
Perceptions on the Proposed Lowering the Criminal Age of Responsibility In relation to the Children in Conflict with the Law (CICL)

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ABSTRACT

UNICEF is deeply concerned about ongoing efforts in Congress to lower the minimum age of criminal responsibility in the Philippines below 15 years of age. Lowering the age of criminal responsibility will not deter adult offenders from abusing children to commit crimes (Ms. Sylwander Representative, UNICEF Philippines). This study describes the Perceptions of Children in Conflict with the Law towards the Proposed Lowering the Age of Criminal Responsibility. This study employed a mixed methods studies. The result implies a great challenge to all government institutions and even the non-government sectors on how to address this increasing number of CICL who are involved in gang activities and committed crimes against property. 100% of CICL come from the dysfunctional families. Parents of these CICL shall be held accountable as neglectful in doing their responsibilities towards their children.

Keywords: Children in Conflict with the Law, Social Responsibility, Criminal Responsibility

Introduction

The State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs. **Republic Act No. 9344 “An act establishing a Comprehensive Juvenile Justice and Welfare System, creating the Juvenile Justice and Welfare Council under the Department of Justice, appropriating funds therefor and for other purposes”**. This Act shall be known as the “Juvenile Justice and Welfare Act of 2006.”

In July 2012, Republic Act No. 10630 “An Act Strengthening the Juvenile Justice System in the Philippines, amending for the purpose of RA 9344 otherwise known as the “Juvenile Justice and Welfare Act of 2006”. The Title of Republic Act No. 9344 is hereby amended to read as follows: “An Act Establishing a Comprehensive Juvenile Justice and Welfare System, creating the Juvenile Justice and Welfare council under the Department of Social Welfare and Development, appropriating funds therefor, and for other purposes.”

“We believe that consistent, credible data about children’s situations are critical to the improvement of their lives – and indispensable to realizing the rights of every child” (UNICEF, 2010). Both those who are for and against the lowering of criminal age of responsibility in the Philippines want what is best for the child. They both clamor on protecting the child and punishing crimes – to eventually shape a society that is responsible for its actions and safe for everyone. But which side has more data? Which side has more scientific bases for implementation into a law or policy of the land?

The issue of lowering the age of criminal responsibility from 15 to 12 or nine (9) came at a time when the present administration has been connected with deaths linked to its “war on drugs,” where some are mere adolescents while others are helpless children (Gavilan, 2017; The Guardian, 2020). Lawmakers who argue to lower the criminal age of responsibility have some positive points, while international feedback against these arguments cite more.

House Bill No. 8858, introduced by Representatives Fredenil H Castro and 6 others “An Act Expanding the Scope of the Juvenile Justice and Welfare System and Strengthening the Social Reintegration Programs for Children in Conflict with the Law, Amending for the Purpose Republic Act No. 9344, as amended, otherwise known as the “Juvenile Justice Welfare Act of 2006” was passed. Section 20 of the same Act, as amended, is further amended to read as follows:

“Sec. 20. Children **IN CONFLICT WITH THE LAW** below the Age of [Criminal] Responsibility. – If it has been determined that the child taken into custody is [fifteen (15) years old or] below **NINE (9) YEARS OF AGE**, the authority which will have an initial contact with the child, in consultation with the local social welfare and development officer, has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child’s nearest relative. The child shall be subjected to a community-based intervention program supervised by the local social welfare and development officer. [unless the best interest of the child requires the referral of the child to a youth care facility or ‘Bahay Pag-asa’ managed by LGUs or licensed and/or accredited NGOs monitored by the DSWD.]

On lowering the criminal age of responsibility, these different bills seek to abolish RA 9344, which changed the original Minimum Age of Criminal Responsibility (MACR) in the Revised Penal Code, Article 12. *“Circumstances which exempt from criminal liability, para 3. A person over nine years of age and under fifteen, unless he has acted with discernment, in which case, such minor shall be proceeded against in accordance with the provisions of Art 80 of this Code” (Suspension of sentence of minor delinquents).*

The arguments mostly rest on the syndicates exploiting the provisions of RA 9344 by using minors in the commission of crimes, the comparison of the average minimum age of criminal responsibility in Asia, Africa and the US in comparison with the country and police anecdotal data who point on incidents that children and teenagers are being used by adults as drug runners (Reganit and Cervantes, 2019). In the international perspective, there are studies such as Weijers

and Grisso (2009), which outlined gruesome crimes committed by 10 to 14-year-old adolescents such as rape, manslaughter and murder.

UNICEF supports the Philippine government, as a signatory to the United Nations Convention on the Rights of the Child (UNCRC), to ensure that children grow up in a safe environment protected from crime and violence.

Sadly, lowering the age of criminal responsibility is an act of violence against children. Children in conflict with the law are already victims of circumstance, mostly because of poverty and exploitation by adult crime syndicates. Children who are exploited and driven by adults to commit crimes need to be protected, not further penalized. Instead they should be given a second chance to reform and to rehabilitate (UNCRC).

Scientific studies show that brain function reaches maturity only at around 16 years old, affecting children's reasoning and impulse control. Proposals to lower the age of criminal responsibility argue that children as young as 9 years old are criminally mature and are already capable of discernment. If this was the case, then why is the legal age to enter marriage, legal contracts and employment in the Philippines at 18 years old? A 9-year old child has not yet even reached the age of puberty and their brains are not developed to understand the consequences of actions.

The current proposal is to delay sentence up to a maximum age of 25 years. If a child is jailed at 9 years old it means that they may have to waste away their life for 17 years under imprisonment until they can get a sentence for the crime committed. There is no mechanism to protect these children from cohabiting with hardened criminals and no guarantee that in detention they will be protected from violence and exploitation in jail.

Detaining children will not teach them accountability for their actions. In order to maximize their potential to contribute to nation-building, children must grow up in a caring, nurturing and protective environment. This requires strong parenting support programs and access to health, education and social services as well as to child-sensitive justice and social welfare systems.

The current Juvenile Justice and Welfare Law, which sets the minimum age of criminal responsibility at 15, already holds children in conflict with the law accountable for their actions. It provides them with rehabilitation programs using the framework of restorative, not punitive justice.

Noteworthy efforts from the judiciary and the executive agencies like the Juvenile Justice and Welfare Council, Departments of Education and Social Welfare and Development deserve full support of Congress, particularly on increasing life skills of adolescent learners; establishing an evidence-based parenting program for babies all the way through adolescence; and decreasing use of detention and increase use of diversion and community-based mechanisms to address

delinquency. UNICEF calls on the government and civil society to focus on strengthening the implementation of this law instead of amending it.

Branding children as criminals removes accountability from adults who are responsible for safeguarding them. If children who have been exploited by criminal syndicates are penalized instead of the adults who abused them, we fail to uphold the rights and well-being of children.

If we fail to understand the underlying reasons how and why children commit crimes, we as adults, fail our children.

The study shows the observation of CILC Cases record for the proposed lowering of age of criminal responsibility. Then the study outlined the implication of the passing of the proposed bill in the lives of the respondents.

Literature Review

The United Nation of Convention on the Rights of a Children (UNCRC) defines the Child as a person under 18 years of age. It acknowledges the primary role of parents and the family in the care and protection of children, as well as the obligation of the state to help them carry out these duties. The UN Convention consists of 41 articles, each of which details a different type of right. These rights are not ranked in order of importance; instead they interact with one another to form one integrated set of rights.

The Community Based Diversion and Prevention Program in Cebu City. This program was initiated before the adoption of the law in 2003, as a pilot project in 12 barangays in Cebu City, implemented by the local NGO, FREELAVA (Free Rehabilitation, Economic, Education and Legal Assistance Volunteers Association).

A Children's Justice Committee (CJC) is a trained group that handle the diversion of eligible children, most commonly through mediation. The CJC is composed of members of the Barangay Council, the police, the school guidance councilor, the social worker, the Gender and Development Project officer (GAD), as well as community volunteers. The CJC recommends appropriate interventions and support services for the child at hand and implements these programs, the CJC is also responsible for following up on the implementation of the Diversion program and keeping records of the developments of the case. The CJC is a coordinates with the Barangay Council for the Protection of Children (BCPC).

Other studies point on the strongest evidence for adolescent immaturity in a range of factors related to decision-making for adolescents aged 15 and under as a group (Weijers and Grisso, 2009). Thus, "not guilty by reason of insanity" plea can be entered by defendants of the 15 year old criminal age of responsibility, which claims that the defendant is "so mentally disturbed or incapacitated at the time of the offense that they did not have the required intention to commit the crime, and are therefore not guilty" (WEX Definitions Team, 2020).

Methodology

This study employed a mixed methods studies. The mixed methods refers to an emergent methodology of research that advances the systematic integration, or “mixing,” of quantitative and qualitative data within a single investigation or sustained program of inquiry. The basic premise of this methodology is that such integration permits a more complete and synergistic utilization of data than do separate quantitative and qualitative data collection and analysis. Moreover, this design is collecting and analyzing both quantitative (closed-ended) and qualitative (open-ended) data to gain understanding about the Children in Conflict with the Law (CICL) in a certain City of Caraga Region. Two sets interview questionnaires were made for the respondents like the CICL, PNP Women and Children Protection Desks, and Social Workers. An in-depth interview with the CICLs and other respondents were conducted upon given clearance to conduct the said data gathering.

Findings were carefully analyzed and validated. Detailed description of the respondent’s case based on the interview was done to bolster external validity. Data collected formed specific basis for the findings and conclusion of the study.

The study was conducted in a certain City of Caraga Region with five Police Stations, City Social Welfare and Development Office, and Home for Boys for the CICL. CARAGA has a population of 2,933,772 (Based on 2015 census of CARAGA REGION).

Results and Discussion

The respondents were in three groups namely: (a) Selected CICL, (b) PNP Women and Children Protection Desks, and (c) Social Workers. Basically, there are fourteen (14) Women and Children Protection Desks operationally working in the police stations with a total of six (6) Social Workers assigned at the said Police Stations. For some considerations like the willingness of the respondents, length of service and the availability factor, a purpose sampling method was employed in the selection of PNP WCPD Officers and Social Workers. For the section of CICL, their full consent, willingness, and availability were strictly observed.

Table 1. Distribution of the Study Respondents

Respondents	Number of Respondents
CICLs	5
PNP-WCPDs	14
Social Workers	6
Total	25

The study used a researcher made questionnaire patterned from study interviews in the field of Psychology as a guide during the conduct of series of interviews. The instrument allowed the collection of the needed information. Interview questionnaires were in two sets. The guide questions for the respondents were concerned as to whether or not the age of criminal responsibility need to be lowered from 15 years old to 12 years old.

Table 2. The Demographic Profile of the Respondents.

Profile	CICL	%	PNP personnel	%	Social Workers	%
Age						
15 -18 years old	5	100%				
19-24 years old						
25-30years old			5	35.71%	2	33.33%
31 years old and above			9	64.29%	4	66.67%
Educational level						
Elementary	4	80%				
High school level	1	20%				
High school grad						
College level						
College Grad			14	100%	5	83.3%
Post Graduate					1	16.7%
Civil Status						
Single	5	100%	4	28.57%	1	16.7%
Married			10	71.43%	5	83.3%
Address	Lived in the secluded areas		Lived in both city & Brgy.		Lived in both city & Brgy.	

Table 2. This discloses the demographic profile of the three groups of the respondents in terms of age, educational level, civil status, and address. The data revealed that the Three (5) CICL respondents were the age bracket of 15 to 18 years old, on the PNP-WCPDs five (5) were on the age bracket of 25 to years old and nine (9) were on the age bracket of 31 years old and above while two (2) were on the age bracket of 25 to years old and another four (4) were on the age bracket of 31 years old and above for Social Workers, living in the city and barangays.

Result also implies that the PNP-WCPDs and Social Workers are credible to share their insights and thoughts about the study considering that they are adult enough presumed to have rich experiences as respondents. On the other hand, it reflects that CICL respondents are vulnerable to abuses and exploitation of adults.

From the showed profile, four (4) of the CICL were in Elementary level and one (1) in junior high school, all of them were single and stayed in secluded areas in the City. This implies that the CICL need to be physiologically and psychologically capable to stand and fight for their rights. Noting that all CICL come from the secluded areas, this must be a good challenge to all the barangay officials and other government authorities to ensure that peace and security are maintained where children's rights are protected or a child-friendly environment has been implemented.

Table 3. Case Profile of the CICL Respondents

Questions	Responses
Types of Offense Committed? Q: What type of offense did you commit?	Based on the interview, (2) Robbery (2) Theft (1) Physical Injury
Frequency of doing offense Q: How many times did you commit an offense?	(4) two or more (1) once
Involvement of another person's in committing the offense Q: How many other persons involved in doing the offense?	(4) with other persons (1) alone
Group Affiliation Q: Are you belong in a gang or any group?	(4) Gang (1) none

Table 3 displays the case background of the CICL respondents. From the interview of the CICL, four (4) of them were involved in gang activities led by adults. Out of the five (1) CICLs only one did not join any group. This denotes that criminal adults were manipulating the vulnerability of these children. They joined the gang to get along with their friends. However, leaders of the gang took advantage the opportunity and taught these children to be criminal-minded individuals. They are usually out on the streets to eke out a living or are involved in peer groups or gangs, which are usually associated with vices and illegal activities. The crime were repeatedly committed because no one is ready to take care of the CICL after committing a crime. Most of the crime committed is a crime against property.

Table 4. Respondents Responses about their Observations on CICL in the Locality

PNP-WCPD Officers	Responses/Perceptions
Q: In your own observation, what can you say about the CICL cases recorded in your police stations? Who are these CICL?	Ten (10) or 71.43 % of the respondents said that the CICL cases in the locality is significantly increasing and CICL were from the dysfunctional families Four (4) or 28.57% of the respondents said the following: <ul style="list-style-type: none"> • Few of CICL did the offense alone • CICL were not fully guided by their parents • Most of the CICL were involved in gang activities
Social Workers	Q: In your own observation, what can you say about the CICL cases recorded in your department? Who are these CICL? <ul style="list-style-type: none"> • 66.67% of the respondents said the following: <ul style="list-style-type: none"> • CICL usually involved in property crimes • CICL generally came from poor/marginalized families • CICLs were unattended by parents/families • 33.3% of the respondents said minimal cases of CICL is crimes against person

Table 4 reveals the insights, observations of the PNP-WCPD and the Social Workers respondents about the CICL in the City. The data manifested that the majority of PNP-WCPD and the Social Workers believed that cases involving CICL in the City significantly increased and mostly crimes against property. They usually committed offenses with other persons involved in gangs' activities. Relatively, both respondents affirmed that CICL is becoming a serious concern today because parents/families often neglected their parental responsibilities and criminal adults took advantage of these CICL vulnerability.

This result implies a great challenge to all government institutions and even the non-government sectors on how to address this increasing number of CICL who are involved in gang activities and committed crimes against property. CICL are coming from the dysfunctional families. Parents of these CICL shall be held accountable as neglectful in doing their responsibilities towards their children.

Table 5. Respondents Responses about their perceptions if there is a need to lower the age of criminal responsibility

PNP-WCPD Officers	Responses/Perceptions
Q: In your own opinion, Is there a need to lower the age of criminal responsibility? Support your answer?	85.71% answered NO. The PNP-WCPD personnel said during the interview the following: <ul style="list-style-type: none"> • It is the primary obligation of the parents to look for their children; • Children who committed an offense usually stayed in the streets; • Peer group influenced the children to do criminal acts; • It will not deter adult offenders from abusing children to commit crimes; • Minor were utilized by adult; 14.29% answered YES. The respondents said that the following: <ul style="list-style-type: none"> • They are exempted from criminal liabilities; • Children have criminal minds to commit crimes • It is there decision to join the gangs
Social Workers	
Q: In your own opinion, Is there a need to lower the age of criminal responsibility? Support your answer?	100% answered NO. The respondents said the following: <ul style="list-style-type: none"> • CICL are victims of circumstance; • Minor are exploited by the adults to commit crimes; • CICL are not able to access caring;

Table 5 shows the result based on the interview responses of the respondents about their insights/opinion on the implications in the lowering of age of criminal responsibility.

The result of interviews manifested that the majority of the PNP-WCPD personnel disagreed the proposed lowering of age of criminal responsibility. Only few of them answered “Yes” or agreed the proposed bill.

On the other hand all Social Workers disagreed or answered “No” to the proposed lowering of age of criminal responsibility.

Seemingly, both PNP-WCPD and Social Workers respondents showed their stands that they were not in favor to lower the age of criminal responsibility as the CICL are victims of the circumstances, It is the primary obligation of the parents to look for their children; Children who

committed an offense usually stayed in the streets; Peer group influenced the children to do criminal acts; It will not deter adult offenders from abusing children to commit crimes; Minor were utilized by adult; Minor are exploited by the adults to commit crimes; and CICL are not able to access caring.

On the negative observations, CICL were confident to commit crimes because they are exempted from criminal liabilities; CILC have criminal minds to commit crimes; and it is there decision to join the gangs.

The current law does not need another arbitrary amendment but a stronger implementation. This is to ensure that the promise of the law of restoration, rehabilitation and decreased re-offending are articulated and operationalized and therefore felt and supported by the community.

Conclusion

The CICL become accessories to adult-led criminal acts. The same study points to the increased influence of mass media, particularly its role in desensitizing children to crime (for instance, children come to consider stealing as a recreational activity instead of a crime). It has been widely established that poverty and the breakdown of the family as a support mechanism play a major role in the increasing number of street children and child workers, the growing number of gang members, and the increase in the incidence of volatile substance abuse and petty crimes against property. Ancheta-Templa (2001) describes children and youth as “victim-survivors of the socio-economically-rooted injuries of their families and communities.”

Study revealed that Pro-child groups (Social Workers) want the law to be properly implemented instead of amended. Also, there is a lack or absence of parental support and were exposed early to harsh life. Social responsibility should relies with the parents as their primary obligation to their children to take care and nurture them to become good citizens in the future. Thus, there is no need to lower the age of criminal responsibility, instead a more holistic view of the child and his or her context is necessary to be able to address problem situations that in the first place were contributing factors why children come into conflict with laws.

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