



COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES

Response to the call for inputs for the “Child rights report to the High Level Political Forum Global Review of the 2030 Agenda for Sustainable Development”

9 June 2017

1. The Commission on Human Rights of the Philippines (herewith the Commission), through its Child Rights Center, respectfully submits its inputs to the United Nations High Commissioner for Human Rights on the subject of “Child rights report to the High Level Political Forum Global Review of the 2030 Agenda for Sustainable Development.” These inputs focus on the first part of the questionnaire - Component 1: Cross-cutting considerations to support implementation of the 2030 Agenda in a way in which the rights of the child are protected and realized.
2. The Philippine government has enacted several laws and implemented various policies and programs to address the conditions that affect children’s enjoyment of their rights, and to ensure that children are not left behind in the country’s development agenda.¹ Additionally, the current administration’s priorities for the implementation of the 2030 Agenda for Sustainable Development are anchored to the government’s ten-point socio-economic agenda, the Philippine Development Plan, and its long term vision - Ambisyon Natin 2040. These platforms aim for an inclusive, sustained socio-economic growth with gains shared broadly by the Filipino people, including children.²
3. While the rights of the child is high on the agenda of the Philippine government, gaps still exist and there are shortcomings in the proper implementation of national laws and policies as well as international treaties particularly the Convention on the Rights of the Child.
4. Of specific concern is the priority legislation of the current government on lowering the minimum age of criminal responsibility. Section 6 of Republic Act No. 10630 (Juvenile Justice Law, which amended R.A 9934), states that “No one can be held criminally responsible for an act carried out while under the age of 15. Children aged older than 15 but younger than 18 can only be held criminally responsible where they have “acted with discernment”. Several bills were introduced between 2006 and 2017 with a view of lowering the minimum age of criminal responsibility, the latest legislation proposes

¹ National report of the Philippines for the 3rd Cycle of the Universal Periodic Review (UPR), pages 6-9, http://lib.ohchr.org/HRBodies/UPR/Documents/Session27/PH/A_HRC_WG.6_27_PHL_1_Philippines_E_AdvanceUneditedVersion.docx [Last Accessed 2 June 2017].

² Voluntary National Review at the 2016 High-Level Political Forum On the Sustainable Development Goals (SDGs): Philippines, pages 2-4, https://sustainabledevelopment.un.org/content/documents/10765PH%20VoluntaryNationalReview_FINAL.pdf [Last Accessed: 2 June 2017].

minimum age as low as nine (9) years old. According to the proponents of the bill filed in the 17th Congress³, it is the policy of the State to ensure that the Filipino youth are taught to accept responsibility for their words and deeds as early as possible, and not to unduly pamper them with impunity from criminal responsibility. In addition, the lawmakers believe the time is ripe for the age of criminal responsibility to be lowered to nine (9) years old considering that most children above this age, especially in these times, are already fully informed because of the wealth of information that they can easily access through the use of technology⁴.

5. Under the proposed measure, a child nine (9) years of age and above but below 18 years old shall be exempt from criminal liability and subjected to an intervention program unless he/she is determined to have acted with discernment, in which case he/she shall be subjected to appropriate proceedings in accordance with the proposed law. On the other hand, a child under the age of nine (9) at the time of the commission of the offense shall be exempt from criminal responsibility but shall be subjected to an intervention program.⁵
6. The Commission opposes any amendments which will lower the minimum of age criminal responsibility. It affirms its previous stance that lowering the age oversimplifies the nature of juvenile offending and violates the fundamental principles of child protection and welfare as provided for by laws, international treaties, and internationally-accepted standards and principles.
7. The State has already made strides in promoting and protecting the best interests of the child and with the 2030 Sustainable Development Agenda, the goal of “no child left behind,” includes children in conflict with the law. Article 3 of the Convention of the Rights of the Child states that. *“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”* Criminalizing children at a young age does not serve a child’s best interests. Addressing systemic poverty, parental neglect and relevant societal factors must be considered in responding to the situations of children in conflict with the law.
8. In lieu of the proposed legislation lowering the minimum age of criminal responsibility, the Commission recommends that the government fully implement RA 9344, as amended by RA 10630, by:
 - a. allocating funds for building/restoring Bahay Pag Asa Facilities in every province and highly-urbanized cities;
 - b. employing multi-disciplinary personnel that will provide individualized and efficient community-based and/or center-based interventions for CICLs, the victims and their families;
 - c. continuously capacitating all professionals working with the juvenile justice system on relevant international standards and the JJWA;

³ House Bill 002 was filed by incoming Speaker Pantaleon Alvarez, and Capiz Rep. Fredenil Castro.

⁴ Arcangel, Xianne, “Incoming Speaker Wants Age of Criminal Responsibility Lowered to 9”, GMA News, Published July 6, 2016, Web 28 August 2016

⁵ On 23 May 2017, a subpanel on correctional reforms in the House of Representatives moved to retain the minimum age of criminal responsibility to 15 years old. However the status of this alternative proposal and House Bill 002 remains unclear. See recent news article here: <http://news.abs-cbn.com/news/05/23/17/house-sub-panel-keeps-15-as-minimum-age-of-criminal-responsibility>

- d. regularly visiting Bahay Pag-Asa Facilities and other youth homes to assess the operations and physical condition of these facilities and to monitor the human rights situation of the children detained therein; and
 - e. popularizing, through information dissemination, the basic provisions of JJWA and restorative justice for better appreciation of the public.
9. The Commission further recommends that the law enforcers step up their campaign against syndicates who are using minors to commit crimes while keeping in mind that in these cases, children should not be treated as criminals but victims who need to be rescued and protected⁶.

⁶ CHR Position Paper on Lowering the Age of MACR, 11 November 2016