

**STATEMENT OF THE MLAC PSYCHOSOCIAL SERVICES FOR WELL-BEING:
AN INSTITUTE FOR CHILDREN AND FAMILIES**

**On The Amendment To Republic Act 9344 (Juvenile Justice Welfare Act):
Lowering Of The Minimum Age Of Criminal Responsibility
From 15 Years To 12 Years**

We, as an institution, consider this amendment as contrary to the well-being of a child. As psychologists, we are sworn to uphold and protect the physical, cognitive, and psychosocial interests of human beings through the evidence-based methods we employ in our practice and the scientific procedures we use for research. The core values that underlie our work are defined by a deep and firm belief in and respect for the intrinsic worth of a child. **It is precisely in these values, methods and procedures that we anchor our position opposing the amendment to lower the minimum age of criminal responsibility (MACR).**

The development of a child is formed by biological factors, environmental conditions, and the interaction of these two components.

It is our position, as psychologists, that the **TYPICAL FILIPINO CICL** (child/children in conflict with the law) must be seen, first and foremost, as a total human individual whose personality is a product of his/her biological age and the environmental conditions that can pose serious threats to his or her developmental path. This path involves the following dimensions: physical and mental health, emotional stability, social and spiritual growth, the ability to construct moral beliefs and act accordingly, and last but not least – the child's perceptions about himself/herself and on what is happening around him/her. The **TYPICAL FILIPINO CICL** follows a developmental track shaped by the interplay of biological and environmental forces **unique to the FILIPINO CICL**. The following factors are based on a 2012 situationer prepared by the **Council for the Welfare of Children** combined with data from research studies on child development:

1. A typical Filipino CICL comes from a poor family with an average of 6 family members.

Quite often it is within the family context that these CICL first experience and witness acts of physical, mental, emotional, and sexual abuse brought about by the magnitude of stressors characteristic and prevalent in such sectors. Studies on their family structure reveal that most of these children run away from the abusive situation at home only to find themselves out in the streets and thrust into an environment where the risks of neglect, abuse, and exploitation are just as high if not greater. (Carandang, 1996)

The choices these children face are limited to those that will prevent starvation, further abuse, or even death. They seek out sources for their basic needs in the street where they learn survival strategies through these limited choices. (Carandang, 1996; Carandang, 1994). They get involved with petty crime, alcohol and substance abuse in their efforts to deal with hunger and trauma. Children who run away and live on the streets are at risk of getting involved with crime syndicates who push and threaten them to commit unlawful acts in exchange for food and protection (Araneta-de Leon, in Puzon, 2003).

2. The typical Filipino CICL has an interrupted or very little educational experience.

Living with gangs on the street can only mean discontinued schooling putting them in a wider social context void of any social structures for protection and positive social influences. Data shows that almost 80% of the CICL did not go beyond the secondary level of schooling (Knowles, 2010). Armed with immature defense systems, they are vulnerable to manipulation and mistreatment. With physical, socio-emotional and

cognitive skills yet to be fully formed, the typical Filipino CICL is already facing serious developmental risks even before they get arrested.

3. The typical Filipino CICL is usually accused of property-related crimes.

Documented reports have indicated that most of the CICL get arrested for minor crimes such as petty theft and vagrancy. Some are even innocent of any wrongdoing and are put in jail simply because they are living in the streets. These are the children who are homeless and rejected by their own families. (CNN, 2005). Reports will also reveal that these offenses are actually considered as “status offenses” and are not categorized as criminal acts when committed by adults (Pagunuran, 2012).

4. The typical age of a Filipino child in conflict with the law is 14 to 17 years old.

Because of age and poverty, they are most likely malnourished and smaller than their adult companions on the street. Their small and lightweight physique makes them ideal for certain criminal acts that are usually property-related. These crimes involve climbing walls to steal from houses or creeping through small doorways and windows (Puzon, 2003). It is also this diminutive size that makes them vulnerable and powerless against crime syndicates who exploit and threaten them with maltreatment or even death should they refuse to comply. It renders them defenseless against law enforcers who physically abuse them while they are in custody. It makes them prone to further abuse and exploitation from adult inmates inside prison cells. Several studies have documented how the rights of the Filipino CICL are violated in the hands of the justice system (Puzon, 2003; Etemadi et al., 2004; Carandang, 1996).

5. The brain of a typical Filipino CICL is still not yet fully formed and is not yet mature.

Literature will show that the brain of a child is made up of **2 separate networks or pathways** that are still undergoing changes and are not yet fully formed. Even if a child achieves the ability to distinguish between "right and wrong", the influence of an immature brain network combined with highly stressful and unfavorable environmental conditions destabilizes this ability and diminishes the child's capacity to effectively regulate his/her behavior. (Steinberg, 2007; Chein & Steinberg, 2010; Gardner & Steinberg, 2005) – notwithstanding those environmental conditions that pose serious threats to one's safety and well-being.

6. The environment of a Filipino CICL is meant to include intervention programs designed to rehabilitate, restore, protect, and uphold the TOTAL well-being of the child.

Reports and studies will show that a typical Filipino CICL continues to suffer abuse in the hands of law enforcers. Many of them are still being housed with adult criminals in prison cells with sub-standard and inhumane living conditions. There is a significant number of CICL that are not on record and this includes those children who are abandoned and left inside prison cells with no legal assistance and no family members to look after their interests. (Amnesty International, 2009; PCIJ, 2005). There is an alarming number of reports on imprisoned children being raped, sodomized, tortured, and exposed to numerous forms of cruelty and demeaning forms of punishment. The status and effectiveness of the current juvenile justice system becomes highly questionable in the light of the INTERVENTION STRATEGIES that are meant to safeguard their interests.

Therefore, in response to the proposed amendment to lower the MACR from 15 to 12 years old, we offer the following recommendations:

- The ability of a **typical Filipino CICL** to discern right from wrong does not necessarily predict how the child will behave and therefore should not be the key issue in legal decisions affecting him/her. Their criminal behavior is significantly a product of their youth and their stressful environment where there is abuse, manipulation and

exploitation – AND NOT THEIR CAPACITY TO BE RATIONAL OR DISCERNING. Therefore, government should instead focus their resources on the policies and intervention programs affecting these children.

- The prescribed legal remedies must be based on research data that show the true mechanisms and relationships behind the BEHAVIOR and PERCEPTIONS of a typical Filipino CICL. The intervention strategies must be APPROPRIATE and SUITED TO THE NEEDS OF THE Filipino CICL for them to be useful and effective. They must be EVIDENCE-BASED in order for them to be compatible, applicable, and productive.
- Given the research-based information on the life of a typical Filipino CICL – intervention programs must be COMPREHENSIVE. They should take into account and integrate every aspect of the child’s personality and experience. This involves all dimensions of a child’s personhood that have deteriorated or have been put at risk by the traumatic and harmful conditions that characterize the life of a typical Filipino CICL. This TOTAL PERSONHOOD of a child involves his/her physical, emotional, intellectual, social, moral, spiritual growth combined with how these dimensions have formed the child’s self-concept; conscience; and self-worth.
- We strongly recommend a collaborative effort between the relevant government agencies AND child psychology practitioners and researchers. These relevant stakeholders must work together in creating an environment that will prevent repeat offenses, rehabilitate, and rebuild the CICL’s developmental path to one that is positive and favorable to growth.

We, as psychologists, feel that the intent behind the laws that govern the Filipino CICL should be to ultimately reintroduce and reintegrate the child to society where he/she can be a functional member. The main objectives must involve the resuscitation and reinforcement of the child’s self-worth and self-esteem where the child can rediscover his/her own humanity and self-respect. The principle of justice should always underscore the restoration of human dignity, which is at the very core of human development.

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