

Save the Children's Statement on the Lowering of the Minimum Age of Criminal Responsibility (MACR)

Save the Children Philippines opposes the current efforts in Congress to lower the Minimum Age of Criminal Responsibility (MACR) from 15 years old to either 9 or 12 years old. We believe that lowering the MACR will: (1) Result in criminalizing more and younger children, which has a profound impact on their well-being and development; and (2) Place a massive demand on a justice and social welfare system that is already struggling to properly implement the existing Juvenile Justice and Welfare Act.

Impact on the well-being and development of the child. Lowering the MACR will result in more and younger children being criminalized, which studies show are harmful to children, do not deter them from offending nor reduce their reoffending. Criminalizing children results in stigmatization, which makes the child more vulnerable to discrimination in their communities and schools. It is also likely for children who perceive themselves as criminals to continue to engage in deviant behaviors particularly with their peers. Research also shows that contact with the criminal justice system reduces the likelihood of children completing their education or having gainful employment. Children who go through the justice system are also more vulnerable to abuse, exploitation and violence from the time of their arrest to their placement in institutional care or detention centers.

Impact on the justice and social welfare system. Lowering the MACR will result in having more and younger children getting in contact with the criminal justice system. This means an increase in the number of cases for the courts, increased need for institutional facilities and for programs and services, increased need for more social workers and other service providers (particularly in the institutional facilities and to support children as they go through court proceedings), and more financial resources for all these to happen. Placing children in institutions is particularly costly, and this should only be the last resort. Addressing the needs of children in conflict with the law and those who are at risk requires a robust social welfare system to meet the required interventions and standard of care that children deserve no matter what they have done.

The current state of implementation of the Juvenile Justice and Welfare Act. The sad reality is that despite the passage of the Juvenile Justice and Welfare Act in 2006, the needed facilities and programs for children in conflict with the law are still not adequate to meet the needs. Data from the Juvenile Justice and Welfare Council (JJWC) shows that out of the required 114 there are currently only 58 operational Bahay Pag-asa (BPA)¹ all over the country (3 of which are NGO operated) and only 8 of these are accredited by the Department of Social Welfare and Development. Only 4% of Local Government Units (LGUs) have appointed licensed Social workers and all of them are handling all cases in the LGU that require a social worker. As for programs, only 367 LGUs (as of Sept 2017) have integrated the Comprehensive Local Juvenile Intervention Program (CRJIP) in their Local Development Plans and Annual Investment Plans. Clearly, many LGUs have not yet done their part in fully implementing the provisions of the law. There are best practices, however, in six (6) LGUs – Davao City, Surigao City, Vincenzo Sagun in Zamboanga del Sur, Bacolod City, Naga City, and La Trinidad in Benguet, as documented by the JJWC but they are a mere handful compared to the number of LGUs in the country.

No to the lowering of the Minimum Age of Criminal Responsibility. Save the Children Philippines believes that rather than focus on lowering the MACR, the government should focus on the full implementation of an already existing law. The law already provides for the setting up of a prevention, and a comprehensive juvenile intervention program. Among others, the law also specifies the procedures on how to handle children in conflict with the law as they go through the Juvenile Justice and Welfare System; or for some cases, how they can be assisted without going through the system but through diversion procedures that can be done at the community level. An amendment of this law in 2012 further supported the provisions on strengthening our Juvenile Justice System. The necessary standards and mandates to address the issue of children getting into conflict with the law have been laid out. What is sorely missing is the commitment of the government to demonstrate its intention to uphold the best interest of children by fully implementing the Juvenile Justice and Welfare Act.

¹ Bahay Pag-Asa are 24hr caring institutions for children with pending cases in court or children who were committed by the court who are above 12 but below 15 yrs. old who committed serious crimes as enumerated in RA 10630 or have repeat offenses