Children and Young People's Centre for Justice

MARCH 2026

Children, Capacity and Justice, Reflections from a Comparative Placement - Summary Report

Dr Kemal Saruhan

Collaborating for rights-respecting justice
cycj.org.uk | cycj@strath.ac.uk

Contents

Introduction

My name is Dr Kemal Saruhan. I am a lawyer and child psychiatrist, currently appointed as a lecturer at Hacettepe University Faculty of Medicine. In Türkiye, I have conducted forensic psychiatric interviews within Child Advocacy Centres (Çocuk İzlem Merkezleri), particularly in cases involving children subjected to abuse and judicial proceedings. I also have prior experience as a trainee lawyer at the courthouse, which provided me with direct exposure to criminal procedure and courtroom practice.

Between 8 September 2025 and 31 January 2026, I undertook a comparative placement at the Children and Young People's Centre for Justice (CYCJ), at the University of Strathclyde, to study youth justice in both Türkiye and Scotland.

During this period, I attended mock hearing sessions, visited secure care centres, and engaged with key stakeholders within the Children's Hearings System, including panel members, practitioners, and academics. These experiences provided first-hand insight into how Scotland operationalises a child-centred justice model in practice.

Bringing together my dual background in law and child psychiatry, this placement allowed me to observe each country's approach to children in conflict with the law from both a clinical and legal perspective. The aim was to examine how different system designs align with children's rights and child development principles, and to reflect on what each country can learn from the other. Although Türkiye and Scotland share a commitment to international children's rights standards, their youth justice systems have evolved in very different ways.

In this short report, I outline key features of Türkiye's youth justice system – highlighting contrasts and similarities with Scotland – and share personal reflections and lessons that may also be relevant for Scottish practice.

Youth Justice in Türkiye: Key Features and Comparisons

In Türkiye, children accused of offending are dealt with in a specialised juvenile court system. These courts are formal and professionalised structures, supported by prosecutors and defence lawyers. In more serious cases, such as those involving grave offences, children may be tried before Juvenile Heavy Penal Courts. Social workers or psychologists may also be involved in the process – for instance, courts can request a social inquiry report about the child's background, family and environment, similar to background reports. However, the presence of social work professionals in court hearings isn't mandatory and can vary. By default, decisions in Turkey are made by professional judges applying the juvenile law. Unlike Scotland, Türkiye does not have a lay participation model in its youth justice process. Indeed, lay involvement has not featured in any part of Türkiye's legal system historically, reflecting a fundamentally different legal tradition and institutional structure [1].

[1] https://kripoz.de/wp-content/uploads/2018/09/hakeri-the-rights-of-the-children-in-turkish-criminal-justice-system.pdf
Hakeri, H., *The Rights of the Children in Turkish Criminal Justice System.* 2018.

It should also be noted that Türkiye made major legal strides in 2004–2005 with the adoption of the new Penal Code and the Child Protection Law, both of which introduced significant reforms to align with international and European standards—particularly within the context of European Union harmonisation efforts. In recent years, Türkiye has piloted initiatives such as Child Justice Centres, which aim to improve the physical and procedural environment for children by bringing together courts, social services, and relevant professionals in child- sensitive spaces. While these efforts mark progress in terms of inter-agency coordination and child-centred settings, they remain limited in scope and do not represent a fundamental transformation of the justice system. By contrast, Scotland's approach is primarily welfare-based and administered through the Children's Hearings System – a lay tribunal that replaces formal courtroom proceedings with informal, child-friendly meetings. Each Hearing consists of three trained volunteer panel members and a Children's Reporter, who arranges the Hearing, provides legal advice to the panel, and submits the written grounds and information under consideration. There are no judges or prosecutors present. Instead, the panel members make decisions collectively after hearing from the child, their family, and involved professionals. The setting is informal and the focus is on understanding the child's circumstances and needs rather than determining guilt or assigning punishment. While most cases involving children are referred to the Hearings System, those involving particularly serious offences may still proceed to court. The Scottish model, rooted in the 1964 Kilbrandon Report, views child offending as a sign of unmet needs or social adversity, and prioritises support and supervision over punitive measures[2]. This participatory and non-adversarial structure represents a major philosophical departure from Türkiye's justice-based model. Nevertheless, Türkiye's recent reforms show a clear intent to integrate developmental considerations into its formal legal system.

Minimum Age of Responsibility and Capacity

One fundamental aspect of any youth justice system is the minimum age of criminal responsibility (MACR) – below this age, children are not held legally responsible for offences. In both Scotland and Türkiye today, the MACR is 12 years old. (Scotland raised its MACR from 8 to 12 in 2019, aligning with Türkiye's increase from 11 to 12 as part of the 2004 Penal Code reform.)

Contemporary developmental neuroscience indicates that adolescence is a period of gradual cognitive maturation. Early adolescence often begins around age 10, while mid-adolescence typically starts around 14. During this stage, young people begin developing abstract thinking and improved impulse control, but this development remains uneven and context sensitive. Even by mid-adolescence, children may struggle with emotional regulation, susceptibility to peer pressure, and decision-making in high-stress situations. These developmental characteristics provide strong

[2] Hallett, C., *Ahead of the game or behind the times? The Scottish children's hearings system in international context.* International journal of law, policy and the family, 2000. 14(1): p. 31-44.

justification for differential treatment of adolescents within justice systems [3][4]. Reflecting this scientific insight, many international bodies recommend setting the MACR at 14 or 15—ages that correspond more closely with the onset of mid-adolescence. The UN Committee on the Rights of the Child, among others, has advocated for raising the minimum age of responsibility in line with this evidence [5].

A key difference lies in how children between 12 and 15 are treated in Türkiye. Turkish law recognises that maturity is not a binary switch at a certain age. For children in this age range, the court must determine whether the child had the capacity to understand the wrongfulness of their actions and to control their behaviour. This assessment is carried out through forensic evaluations conducted either by forensic medicine specialists or child psychiatrists[6]. However, there are often significant discrepancies between the findings of forensic medicine specialists and child psychiatrists. While psychiatrists tend to emphasise developmental vulnerabilities and more often conclude a lack of capacity, forensic institutions report higher rates of criminal responsibility.[7][8] For example, in one study conducted at a child psychiatry outpatient clinic, only 14.4% of justice-involved children were assessed as having criminal capacity[9]. In contrast, a study of forensic medicine assessments found that 93.2% of referred children were deemed to have capacity [10]. Although findings vary across studies, this stark discrepancy highlights a systemic divide: child psychiatrists tend to find most children lack criminal capacity, whereas forensic medicine specialists tend to find the opposite.

If a child is found not to have criminal capacity, protective measures may be applied—such as placement in education, health services, or accommodation settings. If capacity is confirmed, the child can be subject to criminal liability, though sentencing is mitigated: for 12–15-year-olds, sentences may be reduced by up to 50%, and for 15–18-year-olds, by up to 33%, compared to adult sentencing. Nevertheless, once children are deemed to have criminal capacity and receive mitigated sentences, there are generally no dedicated alternative sanctions tailored to children. As a result,

---

[3] Johnson, S.B., R.W. Blum, and J.N. Giedd, *Adolescent maturity and the brain: the promise and pitfalls of neuroscience research in adolescent health policy.* Journal of adolescent health, 2009. 45(3): p. 216-221.

[4] Weinberger, D.R., B. Elvevåg, and J.N. Giedd, *The adolescent brain.* Washington, DC: National Campaign to Prevent Teen Pregnancy, 2005. 1: p. 10-12.

[5] General comment No. 24 (2019) on children's rights in the child justice system https://digitallibrary.un.org/record/3899429?ln=en&v=pdf

[6] https://kripoz.de/wp-content/uploads/2018/09/hakeri-the-rights-of-the-children-in-turkish-criminal-justice-system.pdf
Hakeri, H., *The Rights of the Children in Turkish Criminal Justice System.* 2018.

[7] https://medya.barobirlik.org.tr/tbbdergisi/App_Themes/Dergi/2024-175-2228.pdf
Saruhan, K., Saruhan,Y., *12-15 yaş arası suça sürüklenen çocukların kusur yeteneğinin tespitinde yaşanan sorunlar.* Türkiye Barolar Birliği Dergisi, 2024(175): p. 131-168.

[8] https://dergipark.org.tr/en/download/article-file/3323396
Coşkun Özbudak, "Oniki–Onbeş Yaş Arasındaki Çocukların İsnat Yeteneğinin Değerlendirilmesine Dair ATK ve Mahkeme Uygulamasına Eleştiri", *Ankara Baro-su Dergisi*, 2023, C.81 S.3, s.335-356

[9] Göker, Zeynep, et al. "KTÜ Tıp fakültesi çocuk–ergen ruh sağlığı ve hastalıkları polikliniğine son iki yılda başvuran adli olguların değerlendirilmesi." *Adli Tıp Dergisi* 20.3 (2006): 1-5.

[10] Kurtuluş, Ayşe, et al. "DENİZLİ İLİNDE 12-15 YAŞ ARASINDAKİ SUÇA SÜRÜKLENEN ÇOCUKLARIN SOSYODEMOGRAFİK ÖZELLİKLERİ." *Pamukkale Medical Journal* 1 (2009): 8-14.

sentencing typically involves deprivation of liberty, highlighting a significant gap in diversionary practice [11].

In Scotland, criminal capacity is not assessed on an individual, case-by-case basis. Instead, the system operates on a statutory age threshold: a child under the age of 12 cannot be held criminally responsible in law. Beyond this, most cases involving children are directed to the Children's Hearings System rather than the criminal courts, with only limited and exceptional circumstances resulting in court proceedings. The most common outcome within the Hearings System is a Compulsory Supervision Order (CSO), which places the child under the care and oversight of the local authority. A CSO may include a range of conditions tailored to the child's circumstances, such as requirements relating to school attendance, residence, contact arrangements, or engagement with services. Orders are subject to regular review, reflecting the system's emphasis on flexibility and responsiveness to the child's evolving needs [12].

Conclusion: Lessons and Key Takeaways

This comparative placement reinforced for me several key points that could inform practice and policy, especially from a Scottish perspective:

The value of a child-centred approach

Scotland's welfare-based model, grounded in the Kilbrandon philosophy, represents a unique and in many ways effective approach to youth justice. Keeping proceedings informal, focused on the child's needs, and separate from adult criminal courts has clear benefits in reducing stigma and supporting rehabilitation. Türkiye, on the other hand, has made significant legal strides since the early 2000s, particularly through alignment with international conventions and the EU acquis. However, despite initiatives like Child Justice Centres, the Turkish model still lacks the integrated, need-based decision-making logic that underpins Scotland's system, where children in conflict with the law and those in need of care are often addressed under the same framework. While physical improvements in infrastructure have been piloted, the broader justice system has not yet fully embraced the child-centred diversionary philosophy[13].

[11] Çınar, Ali Rıza. *Çocuk Ceza Hukuku Suça Sürüklenen Çocukların Ceza Sorumluluğu ve Yargılanmaları*. Yetkin Yayınevi, 2020.
[12] https://www.cycj.org.uk/wp-content/uploads/2025/06/Section-2-The-Roles-and-Responsibilities-of-Key-Partners.pdf
[13] https://media.setav.org/tr/dosya/2024/02/cocuk-adalet-merkezinin-islevleri.pdf
Çocuk Adalet Merkezlerinin İşlevleri, Zeki Karataş, SETA, Şubat 2024, Sayı:389.

Integrating Developmental Science and Psychiatric Needs into Justice Systems:

Both Scotland and Türkiye recognise the importance of considering children's developmental stages within their youth justice systems. However, effectively translating this recognition into practice requires more than age-based distinctions. Adolescence is marked not only by ongoing cognitive development but also by heightened emotional vulnerability, impulsivity, and sensitivity to social environments—all of which directly affect decision-making and legal accountability.

To respond justly and meaningfully, youth justice systems must look beyond cognitive maturity and systematically consider each child's broader psychological and social context. Psychiatric conditions such as ADHD, conduct disorders, and depression—commonly observed among children in conflict with the law—should be identified early and factored into intervention strategies[14]. Likewise, the role of social adversity, including trauma and structural inequality, cannot be overlooked in understanding a child's pathway into offending[15].

For youth justice systems to be both fair and effective, an integrated, interdisciplinary approach is essential—one that combines developmental science with child psychiatry and social work. Only through such coordination can we ensure that legal responses are tailored not just to the offence, but to the individual needs and circumstances of each child.

Decision-Makers and System Integration

Scotland's Children's Hearings System offers a distinct model where decisions about children's welfare and offending are made by trained lay panel members—volunteers from the community—supported by professionals such as social workers. This participatory and non-adversarial structure places the child's needs at the centre of decision-making. However, full replication of this model in Türkiye may not be feasible due to fundamental differences in legal traditions. Türkiye has never incorporated a lay participation model into any aspect of its judicial system, which is highly professionalised and formal in structure.

Nonetheless, the underlying principles of the Children's Hearings System—especially diversion from formal criminal proceedings and child-centred decision-making—could inform meaningful reforms in Türkiye. Instead of fully emulating the CHS, Türkiye could develop a diversion system that operates outside the formal trial process while retaining a professional legal framework.

A critical step in this direction would be to ensure that psychologists and social workers are not involved in an ad hoc or optional manner but instead become permanent and

---

[14] Demirci, Samet Can, et al. "An Examination of Psychiatric and Sociodemographic Risk Factors Among Children and Adolescents in Conflict with the Law." *Archives of Current Medical Research* 7.1 (2026): 61-69.

[15] Gupta, Madhu Kumari, Subrajeet Mohapatra, and Prakash Kumar Mahanta. "Juvenile's delinquent behavior, risk factors, and quantitative assessment approach: A systematic review." *Indian journal of community medicine* 47.4 (2022): 483-490.

mandatory contributors to youth proceedings. Their expertise is vital not only in assessing a child's developmental and psychosocial needs but also in shaping appropriate responses. These professionals should be embedded into the structure of decision-making at both the investigation and adjudication stages.

Moreover, the effectiveness of any protective or supportive measure depends heavily on its implementation and follow-up. A more integrated and accountable system is needed—one in which decision-makers are also responsible for monitoring whether the recommended interventions (e.g. education, accommodation, therapeutic services) are carried out in practice. Without this linkage between judicial decisions and service delivery, even well-intentioned measures risk being ineffective[16].

Avoiding Custody and Offering Meaningful Alternatives

It bears repeating that deprivation of liberty should be a measure of last resort. Scotland's minimal use of custodial sanctions is widely recognised as a strength of its youth justice system. The existence of community-based alternatives—such as Compulsory Supervision Orders—and other child-centred options like secure care placements offers a range of responses tailored to children's needs and risks. While secure care involves a full deprivation of liberty, it prioritises a therapeutic and child-centred approach, distinguishing it from traditional custodial environments. During my visits to secure care centres in Glasgow, I observed facilities with high physical standards and a clear commitment to child-centred support.

In Türkiye, while legal provisions aim to limit custodial measures, in practice, protective alternatives are rarely implemented when criminal capacity is established. There is a pressing need to expand the use of non-custodial, community-based responses—particularly for children deemed criminally responsible. Furthermore, youth detention facilities have faced criticism for inadequate physical conditions, limited educational programming, and insufficient psychosocial support. In this context, Türkiye could benefit from exploring international welfare-based approaches to provide meaningful alternatives to detention and better support the rehabilitation of children in conflict with the law[17][18].

Final Thoughts

Overall, this comparative journey underscored that there is no one-size-fits-all in youth justice, but there are common threads: early help, fairness, understanding of youth development, and inter-agency cooperation are key no matter where you are. Scotland

---

[16] Karataş, Zeki, and Aliye Mavili. "Çocuk adalet sisteminde suça sürüklenen çocuklara yönelik uygulamalarda karşılaşılan sorunlar." *Sosyal Politika Çalışmaları Dergisi* 19.45 (2019): 1013-1043.

[17] Istanbul Bar Association. (2023). *Policy Document on the Juvenile Justice System and Execution Regime*. https://www.istanbulbarosu.org.tr/HaberDetay.aspx?ID=19680&Desc=Çocuk-Adalet-Sistemi-ve-İnfaz-Rejimine-Dair-Politika-Belgesi

[18] https://www.tihek.gov.tr/public/images/kararlar/11A7CE.pdf
Human Rights and Equality Institution of Türkiye (TİHEK).*Visit Report: İzmir Closed Penal Institution for Children and Youth*. Report No. 2018/12, TİHEK, 2018.

can take heart that its system is held up as an inspiration in many ways, and Türkiye's ongoing innovations show how even a more traditional justice system can adapt when people are committed to treating children as children. My hope is that these reflections contribute to the conversation on making our youth justice systems as effective, humane, and just as possible – for every young person who needs our support.

I would also like to express my sincere gratitude to the team at the Children and Young People's Centre for Justice (CYCJ) for their warm welcome, valuable insights, and continued support throughout my placement. In particular, I would like to thank Dr Nina Vaswani, whose thoughtful guidance and encouragement helped shape my reflections and deepened my understanding of the Scottish context. I am also especially grateful to Dr Aileen Blower for her generous supervision and the opportunity to engage with forensic psychiatric processes in Scotland—her clinical perspective provided crucial insights that enriched both the comparative and developmental dimensions of my work.