Position Paper on House Bill 002 or the “Minimum Age of Criminal Responsibility Act”

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House Bill 002 seeks to lower the minimum age of criminal responsibility from fifteen (15) years old to nine (9) years old, provided that criminal liability attaches when the minor "is determined to have 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 to 9 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 child and 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 young people 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 discernment that is undermined, given the following characteristics at this stage:

1. Children and adolescents are still developing in their decision-making capacity

   - The child / 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 young people especially vulnerable to engaging in risky behaviors.
The child / adolescent is psychosocially immature compared to adults. Because of still-developing cognitive abilities and limited life experiences, young people are less able and less likely than adults to consider and be guided by the longer-term consequences of their actions.

Children / adolescents differ from adults in their assessment of and attitudes 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. Children and adolescents are vulnerable to coercion

As minors, young people lack the freedom that adults have to assert their own decisions and extricate themselves from criminal situations. 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.

Children and 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 Filipino Child in Conflict with the Law (CICL) is victimized and disadvantaged

The typical profile of the CICL is poor, lacking in education, a victim of parental neglect and/or abuse, and lives in a crime-ridden 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, especially those aged 9 until middle adolescence (15), indicate that they will find it more difficult to act in accordance with what they may discern or know to be right versus wrong action, compared to adults. These characteristics are transitory, and children will eventually develop cognitive and psychosocial maturity with the appropriate nurturance as they grow to adulthood. Meanwhile, these developmental limitations are not under the volitional control of the young person.

Adolescence is a time of self and identity development, and antisocial behaviors do not reflect an established “criminal identity” at this stage. Studies have shown that while a significant portion of adolescents will engage in some form of delinquent behavior, they will naturally develop out of such behaviors as they become adults. Persistence in criminal behavior over time is a function of pervasive personal and environmental risk factors. These are better addressed through community prevention programs and not through behavior-
focused penalties. **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 justice system do not deter but rather result in greater subsequent crime for the young person.**

Children, when arrested and detained, are often placed in the same cells as adults, putting them at risk for physical, sexual, and psychological abuse. Detained children are also more likely to have underlying mental health issues exacerbated and pose greater risk for self-harm. Detention itself can increase recidivism, that is, an individual’s relapse into criminal or antisocial behavior, thereby rendering such an intervention ineffective and excessively harmful. On the other hand, children who go through community-based interventions or diversion programs are less likely to recidivate than children who are incarcerated. Community-based juvenile crime prevention programs also are able to reduce juvenile crime and delinquency by as much as 80% (UNICEF, 2003).

The PAP reiterates its position against the lowering of the minimum age of criminal responsibility to 9 years old. We urge the government and relevant stakeholders to implement restorative justice, that is, to focus on rehabilitation instead of penalization, and appropriate interventions for CICL. CICL should experience sanctions in community and family settings whenever possible, with development and enhancement of community-based supports and services to prevent recidivism and support the natural process of “aging out of delinquency”. They should be excluded from the criminal justice system, protected from exploitative and abusive situations, and given full opportunities to develop into responsible adults who can make meaningful contributions to society.

**References and recommended resources:**


University of the Philippines Center for Integrative and Development Studies-Program on Psychosocial Trauma and Human Rights and Consortium for Street Children. (2003). *Painted Gray Faces Behind Bars and in the Streets, Street Children and the Juvenile Justice System.* Quezon City: Author.