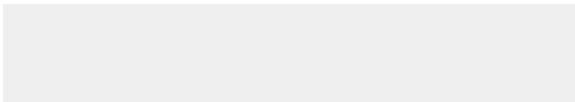
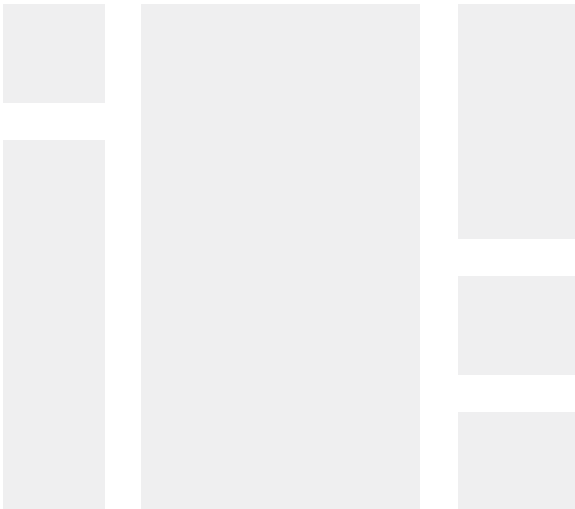


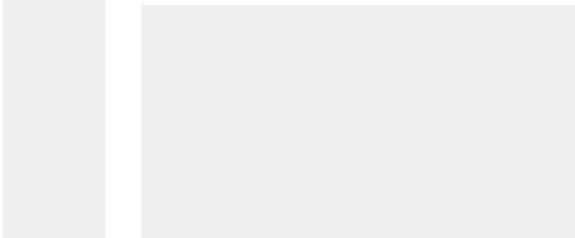
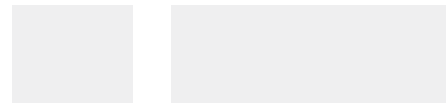
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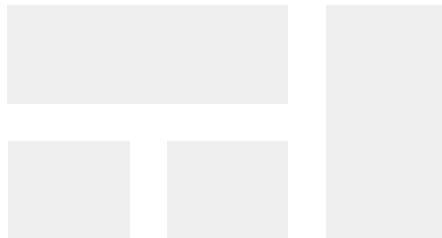
**Accounting for Considerations of Legal Capacity of Children in Legal Proceedings**



**Sarah Jane Judge**



**June 2013**



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# ACCOUNTING FOR CONSIDERATIONS OF LEGAL CAPACITY OF CHILDREN IN LEGAL PROCEEDINGS

*Sarah Jane Judge\**

**Abstract:**

Legal capacity refers to a person's capability in making a decision that has legal consequences. Although it is assumed that individuals have the ability to make these decisions, the law makes provision for those who lack this ability. Children are among those identified. In the criminal justice system, the age of criminal responsibility acts as the threshold for legal capacity in the context of criminal behaviour. Children below this age are deemed to lack the requisite capacity to be held culpable for a criminal offence. Despite reaching this age, he/she may still lack the ability to understand and participate in the court process. In the criminal justice context, these limitations can impact on how he/she makes choices, interacts with the police, relates to his/her lawyers, and responds to the court context. This may raise serious concerns for the due process rights of the child as ability to assist counsel and understand the information provided underpin the competence of any individual to stand trial.

This paper seeks to discuss how the limited capacity of the child can be realistically accounted for in court proceedings. Analysis is undertaken of the data concerning the legal capacity of children in the court process. This provides a clear account of the developmental immaturities that children face and how these limitations impact on their legal capacity as defendants. In demonstrating the impact of failing to account for the limited legal capacity of the child, findings from the consultation with young people undertaken by the Council of Europe and previous research conducted by the author in the Children Court in Ireland are utilised. From these observations and drawing on international standards of best practice, recommendations are then made for the relevant supports to ensure that the legal capacity of the child is fully accounted for in criminal justice proceedings.

**Keywords:** *children, capacity, participation, specialist training*

## A. INTRODUCTION<sup>1</sup>

Legal capacity refers to a person's capability in making a decision that has legal consequences. Although it is assumed that individuals have the ability to make these decisions, the law makes provision for those who lack this ability.<sup>2</sup> Children are among those identified. In the criminal justice system, the age of criminal

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<sup>1</sup> Preliminary Note: Due to the professional background of the author, this paper is primarily based on the child as a defendant in legal proceedings of a criminal nature.

<sup>2</sup> G Ashton (ed) (2012) *Mental Capacity: Law and Practice* (Bristol: Jordan Publishing, 2<sup>nd</sup> ed) p.1.

responsibility acts as the threshold for legal capacity in the context of criminal behaviour. Children below this age are deemed to lack the requisite capacity to be held culpable for a criminal offence. Despite reaching this age, he/she may still lack the ability to understand and participate in the court process. This is rooted in the developmental limitations of the child due to their age and lack of maturity.

In the criminal justice context, these limitations can impact on how the child makes choices, interacts with the police, relates to his/her lawyers, and responds to the court context.<sup>3</sup> This may raise serious concerns for the due process rights of the child as ability to assist counsel and understand the information provided underpin the competence of any individual to stand trial. Furthermore, the requirement of active participation of the child, as required and advocated by international legal standards of best practice, may not be achieved due to the inability of some children to fully understand the court proceedings. In the absence of rigorous competency testing as a pre-trial mechanism, the lack of legal capacity of the child necessitates that mechanisms and structures are in place to support and facilitate the child's understanding.

This paper seeks to discuss how the limited capacity of the child can be realistically accounted for in court proceedings. Firstly, analysis is undertaken of the data concerning the legal capacity of children in the court process. This provides a clear account of the developmental immaturities that children face and how these limitations impact on their legal capacity as defendants. Examination is then provided of international standards of best practice in accounting for the legal capacity of the child. In particular, guidance is taken from the child's right to effectively participate. It is submitted that the dialogue and information-sharing between legal professionals and children involved in the realisation of this right would help to ensure that the child reaches the requisite level of understanding. In demonstrating the impact of failing to account for the limited legal capacity of the child, findings from the consultation with young people undertaken by the Council of Europe<sup>4</sup> and previous research conducted by the author in the Children Court in Ireland are then utilised. From these observations and drawing on international standards of best practice, recommendations are then made for the relevant supports to ensure that the legal capacity of the child is fully accounted for in criminal justice proceedings.

## B. THE LEGAL CAPACITY OF THE CHILD: HOW CHILDREN THINK

In recent years developmental research has enhanced our understanding of child and adolescent development and its implications for the child as a criminal defendant. Grisso *et al* conclude that psychosocial immaturity may affect the performance of youths as defendants, in ways that extend beyond the elements of understanding and reasoning.<sup>5</sup> Adolescents may be more likely to make choices that reflect a propensity to comply with authority figures such as making statements or admissions to the police.<sup>6</sup> Furthermore, they are less capable than others to recognise the risks inherent in the various choices they face such as choosing and consulting a lawyer and evaluating the various factors in entering a plea.<sup>7</sup> Children and adolescents are less likely to consider the long-term implications of their decisions, instead concentrating on the immediate

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<sup>3</sup> T Grisso, L Steinberg, J Woolard, E Cauffman, E Scott, S Graham, F Lexcen, N Dickon Repucci & R Schwartz 'Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants' (2003) *Law and Human Behavior* 27(2) p.357.

<sup>4</sup> U Kilkelly, *Listening to Children About Justice: Report of the Council of Europe Consultation with Children on Child-Friendly Justice* (Council of Europe: Directorate General of Human Rights and Legal Affairs, 2010).

<sup>5</sup> T Grisso *et al*, 'Juveniles' Competence to Stand Trial' (n.3), p.357.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

consequences. Such findings have received judicial acceptance by the United States Supreme Court<sup>8</sup> and the European Court of Human Rights.<sup>9</sup>

### 1. International Standards and Legal Capacity of the Child: The Right of the Child to be Heard

From the conclusions of developmental research and the judicial acceptance of same, it is clear that limited legal capacity of the child has a direct impact on his/her ability to understand the court proceedings and the consequences of same. This indicates that changes are needed within court proceedings to account for these limitations. In defining the changes required, guidance can be taken from international standards of best practice. The right to be heard provided by article 12 of the United Nations Convention on the Rights of the Child<sup>10</sup> (UNCRC) has been broadly conceptualised as the principle of effective participation.<sup>11</sup> Article 3 of the European Convention on the Exercise of Children's Rights<sup>12</sup> outlines that the right to be heard is realised when children receive all relevant information;<sup>13</sup> are consulted;<sup>14</sup> allowed to express their views;<sup>15</sup> informed of the possible consequences of compliance with these views<sup>16</sup> and the possible consequences of any decision.<sup>17</sup>

In accounting for the legal capacity of the child, adopting the structures synonymous with effective participation in court proceedings is imperative. The ongoing dialogue and information sharing with the child is essential in light of the child's diminished neurological, emotional and psychosocial capacities. Explanation of decisions, their consequences, the nuances and implications of the court process can help to ensure that the child reaches a level of understanding that would otherwise be impossible.

The Council of Europe's Guidelines on Child Friendly Justice echo the principles of existing international standards. Although the limited legal capacity of the child is not expressly recognised within the Guidelines, it is required that the child should be treated with respect for their age, their special needs, their maturity

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<sup>8</sup> There has also been Judicial Recognition of the Diminished Legal Capacity of Children. In *Roper v. Simmons*, 543 U.S. 551 (2005), the United States Supreme Court outlawed the juvenile death penalty. This was based, in part, on developmental research supporting the view that adolescents are less criminally responsible than adults. In *Graham v Florida* 560 U.S. (2010), the Supreme Court found life sentences for juveniles for non-homicide offences to be unconstitutional. The impact of normal immaturity on juvenile decision making played a central role in the arguments presented to the Court. In *Miller v. Alabama* and *Jackson v. Hobbs* 567 U.S. (2012), the Court recognised children's lack of maturity and underdeveloped sense of responsibility which may lead to recklessness, impulsivity and heedless risk-taking. The Court further accepted that children are more vulnerable to negative influences and outside pressures. These pressures were found to include pressures from their family and peers. The Court referred to the fact that children have limited control over their environment and lack the ability to extricate themselves from crime producing settings. The child's character is not as well-formed as an adult's, their traits are less fixed and their actions less likely to be evidence of irretrievable depravity.

<sup>9</sup> See *T v. United Kingdom* [2000] 30 EHRR 121 and *V v. United Kingdom* [2000] 30 EHRR 121.

<sup>10</sup> United Nations Committee on the Rights of the Child, Fifty-first session Geneva, 25 May-12 June 2009 General Comment No. 12, *The Right of the Child to be Heard* at para. 3.

<sup>11</sup> United Nations Committee on the Rights of the Child, Fifty-first session Geneva, 25 May-12 June 2009 General Comment No. 12, *The Right of the Child to be Heard* at para. 3.

<sup>12</sup> Council of Europe, *European Convention on the Exercise of Children's Rights*, 25 January 1996, ETS 160, available at: <<http://www.unhcr.org/refworld/docid/3de78d964.html>> (1 June 2013).

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

and level of understanding.<sup>18</sup> The communication difficulties they may have must also be recognised.<sup>19</sup> The Guidelines further state that cases involving children should be dealt with in non-intimidating and child-sensitive settings.<sup>20</sup> Language appropriate to children's age and level of understanding should be used.<sup>21</sup> This may require court sessions involving children to be adapted to the child's pace and attention span.<sup>22</sup> Regular breaks should be planned and hearings should not last too long.<sup>23</sup> Judgments and court rulings affecting children should be reasoned and explained to the child in language that he/she understands.<sup>24</sup> The Guidelines also recognise that, as far as possible, specialist courts, procedures and institutions should be established for children in conflict with the law. This could include the establishment of specialised units within the police, the judiciary, the court system and the prosecutor's office.<sup>25</sup>

Combined, the continuous child-friendly communication advocated by effective participation and the procedural changes recommended by the Guidelines, can help to ensure that the child's lack of legal capacity is accounted for.

## 2. Child-Friendly Communication in Accounting for Legal Capacity of the Child

The age and immaturity of the child requires that legal professionals' (members of the Judiciary and lawyers) adopt age appropriate language while avoiding legal jargon and terminology. The formality of criminal proceedings and legalistic language can serve to alienate and confuse the child throughout a Court process. According to Weijers children and their families often do not understand the expressions, abbreviations and formalities of the courtroom. This means that the majority of communication in the courtroom remains 'unnoticed' by the person to whom it is primarily addressed.<sup>26</sup> This compounds the existing lack of capacity presented by many children in understanding legal proceedings.

The importance of effective and child-friendly communication can be understood when the impact of failing to adopt these approaches are examined. Research conducted by the author in the Children Court in 2010<sup>27</sup> observed varying levels of communication between the legal professionals and children. Judges did not routinely speak to the child. The Judge rarely acknowledged or communicated with the defendant with dialogue occurring predominantly between the child's solicitor, the Prosecuting Inspector and the Judge. In the majority of cases observed during this research, no attempt was made to use age appropriate language throughout the court proceedings. Judges and legal representatives often used legal terminology when discussing the child's case. In the majority of cases (81%) no attempt was made to explain the proceedings

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<sup>18</sup> Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice and their Explanatory Memorandum* [2010, edited version 31 May 2011], available at: <[http://www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20\\_4\\_.pdf](http://www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20_4_.pdf)> (1 June 2013) Guideline 54.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.* Before proceedings begin, children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved.

<sup>21</sup> *Ibid.* at Guideline 56.

<sup>22</sup> *Ibid.* at Guideline 57.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum.

<sup>25</sup> *Ibid.* at Guideline 63.

<sup>26</sup> I Weijers, 'Requirements for Communication in the Courtroom: A Comparative Perspective on the Youth Court in England/Wales and The Netherlands' [2004] *Youth Justice* 4(1) at 26.

<sup>27</sup> SJ Judge, 'The Children Court: An Evaluation in Light of the Fair Trial Rights of the Child' [2010] LLM Thesis, University College Cork.

or their outcome to the child.<sup>28</sup> Many of the children observed before the Children Court seemed confused and alienated by the Court process. The lack of communication between the Judge and the child often resulted in the child appearing very despondent throughout the trial process. Children often stared into space, played with their hands or looked at the ground.<sup>29</sup> The child was not acknowledged as an active participant in the court proceedings.

While only a marginal number of cases involved direct communication between the Judge and the child, some Judges often asked his/her name at the start of each hearing while any questions about the education, wellbeing or lifestyle of the child were directed to the child or his/her parents. At the end of each hearing the Judge explained the outcome of the hearing to the child and why a further court date was needed. While the Judge did not actively engage the child throughout discussion of the legal matters in the case, communication with the child through questions during the hearing and explanation at the end helped to ensure that the child understood the implications of the Court hearing and the importance of the next court date. These findings were further substantiated by the Council of Europe Consultation Process in 2010.<sup>30</sup>

#### (a) Child-Friendly Communication and the Requirement for Specialist Training

Due to the limited legal capacity of children in understanding the court process specialist training of legal professionals working with children within the court process is paramount. The Guidelines for Child-Friendly Justice recommend that all professionals working with and for children receive necessary interdisciplinary training on the rights and needs of children of different age groups, as well as on proceedings that are adapted to them.<sup>31</sup> Professionals having direct contact with children should also be trained in communicating with them at all ages and stages of development, as well as with children in situations of particular vulnerability.<sup>32</sup>

#### (b) The Role of the Judge

The role of a Judge presiding over a criminal case concerning a juvenile presents unique challenges that are different from those faced by any other Judge. The role involves a broad spectrum of responsibilities such as adjudicating on the case, liaising with external agencies and accounting for the best interests of the child. This role involves compels the need for specialised training of Judges presiding in cases concerning juveniles.

International standards emphasise professional qualifications and expert training as a valuable means of ensuring the judicious exercise of discretion in matters of juvenile offenders.<sup>33</sup> Professional education, in-service training, refresher courses and other appropriate modes of instruction are recommended to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.<sup>34</sup> This training should include theoretical and experiential modules on communication techniques and be adopted on a systematic and ongoing basis to ensure consistency in the application of juvenile justice throughout the jurisdiction. Professional support should also be available to judges. In this regard, bench books can offer

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<sup>28</sup> *Ibid.* at Appendix A, Observed Cases 1 – 57.

<sup>29</sup> *Ibid.*

<sup>30</sup> Kilkelly, *Listening to Children About Justice* (n.4).

<sup>31</sup> *Ibid.* at 14.

<sup>32</sup> *Ibid.* at 15.

<sup>33</sup> *Ibid.*

<sup>34</sup> UN General Assembly, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (*"The Beijing Rules"*): Resolution adopted by the General Assembly, 29 November 1985, A/RES/40/33, available at: <<http://www.unhcr.org/refworld/docid/3b00f2203c.html>> (1 June 2013) at Rule 22.

direction and assistance to judges in a number of areas. These include the granting and duration of adjournments, the use of age appropriate language and the implementation of sentencing principles. Bench Books are provided to Youth Court judges in a number of other jurisdictions<sup>35</sup> and provide procedural guidance to Children Court judges in communicating and engaging with children.<sup>36</sup>

(c) Child-Friendly Communication: The Role of the Legal Representative

The vulnerability and immaturity of the child makes the provision of effective and timely legal representation fundamentally important.<sup>37</sup> Solicitors/ lawyers are the primary link between the criminal justice process and the child throughout the Court proceedings. They have the ability to influence the court procedures and the process of individual cases. In this regard the lawyer or advocate is fundamental in ensuring that the legal capacity of the child is accounted for throughout the court proceedings. According to Weijers, legal representatives also have an important role to play in conveying information to young people about the consequences of offending behaviour.<sup>38</sup>

Representing child offenders can be a difficult task. The child may lack any form of familial support such as fixed accommodation or the presence of a parent or guardian in Court.<sup>39</sup> Children have difficulty understanding the legal process and appreciating the significance of their legal circumstances. They may not be able to communicate information in the same way as adults nor to apply adult reasoning in making decisions.<sup>40</sup> The child may also be unable to comply with the Court process due to learning and emotional difficulties, involvement with a negative peer group or the presence of intergenerational crime within the child's family. These factors may require a solicitor to engage in a greater level of explanation with the child than what would be expected when dealing with an adult defendant. This may require solicitors to engage with children in age appropriate and interactive manner to ensure that the child understands the Court process before and during the court proceedings and the outcome of each case. This indicates that importance of specialist training of legal professionals in how to address these issues and effectively communicate with the child.

In Northern Ireland, England and Wales all solicitors who wish to become involved in the criminal defence of children must apply for membership of an accredited children's panel.<sup>41</sup> These panels require that solicitors reach standardised levels of competency in the area of juvenile justice before representing children.<sup>42</sup> In New

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<sup>35</sup> Judicial Studies Board, *Equal Treatment Bench Book – Children and the Courts and Tribunals* (Judicial Studies Board: London, 2009) p.4.30 <[http://www.judiciary.gov.uk/NR/rdonlyres/A2DF9F29-03F1-4E1F-A127-BCF4E33A1474/0/2009\\_etbb\\_4\\_children.pdf](http://www.judiciary.gov.uk/NR/rdonlyres/A2DF9F29-03F1-4E1F-A127-BCF4E33A1474/0/2009_etbb_4_children.pdf)> (1 June 2013).

<sup>36</sup> *Ibid.*

<sup>37</sup> U Kilkelly, *The Children Court: A Children's Rights Audit*, <<http://www.ucc.ie/law/faculty/staff/childrenscourt.pdf>> (1 June 2013) at 70.

<sup>38</sup> *Ibid.* at 71.

<sup>39</sup> Section 91 of the Children Act 2001 states that the parents or guardian of a child shall attend at all stages of any proceedings against the child unless the Court is of opinion that the interests of justice would not be served by such attendance.

<sup>40</sup> Weijers, 'Requirements for Communication in the Courtroom' (n.26) at 25.

<sup>41</sup> Children Panel Accreditation Scheme – Assessment questionnaire – private practice applicants <<http://www.lawsociety.org.uk/productsandservices/accreditation/accreditationchildrenlaw.page#one>> (1 June 2013) at 10: "This panel provides guidance and standards of best practice which solicitors must follow when representing children in public law cases. In applying to the Panel, solicitors must detail their relevant qualifications and practical experience in representing children. A number of summaries of cases undertaken by the solicitor involving children must be submitted while an in-depth case study is also required. This assessment helps to ensure that solicitors reach a certain level of competency in the area of juvenile justice before being permitted to represent children".

<sup>42</sup> *Ibid.*



Zealand, Legal Aid Services provide a specialist children's legal service that advises and represents children involved in criminal cases in the Children Court.<sup>43</sup> Specialist panels have not been implemented in Ireland with solicitors undertaking specialist training at their own discretion.

### 3. Child Friendly Settings in Accounting for Legal Capacity of the Child

The physical environment of the courtroom and the procedures adopted therein fundamentally contributes to the ability of the child to communicate and participate effectively in the court process. This was recognised by the European Court of Human Rights in *T v. UK* and *V v. UK*<sup>44</sup> and most recently in the Guidelines on Child Friendly Justice.<sup>45</sup>

Regarding the court proceedings, the Guidelines on Child Friendly Justice recommend that the children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved.<sup>46</sup> Court sessions should also be shortened to account for the limit attention span of the child.<sup>47</sup> To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum.<sup>48</sup>

Against this backdrop, observations of the Children Court conducted as part of the 2010 Research Study substantiated the impact of unmodified courtrooms and formal proceedings on the effective participation of the child and their capacity to understand the proceedings in question. The presence of a raised bench ensured that communication remained between the defendant's solicitor and the Judge. No assigned seating was provided for the defendant. On entering the courtroom children and their parents or guardians seemed unsure where to sit. The child often sat at the back of the courtroom<sup>49</sup> or behind his/her legal representative.<sup>50</sup> The child's parents/guardians sat in various other areas of the courtroom.<sup>51</sup> Communication predominantly remained between the Judge and the solicitor throughout the Court proceedings. However, it was observed that communication increased between the Judge and the child when the child stood at the centre of the courtroom and directly in front of the Judge.<sup>52</sup>

Children consulted as part of the Council of Europe's Consultation Process stated that a child-friendly setting would have contributed to making the decision appear safer and more suitable to children.<sup>53</sup>

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<sup>43</sup> Legal Aid Service, New South Wales, *Children and Young People*, <<http://www.legalaid.nsw.gov.au/asp/index.asp?pgid=591>> (1 June 2013).

<sup>44</sup> *T v. United Kingdom* and *V v. United Kingdom* [2000] 30 EHRR 121.

<sup>45</sup> *Ibid.* The ECtHR stated that the use of a raised dock in the trial of two children within a large and imposing courtroom had the effect of increasing the defendants' sense of discomfort and intimidation throughout the trial. The ECtHR held that this must have seriously impinged on the defendants' ability to participate in the proceedings in any meaningful manner and constituted a breach of the fair trial rights of the defendants under Article 6(1) of the ECHR.

<sup>46</sup> *Ibid.* at Guideline 55.

<sup>47</sup> *Ibid.* at p.10.

<sup>48</sup> *Ibid.* at Guideline 57.

<sup>49</sup> See Judge, 'The Children Court in Ireland' (n.27), Appendix A: Observed Case 17; Observed Case 19; Observed Case 39; Observed Case 44.

<sup>50</sup> *Ibid.* at Observed Case 38; Observed Case 39.

<sup>51</sup> *Ibid.* at Observed Case 2; Observed Case 39.

<sup>52</sup> *Ibid.* at Observed Case 56.

<sup>53</sup> Kilkelly, *Listening to Children About Justice* (n.4) 30.

(a) Physical Construction of the Courtroom and Court Proceedings

Standard style courtrooms do not provide the child-friendly environment needed to ensure that the young defendant understands the court process and has the ability to easily communicate with his/her lawyers and parents or guardians. Small, single level courtrooms with designated seating for the child can provide a court environment that encourages and facilitates the participation of the child. However, in times of limited funding and economic constraints the provision of specialist facilities for specialised juvenile courts is impossible as it may require the construction of new courthouses or the leasing of additional space. This is not to say that an environment cannot be created to facilitate continuous communication and dialogue with the child. The suggestions of a Judge interviewed as part of the 2010 Research Study deserves serious consideration when he says:

I do believe that no matter what the courtroom looks like it is possible to make a space in which the trial of the child can be effectively held. This requires that the people that are concerned with the case should be in close proximity to each other. Also the child and his/her parents or guardians should stand beside the child's legal representative.<sup>54</sup>

### C. CONCLUSION

The limited legal capacity of children requires that certain protections are implemented in the Court process. Children's capacities are influenced by a lack of future-orientation, a lack of risk-aversion, impulsivity and suggestibility.<sup>55</sup> Children have difficulty in understanding the legal process and comprehending the significance and consequence of their legal circumstances.<sup>56</sup> They cannot process information the way adult offenders are held to and by definition cannot apply adult thinking to making decisions.<sup>57</sup> Continuous child-friendly dialogue with the child within child-friendly court settings mitigate the alienating effects of an adult adversarial court environment and account for the limited legal capacity of the child.

Training in the area of youth justice and children's rights needs to be provided to Judges and solicitors before presiding or practising in matters involving juveniles. This training should include theoretical and experiential modules on how the fair trial rights of the children are implemented and observed in practice. Communication training is also needed to encourage and develop open dialogue between children and all legal personnel involved in the court process. As outlined in international guidelines, judges and solicitors should also be required to undertake specific refresher training on a yearly basis as part of a specialised continuous professional development programme. If not already undertaken, specialised panels should be established consisting of legal representatives with the adequate skills and qualifications needed to provide effective representation to children.

Small, single level courtrooms can provide a court environment that encourages and facilitates the participation of the child. As stated, in times of economic constraint this may be unattainable however this is not to say that a space cannot be created that places the child at the centre of the court process. By asking

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<sup>54</sup> See Judge, 'The Children Court in Ireland' (n.27), Appendix B, Interview: Judge 1, Question 2.2.

<sup>55</sup> Weijers, 'Requirements for Communication in the Courtroom' (n.26) at p.25.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

the child to move towards the Judge and directly speaking to the child, the Judge can ensure that the child fully understands the court proceedings and its consequences.