).

In the important Convention on the Rights of the Child, no specific lower limit for MACR’s is formulated, however, later, the UN did formulate the desired lower limit on multiple occasions. In 2007, the UN stated in Article 32 of the Convention on the Rights of the Child General Comment No. 10 that a MACR of 12 years is the absolute bottom age and preferably needs to be increased (United Nations, 2007). In the same document, it is indicated that the desirable lowest age is 14 or 16.

The Council of Europe

The CoE is the second relevant actor when it comes to MACR’s due to its work on developing general criteria on human rights throughout its member states and its monitoring work concerning children’s rights and the MACR. The foundations of the CoE efforts regarding

MACR can be found in Article 23 of The Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice which stipulates: “The minimum age of criminal responsibility should not be too low and should be determined by law” (Council of Europe, 2011, p. 25). This is again a rather abstract criterion. More specific guidelines were established in 2014 when the CoE stated that the MACR should be 14 years at least to prevent juveniles from entering the justice system and to create a safer environment (Parliamentary Assembly of the Council of Europe, 2014).

In connection with the desires set out in this paragraph, the age of 14 years is seen as the acceptable lowest age used in MACR legislation.

Country-specific targeting

When comparing the MACR of England and the international standard, England has a lower MACR than the international standard desires. As stated in the previous section, the UN also targets country-specific when they have concerns about certain human rights matters. In the case of England, in 1995, 2002, 2008 and 2016, the Committee on the Rights of the Child targeted England when publishing reports in which they express their concerns regarding the level of the MACR and urged England to increase the MACR (UNCRC, 1995, 2002, 2008 2016). The CoE does the same and, for instance, published a report in 2008 on the shortcomings of the MACR and encouraged the same measures as the UN (Council of Europe, 2008).

The Theory of Juvenile Justice Systems

England is aware of the international threshold and the scientific evidence and critiques on their MACR. Be that as it may, the MACR remains unchanged and, above all, low. As shown throughout this and the previous chapter, the MACR deadlock seems to come from the political field (Brown & Charles, 2019; Goldson, 2013). This deadlock is what is studied in this research. In this paragraph, it is explained why the theory of juvenile justice systems is used as a theory and how it is constructed.

It is undesirable to disconnect MACR's from the wider scope of juvenile justice systems as it is part of these systems. Therefore, the search for the answer to the research question happens considering the broader perspective of juvenile justice systems.

Traditionally, there are two widely used juvenile justice models, the welfare model and the justice model (Hazel, 2008). These models are used to differentiate, conceptualise and explain juvenile justice systems and developments. However, in reality, two problems present themselves. The first problem is that juvenile justice systems have become increasingly complex over the years and the welfare and justice model have become increasingly intertwined (Dünkel, 2014; Muncie, 2008). As a result, many other models of juvenile justice entered the arena. A wide range of research has been conducted on new types of models and a wide variety of models have been introduced. In 2002, Winterdyk (p. XXII) provided an overview of the six models that he found which includes the welfare, justice, modified justice, participatory, corporatist and crime control model. Another typology is presented by Cavadino and Dignan (2006b) and is based on political economy systems (Muncie, 2008). This results in a distinction between welfare, justice, minimal intervention, restorative justice and neo-correctionalist models. Throughout the literature, these two groups of models are perceived as most useful (e.g. Hazel, 2008) and are most frequently used by other scholars (e.g. Dünkel, 2014).

Regardless of all these other models, only the welfare model and the justice model are used in the analysis of this research. The reason for this is that these two models are the original models on which all the other models are based (Dünkel, 2014; Muncie, 2008). This means that the other models have elements from the welfare and justice model and these overlaps give them less explanatory power. Consequently, this research only uses the two models at the base of all typifying juvenile justice systems.

The second problem is that the models are an oversimplification of reality (Doob & Tonry, 2004) this makes it difficult to assign a juvenile justice system to one single model

(Alder & Wundersitz, 1994; Hazel, 2008) even more with the increasingly complex juvenile justice systems observed across countries (Muncie, 2008). Nevertheless, just as with other typologies, the models are helpful as they simplify matters and portrait ideal types (Dignan, 2004). Typologies are rarely claimed to be picturing reality but are still usable. The advantage of the justice and welfare model is that they, as Hazel (2008, p. 23) states it as: “as extreme poles they do provide a framework for mapping, and charting, the movement of systems and policies”. Both the justice and the welfare model are used as conceptual tools to help analyse the issue at hand.

The Welfare Model

The welfare model of juvenile justice is said to be the first type of juvenile justice to emerge when juvenile justice systems were established and organised (Kratcoski, 2012, p. 16; Winterdyk, 2015, p. 7). The welfare model is based on the positivist belief that the environment is the cause for the behaviour of children, also the criminal behaviour, and that juveniles are not yet rational decision-makers due to immaturity (Alder & Wundersitz, 1994; Dignan, 2004; Kratcoski, 2012, p. 16). This is what Alder and Wundersitz (1994) refer to as one of the two founding principles of the model, paternalism. The second principle is that of protectionism. Juveniles need to be protected from the negative influences of these environments when it victimises them. The state, more specifically the juvenile justice system, is considered to be responsible for the actions of juveniles and also for their protection (Hazel, 2008). This protection encompasses treatment and rehabilitation contrary to punishing transgressive behaviour (Kratcoski, 2012, p. 16) with the aim to reduce recidivism by treating the root of the cause (O'Connor, 1998).

Winterdyk (2002, p. XXII), contributed to the research on the welfare model by identifying the characteristics of the model. Some of these characteristics are already mentioned, namely that behaviour is determined by the environment and the principle of

protection through treatment. Another characteristic is the use of informal proceedings to provide customised solutions.

However, a major critique of the welfare model relates to this feature. Although it was first seen as a way to find a path best fitting to the case, custom work often leads to unequal solutions across cases (Young et al., 2017). Besides, the arbitrary nature of informal procedures, combined with another characteristic, the use of childcare experts, has an additional disadvantage. The experts are given comprehensive discretion, so much that not only offenders are treated and protected, but non-delinquent juveniles are also treated in the name of prevention and are, thus, pulled into the juvenile justice system (AIHW, 1998; Dignan, 2004; Pratt, 1989). Furthermore, the custom work without legal boundaries could lead to far-reaching decisions made by the childcare experts, such as removal from the environment (Dignan, 2004) which is seen as a decrease of individual rights (Muncie, 2006).

Changes in society, together with the critique on the welfare model led to the notion that the welfare approach was increasingly ineffective and decreasingly appropriate. This resulted in a change in the juvenile justice systems.

The Justice Model.

In response to the weaknesses of the welfare model, countries turned towards a more justice approach to the juvenile justice system. A shortcoming of the welfare model is that it does not put any responsibility and accountability on the child (Muncie, 2006). Contrary to the welfare model, the justice model emphasises that juveniles are responsible for their actions and the duty of the state is to assess their responsibility and to punish accordingly (Alder & Wundersitz, 1994; Hazel, 2008). The justice model can be seen as completely the opposite of the welfare model. The features of the model are formal proceedings through the judicial system with previously determined, predictable and proportional sanctions to punish deviant behaviour in compliance with individual legal rights (Alder & Wundersitz, 1994; Pratt, 1993, p. 43;

Winterdyk, 2002, p. XXII). Instead of searching for the best fit for everyone, the law stipulates which and how criminal behaviour is punished (Alder & Wundersitz, 1994; Hazel, 2008). Since this is determined by a formal process, the sanctions are predictable and proportional to the crime.

However, with these rights come responsibilities, which is the main focus of the justice model. Hazel (2008, p. 24) states the idea behind this as follows: “If the young person is old enough to enjoy the rights of citizenship, the thinking goes that they are old enough to accept responsibility for their actions”. Dignan (2004) adds that responsibility comes from the classicist idea that juveniles also have self-determination when it comes to their actions. As the justice model handles children as rational agents, it brings juveniles closer to adult justice (Kratcoski, 2012, p. 17).

Another difference from the welfare model is the agency and the personnel concerned with handling cases. Contrary to the childcare experts from social work agencies, the justice model expresses lawyers to be the right people to assist juveniles in the judiciary system (Pratt, 1993, p. 43). Supported by the law, this ends the room for discretion for social experts and accounts for less discriminatory outcomes (Hazel, 2008; Pratt, 1993, p. 43).

As noted earlier in the introduction, most juvenile justice systems have been moving and changing over the last years, with an acceleration in the last 30 years. Countries are creating new policies and moving further away from the strict distinction between welfare and justice approaches. The ever-changing justice systems resulted in the creation of other models to characterise juvenile justice systems. As history influences (see the introduction) current situations, development and status quo's, the welfare and justice model are the foundation behind juvenile justice reforms. So, despite more recent reforms and blurring of the models, these two models are always at the base of reform and therefore eligible to use for the analysis of juvenile justice systems and to test if the theory also applies to MACR's.

Responsibility

The main theme in both of the juvenile justice models is responsibility. While the justice model puts the responsibility on the juveniles themselves, the welfare model does not perceive juveniles to be responsible for their actions. Responsibility has three very closely related aspects, decision-making, the level of maturity and capacity.

As shown in the introduction, criminal capacity is an important matter in the narrative of the MACR. As explained in the research of Wagland & Bussey (2017), criminal capacity refers to the ability to distinguish between criminal wrongful acts and juvenile mischief. When juveniles have criminal capacity, they are responsible for their actions as they know that what they were doing was wrong (Crofts, 2009).

Goldson (2013) writes that capacity has two dimensions, the understanding of what the law stipulates to be right and wrong and the consequences of actions of wrongful acts. Only then is the child to be held responsible for committed offences. Wagland and Bussey (2017) add that it is not only the understanding of wrongfulness and consequences but also the capacity to regulate the own behaviour to not carry out wrong behaviour. The question that remains is then from which age juveniles have this understanding and capacity. As stated above, the justice model perceives that capacity is developed from a relatively early age while the welfare model perceives the capacity to develop later in life and, therefore, the responsibility is put at the state level.

Capacity is a biological and psychological concept as capacity is dependent on the development of the brain (see paragraph The Age of Criminal Responsibility in the Introduction). The brain development with, consequently, the level of capacity determines if a child is seen as mature or immature. In the justice model, as capacity is believed to be developed from an early age, juveniles are referred to as mature while in the welfare model the opposite is believed and juveniles are referred to as immature (Alder & Wundersitz, 1994; Dignan, 2004;

Kratcoski, 2012, p. 16). Cipriani (2009, p. 7) expresses that some scholars note that the concept of capacity has limited relevance for the welfare model as the state is the responsible actor which makes it unnecessary to know if someone has criminal capacity.

The last term used in this regard is decision-making. Immaturity makes it difficult for juveniles to make rational decisions according to the welfare model, while the perceived maturity of juveniles in the justice model makes rational decision-making possible (Alder & Wundersitz, 1994; Dignan, 2004; Kratcoski, 2012, p. 17).

The meaning and notion of criminal capacity as constructed and considered by the legislator is perceived to be at the base of determining the MACR (Wagland & Bussey, 2017). However, these views on criminal capacity mostly seem to be based on conventional understandings of criminal capacity as, as mentioned in the introduction, evidence increasingly suggests other levels of capacity than is observed in many countries. Goldson (2013, p. 117) explains this as: “the combined weight of this literature raises discomfoting questions concerning the legitimacy of holding 10-year-old children to be equally responsible as adults in criminal proceedings”.

The Independent and Dependent Variable

Before reporting the hypotheses of this research, it is necessary to clearly express what the dependent and independent variables of this research are. The independent variable is juvenile justice systems. This is a relatively simple concept as juvenile justice systems are the approaches to juvenile justice (see the introduction and the previous paragraph). These approaches are informed by the juvenile justice theory and its models which typify the systems.

This research revolves around the MACR and the goal is to see whether the independent variable indicated above explains the developments and current level of the MACR in England. As is explained in more detail in the next chapter, this is done by looking at the past and current attempts to reform by legislators as they have the legislative power to set the MACR. To be

able to assess this, the dependent variable needs to be more specific than solely the general MACR in national legislation. This research analysis if the stances and behaviours of legislators can be assigned to one of the two juvenile justice models and if motives for change have different explanations. To uncover this, the dependent variable is the number of political attempts to adjust the MACR. More specifically, this is the number of times legislators refer to the need to reform the MACR.

Hypotheses

As specified in the paragraph historical influences, and further explained in the paragraph case selection, the juvenile justice system in England is punitive and can be matched to the justice model of the juvenile justice theory. As explained in more depth and justified in the paragraph on the operationalisation of the independent and dependent variables, the justice model has six features. These features are formal procedures, least restrictive sentencing, the law, punishment, individual responsibility and rational decision-making. Following the theory, these features are expected to negatively influence the frequency of attempts to change the MACR. The influence is expected to be negative since a low MACR is linked to the justice model and its features and it is, therefore, likely that legislators using justice model features in their argumentation are negative towards changing and increasing the MACR. Consequently, the following hypotheses are formulated:

H_1 = The formal procedures feature of the justice model negatively influences the frequency of attempts to reform the MACR.

H_2 = The least restrictive sentencing feature of the justice model negatively influences the frequency of attempts to reform the MACR.

H_3 = The law feature of the justice model negatively influences the frequency of attempts to reform the MACR.

H₄ = The punishment feature of the justice model negatively influences the frequency of attempts to reform the MACR.

H₅ = The individual responsibility feature of the justice model negatively influences the frequency of attempts to reform the MACR.

H₆ = The rational decision-making feature of the justice model negatively influences the frequency of attempts to reform the MACR.

Research Design and Method

Now that the theoretical framework is established in the previous chapter, this chapter focuses on setting out the research design of this study. The first step therein is to specify the general direction of this research. Next, the data collection method is explained, justified and carried out. Thereafter, it is explained why England is selected to review. Fifthly, the concepts that are set out in the previous chapter are operationalised. Finally, the method of analysis is explained and justified. The reliability and validity of this research are discussed throughout the chapter.

Research Design

This research aims to explore whether and how certain features of the juvenile justice systems influence the attempts to change the MACR as reflected in official legislative documents. As described in the previous chapter and the subsequent hypotheses, it is expected that the features of the justice model can provide an answer to the question of this research.

This research is explanatory as it looks for the causes behind the under-researched topic of MACR's (Neuman, 2013, p. 40). This is done by using the existing theory of juvenile justice systems. This theory is tested by examining official legislative documents created by the legislation of England.

In this regard, the best option to examine the item under discussion is a qualitative method. In search of an answer, in-depth insight is needed to discover the reasoning, ideas and motives behind the current MACR and potential change (Neuman, 2014, p. 42). These insights are likely to show the influence of justice system features on the number of attempts to reform the MACR. Now that the general direction of this research is described, the next step in the research design process is establishing the data collection method.

Data Collection

In the first part of this research, the theoretical framework is created which provides the already existing knowledge on the subject (Neuman, 2013, p. 126). Several types of sources are

included in the literature review that makes up the theoretical framework, namely scholarly articles and books, newspaper articles on the issue and official documents of international organisations.

Based on the theoretical framework, the forthcoming part of this research aims to understand the status and development of the current MACR. As briefly touched upon in the previous chapter, the unit of observation is English legislators. The reason for choosing legislators is that they are the first step when it comes to making new or modifying already existing legislation (European Commission, 2020). Their legislative powers make it their task to write and pass legislation, also legislation regarding the MACR. Usually, legislative change comes from this branch of government, which makes it the most relevant actor to review change from.

There are two options to gain knowledge on the legislators. The best option is to interview the involved actors from the legislative branch since interviews allow in-depth and follow-up questions on beliefs and motivations, that could give a specific answer to the question (Bell & Waters, 2014, p. 178; Gill et al., 2008).

However, interviews are unfeasible in this instance. The reason refers to the concept of time. This research explores the legislative branch of England (this is explained in the case selection paragraph) over two longer periods. Two periods are examined, one is 14/04/1933 – 30/07/1963, which starts the day after royal assent is granted for the law stipulation the MACR of 8 and ends one day before the law increasing the MACR to 10 years is implemented. This period is used to examine the developments leading up to the current MACR. The other period is 01/08/1963 (the day after the current MACR is implemented) – 31/12/2020. Discussions on the current MACR could have taken place from the moment the last change took place. This period is used to examine the status quo of the current MACR. It is impossible to get access to enough of the relevant actors involved in the legislative discussion on the MACR over these

periods, let alone to interview them. The main reason is that the time it takes to conduct enough interviews to collect enough data does not correspond with the time available for and depth of this research. When such expert interviews were to be used, reliability of the interviews and the entire research is difficult to achieve since basing the majority of the research on a few experts, does not leave much room for assessing mistakes and consistency of the interview results (Dorussen et al., 2005).

Another reason that interviews are unlikely to happen comes from the fact that (former) legislators are or were high-level officials who are difficult to access (Bell & Waters, 2014, p. 126; Toshkov, 2016, pp. 45-46). It is therefore unlikely that they are willing to participate in such a research project.

A valuable substitute for interviews is document analysis (Johnson, in Bell & Waters, 2014, p. 126). Bowen (2009, p. 27) describes document analysis as: “a systematic procedure for reviewing or evaluating documents”. It is the process of isolating relevant parts of a text for later evaluation. Although document analysis is sometimes seen as a method of analysis or as the same as content analysis, Bowen (2009) explains that since the data produced by the document analysis still needs to be analysed, interpreted and converted into results and knowledge, it is regarded as a data collection method. The difference between document analysis and content analysis, or rather between it being a data collection method or a method of analysis, is subtle. However, document analysis can be seen as the part of content analysis in which information is gathered, reviewed and categorised and the content analysis part interprets, analysis and gives meaning to the data found in the document analysis (Bowen, 2009; Labuschagne; 2003). Before identifying which sources are used to uncover data and how these sources are found, it first needs to be clarified further who the research subjects are.

As previously stated, the research subjects are the relevant legislators in England. In England, the legislature is the British Parliament (European Commission, 2020). The

Parliament is made up of the House of Commons and the House of Lords. The former is concerned with making the laws while the latter checks and shapes these drafts (UK Parliament, n.d.-a).

Data Sources

As stated before, this research studies English legislators because of their legislative powers to write and pass legislation on the MACR. This is done by examining documents created by and about the legislator, parliamentary documents. Besides the fact that setting and adjusting the MACR is a legislative task and is followed by the creation of parliamentary documents, there is another reason why parliamentary documents are used. The other reason is that these documents are from the political field. This fits together with the expectation, mentioned several times earlier, that the current situation is the result of a political deadlock. This deadlock can be caused by the legislative or executive branch, however, taken together with the other argument about tasks, the first expectation is that the political deadlock comes from the legislative branch.

The UK Parliament produces two kinds of parliamentary papers, working papers of Parliament and the Parliament and its committees produce papers and reports (UK Parliament, n.d.-b). Many different types of documents fall under the Parliamentary papers. The Parliamentary papers are collected in the Hansard database of the UK Parliament³. Reports on what members of both Houses and parliamentary committees say, decide and vote are provided in Hansard (UK Parliament, n.d.-c). In Hansard, “age of criminal responsibility” is used as a keyword and the date ranges 14/04/1933 – 30/07/1963 and 01/08/1963 – 31/12/2020 are set. This search leads to 91 and 384 results. All the results are briefly scanned and highly irrelevant results are excluded from the analysis. Examples of irrelevant sources are documents related to other jurisdictions than England and Wales, sources solely stating the MACR and sources that

³ <https://hansard.parliament.uk>

are present more than once in the result list. After this selection, 26 and 104 results are uploaded in Atlas.ti. The main reason for the decrease in results is that many sources appear multiple times in the result list.

Written questions and answers from 2014 onwards are not part of the database (ibid). However, these can be found in a separate database of the UK Parliament. On the website of the database⁴, the keyword “age of criminal responsibility” is searched, tabled from 01/01/2014 to 31/12/2020 for both Houses and any questions. After this search, 17 questions and answers appear. After the same selection carried out before, 1 result is added to Atlas.ti.

Reliability of Data Collection

Reliability in qualitative research refers to the level of consistency in the research to make the research credible. (Neuman, 2013, p. 218). The literature review is used to establish the theoretical framework. Different types of sources are combined in this review. Scholarly articles, books, policy reports, legal documents and government documents together establish a framework that is critically evaluated through the balance of the combination of these sources (Neuman, 2013, pp. 126 – 135).

Making use of an observational research method would increase reliability (Bowen, 2009), however, as explained earlier, that is not feasible due to the time, scope and topic of this research. Nevertheless, it is not expected that the absence of observational research, such as interviews, causes major limitations to the reliability of this research. The explanation of this can be sought in the type of documents that are collected for the content analysis. Most of the legislative documents are transcripts of debates and depict the opinions of the legislators of England or are letters, statements or documents written by these legislators and also portray their opinions. The documents are thus primary sources. The concern with research based on already existing sources is a potential bias of the data (Bowen, 2009). However, the primary

⁴ <https://questions-statements.parliament.uk/>

sources used in this research do not contain observer bias. Besides, it is not a problem if the legislators are biased in their opinions and ideas as these opinions are precisely what the analysis is looking for.

Validity of Data Collection

Validity in qualitative research refers to “the “appropriateness” of the tools, processes, and data” (Leung, 2015, p. 328). This revolves around authenticity and trustworthiness in contrast to the search for truthfulness in quantitative research (Elo et al., 2014; Neuman, 2013, p. 218).

An important aspect of the validity of data collection is how the data is dealt with and the sampling strategy (Elo et al., 2014). In this research, the population is relatively small ($N = 130$), so the choice is made to not carry out total population sampling and study the entire set of collected documents (Morse, 1991, p. 131). An advantage of using the entire population is that the sampling technique and potential mistakes do not influence the outcomes of the research (Neuman, 2013, p. 247).

Notably, there are only a few documents available for the 1933 – 1963 period ($n = 26$). This can be a weakness, however, it can also carry a message. The lack of documents can mean that the legislators have not discussed or brought up the issue often. This can indicate that it is not a major issue in the eyes of the legislators. The content of the documents can tell more about this, which is analysed in the results chapter.

Case Selection

As mentioned several times throughout this research, the case that is chosen to examine in this study is England. There are several reasons for this decision. The main reason is that England is a very interesting case due to the exceptional low MACR, which is one of the lowest in Europe and even throughout the world.

A second reason for choosing England is because of the available previous research. As stated in the introduction, there is a vast amount of scientific research on the history and status of MACR's. This is especially the case for England as many researchers are interested in this MACR due to it being an outlier in geographical terms (e.g. Brown & Charles, 2019; Crofts, 2009; Goldson, 2013).

There are also practical reasons for choosing England. One of these reasons is the availability of sources. England has an easily accessible governmental database in which relevant documents can be found. Another practical reason refers to language. Advantageously, a researcher has a comprehensive understanding of the language of the sources which is the case for the English language.

The last reason for selecting England is because of the fit to the justice model. Although it is unlikely that the juvenile justice systems perfectly resembles the theoretical models, the models likely give observable direction to the juvenile justice systems in practice (for the explanation see paragraph Juvenile Justice System Models). It, therefore, does not matter if there is no fully grown legal form of the model, as long as the model's ideology is dominant in discussion and behaviour (Pratt, 1989).

Following existing scientific research, England is matched to the justice model. As stated in the previous chapter, more or less all youth justice systems started as welfare systems, however, criticism on the welfare approach lead to a rise in the justice approach. This is also observed in England, where the justice model became dominant (Muncie, 2005; Muncie, 2008). Instead of a focus on protection and rehabilitation, the juvenile justice system primarily focuses on punishment, responsibility and regulation (Goldson & Muncie, 2006). There is not only a difference with other countries, with systems primarily based on the welfare model, in the degree to which incarceration or punishment is the reaction to transgressive behaviour, but also in how juveniles are punished, in England, there is almost no difference between the treatment

of offending adults and juveniles (Crofts, 2009). In practice, the justice approach can be observed in, for instance, high incarceration rates (Muncie, 2008), the establishment of borstals for juveniles (Hazel, 2008) and punitive measures such as suspension from school and surveillance (Muncie, 2001). All these reasons accumulated lead to the decision to select England as the case to study.

Operationalisation

The next step in establishing the methodology is the operationalisation of the dependent and independent variable. First, the independent variable is operationalised and, second, the dependent variable is operationalised.

The Independent Variable

The independent variable of this research is juvenile justice systems. As set out in the previous chapter, the variable of juvenile justice systems has two values, systems influenced by the justice model and systems influenced by the welfare model. Winterdyk is one of the few scholars who provides a clear overview of the categorisation of the features of both models. This overview is used in this research to operationalise the concept of juvenile justice systems. Based on earlier research of Corrado (1992), Reichel (1994) and Walgrave and Mehlbye (1998), Winterdyk (2002, p. XXII) categorises the two forms as follows:

Table 2

The Features of Juvenile Justice System Models.

Features	Welfare model	Justice model
General	Informal	Due process
	Generic referrals	Criminal offences
	Individualised and indeterminate sentencing	Least restrictive alternative
Key personnel	Childcare experts	Lawyers
Key agency	Social work	Law
Tasks	Diagnosis	Punishment
Behaviour	Environmentally determined	Individual responsibility

Based on this categorisation and the information specified in the paragraph on the juvenile justice system models in the previous paragraph, the following operationalisation of juvenile justice systems is established.

Table 3

The Operationalisation of Juvenile Justice Systems.

	Welfare model indicators	Justice model indicators
Reference to informal procedures	x	
Reference to formal procedures		x
Reference to individual/indeterminate sentencing	x	
Reference to least restrictive sentencing		x
Reference to social work	x	
Reference to the law		x
Reference to diagnosis/treatment/rehabilitation	x	
Reference to punishment		x
Reference to an environmental determination	x	
Reference to individual responsibility		x
Reference to protection	x	
Reference to rational decision-making/maturity/capacity		x
Reference to irrational decision-making/immaturity/capacity	x	

The Dependent Variable

As reported in the previous chapter, the dependent variable is the number of political attempts to adjust the MACR. This is measured by the number of times legislators refer to the

need to change the MACR. This variable takes two different values, namely positive towards a change of the MACR and negative towards a change of the MACR.

In England, the last change to the MACR took place in 1963. It was changed from the low age of 8 years to a higher age of 10 years which is still a low age. Besides, in the previous chapters, it is described that this low age seems to come from the political field as scholarly evidence and international pressures argue for a higher MACR. In the case of England, it is, therefore, interesting to look at the period after the last MACR change to see how many times it is attempted to change the MACR and to see if these changes can be assigned to the justice or welfare rationale. In the other part of this research, in which the period is examined where the MACR was increased from 8 to 10 years, it is interesting to see how many times arguments for increase or decrease are used and if a welfare or justice rationale is present.

Method of Analysis

As mentioned in the second paragraph, the data collected by means of document analysis still needs to be interpreted and analysed. The most suitable method to use for that purpose is qualitative content analysis (Labuschagne, 2003). Bell & Waters (2014, p. 132) describe content analysis as: “a research tool with which to analyse the frequency and use of words or terms or concepts in a document, with the aim of assessing the meaning and significance of a source”. Content analysis allows for a more in-depth insight into the stances and argumentations of the English legislators (Weber, 1990, pp. 9-12). As that is the aim of this research, content analysis is a suitable method of analysis. Another reason why content analysis is chosen is due to its ability to assess a considerable number of documents (Neuman, 2013, p. 373; Weber, 1990, p. 10). This research covers almost 60 years of data which a content analysis makes possible to assess.

The content analysis in this research takes a deductive/directed approach. The reason for this is that the theoretical framework and hypotheses established in the second chapter give direction to this research (Potter & Levine-Donnerstein, 1999). The theory testing nature of the

research guides the coding of the documents since the concepts are developed by the theory and these concepts help to determine the initial coding categories, giving the analysis process more structure (Hsieh & Shannon, 2005). Texts from documents that do not fall into these initial categories are granted new codes. The codes that are part of the code list created before the content analysis are the indicators of the independent variable (table 3).

This research makes use of Atlas.ti, a qualitative data analysis and research software. With this software, data can be examined to find the meanings and intentions this research is searching for (Atlas.ti, 2019).

Analysis

In total, 130 documents are analysed. 104 documents from the period 1963 – 2020 and 26 documents from the 1933 – 1963 period. These documents are listed in the appendix. After all the documents are coded, the next step in the process is to analyse these codes and their meanings.

This is carried out by means of frequency analysis. Frequency analysis shows which codes and how often each code occurs in the analysed documents, both individually and in the two categories, the codes assigned to the justice or welfare model (Stan, 2012, p. 227). Codes with a relatively high frequency are presumed to reflect the topics and opinions that occur in the analysed documents. However, a critique on measuring frequency occurrence is that the latter is not always true in practice. The concepts that are coded with a high frequency are not necessarily the concepts with the most weight, meaning and importance (Stan, 2012, pp. 227 - 228; Stemler, 2000). The main problem is that synonyms and different descriptions can be used for similar matters.

Nevertheless, this is not expected to be a significant problem in this research. The search in this study is not merely a search for specific words or terms but more a search for argumentation and ideas beyond word frequency. The coding protocol of this research leaves

room for analysis of the legislative documents to capture argumentation. This way, more information is captured with more in-depth knowledge of the underlying motives.

Validity of Content Analysis

When examining the validity of the method of analysis, a challenge can be observed. The use of theory in the directed approach of content analysis can lead to researcher bias. Hsieh and Shannon (2005, p. 1283) explain that “researchers might be more likely to find evidence that is supportive rather than nonsupportive of a theory”. According to Potter and Levine-Donnerstein (1999) and Elo et al., (2014), an accurate coding list can help to increase the validity of the content analysis. “If the coding scheme is faithful to the theory in its orienting coders to the focal concepts, it is regarded as a valid coding scheme” (Potter and Levine-Donnerstein, 1999, p. 266). In this instance, the codes in the coding list are features of the two juvenile justice system models and these features are thoroughly discussed and evaluated in the theoretical framework. Therefore it can be argued that it is a sound theory that can account for a valid coding list. Besides, the focus of the analysis goes beyond the initial coding list and new codes can be added, which extends the scope of the analysis beyond the theory. However, both matters do not eliminate research bias and it is good to be aware of it throughout the content analysis.

Reliability of Content Analysis

An important element of the reliability of content analysis is the procedures concerning the work of coders. Potter and Levine-Donnerstein (1999) describe that coders make decisions when coding that are not automatically accurate or stable. The best way to tackle this problem is to have multiple coders and to perform an intercoder reliability test (Neuman, 2013, p. 375; Potter & Levine-Donnerstein, 1999). However, in this research, only one coder is involved in the content analysis. To increase reliability, coding is done in two stages (Elo et al., 2014; Potter & Levine-Donnerstein, 1999). In the first stage, all the documents are analysed and coded. In

the second stage, the parts of the documents that have been assigned codes, are analysed again to review the earlier decisions and to make changes. Nevertheless, the one coder strategy weakens the reliability of the project since it is impossible to achieve the same level of reliability with one coder as it is to achieve with multiple coders (ibid).

Reliability and Validity

Throughout this chapter, the reliability and validity of the specific sections are already discussed. The last matters that need to be addressed before reporting and analysing the results are the reliability and validity of some general subjects and choices made in this research.

The first step that is taken to enhance reliability is the triangulation of measure (Neuman, 2013, p. 166). With triangulation of measure, the matter at hand is researched from multiple perspectives by the usage of several sources of information. In this instance, a literature review is combined with content analysis.

This research does not meet the standards of external validity. External validity is reached when the results of this research can be generalised and applied to cases or situations other than the examined cases (Neuman, 2013, p. 221). However, generalisation is not the aim of this research as the focus is solely on the case of England. The characteristics of this case are specific and unique that generalisation is not possible but also not necessary. Therefore, the lack of external validity is not an obstacle for this research.

Results

In the previous chapter, the research method is described, explained and justified. The next step is to present the results from the content analysis and to analyse the data that is obtained in the previous chapter. This starts by reviewing the list with new codes that is developed during the content analysis. Thereafter, the frequency analysis is discussed and the hypotheses are rejected or accepted. Lastly, the results and theory are combined in a reflection on the theory.

New Codes

As explained in the previous chapter, coding started with a list of codes informed by the theory. During the content analysis, this list is expanded. In this case, 10 codes are added to the code list (table 4). It is now briefly explained what the new codes entail.

Table 4

New Codes

Positive towards change	Negative towards change
Comparison with other age limits	Crimes below the MACR
Comparison with other countries	Early intervention
Counter-productivity of punishment – reoffending	Flexibility/individual approach
Counter-productivity of punishment – stigmatisation/labelling	Public opinion
Financial ineffectiveness of punishment	
Reference to international organisations	

Starting with the codes that are assigned to the category of positive towards change, the first added code is a comparison to other age limits. This refers to an imbalance between the MACR and other age limits that are determined by legislation. The other age limits mostly refer to other instances in which juveniles are deemed responsible enough to make their own

decisions. So, while juveniles are deemed competent enough to be fully responsible for their criminal behaviour at 10 years of age in England, the law has determined that the same juveniles are not competent enough to buy a pet, to buy cigarettes, to leave school, or to get paid for employment, to name a few examples. The legislators who use this argument, see this imbalance as unfair and unexplainable and, therefore, use it as an argument to raise the MACR.

Comparison with other countries refers to the observation that the current MACR's are relatively low compared to most other European countries. This raises the question of why a high number of countries have higher MACR's or recently raised the MACR's while the current MACR's in England stays behind on this trend.

Counter-productivity of punishment has two different subcategories. Reoffending concerns the notion that punishment is counter-productive as it does not prevent juveniles from reoffending or even increases the chance of reoffending. Stigmatisation/labelling refers to juveniles being labelled as criminals by the criminal justice system. This label can cause stigmatisation and can lead to difficulties with, for instance, employment. An example of a legislator mentioning this code is: "A welfare approach would avoid unnecessarily giving children a criminal record, which can make it harder for them to gain employment when they reach working age" (HL Deb, 2013b, col 478).

The fifth added code, financial ineffectiveness of punishment, refers to the argument that punishment is costly partly due to its ineffectiveness. "To incarcerate 10, 11 and 12 year-olds is an ineffective, wasteful use of public money" (HL Deb, 2016c, col 1557) is an example of a quote taken from a legislative document in which the code is explained.

The last added code for positive towards change concerns international organisations. This is about the international MACR standard and the efforts of international organisations to raise the MACR. English legislators, for instance, mention the country-specific targeting of the UN and use this as a justification of the need to raise the MACR.

Secondly, the added codes that are assigned to the category of negative towards change are explained. The first code is crimes below the MACR. This refers to the juveniles who are below the MACR and engage in criminal activity. Due to their age, they cannot be punished for their behaviour, even if they commit serious crimes. The legislators that use this argument see it as unfair that these juveniles get off scot-free and are perceived unaccountable for their actions.

A benefit of a low MACR is that early intervention is possible. At the youngest possible age, deviant behaviour can be corrected, which is perceived to be beneficial for the future of the juvenile, possibly without crime. This conflicts with what is described in the theory section. A critique of the welfare model is that children are dragged into the juvenile justice system before committing any offences solely because of the possibility of criminal behaviour. That this argument is used for negative willingness contradicts what would be expected when applying the theory.

The third added code of negative towards change is flexibility/individual approach. The idea behind this is that a low MACR leaves room for the discretion of, mostly, judges. They can decide whether a juvenile is responsible for his or her actions, when it is needed to punish through the criminal justice system and which punishment suits best. This is, for instance, argued for cases in which serious crimes have been committed. When going back to the theory, it can be seen that this is contradictory to comments made on the welfare model. The welfare model has a feature of individual sentencing and the acceptance of the justice model rose partly because this individual approach was deemed unfair, unmanageable and causing inequality. That this new code is used as an argument to not increase the MACR, is, thus, not in line with what could be expected.

The last code is that of public opinion. Raising the MACR is believed to lead to negative public attention and public concern as it is a sensitive issue often sensationalised by the media.

This can lead to the hesitance of politicians to raise the MACR as they fear backlash from their constituents.

Frequencies

In this paragraph, the results of the content analysis are discussed, beginning with a general overview of frequencies of the total coding list. This frequency list can be found in table 5, where, besides the absolute amount of codes, the column relative frequencies are displayed. These relative frequencies show, in percentages, the contribution of the codes within the total codes for both periods of examination. In table 6, the frequencies for the total number of codes from the initial coding list, which includes the indicators of the juvenile justice models, and the additional codes are presented. The additional codes fall into two coding groups, positive towards change and negative towards change. The former entails codes that are positive towards increasing, while the latter entails codes that are negative towards increasing the MACR. In table 7, the total frequencies of the four different coding groups, welfare model, justice model, positive towards change and negative towards change, are documented.

Table 5

Frequency Table of Absolute and Relative Results of All Codes.

	1963 – 2020		1933 – 1963	
	Absolute	Column- relative	Absolute	Column- relative
(1) Crimes below the MACR	6	1.82%	1	1.47%
(1) Early intervention	3	0.91%	0	0.00%
(1) Flexibility/individual approach	3	0.91%	0	0.00%
(1) Public opinion	12	3.64%	0	0.00%
(2) Comparison with other age limits	18	5.45%	3	4.41%
(2) Comparison with other countries	50	15.15%	11	16.18%

(2) Counter-productivity of punishment - reoffending	17	5.15%	3	4.41%
(2) Counter-productivity of punishment - stigmatisation/labelling	19	5.76%	10	14.71%
(2) Financial ineffectiveness of punishment	7	2.12%	0	0.00%
(2) Reference to international organisations	28	8.48%	0	0.00%
Reference to environmental determination (2)	27	8.18%	6	8.82%
Reference to formal procedures (1)	0	0.00%	1	1.47%
Reference to individual responsibility (1)	0	0.00%	0	0.00%
Reference to individual/indeterminate sentencing (2)	5	1.52%	0	0.00%
Reference to informal procedures (2)	0	0.00%	3	4.41%
Reference to irrational decision-making/immaturity/capacity (2)	48	14.54%	11	16.18%
Reference to least restrictive sentencing (1)	0	0.00%	0	0.00%
Reference to protection (2)	12	3.64%	5	7.35%
Reference to punishment (1)	2	0.61%	1	1.47%
Reference to rational decision-making (1)	5	1.52%	2	2.94%
Reference to social work (2)	16	4.85%	0	0.00%
Reference to the law (1)	0	0.00%	0	0.00%
Reference to diagnosis/treatment/rehabilitation (welfare programs) (2)	52	15.76%	11	16.18%

Totals	330	100.00%	68	100.00%
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In table 5, the absolute and relative frequencies are presented. It not only shows the number of attempts to change the MACR, but it also shows the argumentation used for these attempt to change the MACR.

Absolute and Relative Frequencies in the 1963 – 2020 Period

In the 1963 – 2020 period, 104 documents are analysed. Throughout these documents, 330 codes are assigned. Several outliers can be observed when reviewing the frequency table. Three codes are, by far, assigned most often, reference to diagnosis/treatment/rehabilitation (n = 52, 15.76%), comparison with other countries (n = 50, 15.15%) and reference to irrational decision-making/immaturity/capacity (n = 48, 14.55%). These three codes account for almost half of the total assigned codes (45.46%).

On the opposite side, five codes are not assigned throughout the legislative documents, namely reference to law, reference to least restrictive sentencing, reference to formal procedures, reference to individual responsibility, reference to informal procedures and reference to individual/indeterminate sentencing.

When reviewing these absolute and relative frequencies against the expectations of this research, it shows the following on the justice system features assumed to influence the attempts to reform the MACR. Six justice model features are expected to be influential, formal procedure, least restrictive sentencing, the law, punishment, individual responsibility and rational decision-making. Four of these six codes are not assigned in the 1963 – 2020 period, namely, formal procedures, least restrictive sentencing, the law and individual responsibility. Consequently, these codes do not influence the attempts to change the MACR. Two of the six codes are assigned, however, they have low absolute and relative frequencies. Rational decision-making is assigned five times (1.52%) and punishment is only assigned two times (0.61%). Therefore, the degree to which these features are influential is low.

The most influential codes are comparison with other countries, irrational decision-making and diagnosis/treatment/rehabilitation. Two of these codes belong to the welfare model coding list and a third code belongs to the positive towards change coding group. What this entails is explained by table 7, however, it can be said that this is contrary to what is expected. The rest of the codes that are assigned in this period ($n = 180$, 54.54%) are spread out among the remaining 14 coding categories.

Absolute and Relative Frequencies in the 1933 – 1963 Period

In the 1933 – 1963 period, 26 documents are analysed. Throughout these documents, 68 codes are assigned. The codes, reference to irrational decision-making ($n = 11$, 16.18%), comparison with other countries ($n = 11$, 16.18%). and reference to diagnosis/treatment/rehabilitation ($n = 11$, 16.18%) occur most often. Counter-productivity of punishment – stigmatisation/labelling follows closely with being assigned 10 times (14.71%). There are 12 codes that are not found at all in the legislative documents of this period. This leaves eight coding categories that are assigned an average number of times ($n = 25$, 36.75%).

When reviewing these absolute and relative frequencies against the expectations of this research, it shows the following on the justice system features assumed to influence the attempts to reform the MACR. Of the six justice model features expected to be influential, three features are not assigned in the 1933 – 2063 period. These features are least restrictive sentencing, the law and individual responsibility. Consequently, these codes did not influence the attempts to change the MACR leading up to the last MACR change. The three codes that are assigned, however, have low absolute and relative frequencies. The code formal procedures is assigned once (1.47%), punishment is assigned once (1.47%) and rational decision-making is assigned twice (2.94%). The degree to which these features are influential is low.

The most influential codes are stated at the beginning of this subparagraph. Two of these codes are welfare model indicators and the other two are newly established codes. These

categories are further explained by table 7, however, just as in the other period, this is contrary to what is expected.

Initial and Additional Codes in both Periods

Table 6

Total Frequencies of Initial and Additional Codes.

	1963 – 2020		1933 – 1963	
	Absolute	Column- relative	Absolute	Column- relative
Initial codes	167	50.61%	40	58.82%
Additional codes	163	49.39%	28	41.18%
Totals	330	100.00%	68	100.00%

In table 6, the individual codes are combined into two groups. Initial codes and additional codes. Initial codes are the codes that are created before the content analysis is carried out and, thus, exclusively includes welfare and justice model indicators. Additional codes are not indicators of one of the two models, as formulated by the theory, but are other explanations for why legislators attempt to change the MACR (this is set out in the paragraph new codes).

Following the theory, reasoning and research purposes provided in the previous chapters, it is expected that the initial codes influence the attempts to change the MACR as they are the features of the justice systems. Therefore, it is predicted that these codes are present in majority throughout the content analysis.

When reviewing table 6 against this prediction it can be seen that there is only a small majority in both periods for the initial codes. In the 1963 – 2020 period the difference between the two groups is only four codes. In the 1933 – 1963 period, the majority is more convincing but still relatively small. So, against the expectations, the influence of the justice system models is not that different from the influence of newly assigned codes.

Coding Groups

Table 7

Total Frequencies of the four Coding Groups.

	1963 – 2020		1933 – 1963	
	Absolute	Column- relative	Absolute	Column- relative
Welfare model features	160	48.48%	36	52.94%
Justice model features	7	2.13%	4	5.88%
Positive towards change	139	42.12%	27	39.71%
Negative towards change	24	7.27%	1	1.47%
Totals	330	100.00%	68	100.00%

To not only consider the outliers and the differences between justice system features and other influences, the codes are grouped in table 7 to see the influence of similar codes. The goal is to see how far the original models reach or if there are other explanations for the current MACR and past developments.

Besides the initial coding groups, which are the welfare model and justice model features, the additional codes are categorised as well and fall into two groups. The positive towards change group consists of the additional codes that are used as arguments to increase the MACR. The negative towards change group consists of the additional codes that are used as arguments to maintain or, in some exceptional cases, even lower the MACR. The individual codes that make up the groups are explained and allocated in the first subparagraph of this chapter, new codes.

In the 1963 – 2020 period, the majority of the codes are welfare model features (48.48%) and the justice model features only account for 2.13% of the codes. The main expectation that the justice model influences the attempts to change the MACR is thus not correct as the welfare model indicators are attributed more often. When considering the positive towards change

group (42.12%), it is visible that this group has a lower frequency than welfare model features and not surpasses the frequency of this group. This means that the welfare model features have the biggest influence on the attempts to change the MACR.

The table does not only show that the expectation of the justice model is incorrect, but it also shows that the belief that English legislators think that the MACR should not be increased is wrong as 90.60% of the codes are assigned to coding groups that are positive towards increasing the MACR, a convincing majority.

In the 1933 – 1963 period, the majority of the codes are also welfare model features (52.94%). The justice model features only account for 5.88% of the codes. Just as in the other period, the biggest influencer is not the justice model but the welfare model.

When examining the positive towards change group, the table shows that 39.71% of the codes fall into this group. Despite this relatively high frequency, the welfare model has a higher frequency and, thus, has the biggest influence on the attempts to change the MACR. Furthermore, as mentioned, the welfare model features account for 52.94% of the codes which is not only an absolute majority but also a compelling majority.

When combining the welfare model features and the positive towards change group, which both encourage an increase of the MACR, they contain 92.65% of all codes. The notion that the English legislators did not want to change the MACR is, consequently, incorrect.

Before addressing the hypotheses of this research, there are a few matters on which a closer look is taken. The first matter is trends in the 1963 – 2020 period.

Trends in the 1963 – 2020 Period

A time period of 58 years is examined in the content analysis. This is a long period in which changes of legislative stances can emerge. It is, therefore, valuable to demonstrate how the coding groups develop over these 58 years, to see whether the number of times attempts to change the MACR are made are consistent or differing over time.

Figure 1

Trends of the Justice Model and Negative Towards Change.

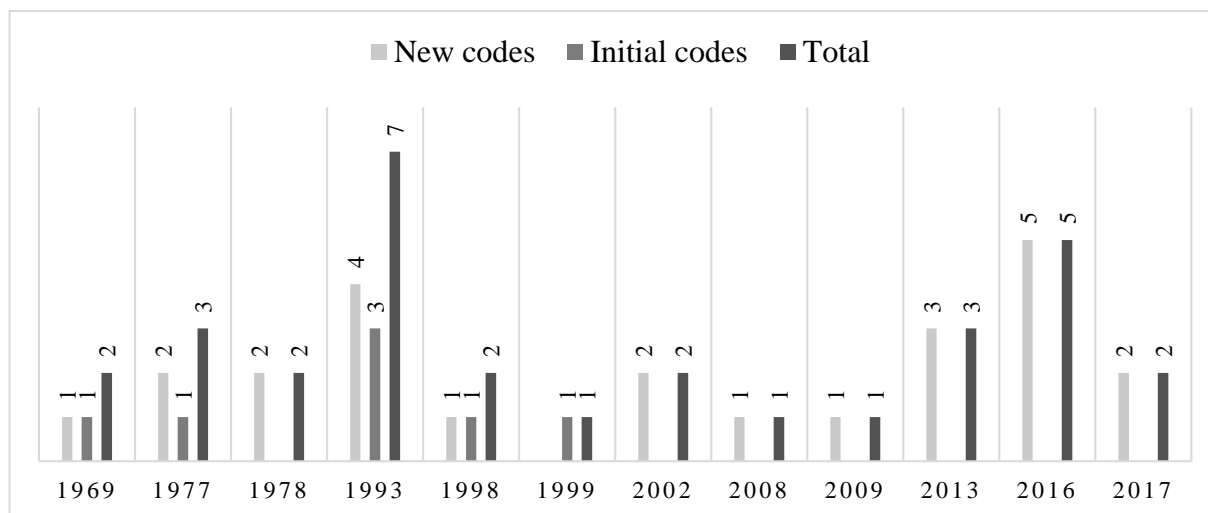


Figure 1 displays the frequency of new and initial codes of the two groups that do not want the MACR to change. Although the frequency of the total codes is relatively stable over time, the figure shows that the features of the justice model do not appear in the legislative documents from 2002 onwards. Every code in the direction negative towards change has a new explanation (new codes) than what is to be expected following the theory (the initial codes).

Figure 2

Trends of the Welfare Model and Positive Towards Change.

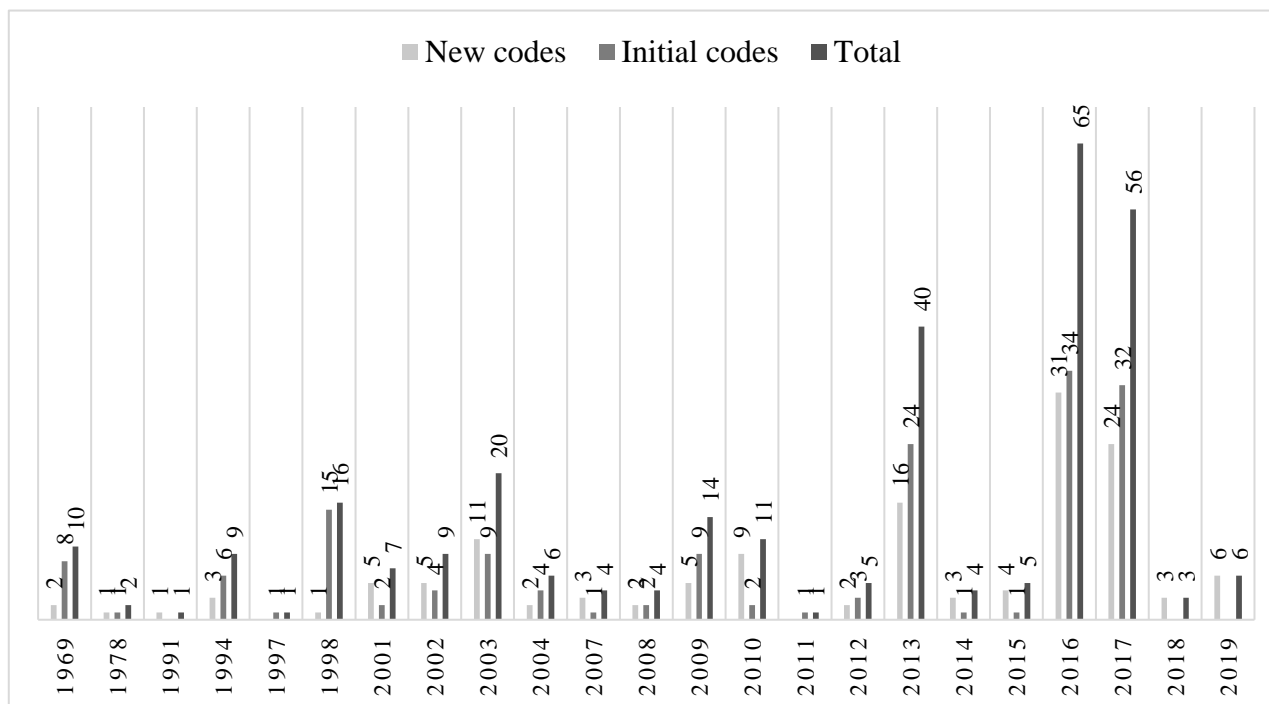


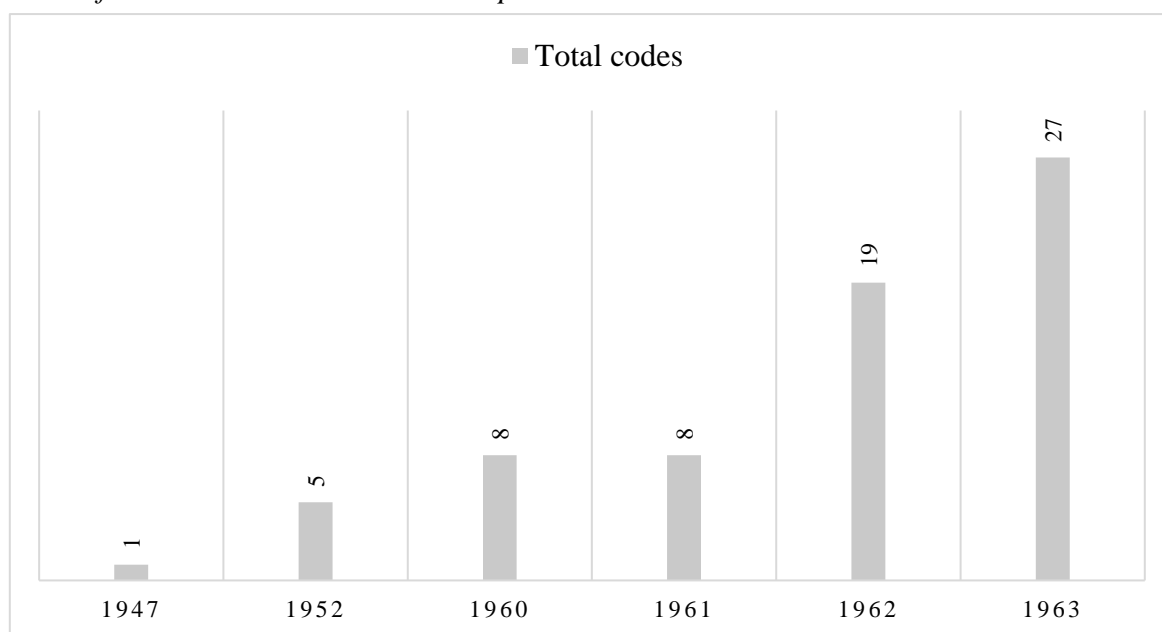
Figure 2 displays the frequency of new and initial codes of the two groups that do want the MACR to change. The first matter that stands out is that the new and initial codes have relative similar frequencies. With the exceptions of a few outliers, for example in 1998, over the years, the frequencies are somewhat alike. The second matter that stands out is that throughout the years the number of times features of the welfare model and positive towards change codes are referenced increases, especially after 2012. Between 2013 and 2019, the number of codes in this direction accounts for 59.87% of the total percentage over the complete time. So, the number of attempts to reform the MACR influenced by the two groups wanting change has grown throughout the years.

Amount and Content of the 1933 – 1963 Period Documents

Another matter taken a closer look at is the number of documents available for the analysis and the content of these documents. As stated earlier, 26 documents of the 1933 – 1963 period are analysed, resulting in 68 assigned codes. This is a relatively low number, however, a lack of documents and codes can also have a reason. Two topics relating to the lack of documents and codes are now discussed.

Figure 3

Trends of the Codes in the 1933 – 1963 period.



The first topic is that of trends. In figure 3, the number of assigned codes and the year in which the documents are created is displayed. What can be seen is that, besides some sporadic codes in 1947 and 1952, most of the codes are assigned in the last 4 years of the period. These are the years leading up to the increase of the MACR from 8 to 10 years. In the three documents, in which codes are assigned, from 1960, the discussion on the MACR is a side issue to other juvenile justice concerns and policies but is more of an issue than the years before. In 1961, when two documents have codes, the MACR is a more dependent issue in the debate on the Criminal Justice Bill. The following year, the MACR is discussed in debates on the Children and Young Persons Bill. In 1962, the debates on this bill continue and 27 codes are assigned.

The reason for the increase in attention for the MACR is the report of the Ingleby Committee on Children and Young Persons of 1961, in which the juvenile justice system is reviewed. This report led to an increase in discussions on the subject and, consequently, codes that are assigned. So, although the number of documents is low in total, in perspective, after a turning point in 1961, there is a reasonable number of codes assigned in the last four years of the period. It explains the low number of documents and codes and shows that there is a logical explanation for it and that the low amount of codes does not necessarily affect the results.

The second topic relating to the low amount of documents, and, in this instance, mainly codes, is the content of the documents. As touched upon above, it can be seen that the MACR is always discussed in the context of the broader juvenile justice system. It is never a separate subject as it is in the 1963 – 2020 period, for instance, in the Age of Criminal Responsibility Bill. The content analysis shows that the debates about the MACR are in a different stage than the debates in the other research period. Where the discussions in the other period are mostly about setting a new age, the discussions in this period are more about how to deal with delinquents and establishing a definition of the MACR. One legislator puts this as: “I believe that the problem of how to treat young children below the age of criminal responsibility is

perhaps even more important than the actual age of criminal responsibility” (HC Deb, 1963a, col 1228).

The main consideration is what to do with juveniles finding themselves in trouble with the law when they are younger than the new MACR. The juvenile justice system is not as advanced as it is in the later period and policies and measures are yet to be determined. At the time of the discussions the following quotes describe the situation: “Getting away with it” is, in my view, one of the greatest misfortunes that a child can suffer” (HL Deb, 1962d, col 406) and “We, the Committee, were not prepared to recommend simply raising the age of criminal responsibility and leaving everything else as it was before” (HL Deb, 1962d, col 405). The analysed documents, thus, address the MACR in the broader context of juvenile justice reforms. This can be a reason for the low number of assigned codes, as, in this project, solely quotations about the MACR specifically are coded.

Besides, throughout the documents, there seems to be consensus about the need to increase the MACR, the question is more about how much the MACR should be raised and how the juvenile justice system should be designed. This could also result in a low number of assigned codes, because why discuss a matter in-depth on which consensus already exists.

These topics relating to the lack of documents and codes show that although the number of documents and codes is somewhat low, the results are still usable.

Hypotheses and Reflection on the Theory

Now that the results from the content analysis are documented and discussed, one of the final steps is to accept or reject the hypotheses of this research and to reflect on other theoretical questions.

The hypotheses are built on the expectation, fuelled by the theory of juvenile justice systems, that the features of the justice model influence the frequency of attempts to reform the

MACR. To see if the specific features of the justice model influence attempts, the hypotheses are now briefly individually reviewed.

H_1 = The formal procedures feature of the justice model negatively influences the frequency of attempts to reform the MACR.

Between both periods, the formal procedures feature is assigned once. Therefore, this feature has no influence and the hypothesis is rejected.

H_2 = The least restrictive sentencing feature of the justice model negatively influences the frequency of attempts to reform the MACR.

Throughout the content analysis, the feature of least restrictive sentencing is not assigned. This feature has no influence and the hypothesis is rejected.

The same goes for the law feature of the justice model. This hypothesis is, therefore, rejected.

H_3 = The law feature of the justice model negatively influences the frequency of attempts to reform the MACR.

H_4 = The punishment feature of the justice model negatively influences the frequency of attempts to reform the MACR.

Between both periods, punishment is assigned three times. In the 1933 – 1963 period, this accounts for 1.47% of all codes. In the 1963 – 2020 period, this accounts for 0.61% of all codes. These are such low percentages that the influence of the punishment feature is virtually nil. Consequently, the hypothesis is rejected.

H_5 = The individual responsibility feature of the justice model negatively influences the frequency of attempts to reform the MACR.

This feature is not assigned throughout the research and the hypothesis is rejected.

H_6 = The rational decision-making feature of the justice model negatively influences the frequency of attempts to reform the MACR.

The last feature, rational decision-making, is assigned more often. In the 1933 – 1963 period, it is assigned twice (2.94%) and in the 1963 – 2020 period, it is assigned five times (1.52%). These percentages are negligible and, therefore, the hypothesis is rejected.

Summing up, all six hypotheses are rejected and the features of the justice model do not influence attempts to reform the MACR.

What is expected is that the justice model explains the current status of the MACR. However, by rejecting the hypotheses, this expectation is proven to be incorrect. Contrarily, the features of the welfare model have the highest frequency in both periods. So, instead of the justice model influencing the attempts to change the MACR, the welfare model influences it.

Moreover, together with the welfare model features, the codes falling into the positive towards change group (90.61% and 92.65%) show that contrary to the expectancies, the English legislators are willing to increase the MACR. Adding to this, the trends of the codes, indicate that while the justice model features and negative towards change codes are relatively stable over time, the code frequencies for the welfare model features and the positive towards change codes increased in the 1963 – 2020 period. Meaning that the attempts to increase the MACR grew over the years.

What stands out when linking the theory to the results is the concept of *doli incapax*. As explained in the second chapter, this principle was abolished in 1998 in England. Although it being abolished, the principle influenced current English practices. When reviewing the results, two codes can be linked to the *doli incapax* principle. Firstly, the flexibility/individual approach code. The idea behind this code is that “we should consider lowering the age of criminal responsibility on the understanding that it will be implemented only in appropriate cases” (HC Deb, 1977a, col 390). Just as when the *doli incapax* principle was in operation, “the court should make its own judgment about whether a child knew that it was performing a criminal act, and should deal with that child accordingly” (HC Deb, 1993a, col 148).

Secondly, the code reference to individual/indeterminate sentencing can be linked to *doli incapax*. The idea behind this code is that from the MACR to a, yet to determine, certain age, it needs to be proven that juveniles act rationally when committing crimes, the individual approach. This is virtually the same as the earlier concept of *doli incapax*. The codes are very similar to each other, however, the first code is used as an argument for negative willingness, while the second code is used as an argument for positive willingness.

Although the share of these codes among the total amount of codes is low (2.43%), the arguments relate to the *doli incapax* principle. So, although the principle is no longer in effect, some arguments are made along the same lines of *doli incapax*.

Conclusion

This research aims to see if the juvenile justice system of England explains the past and current developments of the MACR by looking at the legislative branch. The research is guided by the theory of the juvenile justice system models. The justice model is expected to influence the frequency of attempts to reform the MACR. To assess whether this expectation is correct, content analysis with a frequency analysis is carried out.

The results of this study show that this expectation is not fulfilled. In both the 1933 – 1963 and the 1963 – 2020 period, the frequency analysis reveals that the features of the justice model only minimally accounts for the number of attempts. Besides, the frequencies of the negative towards change codes are also minimally present and do not provide an alternative explanation. There is, however, a majority for the welfare model features in both periods and this model, thus, influences the attempts. Furthermore, the ratio between the negative and positive coding groups became increasingly uneven in the last 20 years. After 1999, the features of the justice model are not assigned throughout the legislative documents and the negative towards change codes only sporadically. From the same moment, the frequencies of positive towards change and the welfare model increase.

Consequently, the English legislators are and have been mostly influenced by the welfare model and pro-change. This is partly contrary to the statement made in this research that the deadlock of changing the MACR comes from the political field. Only partly, because the political branch exists of more than legislators. However, it can now be said that the legislative branch is not responsible for this deadlock.

As stated above, in the 1933 – 1963 period, the expectation that the justice model explains the developments leading up to the last change are also not fulfilled. The coding group with the highest frequencies is the welfare model indicators, which, thus, has the most explanatory power in the 1933 – 1963 period. That the MACR was increased is a result of this

and, although further research is needed on this, the fact that the MACR was only increased to 10 years instead of 12 or 14 years, is believed to be because of the executive branch. The following quote is an example of a reaction to the proposal of the executive branch to increase the MACR to 10 years: “I thank the Home Secretary for now coming forward with a compromise proposal: I imagine that, politically speaking (...) it was about as far as he could go, and as far as he could be expected to go, in view of previous events” (HL Deb, 1963a, col 218).

At the start of this research, the following research question is formulated: *Does the juvenile justice system explain the minimum age of criminal responsibility in England?*

With all six hypotheses rejected, it can be stated that, contrary to the predictions on the influence of the justice model that is present in England, this model does not explain the MACR in England from a legislative point of view.

Practical Implication

The discrepancy between theory and the MACR in practice possibly leads to harmful and unfair situations. The knowledge obtained in this research can inform and incentivise relevant actors to take action and to conduct further research to improve the current situation. In England, the legislative branch, the executive branch or advocates of juvenile justice could be newly incentivised by the overview and be reminded that the majority of the legislative branch is in favour of increasing the MACR.

Limitations and Recommendations

In every research, the limitations of the research need to be taken into account when analysing the results and stating the conclusion. The most significant limitation of this research is that of researcher bias. Researcher bias is most likely to be a problem in the coding stage of the content analysis. As explained in the paragraph Reliability of Content Analysis, it is best to have multiple coders that are checked by an intercoder reliability test. However, this is not

possible in this instance and, therefore, coding happens in two rounds to control for potential researcher bias. Nevertheless, this control does not eliminate the potential researcher bias. The selection of documents is another aspect of researcher bias that can potentially occur in this research. After a database search, the documents are selected and any irrelevant documents are filtered out. Although filtering is carefully conducted and only highly irrelevant documents are removed from the selection, there is a possibility that choices are made that other researchers would not make. This limitation of researcher bias affects the reliability of the research.

Another limitation and simultaneously a recommendation, of this research, is a combination of the low document and code frequency in the 1933 – 1963 period and the method used. Due to the low frequency of documents, consequently, with a low code frequency, a more in-depth research method would possibly be a better fit. Content analysis has some room to quote relevant sections and to go beyond stating frequencies, however, this is not as in-depth as the content and number of the documents might require. Presumably, a different research method is best to be able to obtain in-depth knowledge about the developments leading up to the last MACR change.

Another recommendation is already briefly touched upon at the start of this chapter and addresses the role of the executive branch. It is concluded that in England, the legislators are not the reason for the discrepancy between evidence and the current MACR, as they are in majority positive towards MACR change. When further exploring the discrepancy, the other branch of government, the executive level seems a good next step for examination as they are the next stage in the decision-making process. Regarding the other period, in which the developments leading up to the last change are considered, the executive branch also seems the logical next step to examine since this branch ultimately decided on the MACR change.

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Appendix: Analysed Legislative Documents

1	House of Commons. (1947a). <i>November 27 Debate (vol 444)</i> . Retrieved from https://hansard.parliament.uk/Commons/1947-11-27/debates/5ede0339-ed35-4056-8e3f-7b10f7fe585f/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-c0444014-d5df-4cec-98ff-8aabc0a05019
2	House of Commons. (1947b). <i>November 28 Debate (vol 444)</i> . Retrieved from https://hansard.parliament.uk/Commons/1947-11-28/debates/1d87c96a-d45f-49a9-b03d-d8fc5bba9a9a/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-098a5b35-d04d-422a-9ace-1d4966872dd9
3	House of Commons. (1952). <i>December 11 Debate (vol 509)</i> . Retrieved from https://hansard.parliament.uk/Commons/1952-12-11/debates/3b455f01-7d68-4810-b8dd-2285919a94ab/CriminalCharges(ProsecutionOfChildren)?highlight=%22age%20of%20criminal%20responsibility%22#contribution-cf0787a4-aae3-4861-b9c9-ffc8f382e70d
4	House of Commons. (1956). <i>February 16 Debate (vol 548)</i> . Retrieved from https://hansard.parliament.uk/Commons/1956-02-16/debates/4509b622-085e-4f0d-b8a1-b814681d7d6e/ChildrenAndYoungPersonsAct1933(Committee)?highlight=%22age%20of%20criminal%20responsibility%22#contribution-497d4976-9b58-4f1f-942f-fa8952cab281
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6	House of Commons. (1960b). <i>July 29 Debate (vol 627)</i> . Retrieved from https://hansard.parliament.uk/Commons/1960-07-29/debates/e7f95ce3-de67-4830-b628-47196460114e/JuvenileOffenders(Accommodation)?highlight=%22age%20of%20criminal%20responsibility%22#contribution-5c62355e-c539-4eb7-9be0-38c953eaa4a6
7	House of Commons. (1960c). <i>November 17 Debate (vol 630)</i> . Retrieved from https://hansard.parliament.uk/Commons/1960-11-17/debates/8945aa23-4fd1-41fb-b4d7-c6fcdb2abfef/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-ca75ed5c-69ae-4304-807d-25abe0012156

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9	House of Lords. (1961a). <i>May 1 Debate (vol 230)</i> . Retrieved from https://hansard.parliament.uk/Lords/1961-05-01/debates/d14a7c97-dbe2-4392-95a7-dc95dedf5fbf/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-2edbf24f-f251-4403-81c5-81c9298b437e
10	House of Lords. (1961b). <i>May 1 Debate (vol 230)</i> . Retrieved from https://hansard.parliament.uk/Lords/1961-05-01/debates/193525e1-c39b-4644-86e5-8ba8799cc8b5/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-0cd7f78f-1ce7-4563-9eaf-626ac24cad9f
11	House of Lords. (1961c). <i>May 15 Debate (vol 231)</i> . Retrieved from https://hansard.parliament.uk/Lords/1961-05-15/debates/790051b8-27c7-4825-92a4-4745eb09829e/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-25bfd333-2831-4dca-ad55-0815c1f2f361
12	House of Lords. (1961d). <i>May 16 Debate (vol 231)</i> . Retrieved from https://hansard.parliament.uk/Lords/1961-05-16/debates/078bf6ac-54ee-4c84-8010-341bb25fc6d0/CriminalJusticeBill?highlight=%22age%20of%20criminal%20responsibility%22#contribution-8a83d832-d59c-4728-a15c-f77445f8ba94
13	House of Commons. (1962). <i>May 10 Debate (vol 659)</i> . Retrieved from https://hansard.parliament.uk/Commons/1962-05-10/debates/ff9a1f42-5a09-4a96-b9f9-702778082ffa/HomeOfficeAffairs?highlight=%22age%20of%20criminal%20responsibility%22#contribution-37bdfaef-1362-4b77-8600-eb5a2f10794f
14	House of Lords. (1962a). <i>November 20 Debate (vol 244)</i> . Retrieved from https://hansard.parliament.uk/Lords/1962-11-20/debates/c38f8d4f-b024-4b7b-97cb-40d3cc58d0ca/ChildrenAndYoungPersonsBillHI?highlight=%22age%20of%20criminal%20responsibility%22#contribution-6386729f-81f2-443c-a33a-1c6213cd2b10
15	House of Lords. (1962b). <i>December 4 Debate (vol 245)</i> . Retrieved from https://hansard.parliament.uk/Lords/1962-12-04/debates/0a3b63d5-cefa-4c07-810f-427ee83735c5/ChildrenAndYoungPersonsBillHI?highlight=%22age%20of%20criminal%20responsibility%22#contribution-1d763a21-b180-458e-85a9-9883a64f6f19

16	House of Lords. (1962c). <i>December 10 Debate (vol 245)</i> . Retrieved from https://hansard.parliament.uk/Lords/1962-12-10/debates/383e1a02-1721-485a-b63c-cb9ab79f67a4/ChildrenAndYoungPersonsBillHL?highlight=%22age%20of%20criminal%20responsibility%22#contribution-ba7598af-15b8-4288-92d4-fffb9132289
17	House of Lords. (1962d). <i>December 10 Debate (vol 245)</i> . Retrieved from https://hansard.parliament.uk/Lords/1962-12-10/debates/233024d9-b85a-4449-9fee-ba9c3f38da55/ChildrenAndYoungPersonsBillHL?highlight=%22age%20of%20criminal%20responsibility%22#contribution-bae4be0a-27c2-48d7-8b78-a3f5297491b0
18	House of Commons. (1963a). <i>February 27 Debate (vol 672)</i> . Retrieved from https://hansard.parliament.uk/Commons/1963-02-27/debates/e5610815-9f13-4bdf-9cdc-79faa6226e9c/ChildrenAndYoungPersonsBillLords?highlight=%22age%20of%20criminal%20responsibility%22#contribution-6e873088-eff4-4958-a1c1-cf41544bc674
19	House of Commons. (1963b). <i>July 5 Debate (vol 680)</i> . Retrieved from https://hansard.parliament.uk/Commons/1963-07-05/debates/422147ae-b818-4dc6-ae9e-8c95ad5afee5/NewClause%E2%80%9494(RevocationOfApprovedSchoolOrders)?highlight=%22age%20of%20criminal%20responsibility%22#contribution-6e0a113d-454f-4fe6-b6e5-44c2a8ebfa94
20	House of Commons. (1963c). <i>July 15 Debate (vol 681)</i> . Retrieved from https://hansard.parliament.uk/Commons/1963-07-15/debates/3f6f2876-5e48-4756-86d9-0063cfe45a92/Clause16%E2%80%9494(OffencesCommittedByChildren)?highlight=%22age%20of%20criminal%20responsibility%22#contribution-b84970b3-a1b6-4123-9f8d-d0043c0a9173
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