

On the Amendment to the Juvenile Justice and Welfare Act

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Abstract

The Psychological Association of the Philippines (PAP) presents current scientific knowledge about child and adolescent development and expresses its position against House Bill No. 6052, titled "An Act Strengthening the Juvenile Justice System in the Philippines." Deficiencies in decision-making capacity, heightened vulnerability to coercive circumstances, and the disadvantaged environment of children in conflict with the law in the Philippines are elaborated as the primary reasons for this position. The organization maintains that the minimum age of criminal responsibility should NOT be lowered from 15 to 12 years old. We call for the strengthening of the juvenile justice system through the strict implementation of existing laws that prosecute adults who coerce children to engage in criminal behavior and protect and rehabilitate children in conflict with the law (CICL) through restorative means.

The House Bill No. 6052, titled "An Act Strengthening the Juvenile Justice System in the Philippines," was approved in the House of Representatives of the Philippine Congress. Referring to "youthful offenders" and "children in conflict with the law," the bill seeks to lower the age of criminal responsibility from 15 to 12 years of age, provided that criminal responsibility attaches only when the minor "acted with discernment."

We in the Psychological Association of the Philippines (PAP) are against this amendment and take the stand that the minimum age of criminal responsibility should NOT be lowered from 15 to 12 years old. We call for the strengthening of the juvenile justice system through the strict implementation of existing laws that prosecute adults who coerce children to engage in criminal behavior and protect and rehabilitate children in conflict with the law (CICL) through restorative means.

We present the following evidence and implications from psychology research:

Scientific research on adolescent development and juvenile delinquency provide evidence that children and adolescents differ significantly from adults in decision-making, propensity to engage in risky behavior, impulse control, identity development, and overall maturity. **The developmental immaturity of juveniles mitigates their criminal culpability. Although they may be able to discern right from wrong action, it is their capability to act in ways consistent with that knowledge that is compromised by several factors at this stage:**

1. Deficiencies in Decision-making Capacity

- *The adolescent brain is still under development.* Significant changes in brain anatomy and activity are still taking place in the (prefrontal) regions that govern impulse control, decision-making, long-term planning, emotion regulation, and evaluation of risks and rewards. These abilities, which are involved in criminal behavior, do not fully form until young adulthood, making early and middle adolescents (ages 12-16) especially vulnerable to risky and reckless behavior.

- *The adolescent is psychosocially immature compared to adults.* Because of still developing cognitive abilities and limited life experiences, adolescents are less able and less likely than adults to consider the longer -term consequences of their actions.
- *Adolescents differ from adults in their assessment of and attitude towards risk.* Compared to adults, adolescents place relatively less weight on risk, and give more weight to rewards. They also have different goals and values than adults. These may result in youth giving more importance to, for example, peer approval than safe behavior.

2. Heightened Vulnerability to Coercive Circumstances

- *As minors, young people lack the freedom that adults have to assert their own decisions and extricate themselves from criminogenic settings.* There is local evidence that children are often used and abused by adults to engage in criminal acts. Youth are powerless in such circumstances because they fear retribution, do not have or are not aware of alternative actions, or look up to or are emotionally attached to the criminal proponents.
- *Adolescents are more susceptible to peer influence than are adults.* Because of the desire for approval and belonging at this stage, adolescents’ choices reflect what they believe will merit the approval of their peers. Peers and adults serve as models for behavior that adolescents believe will help them achieve their goals. The fact that juvenile crimes tend to take place in groups or gangs points to the significant role of peer influence and pressure.

3. The Disadvantaged Environment and Profile of the Filipino Child in Conflict with the Law (CICL)

- *The typical CICL is poor, lacking in education, a victim of parental neglect and/or abuse, and lives in a criminogenic environment.* These clearly place the young person at a disadvantage, making deficiencies in decision-making and vulnerability to coercion all the more pronounced. **To place such a young person, already victimized, into the hands of the criminal justice system further curtails his or her future prospects, and pushes them further towards a negative life trajectory.**

The aforementioned characteristics of youth indicate that they are less capable than adults—even at age 15, but most certainly at age 12—to behave in accordance with what they may discern or know to be right versus wrong action. Although transitory, these developmental limitations are not under the volitional control of the young person.

Moreover, adolescence is still a time of self and identity development, and antisocial behaviors do not reflect “criminal identity” at this stage. Research indicates that most youth abandon antisocial behavior at the time that they exit adolescence, and that only a minority persists in criminal behavior as a function of pervasive neurological and environmental risk factors. ***In fact, exposure to the criminal justice system, where the child will be labeled a criminal and where he or she is exposed to criminal models, will more likely establish the “criminal identity” of the young person.*** Studies have shown that encounters with the adult justice system results in greater subsequent crime, including violent crime, for the juvenile.

The PAP reiterates its position against the lowering of the minimum age of criminal responsibility from 15 to 12 years old. We urge the government and relevant stakeholders to Implement restorative justice and appropriate interventions for our CICL. CICL should experience sanctions in community and family settings whenever possible, especially for

first and nonviolent offenses. They should be excluded from the adult criminal system and given full opportunities to develop into responsible adults who can make meaningful contributions to society.

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