



**PHILIPPINES**

**INFORMATION SUBMITTED TO THE HUMAN RIGHTS COUNCIL  
UNIVERSAL PERIODIC REVIEW**

**Cycle 2 Review, 13<sup>th</sup> Session (June 2012)**

**Submitted by the Philippine NGO Coalition on the UNCRC**

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1 **About the Philippine NGO Coalition on the UN CRC**  
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3 The Philippine NGO Coalition on the UN CRC (NGO Coalition) is a network of 17 local and  
4 international non-government organizations that monitors the implementation of the  
5 Convention on the Rights of the Child (CRC) in the country. It was founded in 1993. It has  
6 been submitting periodic reports to the UN Committee on the Rights of the Child since 1994,  
7 following the Philippines' ratification of the UN CRC in 1990. It also submits information to  
8 or participates in other human rights reporting mechanisms such as the NGO alternative  
9 reporting for the International Covenant on the Economic, Social and Cultural Rights.

10  
11 The NGO Coalition has seventeen members to date, namely, Asia Against Child Trafficking  
12 (Asia ACTS), Child Hope Asia, ChildFund International, Consuelo Foundation, ECPAT  
13 Philippines, The ERDA Group, John J. Carroll Institute of Church and Social Issues  
14 (JJCICSI), Lunduyan Foundation, National Council for Social Development (NCSD), Open  
15 Heart Foundation, Philippines Against Child Trafficking (PACT), Plan Philippines, Salinlahi  
16 Alliance for Children's Concerns, Save the Children, VIDES Philippines Volunteers  
17 Foundation Inc., Visayan Forum and World Vision Development Foundation.

18  
19 **Implementation of International Human Rights Obligations and follow-up to UPR**  
20 **recommendations from the 1<sup>st</sup> Cycle:**  
21

22 In the first session of the UPR in 2008, the Philippines accepted the recommendation made  
23 by Italy "to address legislative gaps in the field of children's rights in order to fully comply  
24 with the 2005 recommendations of the Committee on the Rights of the Child." One of the  
25 identified legislative gaps was the absence of a national law that will prohibit the use of  
26 corporal punishment in all settings including in the home, school, justice system and  
27 alternative care. Another legislative gap identified in the Concluding Observations was the  
28 lack of a law that will establish a "Comprehensive Juvenile Justice System and Delinquency  
29 Prevention Programme and raise the minimum age of criminal responsibility to an  
30 internationally acceptable level."  
31

32 **1. Right to Life, Liberty and Security of the Person: Prohibition of Corporal**  
33 **Punishment in All Settings**  
34

35 The Committee on the Rights of the Child in General Comment No.8 (2006) defines  
36 corporal punishment as "any punishment in which physical force is used and intended to  
37 cause some degree of pain or discomfort, however light." Corporal punishment of  
38 children contradicts the right to be free from torture and other cruel, inhuman or  
39 degrading treatment or punishment enshrined in the Universal Declaration of  
40 Human Rights. It also violates CRC Article 19 and 28, which guarantee children's right  
41 to physical integrity and protection from all forms of abuse, maltreatment, exploitation  
42 and violence by parents, guardians and others with parental authority over the child.  
43

44 The Committee on the Rights of the Child in its Concluding Observations of 2005  
45 recommended that the Philippines "prohibit by law all forms of corporal punishment in  
46 the home, in schools and in private and public institutions, in the juvenile justice system  
47 and the alternative care system" and that the State Party "sensitize and educate parents  
48 guardians and professionals working with and for children by carrying out public  
49 education campaigns about the harmful impact of violent forms of 'discipline' and  
50 promote positive, non-violent forms of discipline as an alternative to corporal

51 punishment.” The Committee in its Concluding Observations of 2009 called on the  
52 Government to enact the Anti-Corporal Punishment Bill filed in Congress.

53  
54 In the Philippines, corporal punishment still prevails in homes, schools and communities  
55 as it is still viewed as a form of discipline and is reinforced by culture and tradition, i.e.  
56 that children are possession of adults, adults know what’s best for children, and that  
57 children “learn their lesson” when they are spanked, hit or yelled at. Studies over the last  
58 five years show the prevalence of corporal punishment in homes, schools and  
59 communities.

60  
61 A study conducted by UNICEF, Plan International and the Council for the Welfare of  
62 Children in 2009 on child-friendly educational environments shows that verbal abuse by  
63 teachers, such as being called “*tanga*” (stupid), “*bobo*” (dumb), “*tamad*” (lazy), and  
64 “*peste*” (pests) was the most frequent form of violence experienced by children in the  
65 educational setting. The most common form of physical abuse is pinching. Other forms  
66 of physical punishment used by teachers on their students include: spanking, having them  
67 stand under the sun for long periods of time, throwing things at them, and locking them in  
68 enclosed places.<sup>1</sup>

69  
70 A 2010 survey of 270 sixth grade students with an average age of 12 found that 61.1% of  
71 them had experienced physical punishment at home, 74.5% of whom had been pinched,  
72 49.7% beaten, 13.9% slapped, 3.6% kicked and 3% punched. The most common reasons  
73 for being physically punished were disobedience, cited by 35.6% of children who had  
74 been punished, and *pasaway* or being naughty (35.3%), which includes causing younger  
75 siblings to cry, interrupting adult conversations by what was perceived to be meaningless  
76 or disrespectful chatter, play-fighting with other children or siblings, making noises and  
77 disrupting order in the house. Almost a third (32.9%) of the children said that they “felt  
78 nothing” after being physically punished, while 25% were angry, 14.5% felt lonely or sad  
79 and 7.2% felt hatred.<sup>2</sup>

80  
81 The Department of Education (DepEd) has taken positive steps to address corporal  
82 punishment in public schools. It has recently met with several non-government  
83 organizations to solicit ideas for a department policy that will require the adoption of a  
84 child protection policy and code of conduct covering all school personnel, and the  
85 establishment of a mechanism for reporting, monitoring and responding to reported cases  
86 of violence in schools, including corporal punishment.

87  
88 However, the Anti-Corporal Punishment Bill remains pending in Congress. Bills were re-  
89 filed at the House of Representatives and at the Senate when the Fifteenth Congress  
90 opened in 2010. The House of Representatives passed in July 2011 House Bill 4455, or  
91 the Positive and Non-Violent Discipline of Children Bill. The bill defines corporal  
92 punishment as “cruel and unusual punishment or act that subjects the child to indignities  
93 and other excessive chastisement that embarrasses or humiliates the child carried out to  
94 discipline, train or control, inflicted by an adult or by another child, who has been given  
95 or has assumed authority or responsibility for punishment or discipline” While this could  
96 have been a positive step, if enacted into law, this bill will actually undermine children’s

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<sup>1</sup> UNICEF, Plan Philippines and the Council for the Welfare of Children. *Toward a Child-Friendly Education Environment: A Baseline Study on Violence Against Children in Public Schools*. 2009.

<sup>2</sup> Sanapo, M. & Nakamura, Y. “Gender and Physical Punishment: The Filipino Children’s Experience.” *Child Abuse Review*. 20 (1), 39-56, 2010.

97 protection against relatively milder and more common forms of corporal punishment such  
98 as spanking, hair pulling and ear twisting, and will only reaffirm existing laws that limit  
99 the forms of corporal punishment that can be prohibited to those that are “excessive” and  
100 “cruel.”

101  
102 Likewise, the version of the Anti-Corporal Punishment Bill in the Senate (Senate Bill  
103 873) has not moved in the Senate Committee on Youth, Women and Family Relations  
104 where it is filed because it has not been included among the Committee’s priorities.  
105

### 106 **Recommendations:**

107  
108 The Philippine NGO Coalition on the UNCRC therefore recommends that the State  
109 should prohibit by law all forms of corporal punishment in all settings in compliance with  
110 the recommendations of the Committee on the Rights of the Child, including through:  
111 adopting the definition of corporal punishment in CRC General Comment No.8 (2006)  
112 and enacting the Anti-Corporal Punishment Bill by the Fifteenth Congress in 2012;  
113 funding and implementing a comprehensive education and training program for parents,  
114 caregivers and service providers on the positive and non-violent forms of discipline and  
115 child rearing by the end of 2012; enforcing existing policies on the elimination of  
116 corporal punishment in schools; and establishing functional and well-resourced Local  
117 Child Protection Councils for raising awareness, prevention, monitoring and reporting  
118 cases of violence against children.  
119

## 120 **2. Administration of Justice, Including impunity and the Rule of Law: Juvenile Justice**

### 121 122 **2.1. Minimum Age of Criminal Responsibility**

123  
124 Another legislative gap identified in the 2005 Committee on the Rights of the Child  
125 Concluding Observations was the lack of a law that will establish a “Comprehensive  
126 Juvenile Justice System and Delinquency Prevention Programme and raise the minimum  
127 age of criminal responsibility to an internationally acceptable level.” In 2006, the Juvenile  
128 Justice and Welfare Act (JJWA), or Republic Act 9344, was enacted, resulting in the  
129 release of hundreds of children and youth from deprivation of liberty all over the country.  
130 However, the JJWA has not been effectively implemented. However, the passage of this  
131 law was also met with much criticism from media, some politicians and law enforcement  
132 officials.  
133

134 Presently, several bills have been filed in both houses of Congress, proposing to lower the  
135 Minimum Age of Criminal Responsibility (MACR) from 15 to 12 years old. At the  
136 House of Representatives, the (consolidated) substitute bill on the amendments that  
137 includes a provision setting the MACR at 12 years old<sup>3</sup> has been approved at the House  
138 Committee on Revision of Laws, and is pending at the House Committee on  
139 Appropriations. Child rights advocates, including the Philippine NGO Coalition, have  
140 strongly opposed this proposal. Decreasing the current MACR which is set at 15 years  
141 old to 12 years old is retrogression in the Philippines’ commitment to the UN Convention  
142 on the Rights of the Child.

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<sup>3</sup> Congress of the Republic of the Philippines House of Representatives. 1<sup>st</sup> Regular Session, 15<sup>th</sup> Congress. House Bill No. \_\_ (In substitution of House Bills No. 467, 1495, 2611, 2894, 3077 and 3423). “An Act Amending Republic Act No. 9344 Otherwise Known as the ‘Juvenile Justice and Welfare Act of 2006’ Appropriating Funds Therefor and for Other Purposes. Sec. 5. 2011.

143 The Concluding Observations of the Committee on the Rights of the Child (2009) lauds  
144 the adoption of the JJWA, “which raises the minimum age of criminal responsibility from  
145 nine (9) to fifteen (15) years and prohibits and criminalizes acts of torture and ill-  
146 treatment against children in conflict with the law.” However, it also raises concern over  
147 “recent initiatives to lower the age of criminal responsibility of children.” It, thus,  
148 recommends that the State to take all necessary measures to ensure that the age of  
149 criminal responsibility is not lowered, and to consider the Committee on the Rights of the  
150 Child General Comment No. 10 (CRC/GC/10) to guide it in its implementation of  
151 Juvenile Justice.

152  
153 General Comment No. 10 specifically states that, “States Parties are recommended to  
154 increase their low MACR to the age of 12 years as the absolute minimum age and to  
155 continue to increase it to a higher age level. At the same time, the Committee urges States  
156 Parties not to lower their MACR to the age of 12. A higher MACR, for instance, 14 or 16  
157 years of age, contributes to a juvenile justice system which, in accordance with Article 40  
158 (3)(b)CRC, deals with children in conflict with the law without resorting to judicial  
159 proceedings, providing that the child’s human rights and legal safeguards are fully  
160 respected.

161  
162 Moreover, scientific studies conducted by the Council for the Welfare of Children (CWC)  
163 and the Pamantasan ng Lungsod ng Maynila (PLM) in 1997 and the Philippine Action for  
164 Youth and Offenders (PAYO) in 2002, have shown that the age of discernment (i.e. the  
165 ability to tell right from wrong and the consequences of actions) of in-school children  
166 (CWC and PLM 1997) and out-of-school children (PAYO 2002) are 15 years old and 18  
167 years old, respectively. Hence, the present MACR in RA 9344 was borne out of  
168 consideration for these two researches.

169  
170 **Recommendation:**

171  
172 The Philippine NGO Coalition on the UNCRC therefore recommends that the State  
173 should withdraw the bills proposing to lower the minimum age of criminal responsibility  
174 and comply with the recommendations of the Committee on the Rights of the Child in  
175 General Comment No.10 (2007) regarding minimum age.

176  
177 **2.2. Prevention, rehabilitation and reintegration of children in conflict with the**  
178 **law**

179  
180 In its 2009 Concluding Observation, the Committee on the Rights of the Child also  
181 expresses its concern at the slow pace of implementation of the law, the limited use of  
182 diversion, and the alleged widespread practice of pre-trial detention of children.

183  
184 Since its enactment, many provisions of the JJWA have not been implemented. Local  
185 Government Units (LGUs), the agencies given one of the most important roles in  
186 executing the law, have not been extensively trained and have not implemented  
187 prevention and community-based diversion programs in their communities. Furthermore,  
188 while the law states that every municipality/province should have its own youth detention  
189 home for CICL, these facilities are wanting in many areas all over the country.  
190 Rehabilitation programs in the jails and reintegration programs for CICL are also  
191 inadequate. Moreover the Juvenile Justice and Welfare Council (JJWC), the agency  
192 mandated to oversee the implementation of the JJWA, needs to be further strengthened.

193 There is a low level of knowledge of and a lack of capacity to implement the law among  
194 local officials, law enforcers and service providers. While the mandated local structures  
195 for implementation, the *barangay*<sup>4</sup> (village) councils for the protection of children  
196 (BCPCs), have been established in 84% of barangays in the country, only 52% of these  
197 are assessed to be at ideal or mature status, which means that only these BCPCs have  
198 attained at least 51% of the requirements for a fully functional local CPC, which includes  
199 budget allocation, plans and programs and accomplishment reports. Only 15% are  
200 assessed to be at an ideal state, or which have attained almost all (at least 80%) of all  
201 requirements.<sup>5</sup> The data imply that only 51% of BCPCs are likely to have significant  
202 programs. It cannot even be concluded that these programs include a comprehensive  
203 program on juvenile justice given the very broad mandate of the BCPC.  
204

205 Non-government organizations working on the issue of Juvenile Justice have also  
206 reported cases of children caught offending who experience torture or maltreatment in the  
207 hands of law enforcers, village guards or community volunteers. It was explained that  
208 these children are tortured because they cannot be charged with crimes or put into jail  
209 under the JJWA. Children in conflict with the law have also been the subject of summary  
210 execution by vigilante groups in Davao City.  
211

212 The Concluding Observations of the Committee on the Rights of the Child recommends  
213 that the State continue to implement training programs on relevant international standards  
214 and disseminate the provisions of the JJWA particularly to all professionals working with  
215 the juvenile justice system.  
216

217 **Recommendation:**  
218

219 The Philippine NGO Coalition recommends that the State should comply with the  
220 Committee on the Rights of the Child's recommendations regarding juvenile justice,  
221 including through: clear parameters for the allocation of funds for juvenile justice  
222 prevention programs in communities; assistance to local governments in the development  
223 of comprehensive juvenile justice program; establishment of effective reintegration and  
224 rehabilitation programs for children; strengthened Juvenile Justice and Welfare Council  
225 structures and the promotion of restorative justice.

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<sup>4</sup> *Barangay* refers to the basic political unit in the Philippines.

<sup>5</sup> Department of Interior and Local Government - National Barangay Operations Office. LCPC Functionality Monitoring Report 2010.