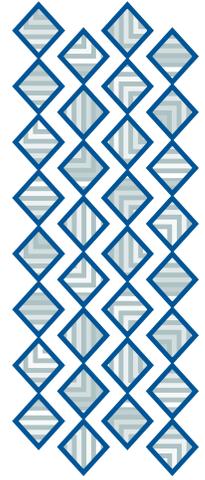




Save the Children
UK



Philippine Laws *related to the* *Discipline and Punishment* *of Children*



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Foreword

Hitting, spanking, cursing, name calling and humiliation are just some of the forms of physical and emotional punishment that children endure in their daily lives. Inflicted by adults in the guise of discipline, these forms of punishment are rooted in society's traditional norms and attitudes towards children, childhood and the role adults play in children's lives. Children are oftentimes viewed as the property of their parents, with the latter exercising power and control over the former. Despite the ratification of the United Nations Convention on the Rights of the Child (UNCRC), such practices continue in the Philippines.

The physical and emotional punishment of children is a fundamental breach of their rights. It completely disregards their entitlement to respect, dignity and integrity. It undermines their development, damages their self-esteem, and perpetuates the thinking that it is all right to hit and hurt others.

Save the Children UK, as part of the International Save the Children Alliance, strives to work towards the elimination of all forms of physical and emotional punishment of children. As an initial step, it embarked on the conduct of two research studies that will inform policy and programming work, and at the same time, contribute to the UN Study on Violence Against Children.

The first study looks at the perspectives of children and adults on physical and emotional punishment of children and identifies alternative and positive ways of disciplining children. The second study, which is extensively presented in this publication, focuses on the review and analysis of policies, laws and regulations on child discipline as issued by the executive, legislative and judiciary branches of the Philippine government as well as guidelines issued by selected private educational and religious institutions.

This book seeks to make the readers aware of the gaps in existing laws and underscores the importance of bridging these gaps by coming up with concrete policy recommendations that will ensure that children are constantly and

punishes children and why; (5) What adults think about physical punishment and discipline; and (6) Local means of non-violent conflict resolution, which can be used in programme interventions and advocacy (Save the Children UK, 2006).

Recognising the relationship of the physical and emotional punishment of children with our concepts and practice of disciplining children, Save the Children UK embarked on this breakthrough research on Philippine laws related to the discipline and punishment of children to understand the current policy context of this issue. These two researches now form a body of complementing information, which would greatly contribute to our work for the elimination of all forms of control and punishment of children in the family, school and other settings through education, legal reform and other measures.⁴

OBJECTIVES

The following are the main objectives of this research:

- Collate and present existing Philippine laws, both at the national and local levels, on the discipline and punishment of children;
- Collate and present selected rules and regulations issued by private educational and religious institutions;
- Establish a legal framework for analysis based on international human rights and children's rights instruments; and
- Analyse Philippines laws on the discipline and punishment of children based on the legal framework established.

METHODS AND RESEARCH PROCESS

Document review and analysis was used to achieve the objectives of the research. Philippine documents collected and reviewed include legal and policy documents issued by the executive, legislative and judicial branches of government and selected guidelines issued by private educational and religious institutions.

To clarify the norms related to discipline and punishment of children, international human rights instruments, specifically those relating to children's rights; non-binding human rights instruments, such as declarations, guidelines, principles and rules adopted by the UN; and general comments issued by relevant human rights monitoring bodies were examined.

The Philippine laws related to the discipline and punishment of children were then analysed based on the legal framework established.

⁴ International Save the Children Alliance Position and Definition of Corporal/Physical Punishment and Other Forms of Humiliating or Degrading Punishment, 2004

DEFINITION OF TERMS

In identifying legal and policy documents relevant and related to the discipline and punishment of children in the Philippines, the research was guided by Save the Children's definition of discipline and punishment of children:

Corporal or physical punishment and the threat of it includes hitting the child with the hand or with an object (such as a cane, belt, whip, shoe, etc); kicking, shaking, or throwing the child, pinching or pulling their hair; forcing a child to stay in uncomfortable or undignified positions, or to take excessive physical exercise; burning or scarring the child.

Humiliating or degrading punishment takes various forms such as psychological punishment, verbal abuse, ridicule, isolation or ignoring the child.

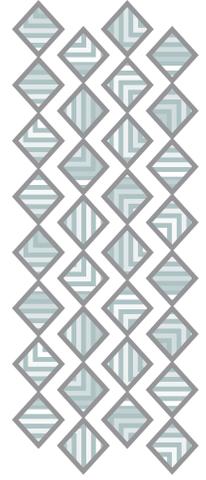
SCOPE AND LIMITATION

International humanitarian law, insofar as it applies to the specific context of armed conflict, was not included in the document review and in establishing the legal framework.

With respect to ordinances issued by local government units and issuances by private educational and religious institutions, the data collected is limited and by no means representative of all material in existence. Information presented herein were those readily available and accessible given the time frame and the geographical location of the researcher. Efforts to secure student manuals from religious seminaries proved unsuccessful due to the subject matter of the research.

Documents issued by selected religious institutions, which are related to the discipline and punishment of children, were not analysed as part of the research though presented as an annex. These documents were primarily sourced and lifted from online sources. The researcher has no expertise in examining religious documents or doctrines in the context of children's rights, particularly in the area of discipline and punishment of children.





Chapter 2

International Human Rights Instruments

States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.⁵

The discipline and punishment of children are either mentioned expressly or incorporated impliedly in various international human rights treaties and declarations. Although some instruments are silent on the discipline and punishment of children, the clarification of certain norms by treaty monitoring bodies, such as the Committee on the Rights of the Child and the Human Rights Committee, specifically refer to the discipline and punishment of children.

This chapter presents the international human rights instruments and documents that specifically address or have provisions related to the discipline and punishment of children. Aside from human rights instruments and documents, issuances by relevant United Nations (UN) treaty and monitoring bodies that interpret particular provisions were also included in this chapter.

In reviewing international human rights instruments, it is observed that provisions relevant to discipline and punishment of children are commonly discussed in the context of three elements: (1) Institutions that care for or have custody over children such as family and educational institutions; (2) Protection of children from abuse, neglect, and torture; and (3) Vulnerable situations of children such as working children and children in conflict with the law.

Finally, there is a short section on the responsibilities of children under the United Nations Convention on the Rights of the Child (UNCRC). While children have a right to express their views and to have their views taken seriously and given due weight, it does not mean that children's views are the only ones to be considered. The UNCRC also explicitly states that children have a responsibility to respect the rights of others, especially those of parents.

5 UNCRC, Article 2

RIGHTS OF THE CHILD IN THE CONTEXT OF THE FAMILY

In March 1924, the Fifth Assembly of the League of Nations endorsed the Geneva Declaration on the Rights of the Child, which is one of the groundbreaking instruments in the international recognition of children's rights. Thirty-two years later, the Declaration on the Rights of the Child was promulgated. Although not legally binding, the Declaration contained important principles upon which the subsequent UNCRC is based.

The UNCRC, which was ratified by the Philippines on 21 August 1990, is the first international legal instrument that specifically provided guarantees for a range of children's human rights,⁶ including civil, political, economic, social and cultural rights. According to the United Nations Children's Fund (UNICEF), the UNCRC "reflects a new vision of the child. Children are neither the property of their parents nor are they helpless objects of charity. They are human beings and subject of their own rights. The Convention offers a vision of the child as an individual and as a member of a family and community, with rights and responsibilities appropriate to his or her age and stage of development. By recognizing the children's rights in this way, the Convention firmly sets the focus on the whole child."⁷

Under the UNCRC, States Parties are required to respect the responsibilities, rights and duties of parents to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the child's exercise of his/her rights under the UNCRC. States Parties are also required to exert their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child.⁸

Discipline of children may be implied as included in the guidance and direction that parents provide their children. Unlike other settings important to the development of children such as educational institutions, the discipline of children within the context of the family is not expressly addressed under the UNCRC. However, the provisions of the UNCRC on the protection of children against abuse and neglect and the prohibition against torture under several international human rights instruments may be applied to the discipline and punishment of children within the context of the family.

UNICEF further elaborated on the ways parents discipline their children as embodied in the UNCRC:

The Convention makes it clear that children shall be protected from all forms of mental or physical violence or maltreatment. Thus, any forms of discipline involving such violence are unacceptable. In most countries, laws are already in place that define what sorts of punishments are considered excessive or abusive. It is up to each country to review these laws in light of the Convention.

The Convention does not specify what discipline techniques parents should use, but it strongly supports parents in providing guidance and

6 UN Convention on the Rights of the Child, United Nations Department of Public Information, May 1991, New York

7 UN Convention on the Rights of the Child, UNICEF

8 UNCRC, Articles 5, 10 and 18

direction to their children. There are ways to discipline children that are non-violent, are appropriate to the child's level of development and take the best interests of the child into consideration. Such forms of discipline are effective in helping children learn about family and social expectations for their behavior.⁹ (emphasis supplied)

EDUCATIONAL INSTITUTIONS

The right to education is recognised in the UNCRC and in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Standard for Discipline in the UNCRC

Article 28(2) of the UNCRC specifically provides for a standard on the discipline of children in schools, requiring States Parties to take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the Convention.¹⁰ The UNICEF elaborated on Article 28(2), stating that:

The Convention places a high value on education, devoting two articles to this issue. And common sense would indicate that schools must be run in an orderly way if children are to benefit from them. But order need not be imposed through the use of violence.

The Convention specifies that any form of school discipline should take into account the child's human dignity. Therefore, governments must ensure that school administrators review their discipline policies and eliminate any discipline practices involving physical or mental violence, abuse or neglect.

The Convention does not address such issues as school uniforms, dress codes, the singing of the national anthem or prayer in schools. It is up to governments and school officials in each country to determine whether, in the context of their society and existing laws, such matters infringe upon other rights protected by the Convention.¹¹

To ensure the concrete implementation of the general provision on school discipline, including the corresponding State obligations, States Parties are required under the General Guidelines for Periodic Reports (1996)¹² to indicate in their periodic reports whether their legislation includes a prohibition of all forms of physical and mental violence, including corporal punishment, deliberate

9 <http://www.unicef.org/crc/parentsfaq>.

10 UNCRC, Article 28(2)

11 <http://www.unicef.org/crc/parentsfaq>.

12 General Guidelines Regarding the Form and Contents of Periodic Reports to be Submitted by States Parties Under Article 44, Paragraph 1(b), of the Convention, UNCR/C/58, 20 November 1996

humiliation, injury, abuse, neglect or exploitation, *inter alia*, within the family, in foster and other forms of care, and in public or private institutions, such as penal institutions and schools.¹³ States are likewise required to include the following information in their periodic reports:¹⁴

- Legislation applying to educational institutions, which prohibit all forms of violence, including corporal punishment, as well as any other disciplinary measures which are inconsistent with the child's human dignity or not in conformity with the provisions of the UNCRC and its general principles of non-discrimination, best interests and respect for the views of the child;
- Legislation providing the opportunity for the child to participate in administrative or judicial proceedings relating to education and affecting him or her, including those relating to the choice of school, school exclusion;
- Any monitoring system of the administration of the school discipline, as well as mechanisms of reporting and complaint; and
- Any independent mechanism established for that purpose.

The General Guidelines for Periodic Reports (1996) also provides concrete and strict parameters for school discipline, whether imposed by public and private schools. School discipline is allowed provided that:

- It is administered in a manner consistent with the child's human dignity;
- It excludes all forms of violence, including corporal punishment;
- It is not a form of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse;
- It does not run counter to the aims of education;
- It is not equivalent to torture or other cruel, inhuman or degrading treatment or punishment;
- It is consistent with the general principle of non-discrimination;
- It is in the best interest of the child;
- It is undertaken with respect for the views of the child; and
- The child, or the representative, is given the opportunity to be heard during the disciplinary proceedings.

The Committee on the Rights of the Child emphasised in its General Comment No. 1 [2001] that "the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline. ...The participation of children in school life, the creation of school

13 Par. 88, General Guidelines for Periodic Reports, *op cit*

14 Par. 109, General Guidelines for Periodic Reports, *op cit*.

communities and student councils, peer education and peer counselling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.”¹⁵

Right to Education in the Economic, Social and Cultural Rights Covenant

The International Convention on Economic, Social and Cultural Rights (ICESCR) specifies in detail the economic, social and cultural rights contained in the Universal Declaration on Human Rights. Article 13 thereof provides that:

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms...

The Committee on Economic, Social and Cultural Rights, which oversees implementation of the ICESCR, issued General Comment No. 13, expounding on the right to education as contained in Article 13 of the ICESCR. With respect to discipline in school, the Committee stated that:¹⁶

Discipline in schools

41. In the Committee’s view, *corporal punishment is inconsistent with the fundamental guiding principle of international human rights law enshrined in the Preambles to the Universal Declaration of Human Rights and both Covenants: the dignity of the individual. Other aspects of school discipline may also be inconsistent with human dignity, such as public humiliation. Nor should any form of discipline breach other rights under the Covenant, such as the right to food.* A State party is required to take measures to ensure that discipline which is inconsistent with the Covenant does not occur in any public or private educational institution within its jurisdiction. The Committee welcomes initiatives taken by some States parties which actively encourage schools to introduce “positive”, non-violent approaches to school discipline. (emphasis supplied)

The Committee, in formulating the abovementioned paragraph, “...took note of the practice evolving elsewhere in the international human rights system, such as the interpretation given by the Committee on the Rights of the Child to article 28 (2) of the Convention on the Rights of the Child, as well as the Human Rights Committee’s interpretation of article 7 of ICCPR.”¹⁷ Said interpretations have been previously presented in this research.

15 General Comment No. 1: The aims of education, Committee on the Rights of the Child [2001], HRI/GEN/1/Rev.7

16 General Comment 13, The Right to Education, Art. 13): . 08/12/99, E/C.12/1999/10

17 *Ibid.*, Footnote to par. 41

The Committee also noted that “...although it is absent from article 26 (2) of the Declaration, the drafters of ICESCR expressly included the dignity of the human personality as one of the mandatory objectives to which all education is to be directed (art. 13 (1)).”¹⁸

PROTECTION OF CHILDREN FROM ABUSE AND NEGLECT

Aside from family and educational institutions, discipline and punishment of children are also discussed in the context of protection of children from abuse and neglect by States Parties. The Committee on the Rights of the Child has distinguished between the State obligations for the implementation of economic, social and cultural rights and for the protection of the child against abuse. Thus, only economic, social and cultural rights are subject to implementation to the “maximum extent of available resources” under Article 4 of the UNCRC. Otherwise, states are obliged to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”¹⁹

Female children are specifically mentioned in the Declaration on the Elimination of Violence Against Women (DVAW), which defines violence against women, as encompassing, but not be limited to “physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women.”²⁰

The Prohibition Against Torture and Corporal Punishment

The prohibition against an extreme form of treatment or punishment against children, including children deprived of their liberty, is contained in Article 37 of the UNCRC, which requires States to ensure that:

- No child is subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- Capital punishment or life imprisonment without possibility of release is not imposed for offences committed by persons below 18 years old;
- No child is deprived of his or her liberty unlawfully or arbitrarily;
- The arrest, detention or imprisonment of a child shall be in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time; and
- Every child deprived of liberty is treated with respect and in a manner that takes into account the needs of persons of his or her age, including being

18 *Ibid.*

19 UNCRC, Article 19(1)

20 DVAW (1993), Article 2

detained separate from adults and having the right to maintain contact with his or her family through correspondence and visits.

Other relevant international human rights instruments that contain prohibition against torture and cruel, inhuman or degrading treatment or punishment include the: (1) Universal Declaration of Human Rights; (2) Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (3) International Covenant on Civil and Political Rights (ICCPR); and (4) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Definition of Torture

The ICCPR, which preceded the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, contains no definition of torture or “cruel, inhuman or degrading treatment or punishment.” However, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides guidance as to what such term refers to. Under the Body of Principles adopted by the General Assembly,²¹ the term is interpreted “*so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time*” (emphasis supplied).

Torture and Corporal Punishment

Article 7 of the ICCPR provides that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

In relation to the research on discipline and punishment of children, General Comment No. 7 (1982)²² issued by the Human Rights Committee, which is the monitoring body of the ICCPR, is most relevant. According to the Human Rights Committee:

- The prohibition against torture must extend to corporal punishment, including excessive chastisement as an educational or disciplinary measure.
- Article 7 clearly protects not only persons arrested or imprisoned, but also pupils and patients in educational and medical institutions.
- It is also the duty of public authorities to ensure protection by the law against such treatment even when committed by persons acting outside or without any official authority.

21 Resolution 43/173 of 9 December 1988

22 General Comment No. 07: Torture or cruel, inhuman or degrading treatment or punishment (Art. 7): 30/05/82

Table 1. Human Rights Instruments Prohibiting Torture

HUMAN RIGHTS INSTRUMENT	Universal Declaration of Human Rights	Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	International Covenant on Civil and Political Rights	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	UNCRC
DATE OF ADOPTION (a) OR ENTRY INTO FORCE	10 December 1948 (a)	9 December 1975 (a)	23 March 1976	26 June 1987	2 September 1990
DATE OF RATIFICATION BY THE PHILIPPINES	n/a	n/a	23 Oct 1986	26 June 1987	21 August 1990
DEFINITION OF TORTURE		Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners; Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.		'Torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.	
PROHIBITION AGAINST TORTURE	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.	Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.	Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction; Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.	No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

In General Comment No. 20 (1992), which replaced General Comment No. 7, the Human Rights Committee, elaborated on the relationship between the prohibition against torture and discipline and punishment of children:

The prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee's view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure. It is appropriate to emphasize in this regard that article 7 protects, in particular, children, pupils and patients in teaching and medical institutions.²³

Philippine Compliance with Human Rights Instruments

In 1995, the Committee on the Rights of the Child assessed the report submitted by the Philippines and made the following observations, specifically on violence committed against children:²⁴

14. The Committee is also preoccupied by the level of violence and the high incidence of ill-treatment and abuse of children, including cases attributed to the police or military personnel. It notes with concern that the efforts of the Government to combat child abuse and neglect are insufficient, both from the prevention and the sanction point of view. The lack of rehabilitation measures for such children is also a matter of concern. The failure to take effective steps to prosecute and punish those responsible for such violations or to make public decisions taken in this regard, including towards paedophiles, may lead to a feeling in the population that impunity prevails and that it is therefore useless to bring complaints before the competent authorities.

...

24. The Committee recommends that the State intensify its action against all violence directed at and ill-treatment of children, in particular sexual abuse. An increased number of programmes should aim at the prevention of sexual misbehaviour towards children. The deep causes of the phenomenon should be seriously looked at. The Committee also recommends the active participation of non-governmental organizations as well as children and youth groups in changing and influencing attitudes in that regard.

23 Par. 5, General Comment No. 20: Replaces general comment 7 concerning prohibition of torture and cruel treatment or punishment (Art. 7): 10/03/92

24 Concluding observations of the Committee on the Rights of the Child, UNCR/C/15/Add.29, 15 February 1995

In 2002, the Human Rights Committee made the following observations upon review of the consolidated second and third periodic report submitted by the Philippines related to the discipline and punishment of children:

17. The Committee is concerned that the measures of protection of children are inadequate and the situation of large numbers of children, particularly the most vulnerable, is deplorable. While recognizing that certain legislation has been adopted in this respect, many problems remain in practice, such as:
- a) The absence of adequate legislation governing juvenile justice and the deplorable situation of children in detention, including those held without evidence for prolonged periods of time;
 - b) Persistent reports of ill-treatment and abuse, including sexual abuse, in situations of detention and children being detained together with adults where conditions of detention may amount to cruel, inhuman and degrading treatment (art. 7);
 - c) Street children vulnerable to extrajudicial executions and various forms of abuse and exploitation.²⁵

WORKING CHILDREN

Discipline and punishment of children is also implied in human rights instruments protecting working children. The UNCRC requires States Parties to ‘recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.’²⁶

The prohibition as to the worst forms of child labour is provided in ILO Convention No. 182 (2000),²⁷ which requires States Parties to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, specifically the following:²⁸

- All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- Use, procuring or offering of a child for illicit activities, in particular

25 ICCPR/C/PHL/2002/2

26 UNCRC, Article 32(1)

27 The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which entered into force on 19 November 2000, was ratified by the Philippines on 28 November 2000.

28 ILO Convention No. 182, Article 3

for the production and trafficking of drugs as defined in the relevant international treaties; and

- Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

ILO Convention No. 182 is included in the research as the worst forms of child labour may be imposed upon children as a form of discipline or punishment, whether in the context of the family, school or institutions.

CHILDREN IN CONFLICT WITH THE LAW

As previously discussed, Article 37 of the UNCRC contains specific provisions on the treatment of children in conflict with the law. The table below presents related guidelines and rules related to the treatment of children in conflict with the law. Although not legally binding, these guidelines and rules adopted by the General Assembly and other United Nations bodies are considered influential and contain internationally agreed standards.

Table 2. Rules and Guidelines Applicable to Children in Conflict with the Law

INSTRUMENT/DOCUMENT	YEAR ADOPTED	PROHIBITED ACTS
Standard Minimum Rules for the Treatment of Prisoners	1957/1977	31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)	1985	Rule 17(3). Juveniles shall not be subject to corporal punishment.
United Nations Rules for the Protection of Juveniles Deprived of their Liberty	1990	<p>Rule 67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.</p> <p>Rule 87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular, as follows:</p> <p>(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever...</p>

Table 2 Continued...

Continued.... Table 2. Rules and Guidelines Applicable to Children in Conflict with the Law

INSTRUMENT/DOCUMENT	YEAR ADOPTED	PROHIBITED ACTS
United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)	1990	<p>Section 21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following: ...Avoidance of harsh disciplinary measures, particularly corporal punishment...</p> <p>Section 54. No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.</p>
Model Treaty on the Transfer of Supervision of Offenders Who Have Been Conditionally Sentenced or Conditionally Released	1990	Article 5. No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.
Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment	1988	Principle 6. No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment. ²⁹
Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1982	Principle 2. It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

²⁹ The footnote to Principle 6 provides that the term “cruel, inhuman or degrading treatment or punishment” should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive such person, temporarily or permanently of the use of any of his or her natural senses, such as sight or hearing, or of his or her awareness of place and the passing of time.

RESPONSIBILITIES OF CHILDREN

Aside from embodying children's rights, the UNCRC also provides for children's responsibility to respect the rights of others, especially those of parents. This responsibility is exemplified by Articles 13, 14 and 15, which discuss the right to freedom of expression, freedom of thought, conscience and religion, freedom of association and freedom of peaceful assembly, subject to certain standards and limitations such as public safety and order.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) *For respect of the rights or reputations of others; or*
 - (b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

Article 14

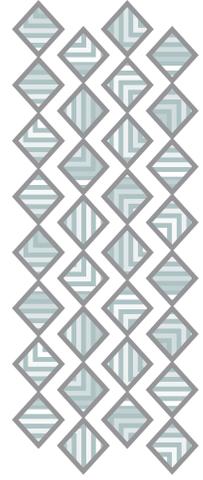
1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. *Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. (emphasis supplied)*

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. *No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security*

or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. (emphasis supplied)

The summary herein presented is used as the legal framework for the analysis of Philippine laws related to the discipline and punishment of children. The relevant provisions of Philippine laws and rules are presented in the next chapter.



Chapter 3

Compilation of Philippine Laws on Discipline and Punishment of Children

This chapter presents relevant provisions of Philippine laws related to the discipline and punishment of children. It is divided into four major sections. The first section contains the basic law in the Philippines, the 1987 Constitution, and the rest of the sections are divided according to the branch of government that issued the relevant law or rules: legislative branch, judicial branch and executive branch. These sections are further divided into subsections, either according to the nature of law (whether penal, civil or a special law on children) or according to the agency which issued the law. Unless otherwise stated, whenever a specific law or any of its provisions is quoted, it is deemed as referring to the latest amended version of said law. A matrix of the laws and rules is attached as **Appendix 1**.

THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES

The 1987 Constitution of the Philippines (Constitution) is the supreme written law in the country and it serves as the basic framework for any act or rule of any branch or agency of the government.³⁰ All laws must comply with its provisions, otherwise it will be declared as void. Hence, it is necessary to refer to the Constitution and examine how it views the development of children in the context of the family and educational institutions.

The Family

The Constitution recognises as a State policy the natural right and duty of parents in the rearing of children stating that:

30 Bernas, S.J., Joaquin G., *The 1987 Constitution of the Republic of the Philippines: A commentary*, Manila: Rex Bookstore, 2003

The natural and *primary* right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.³¹ (emphasis supplied)

The insertion of the adjective “primary” to describe the rights of parents implies that the right of parents is superior to that of the State.³² However, the State has the inherent duty to act as *parens patriae* (father of his country) where minors are involved. It has the “duty of protecting the rights of persons or individuals who, because of age or incapacity, are in an unfavorable position *vis-à-vis* other parties.”³³

The State policy is further elaborated in Article XV, which recognises “the Filipino family as the foundation of the nation and as such, requires the government to strengthen the family’s solidarity and actively promote its total development.”³⁴ Furthermore, the State is required to uphold the following rights:

1. The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;
2. The right of children to assistance, including proper care and nutrition, and *special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development*;
- ...
3. The right of families or family associations to participate in the planning and implementation of policies and programs that affect them. (emphasis supplied.)³⁵

Rights of the Accused

The Bill of Rights (Article III, Constitution) enshrines the rights of any person, including children in conflict with the law, under investigation for the commission of an offence. Article III, Section 12 specifically prohibits the following:

2. No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against [any person under investigation for the commission of an offense]. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

31 The 1987 Constitution of the Republic of the Philippines, Article II, Section 12

32 Bernas, *op cit*, p. 79

33 *Nery, et al., vs. Lorenzo, et al.*, G.R. No. L-23096, 27 April 1972

34 1987 Constitution, Article XV, Section 1

35 *Ibid.*, Article XV, Section 3

Any confession or admission obtained in violation of the abovementioned section is considered inadmissible in evidence against said person.³⁶ In addition, the Constitution requires enactment of a law that provides for penal and civil sanctions for violations of Section 12 as well as compensation for the rehabilitation of victims of torture or similar practices, and their families.³⁷

R.A. No. 7309,³⁸ which created the Board of Claims under the Department of Justice, took effect on April 14, 1992. Under Section 3 of this act, any person who is a victim of violent crimes may file a claim for compensation before the Board. Violent crimes “include rape and shall likewise refer to offenses committed with malice which resulted in death or serious physical and/or psychological injuries, permanent incapacity or disability, insanity, abortion, serious trauma, or committed with torture, cruelly or barbarity.”

In case of a person is convicted for the commission of an offence, Article III, Section 19 of the Constitution guarantees the following:

1. Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.
2. The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

To be considered “cruel and unusual” or excessive under paragraph 1 of Section 19, “the penalty must be flagrantly disproportionate to the offense no matter under what circumstances the offense may be committed.”³⁹ If the punishment provided by the legislature exceeded the limits of its discretionary power, the judiciary may intervene to apply the constitutional restrictions on punishment. While the first paragraph of Section 19 provides a standard for punishments under penal laws, its second paragraph refers to the treatment of persons in detention. During the deliberations of the Constitutional Commission, Commissioner Regalado E. Maambong articulated the rationale for Section 19(2):

Confinement itself within a given institution may amount to cruel and unusual punishment prohibited by the Constitution where the confinement is characterized by conditions and practices that are so bad as to be shocking to the conscience of reasonably civilized people. It must be understood that the life, safety and health of human beings, to say nothing of their dignity, are at stake.

36 *Ibid.*, Article III, Section 12(3)

37 *Ibid.*, Article III, Section 12(4)

38 An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Other Violent Crimes and for Other Purposes.

39 Bernas, *op cit*, p. 553

...

*Unless facilities of the penitentiary are brought up to a level of constitutional tolerability, they should not be used for the confinement of prisoners at all. Courts in other jurisdictions have ordered the closure of substandard and outmoded penal institutions.*⁴⁰ (emphasis supplied)

THE LEGISLATIVE BRANCH

Civil Laws

- I. The Family Code of the Philippines
Executive Order No. 209 (1987)
Date of effectivity: 03 August 1988

The Family Code's preamble explains that it was promulgated as "pervasive changes and developments have necessitated revision of provisions of the Civil Code of the Philippines on marriage and family relations to bring them closer to Filipino customs, values and ideals and reflect contemporary trends and conditions." The Family Code also recognised the "need to implement policies embodied in the new Constitution that strengthen marriage and the family as basic social institutions."

Parental Authority

Title IX of the Family Code, which specifies the extent of parental authority, contains a provision on discipline of children in the context of the family. In *Santos, Sr. vs. Court of Appeals* (1995),⁴¹ the Supreme Court declared that:

Parental authority or *patria potestas* in Roman Law is the juridical institution whereby parents rightfully assume control and protection of their unemancipated children to the extent required by the latter's needs. It is a mass of rights and obligations which the law grants to parents for the purpose of the children's physical preservation and development, as well as the cultivation of their intellect and the education of their heart and senses. As regards parental authority, "there is no power, but a task; no complex of rights, but a sum of duties; no sovereignty but a sacred trust for the welfare of the minor."

40 I RECORD 778, as cited in Bernas, *op cit*, p. 561

41 G.R. No. 113054, 16 March 1995

Article 209 establishes the natural right and duty of parents over the person and property of their children as the basis of parental authority and responsibility, which includes the caring for and rearing of children for civic consciousness and efficiency and the development of their moral, mental and physical character and well-being.

Meanwhile, Article 211 imposes an obligation on the children with respect to their parents, specifically stating that:

Children shall always observe respect and reverence towards their parents and are obliged to obey them as long as the children are under parental authority.

Who Exercises Parental Authority

Parental authority over their common children is jointly exercised by the father and mother. In case of disagreement, Article 211 provides that the father's decision shall prevail, unless there is a judicial order to the contrary.

In default of parents or a judicially appointed guardian, Article 216 assigns the following persons, in the order indicated, to exercise substitute parental authority over the child: (1) The surviving grandparent; (2) The oldest brother or sister, over 21 years of age, unless unfit or disqualified; and (3) The child's actual custodian, over 21 of age, unless unfit or disqualified.

Parental authority is also entrusted to the heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency; in summary judicial proceedings; in cases of foundlings;⁴² abandoned, neglected or abused children; and other children similarly situated.⁴³ The person exercising substitute parental authority has the same authority as parents over the person of the child.⁴⁴

Special parental authority and responsibility over a child is vested by law to schools, its administrators and teachers, or the individual, entity or institution engaged in childcare. However, such authority and responsibility may only be exercised while the child is under their supervision, instruction or custody. The coverage includes all authorised activities whether inside or outside the premises of the school, entity or institution.⁴⁵ Hence, field trips, excursions and other activities of the students conducted outside the school premises are covered by the exercise of such special parental authority and responsibility.⁴⁶

42 A foundling refers to a deserted or abandoned infant or child whose parents, guardians or relatives are unknown; or a child committed to an orphanage or charitable or similar institution with unknown facts of birth and parentage and registered in the Civil Register as a 'foundling,' Section 3, Rule on Adoption, A.M. No. 02-6-02-SC, 2002

43 The Family Code of the Philippines (1988), Article 217

44 *Ibid.*, Article 233

45 *Ibid.*, Article 218

46 Sempio-Diy, Alicia V., *Handbook on The Family Code of the Philippines*, Quezon City, 1995, p. 344 Quezon City : Joer Printing Services, 1995

Extent of Parental Authority

As enumerated in Article 220, the following are rights and duties of parents and those exercising parental authorities with respect to children:

- (1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;
- (2) To give them love and affection, advice and counsel, companionship and understanding;
- (3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;
- (4) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;
- (5) To represent them in all matters affecting their interests;
- (6) To demand from them respect and obedience;
- (7) *To impose discipline on them as may be required under the circumstances; and*
- (8) To perform such other duties as are imposed by law upon parents and guardians. (emphasis supplied)

Court Order for Disciplinary Measures

As a means of assisting parents in imposing discipline on a child, Article 223 provides that parents or, in their absence or incapacity, the individual, entity or institution exercising parental authority, may file a petition before the proper court of the place where the child resides, for an order providing for disciplinary measures over the child.

The article also provides that the “child shall be entitled to the assistance of counsel, either of his choice or appointed by the court, and a summary hearing shall be conducted wherein the petitioner and the child shall be heard.” The court is authorized to adopt such other measures as it may deem just and proper, including the “commitment of the child for not more than thirty days in entities or institutions engaged in child care or in children’s homes duly accredited by the proper government agency.”⁴⁷

47 Family Code, Article 224

In case commitment of the child is ordered by the court, the parent exercising parental authority is prohibited under the law from interfering with the care of the child. However, the parent is required to provide for the support of the child. The commitment of the child is terminated by the court upon proper petition or at its own instance, whenever just and proper.

Suspension or Termination of Parental Authority

Article 231 provides that the court may suspend parental authority if the parent or the person exercising the same:

- Treats the child with excessive harshness or cruelty;
- Gives the child corrupting orders, counsel or example;
- Compels the child to beg; and
- Subjects the child or allows him or her to be subjected to acts of lasciviousness.

The grounds for suspension or termination are not exclusive. Grounds include cases that have resulted from culpable negligence of the parent or the person exercising parental authority. According to Justice Alicia V. Sempio-Diy (1995), there are parents who, without actually committing the above acts, have actual knowledge of their children's commission of such acts (e.g., begging, appearing in indecent shows) but do not prevent them and even allow them to commit such acts for profit or material advantage.

Aside from depriving the guilty party of parental authority, the court may adopt such other measures as may be proper under the circumstances "if the degree of seriousness so warrants, or the welfare of the child so demands." Deprivation of parental authority shall be permanent "if the person exercising parental authority has subjected the child or allowed him to be subjected to sexual abuse."

Discipline in School

Discipline in school is specifically discussed in Article 233, which states that:

The person exercising substitute parental authority shall have the same authority over the person of the child as the parents.

In no case shall the school administrator, teacher or individual engaged in child care exercising special parental authority inflict corporal punishment upon the child. (emphasis supplied)

Legal Separation

Article 55, which specifies the grounds for legal separation states that, among others, a petition for legal separation may be filed on the following grounds:

- (1) *Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;*

...

- (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;

...

For purposes of this Article, the term “child” includes a child by nature or by adoption. (emphasis supplied)

It is important to note that for repeated physical violence or grossly abusive conduct on a child to be a ground for legal separation, it must be committed against a common child or a child of the petitioner. The petitioner cannot file a case for legal separation if such acts are committed by the respondents against his or her own child with another person.⁴⁸

For physical violence committed against a child to become a ground for legal separation, the violence must be repeated as the “frequency of the act and not the severity of the same is the determinative factor under this ground. Indeed, the act may involve some form of violence although it is not severe. However, it must be inflicted with bad faith and malice.”⁴⁹

If the physical violence committed by the respondent in a legal separation against a child is not repeated or even physical in nature, the act may still fall under the category of ‘grossly abusive conduct,’ depending on the circumstances. As stated by Professor Melencio S. Sta. Maria in his book on Persons and Family Relations (2004):

...a singular but serious act of squeezing of neck, pulling of hair and the like without the intent to kill may be included in this phrase. (Minutes of the 156th joint meeting of the Civil Code and Family Law committees held on September 27, 1986, page 11).⁵⁰

Background on Parental Authority under the Family Code

Before the Family Code became effective in 1988, the controlling provisions on parental authority were found in Presidential Decree No. 603, the Child and Youth Welfare Code and in the provisions of the Civil Code of the Philippines,⁵¹ which were not inconsistent with P.D. No. 603. However, the Family Code expressly repealed specific articles, including Articles 17, 18 and 19, of P.D. No. 603 and the entire Title XI of the Civil Code on parental authority.⁵²

For purposes of discussion and comparison, the relevant provisions of the *repealed* provisions of the Civil Code on parental authority are also herein presented.

48 Sta. Maria, Jr., Melencio S., *Persons and Family Relations Law*, Quezon City, 2004, p. 327 Manila: Rex Book Store, 2004.

49 *Ibid.*, p. 327

50 *Ibid.*

51 Republic Act No. 386 (1950)

52 Sempio-Diy, *op cit*, p. 334

Table 3. Parental Authority under Philippine Laws

	FAMILY CODE	CHILD AND YOUTH WELFARE CODE ⁵³	CIVIL CODE Title XI (repealed)
Year of Effectivity	1988	1975	1950
Extent of parental authority; Discipline in the family	Impose discipline on children as may be required under the circumstances	<p>Right to discipline the child as may be necessary for the formation of his good character</p> <p>Require obedience to just and reasonable rules, suggestions and admonitions</p> <p>Whenever proper, allow the child to participate in the discussion of family affairs, especially in matters that particularly concern him. In cases involving his discipline, the child shall be given a chance to present his side</p>	Power to correct children and to punish them moderately ⁵⁴
Discipline in school	School administrator, teacher or individual engaged in child care prohibited from inflicting corporal punishment upon the child		<p>Relations between teacher and pupil, professor and student, are fixed by government regulations and those of each school or institution. In no case is corporal punishment countenanced⁵⁵</p> <p>No corporal punishment against an apprentice is permitted⁵⁶</p>

Table 3 Continued...

⁵³ See Subsection C (Special Laws on Children) for discussion of this Code.

⁵⁴ Civil Code of the Philippines, Article 316

⁵⁵ *Ibid.*, Article 352

⁵⁶ *Ibid.*, Article 353

Continued... Table 3. Parental Authority under Philippine Laws

	FAMILY CODE	CHILD AND YOUTH WELFARE CODE ⁵³	CIVIL CODE Title XI (repealed)
Year of Effectivity	1988	1975	1950
Assistance to parents in disciplining children	Person exercising parental authority may file a petition, before the proper court of the place where the child resides, for an order providing for disciplinary measures over the child		Local mayor may aid parents in the exercise of their authority over the child Child may be kept in a children's home or similar institution for not more than one month, upon an order of the justice of the peace or municipal judge ⁵⁷
Deprivation or suspension of parental authority	If parents treat their children with excessive harshness or give them corrupting orders, counsels, or examples, or make them beg or abandon them		If parents treat their children with excessive harshness or give them corrupting orders, counsels, or examples, or make them beg or abandon them. ⁵⁸

2. Code of Muslim Personal Laws
 Presidential Decree No. 1083⁵⁹
 Date signed: 04 February 1977

The Code of Muslim Personal Laws (P.D. No. 1083) provides for the legal system on personal laws of Muslims in the Philippines relating to their persons, family relations, succession and inheritance, and presents the administrative machinery for its implementation.⁶⁰

Article 71, Chapter 1, Title V on parental authority under P.D. No. 1083 provides that:

- (1) The father and the mother shall jointly exercise just and reasonable parental authority and fulfill their responsibility over their legitimate children and acknowledged children. In case of disagreement, the father's decision shall prevail unless there is a judicial decision to the contrary.

57 *Ibid.*, Article 318

58 *Ibid.*, Article 332

59 A Decree to Ordain and Promulgate a Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, and Providing for its Administration, and for Other Purposes

60 Arabani, Bensaudi I., *Commentaries on the Code of Muslim Personal Laws of the Philippines with Jurisprudence and Special Procedure*, 1990, p.184 Manila: Rex Book Store, 1990.

- (2) The mother shall exercise parental authority over her children born out of wedlock, but the court may, when the best interest of the children so require, appoint a general guardian.

Article 73 provides for the duties of persons exercising parental authority:

Every parent and every person exercising parental authority shall see to it that the *rights of the children are respected*, and their duties complied with, and shall particularly, by precept and example, imbue them with religious and civic consciousness, love of country, veneration of the national heroes and attachment to the ideal permanent world peace. (emphasis supplied)

Duties of children are provided under Article 72:

- (1) Children shall respect, revere, and obey their parents always unless the latter cast them into disbelief.
- (2) Grandparents are likewise entitled to respect and reverence, and shall be consulted whenever practicable by all members of the family on all important questions.

Article 74 states that parents have, with respect to their children:

- (a) The duty to support them, have them in their company, educate and instruct them in keeping in keeping with their means and represent them in all actions which shall redound to their benefits; and
- (b) *The power to correct, discipline, and punish them moderately.* (emphasis supplied)

Bensaudi I. Arabani, who wrote *The Commentaries on the Code of Muslim Personal Laws of the Philippines with Jurisprudence and Special Procedure* [1990], expounded on Article 74 of P.D. No. 1083:

According to a tradition of the Holy Prophet related by Abdullah bin Amr bin el-Aas that the Apostle of God said: “When your children attain the age of seven, insist upon them to offer Namaz (regularly), and when they are ten years old, punish them if they do not and have separate beds for them (to sleep on).” It is also related by Sa’eed bin-el-Aas that the Apostle of God said: “No father can give a better gift to his children than good manners and good character.” Since children generally develop the faculty of understanding at age seven, the earlier in life that their feet are set on the right path, the better for their moral, religious and character development, as it is easier to strengthen them while young than already grown up.⁶¹

61 *Ibid.*, p. 404

3. Domestic Adoption Act

Republic Act No. 8552⁶²

Date of approval: 25 February 1998

Section 19, Article VI of the Domestic Adoption Act provides the grounds for rescission of adoption:

Upon petition of the adoptee, with the assistance of the Department of Social Welfare and Development, if a minor or if over eighteen (18) years of age but is incapacitated, as guardian/counsel, the adoption may be rescinded on any of the following grounds committed by the adopter(s):

- (a) *repeated physical and verbal maltreatment by the adopter(s) despite having undergone counseling;*
- (b) *attempt on the life of the adoptee;*
- (c) *sexual assault or violence; or*
- (d) *abandonment and failure to comply with parental obligations.*
(emphasis supplied)

If the petition for rescission of adoption is granted, the parental authority of the adoptee's biological parent(s), if known, or the legal custody of the Department of Social Welfare and Development (DSWD) is restored, if the adoptee is still a minor or incapacitated.⁶³

Section 21 prescribes the penalty of imprisonment or fine for violations of the Domestic Adoption Act:

- (a) The penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and/or a fine not less than Fifty thousand pesos (P50,000.00), but not more than Two hundred thousand pesos (P200,000.00) at the discretion of the court shall be imposed on any person who shall commit any of the following acts:
 - (i) obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts;
 - (ii) non-compliance with the procedures and safeguards provided by the law for adoption; or
 - (iii) *subjecting or exposing the child to be adopted to danger, abuse, or exploitation.* (emphasis supplied)

⁶² An Act Establishing the Rules and Policies on the Domestic Adoption of Filipino Children and for Other Purposes

⁶³ R.A. No. 8552 (1998), Section 20

Penal Laws

I. Revised Penal Code

Act No. 3815⁶⁴

Date of effectivity: 01 January 1932

The Revised Penal Code (RPC) establishes the basic principles affecting criminal liability; explains penalties, including civil and criminal liability; and defines crimes and provides the corresponding penalties for their commission.⁶⁵ Depending on the severity of the discipline and punishment of children and the corresponding effects on the child, the act may fall under the RPC and the perpetrator correspondingly punished.

Alternative Circumstances

Article 15 of the RPC defines alternative circumstances as “those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.” In addition, said provision states that:

The alternative circumstance of relationship shall be taken into consideration when the offended party is the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

When is a “relationship” considered mitigating or aggravating? The abovementioned provision is silent as to circumstances wherein ‘relationship’ is considered mitigating or aggravating. “Relationship” is an aggravating circumstance under Article 263 when serious physical injuries is committed against an offended party, even when he or she is a descendant of the offender. Article 263 imposes a higher penalty if the offence is committed against any of the persons enumerated in Article 246 [father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse]. However, Article 263 also provides that the higher penalties “*shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.*”

Liability of Persons with Custody of Children

Article 346 provides that:

The ascendants, guardians, curators, teachers and any person who, by abuse of authority or confidential relationships, shall cooperate as accomplices in the perpetration of the crimes embraced in chapters

64 An Act Revising the Penal Code and Other Penal Laws

65 Reyes, Luis B., *The Revised Penal Code (Book One)*, Manila: Rex Bookstore, 2001, p. 22

second,⁶⁶ third⁶⁷ and fourth,⁶⁸ of this title, shall be punished as principals.

Teachers or other persons in any other capacity entrusted with the education and guidance of youth, shall also suffer the penalty of temporary special disqualification in its maximum period to perpetual special disqualification.⁶⁹

Any person falling within the terms of this article, and any other person guilty of corruption of minors for the benefit of another, shall be punished by special disqualification from filling the office of guardian.

Crimes under Chapters Two, Three and Four of the Revised Penal Code include rape, acts of lasciviousness, qualified seduction, simple seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, white slave trade, forcible abduction, and consented abduction.

Selected Offenses under the Revised Penal Code (RPC)

A table of offences included in the RPC which are relevant and related to discipline and punishment of children are herein provided. Although the list is by no means exhaustive, the offences listed include specific offences committed against children and their corresponding penalties. The list also incorporates the amendments to the RPC made under R.A. No. 7659.⁷⁰

66 Rape and Acts of Lasciviousness (Note, however, that rape has been reclassified as a crime against persons and is no longer included in this provision. See Section II, Subsection B(2) within this chapter for a discussion of the Anti-Rape Law.)

67 Seduction, Corruption of Minors and White Slave Trade

68 Abduction

69 Article 31 of the RPC provides that:

Effect of the penalties of perpetual or temporary special disqualification. — The penalties of perpetual or temporal special disqualification for public office, profession or calling shall produce the following effects:

1. The deprivation of the office, employment, profession or calling affected;

2. The disqualification for holding similar offices or employments either perpetually or during the term of the sentence according to the extent of such disqualification.

70 An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, and for Other Purposes

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY ⁷¹
248	Murder	(4) On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity (5) With evident premeditation (6) With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.	<i>Reclusion perpetua</i> to death
249	Homicide	Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in Article 348 article	<i>Reclusion temporal</i>
255	Infanticide	Any person who shall kill any child less than three days of age	<i>Reclusion perpetua</i> to death
		If any crime penalised is committed by the mother of the child for the purpose of concealing her dishonor.	<i>Prision mayor</i> in its medium and maximum periods
		If said crime is committed for the same purpose by the maternal grandparents or either of them.	<i>Reclusion temporal.</i>
262	Mutilation	Any person who shall intentionally mutilate another by depriving him, either totally or partially, or some essential organ of reproduction.	<i>Reclusion temporal</i> to <i>reclusion perpetua</i>
		Any other intentional mutilation	<i>Prision mayor</i> in its medium and maximum periods

Table 4 Continued on next page...

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY ⁷¹
263	Serious physical injuries	Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries: (1) If in consequence of the physical injuries inflicted, the injured person shall become insane, imbecile, impotent, or blind	<i>Prision mayor</i>
		(2) If in consequence of the physical injuries inflicted, the person injured shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm, or a leg or shall have lost the use of any such member, or shall have become incapacitated for the work in which he was therefor habitually engaged	<i>Prision correccional</i> in its medium and maximum periods
		(3) If in consequence of the physical injuries inflicted, the person injured shall have become deformed, or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance of the work in which he as habitually engaged for a period of more than ninety days	<i>Prision correccional</i> in its minimum and medium periods
		(4) If the physical injuries inflicted shall have caused the illness or incapacity for labor of the injured person for more than thirty days	<i>Arresto mayor</i> in its maximum period to <i>prision correccional</i> in its minimum period <i>Reclusion temporal</i> in its medium and maximum periods
		If the offense shall have been committed against any of the persons enumerated in Article 246 [father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse], or with attendance of any of the circumstances mentioned in Article 248 [murder], the offender shall suffer the following penalty: <ul style="list-style-type: none"> • In cases covered by par. 1 above • In cases covered by par. 2 • In cases covered by par. 3 • In cases covered by par. 4 The provisions of the preceding paragraph shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.	<i>Prision correccional</i> in its maximum period to <i>prision mayor</i> in its minimum period <i>Prision correccional</i> in its medium and maximum periods <i>Prision correccional</i> in its minimum and medium periods

Table 4 Continued on next page...

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY ⁷¹
264	Administering injurious substances or beverages	Any person who, without intent to kill, shall inflict upon another any serious, physical injury, by knowingly administering to him any injurious substance or beverages or by taking advantage of his weakness of mind or credulity	Same schedule of penalties as 263
265	Less serious physical injuries	Any person who shall inflict upon another physical injuries not described in Articles 263 and 264, but which shall incapacitate the offended party for labor for ten days or more, or shall require medical assistance for the same period.	<i>Arresto mayor</i>
		Whenever less serious physical injuries shall have been inflicted with the manifest intent to kill or offend the injured person, or under circumstances adding ignominy to the offense.	<i>Arresto mayor</i> , including a fine not exceeding 500 pesos
		Any less serious physical injuries inflicted upon the offender's parents, ascendants, guardians, curators, teachers, or persons of rank, or persons in authority... provided that, in the case of persons in authority, the deed does not constitute the crime of assault upon such person	<i>Prision correccional</i> in its minimum and medium periods
266	Slight physical injuries and maltreatment	When the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period	<i>Arresto menor</i>
		When the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance	<i>Arresto menor</i> or a fine not exceeding 20 pesos and censure
		When the offender shall ill-treat another by deed without causing any injury	<i>Arresto menor</i> in its minimum period or a fine not exceeding 50 pesos

Table 4 Continued on next page...

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY ⁷¹
Title IX: Crimes Against Personal Liberty and Security			
267	Kidnapping and serious illegal detention	Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty: (1) If the kidnapping or detention shall have lasted more than three days (2) If it shall have been committed simulating public authority (3) If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made (4) If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.	<i>Reclusion perpetua</i> to death
		Where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.	Death penalty
		When the victim is killed or dies as a consequence of the detention or is raped, or is subjected to torture or dehumanizing acts	Maximum penalty is to be imposed
270	Kidnapping and failure to return a minor	Any person who, being entrusted with the custody of a minor person, shall deliberately fail to restore the latter to his parents or guardians	<i>Reclusion perpetua</i>
271	Inducing a minor to abandon his home	Anyone who shall induce a minor to abandon the home of his parent or guardians or the persons entrusted with his custody	<i>Prision correccional</i> and a fine not exceeding seven hundred pesos
		If the person committing any of the crimes covered by the two preceding articles (270: kidnapping and failure to return a minor; 271: inducing a minor to abandon his home) shall be the father or the mother of the minor	<i>Arresto mayor</i> or a fine not exceeding three hundred pesos, or both.

Table 4 Continued on next page...

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY ⁷¹
276	Abandoning a minor	Any one who shall abandon a child under seven years of age, the custody of which is incumbent upon him	<i>Arresto mayor</i> and a fine not exceeding 500 pesos
		When the death of the minor shall result from such abandonment	<i>Prision correccional</i> in its medium and maximum periods
		If the life of the minor shall have been in danger only	<i>Prision correccional</i> in its minimum and medium periods.
277	Abandonment of minor by person entrusted with his custody; indifference of parents	<p>Anyone who, having charge of the rearing or education of a minor, shall deliver said minor to a public institution or other persons, without the consent of the one who entrusted such child to his care or in the absence of the latter, without the consent of the proper authorities</p> <p>The same penalty shall be imposed upon the parents who shall neglect their children by not giving them the education which their station in life require and financial conditions permit</p>	<i>Arresto mayor</i> and a fine not exceeding 500 pesos
282	Grave threats	Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime:	Penalty next lower in degree than that prescribed by law for the crime be threatened to commit, if said offender shall have attained his purpose; If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed
		If the offender shall have made the threat demanding money or imposing any other condition, even though not unlawful	
		If the threat be made in writing or through a middleman	Penalty shall be imposed in its maximum period.
283	Light threats	If the threat shall not have been made subject to a condition	<i>Arresto mayor</i> and a fine not exceeding 500 pesos
		Any threat to commit a wrong not constituting a crime, made in the manner expressed in subdivision 1 of Article 282	<i>Arresto mayor</i>

Table 4 Continued on next page...

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY ⁷¹
284	Bond for good behavior	In all cases falling within the two next preceding articles [282: grave threats and 283: light threats], the person making the threats may also be required to give bail not to molest the person threatened, or if he shall fail to give such bail, he shall be sentenced to <i>destierro</i> ⁷²	Bond or <i>destierro</i>
285	Other light threats	<p>(1) Any person who, without being included in the provisions of Article 284, shall threaten another with a weapon or draw such weapon in a quarrel, unless it be in lawful self-defense.</p> <p>(2) Any person who, in the heat of anger, shall orally threaten another with some harm not constituting a crime, and who by subsequent acts show that he did not persist in the idea involved in his threat, provided that the circumstances of the offense shall not bring it within the provisions of Article 282 [grave threats]</p> <p>(3) Any person who shall orally threaten to do another any harm not constituting a felony.</p>	<i>Arresto menor</i> in its minimum period or a fine not exceeding 200 pesos
Title XI: Crimes Against Chastity			
337	Qualified seduction	The seduction of a virgin over twelve years and under eighteen years of age, committed by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman seduced	<i>Prision correccional</i> in its minimum and medium periods
		<p>Any person who shall seduce his sister or descendant, whether or not she be a virgin or over eighteen years of age</p> <p>[Under the provisions of this Chapter, seduction is committed when the offender has carnal knowledge of any of the persons and under the circumstances described herein.]</p>	Penalty next higher in degree

Table 4 Continued on next page...

⁷² Any person sentenced to *destierro* shall not be permitted to enter the place or places designated in the sentence, nor within the radius therein specified, which shall be not more than 250 and not less than 25 kilometers from the place designated. (RPC, Article 87)

Continued... Table 4. Offences under the Revised Penal Code

ART.	OFFENSE	ELEMENTS	PENALTY
338	Simple seduction	Seduction of a woman who is single or a widow of good reputation, over twelve but under eighteen years of age, committed by means of deceit	<i>Arresto mayor</i>
339	Acts of lasciviousness with the consent of the offended party	Any other acts of lasciviousness committed by the same persons and the same circumstances as those provided in Articles 337 [qualified seduction] and 338 [simple seduction]	<i>Arresto mayor</i>
340	Corruption of minors	Any person who shall promote or facilitate the prostitution or corruption of persons underage to satisfy the lust of another	<i>Prision mayor</i>
		If the culprit is a public officer or employee, including those in government-owned or controlled corporations	Additional penalty of temporary absolute disqualification.
341	White slave trade	Any person who, in any manner, or under any pretext, shall engage in the business or shall profit by prostitution or shall enlist the services of women for the purpose of prostitution	<i>Prision correccional</i> in its medium and maximum periods
342	Forcible abduction	The abduction of any woman against her will and with lewd designs The same penalty shall be imposed if the female abducted be under twelve years of age.	<i>Reclusion temporal</i>
343	Consented abduction	The abduction of a virgin over twelve years and under eighteen years of age, carried out with her consent and with lewd designs	<i>Prision correccional</i> in its minimum and medium periods

2. Anti-Rape Law

Republic Act No. 8353⁷³

Date of approval: 30 September 1997

The Anti-Rape Law classified rape as a Crime Against Persons⁷⁴ under Title VIII of the RPC. The research included laws related to rape where said act may be imposed by the perpetrator as a form of discipline and punishment of the child, whether in the context of the family or detention.

Under Article 266-A, rape is committed when the following circumstances are present:

1. By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat, or intimidation;
 - b) When the offended party is deprived of reason or otherwise unconscious;
 - c) By means of fraudulent machinations or grave abuse of authority;
and
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.
2. By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

Article 266-B provides the penalty of imprisonment, the length of which depends on the following circumstances surrounding the commission of the offence:

Rape under paragraph 1 of the next preceding article shall be punished by *reclusion perpetua*.

Whenever the rape is committed with the use of deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua to death*.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion perpetua to death*.

73 An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same as a Crime Against Persons, Amending for the Purpose Act No. 3518, as Amended, Otherwise Known as the Revised Penal Code and for Other Purposes

74 Before the amendment, rape was classified as a crime against chastity, a private offence. In reclassifying rape as a crime against persons, it now becomes a public offence.

When the rape is attempted and a homicide is committed by reason or on occasion thereof, the penalty shall be *reclusion perpetua* to *death*.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be *death*.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

- (1) When the victim is under eighteen (18) years of age and the offender is a *parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim*;
- (2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution
...
- (5) When the victim is a child below seven (7) years old;
- (6) When the offender knows that he is afflicted with Human Immuno-Deficiency Syndrome (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;
- (7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;
- (8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;
- (9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and
- (10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

Rape under paragraph 2 of the next preceding article shall be punished by *prision mayor*.

Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *prision mayor* to *reclusion temporal*.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion temporal*.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion temporal* to *reclusion perpetua*.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be *reclusion perpetua*.

Reclusion temporal shall also be imposed if the rape is committed with any of the ten aggravating/qualifying circumstances mentioned in this article.

3. Anti-Hazing Law

Republic Act No. 8049⁷⁵

Date of approval: 07 June 1995

Hazing is defined under R.A. No. 8049 as “an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization by placing the recruit, neophyte or applicant in some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and other similar tasks or activities or otherwise subjecting him to physical or psychological suffering or injury.” The term “organization” includes “any club or the Armed Forces of the Philippines, Philippine National Police, Philippine Military Academy, or officer and cadet corp of the Citizen’s Military Training and Citizen’s Army Training.”⁷⁶

The Anti-Hazing Law was included in the research because hazing is commonly committed against students in the context of school, police, military or citizen’s army training organisation. Although the law does not look into the intention of perpetrators in committing the act of hazing, this act may be committed as a form of discipline of the child enrolled in school, including police and military-run schools, or as part of citizen’s army training in the university. The law also penalises parents in case they have actual knowledge of the hazing conducted but failed to take any action to prevent the same from occurring. The research does not also discount the possibility that there may be parents who encourage their sons or daughters to join organisations which conduct hazing in order to discipline and even punish their children.

What is Prohibited

Hazing is prohibited under Section 2, which specifically provides that:

No hazing or initiation rites in any form or manner by a fraternity, sorority or organization shall be allowed without prior written notice

75 An Act Regulating Hazing and Other Forms of Initiation Rites in Fraternities, Sororities, and Other Organizations and Providing Penalties Therefor

76 R.A. No. 8049 (1995), Section 1

to the school authorities or head of organization seven (7) days before the conduct of such initiation. The written notice shall indicate the period of the initiation activities which shall not exceed three (3) days, shall include the names of those to be subjected to such activities, and *shall further contain an undertaking that no physical violence be employed by anybody during such initiation rites.* (emphasis supplied)

Penalties

Penalties for violation of the law are contained in Section 4:

The person or persons who participated in the hazing shall suffer:

1. The penalty of *reclusion perpetua* (life imprisonment) if death, rape, sodomy or mutilation results there from.
2. The penalty of *reclusion temporal* in its maximum period (17 years, 4 months and 1 day to 20 years) if in consequence of the hazing the victim shall become insane, imbecile, impotent or blind.
3. The penalty of *reclusion temporal* in its medium period (14 years, 8 months and one day to 17 years and 4 months) if in consequence of the hazing the victim shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm or a leg or shall have lost the use of any such member shall have become incapacitated for the activity or work in which he was habitually engaged.
4. The penalty of *reclusion temporal* in its minimum period (12 years and one day to 14 years and 8 months) if in consequence of the hazing the victim shall become deformed or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of more than ninety (90) days.
5. The penalty of *prision mayor* in its maximum period (10 years and one day to 12 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of more than thirty (30) days.
6. The penalty of *prision mayor* in its medium period (8 years and one day to 10 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period

of ten (10) days or more, or that the injury sustained shall require medical assistance for the same period.

7. The penalty of *prision mayor* in its minimum period (6 years and one day to 8 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged from one (1) to nine (9) days, or that the injury sustained shall require medical assistance for the same period.
8. The penalty of *prision correccional* in its maximum period (4 years, 2 months and one day to 6 years) if in consequence of the hazing the victim sustained physical injuries which do not prevent him from engaging in his habitual activity or work nor require medical attendance.

The responsible officials of the school or of the police, military or citizen's army training organization, may impose the appropriate administrative sanctions on the person or the persons charged under this provision even before their conviction. The maximum penalty herein provided shall be imposed in any of the following instances:

- (a) when the recruitment is accompanied by force, violence, threat, intimidation or deceit on the person of the recruit who refuses to join;
- (b) when the recruit, neophyte or applicant initially consents to join but upon learning that hazing will be committed on his person, is prevented from quitting;
- (c) when the recruit, neophyte or applicant having undergone hazing is prevented from reporting the unlawful act to his parents or guardians, to the proper school authorities, or to the police authorities, through force, violence, threat or intimidation;
- (d) when the hazing is committed outside of the school or institution; or
- (e) when the victim is below twelve (12) years of age at the time of the hazing.

The penalty imposed is dependent upon the result of hazing; the more serious the injuries sustained by the complainant, the longer the duration of the penalty imposed. The maximum penalty is imposed in case the victim is below twelve (12) years of age at the time of hazing. Aside from imprisonment, administrative sanctions may also be imposed

by responsible officials of the school or of the police, military or citizen's army training organisation upon the person or persons charged with hazing.

Persons Responsible

Section 4 enumerates the specific persons liable for violation of R.A. No. 8049:

If the person subjected to hazing or other forms of initiation rites suffers any physical injury or dies as a result thereof, the officers and members of the fraternity, sorority or organization who actually participated in the infliction of physical harm shall be liable as principals.

...

The owner of the place where hazing is conducted shall be liable as an accomplice, when he has actual knowledge of the hazing conducted therein but failed to take any action to prevent the same from occurring. If the hazing is held in the home of one of the officers or members of the fraternity, group, or organization, the *parents shall be held liable as principals when they have actual knowledge of the hazing conducted therein but failed to take any action to prevent the same from occurring.*

The school authorities including faculty members who consent to the hazing or who have actual knowledge thereof, but failed to take any action to prevent the same from occurring shall be punished as accomplices for the acts of hazing committed by the perpetrators.

The officers, former officers, or alumni of the organization, group, fraternity or sorority who actually planned the hazing although not present when the acts constituting the hazing were committed shall be liable as principals. A fraternity or sorority's adviser who is present when the acts constituting the hazing were committed and failed to take action to prevent the same from occurring shall be liable as principal.

The presence of any person during the hazing is *prima facie* evidence of participation therein as principal unless he prevented the commission of the acts punishable herein.

Any person charged under this provision shall not be entitled to the mitigating circumstance that there was no intention to commit so grave a wrong.

This section shall apply to the president, manager, director or other responsible officer of a corporation engaged in hazing as a requirement for employment in the manner provided herein. (emphasis supplied)

4. Anti-Sexual Harassment Act

Republic Act No. 7877⁷⁷

Date of approval: 14 February 1995

The Anti-Sexual Harassment Act declared unlawful all forms of sexual harassment in the employment, education or training environment. This is in line with the State policy to “uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education.”⁷⁸

Sexual harassment is included in the research as part of the related laws on discipline and punishment of children because said act is applicable in a work, training or education environment by a person who has authority, influence or moral ascendancy over another. In a work-related or employment environment, sexual harassment is committed when the “refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee.” In an education or training environment, sexual harassment is committed “when the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.” The conditions created by the sexual favour or advances may result in the direct or indirect “punishment” of the child who is the object of sexual harassment.

Who Commits Sexual Harassment

Section 3 provides that sexual harassment is committed when:

Work, education or training-related sexual harassment is committed by an *employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment*, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

- (a) In a work-related or employment environment, sexual harassment is committed when:
 - (1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms of conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive

⁷⁷ An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and For Other Purposes
⁷⁸ R.A. No. 7877 (1995), Section 2

or diminish employment opportunities or otherwise adversely affect said employee;

- (2) The above acts would impair the employee's rights or privileges under existing labor laws; or
- (3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

(b) *In an education or training environment, sexual harassment is committed:*

- (1) *Against one who is under the care, custody or supervision of the offender;*
- (2) *Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;*
- (3) *When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or consideration; or*
- (4) *When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.*

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act. (emphasis supplied)

Violation of the provisions of the Anti-Sexual Harassment Act is punished with imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Ten Thousand Pesos (Php10,000) nor more than twenty thousand pesos (Php20,000), or both such fine and imprisonment at the discretion of the court.⁷⁹

An employer or head of office, educational or training institution is solidarily liable (i.e., liable together with or in lieu of the guilty employee or subordinate) for damages arising from the acts of sexual harassment committed in the employment, education or training environment if said person is informed of such acts by the offended party and no immediate action is taken.⁸⁰ The victim of work, education or training-related sexual harassment may also institute a separate and independent action for damages and other affirmative relief.

79 *Ibid.*, Section 7

80 *Ibid.*, Section 5

Special Laws on Children

I. The Child and Youth Welfare Code

Presidential Decree No. 603

Date of effectivity: 10 June 1975

The Child and Youth Welfare Code (P.D. No. 603), is a comprehensive legal document which codifies the rights and responsibilities of children in general and extends protection to children in vulnerable situations, specifically dependent, neglected and abandoned, the physically and mentally disabled, and children in conflict with the law. The Code preceded the Convention on the Rights of the Child by sixteen years.⁸¹

P.D. No. 603 repealed certain provisions of the Civil Code. Article 44 of P.D. No. 603 specified that parents shall continue to exercise the rights under Articles 316 to 326 on the effects of parental authority on the persons and properties of children. However, said provisions of the Civil Code were expressly repealed by the Family Code in 1988.⁸²

At the time of effectivity of P.D. No. 603, it was applicable to persons below 21 years of age, which was the legal definition of a child, minor or youth at that time.

Article 1, which contains the declaration of policy of P.D. No. 603, highlights the role of the family in the child's development:

...

The molding of the character of the child start at the home.

Consequently, every member of the family should strive to make the home a wholesome and harmonious place as its atmosphere and conditions will greatly influence the child's development.

...

The natural right and duty of parents in the rearing of the child for civic efficiency should receive the aid and support of the government.

Other institutions, like the school, the church, the guild, and the community in general, should assist the home and the State in the endeavor to prepare the child for the responsibilities of adulthood.

Rights and Duties of a Child

Even before the UNCRC was adopted by the UN General Assembly, P.D. No. 603 already codified the following rights of the child in the Philippines:

All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors.

81 Initial report of States parties due in 1992: Philippines, UNCRC/C/3/Add.23, 3 November 1993, par. 2. P.D. No. 603 (1975) was adopted in 1974 and became effective in 1975. The UNCRC was adopted in 1989 and became effective in 1990.

82 Family Code, Article 254

(1) Every child is endowed with the dignity and worth of a human being from the moment of his conception, as generally accepted in medical parlance, and has, therefore, the right to be born well.

(2) Every child has the right to a wholesome family life that will provide him with love, care and understanding, guidance and counseling, and moral and material security.

The dependent or abandoned child shall be provided with the nearest substitute for a home.

(3) Every child has the right to a well-rounded development of his personality to the end that he may become a happy, useful and active member of society.

The gifted child shall be given opportunity and encouragement to develop his special talents.

The emotionally disturbed or socially maladjusted child shall be treated with sympathy and understanding, and shall be entitled to treatment and competent care.

The physically or mentally handicapped child shall be given the treatment, education and care required by his particular condition.

(4) Every child has the right to a balanced diet, adequate clothing, sufficient shelter, proper medical attention, and all the basic physical requirements of a healthy and vigorous life.

(5) Every child has the right to be brought up in an atmosphere of morality and rectitude for the enrichment and the strengthening of his character.

...

(8) *Every child has the right to protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development.*

(9) Every child has the right to live in a community and a society that can offer him an environment free from pernicious influences and conducive to the promotion of his health and the cultivation of his desirable traits and attributes.

(10) Every child has the right to the care, assistance, and protection of the State, particularly when his parents or guardians fail or are unable to provide him with his fundamental needs for growth, development, and improvement.⁸³ (emphasis supplied)

...

Aside from codifying the rights of the child, Article 4 of P.D. No. 603 also imposed the following duties upon children:

Every child, regardless of the circumstances of his birth, sex, religion, social status, political antecedents and other factors shall:

- (1) Strive to lead an upright and virtuous life in accordance with the tenets of his religion, the teachings of his elders and mentors, and the biddings of a clean conscience;
- (2) Love, respect and obey his parents, and cooperate with them in the strengthening of the family;
- (3) Extend to his brothers and sisters his love, thoughtfulness, and helpfulness, and endeavor with them to keep the family harmonious and united;
- ...
- (5) Respect not only his elders but also the customs and traditions of our people, the memory of our heroes, the duly constituted authorities, the laws of our country, and the principles and institutions of democracy;
- ...

Discipline of the Child

Article 43 states that parents have the primary right and obligation to provide for the upbringing of their children. In addition, Article 45 provides that:

Parents have the right to discipline the child as may be necessary for the formation of his good character, and may therefore require from him obedience to just and reasonable rules, suggestions and admonitions.
(emphasis supplied)

The Code also specifies in Article 47 one of the parents' duties when disciplining children:

Whenever proper, parents shall allow the child to participate in the discussion of family affairs, especially in matters that particularly concern him.

In cases involving his discipline, the child shall be given a chance to present his side. (emphasis supplied)

Criminal Liability of Parents

Article 59 provides that criminal liability shall attach to any parent, including the guardian and the head of the institution or foster home which has custody of the child, who:

- (1) Conceals or abandons the child with intent to make such child lose his civil status.

- (2) Abandons the child under such circumstances as to deprive him of the love, care and protection he needs.
- (3) Sells or abandons the child to another person for valuable consideration.
- (4) Neglects the child by not giving him the education which the family's station in life and financial conditions permit.
- (5) Fails or refuses, without justifiable grounds, to enroll the child as required by Article 72.
- (6) Causes, abates, or permits the truancy of the child from the school where he is enrolled...
- (7) Improperly exploits the child by using him, directly or indirectly, such as for purposes of begging and other acts which are inimical to his interest and welfare.
- (8) *Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignations and other excessive chastisement that embarrass or humiliate him.*
- (9) Causes or encourages the child to lead an immoral or dissolute life. (emphasis supplied)

...

The penalty for said acts under Article 61 was amended by Section 10 (a) of R.A. No. 7610 (1992), which provides that:

Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prison mayor* in its minimum period.⁸⁴

Admonishment of Parents

P.D. No. 603 empowers the DSWD or the Local Council for the Protection of Children (LCPC)⁸⁵ to admonish a parent or guardian found to have been unreasonably neglectful in the performance of his duties toward the child. Whenever a child is found delinquent by any court, the father, mother or guardian may be judicially admonished.⁸⁶

84 *Prison mayor* in its minimum period covers imprisonment of 6 years and 1 day to 8 years.

85 P.D. No. 603 encourages the organisation of a Local Council for the Protection of Children as one of the community-based bodies dealing with child welfare. Among its functions is the co-ordination with the Council for the Welfare of Children and Youth in drawing and implementing plans for the promotion of child and youth welfare.

86 P.D. No. 603, Article 61

Child Welfare Agencies

Child welfare agencies, whether public or private, which provides “encouragement, care, and protection to any category of children and youth whether mentally gifted, dependent, abandoned, neglected, abused, handicapped, disturbed, or youthful offenders” are also regulated by P.D. No. 603.⁸⁷ When granting, suspending or revoking a licence issued to said agencies, the DSWD is directed to apply the protection and best interests of the child as the first and basic consideration.⁸⁸

The DSWD is also empowered, after notice and hearing, to suspend or revoke the licence of a child welfare agency on any of the following grounds:⁸⁹

...

- (3) That the children therein are being neglected or are undernourished;
- (4) That the place is so unsanitary so as to make it unfit for children;
- (5) *That said agency is located in a place or community where children should not be, or is physically dangerous to children or would unduly expose children to crime, vice, immorality, corruption or severe cruelty; or*
- (6) That said agency has by any act or omission shown its incompetence or unworthiness to continue acting as a child welfare agency. (emphasis supplied)

Special Categories of Children

Children in vulnerable situations are given special attention by P.D. No. 603. Article 141 defines special categories of children:

- (1) A dependent child is one who is without a parent, guardian or custodian; or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody; and is dependent upon the public for support.
- (2) An abandoned child is one who has no proper parental care or guardianship, or whose parents or guardians have deserted him for a period of at least six continuous months.
- (3) A neglected child is one whose basic needs have been deliberately unattended or inadequately attended. Neglect may occur in two ways:

87 *Ibid.*, Article 117

88 *Ibid.*, Article 119

89 *Ibid.*, Article 120

- a) There is a physical neglect when the child is malnourished, ill clad and without proper shelter.

A child is unattended when left by himself without provisions for his needs and/or without proper supervision.

- b) *Emotional neglect exists: when children are maltreated, raped or seduced; when children are exploited, overworked or made to work under conditions not conducive to good health; or are made to beg in the streets or public places, or when children are in moral danger, or exposed to gambling, prostitution and other vices.* (emphasis supplied)

Dependent, abandoned and neglected children may be committed or surrendered to the care of the DSWD or any duly licensed child placement agency or individual either involuntarily⁹⁰ or voluntarily.⁹¹ Involuntary commitment of a child can be made only after a court order. In cases of voluntary commitment of a dependent, abandoned or neglected child, a parent has to execute a document in writing surrendering the child to the care and custody of the DSWD or a duly licensed placement agency.⁹²

The **Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders** was promulgated on 20 February 1995 pursuant to Article 209⁹³ of P.D. No. 603. It seeks to establish basic guidelines on the apprehension, investigation, prosecution and rehabilitation of children in conflict with the law “consistent with the need to protect their rights and to promote their best interests.”

Section 5 lays down the limitations on the manner of apprehension of children:

The arresting police officer shall not employ unnecessary force in arresting or searching the [child]. A female [child] shall only be searched by a female police officer. Vulgar or profane words shall not be used. Unless absolutely necessary, handcuffs or other instrument of restraint shall not be used on the child.

90 In the case of a dependent child, or through the termination of parental or guardianship rights by reason of abandonment, substantial and continuous or repeated neglect and/or parental incompetence to discharge parental responsibilities.

91 Through the relinquishment of parental or guardianship rights.

92 P.D. No. 603, Articles 149 and 155.

93 Art. 209. Implementation of this Code and Rule-Making Authority. - The enforcement and implementation of this Code shall be the primary responsibility of the Council for the Welfare of Children. Said Council shall have authority to promulgate the necessary rules and regulations for the purpose of carrying into effect the provisions of this Code.

2. Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act
Republic Act No. 7610⁹⁴
Date of adoption: 17 June 1992

R.A. No. 7160 (R.A. No. 7610) was enacted in order to “provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the *parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.*” (emphasis supplied)

Protected Children

R.A. No. 7610 protects children, defined as a “person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.”⁹⁵ The latter classification is determined upon evaluation of a qualified physician, psychologist or psychiatrist.⁹⁶

Defining Child Abuse

R.A. No. 7610 defines child abuse under Section 3:

“Child abuse” refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

94 An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for Its Violation, and for Other Purposes

95 R.A. No. 7610 (1992), Section 3

96 Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, 1993

The **Rules and Regulations on the Reporting and Investigation of Child Abuse Cases**, which was promulgated pursuant to Section 32 of R.A. No. 7610, further expounded on the abovementioned acts. Section 2 of the Rules and Regulations provides that:

- b.) “*Child abuse*” refers to the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child;
- c.) “*Cruelty*” refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. *Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein;*
- d.) “*Physical injury*” includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child;
- e.) “*Psychological injury*” means harm to a child’s psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;
- f.) “*Neglect*” means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child; (emphasis supplied)

R.A. No. 7610 provides protection to the following children in vulnerable situations:

- Child prostitution and other sexual abuse;
- Child trafficking;
- Obscene publications and indecent shows;
- Other acts of abuse;
- Sanctions for establishments or enterprises;
- Working children;
- Children of indigenous cultural communities; and
- Children in situations of armed conflict.

Child Trafficking

Trafficking refers to the act of trading or dealing with children, including but not limited to, the buying and selling children for money, or for any other consideration, or barter.⁹⁷ Laws related to trafficking of children are included in the research, although it may appear as unrelated to the subject matter, as ‘trading or dealing’ of children may be used in order to discipline or punish the child or the abandonment of the child is a result of the imposition of discipline or punishment.

Section 7 provides that:

Any person who shall engage in trading and dealing with children including, but not limited to the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty of *reclusion temporal*⁹⁸ to *reclusion perpetua*.⁹⁹ The penalty shall be imposed in its maximum period when the victim is under twelve (12) years of age.

The **Rules and Regulations on the Trafficking of Children**, which was promulgated pursuant to Section 32 of R.A. No. 7610, contains a similar provision.

Abandonment of a Child

Under Section 4 of the Rules and Regulations, the following are presumed as intent on the part of a parent to abandon a child:

- (a) failure to provide for the care and support of a child for at least six (6) continuous months for no valid reason shall be presumed as an intent to abandon the child unless said failure is due to reasons beyond the control of the parent or is due to financial reasons; or
- (b) failure to report to a law enforcement agency or to the Department [of Social Welfare and Development] that the child is missing within seventy-two (72) hours after his disappearance is discovered.

Penalty for Abandonment of a Child

Section 6 of the Rules and Regulations prescribes the period of imprisonment to be imposed on a parent who abandons a child:

A parent who abandons a child who is under seven (7) years of age for six (6) continuous months shall, if found guilty, be punished with *arresto mayor*¹⁰⁰ and payment of a fine not exceeding five hundred pesos (P500.00).

97 *Ibid.*, Section 7

98 The penalty of *reclusion temporal* ranges from 12 years and 1 day to 20 years.

99 The penalty of *reclusion perpetua* ranges from 20 years and 1 day to 40 years.

100 The penalty of *arresto mayor* ranges from 1 month and 1 day to six years.

If the child dies as a result of the abandonment, the culprit shall be punished by *prision correccional*¹⁰¹ in its medium of maximum periods.

Custody of an abandoned child

Section 5 of the Rules and Regulations specifies the procedure to be followed by the DSWD upon receipt of report of an abandoned child:

Upon receipt of the report of the presence of an abandoned child in a hospital, clinic or private individual, the Department [of Social Welfare and Development] shall, if found true, immediately take custody of said child or arrange for the immediate transfer of the child to a duly accredited child-caring or placement agency. Thereafter, the Department shall file a petition for the involuntary commitment of the abandoned child in favor of a duly accredited child placement agency or private individual in accordance with the provisions of the Code. The Department shall also file the appropriate criminal complaint against the parent who abandoned the child.

Other Acts of Abuse

Section 10 of R.A. No. 7610 provides a penalty for other acts of neglect, abuse, cruelty or exploitation and other conditions prejudicial to the child's development:

- (a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603,¹⁰² as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.¹⁰³

Meanwhile, paragraph (e) of the same section penalises any person who uses, coerces, forces or intimidates a street child or any other child to:

- (1) Beg or use begging as a means of living;
- (2) Act as conduit or middlemen in drug trafficking or pushing; or
- (3) Conduct any illegal activities, shall suffer the penalty of *prision correccional*¹⁰⁴ in its medium period to *reclusion perpetua*.

101 The penalty of *prision correccional* in its medium and maximum periods range from 2 years, 4 months and 1 day to 4 years and 2 months to 6 years.

102 For Article 59, please refer to the presentation under 'The Child and Youth Welfare Code' within this chapter.

103 *Prision mayor* in its minimum period covers imprisonment of 6 years and 1 day to 8 years.

104 The penalty of *prision correccional* in its medium period ranges from 2 years, 4 months and 1 day to 4 years and 2 months.

When the child is under 12 years of age, a higher penalty is imposed for certain offenses:¹⁰⁵

For purposes of this Act, the penalty for the commission of acts punishable under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of murder, homicide, other intentional mutilation, and serious physical injuries, respectively, shall be *reclusion perpetua* when the victim is under twelve (12) years of age. The penalty for the commission of acts punishable under Articles 337, 339, 340 and 341 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of qualified seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, and white slave trade, respectively, shall be one (1) degree higher than that imposed by law when the victim is under twelve (12) years age.

Table 5. Penalties for Offenses under the RPC

ARTICLE	OFFENSE	PENALTY under the RPC	Penalty when victim is under 12 years of age
248	Murder	<i>Reclusion perpetua</i> to death	<i>Reclusion perpetua</i>
249	Homicide	<i>Reclusion temporal</i>	<i>Reclusion perpetua</i>
262, par. 2	Other intentional mutilation	<i>Prision mayor</i> in its medium and maximum periods	<i>Reclusion perpetua</i>
263, par. 1	Serious physical injuries	<i>Prision mayor</i>	<i>Reclusion perpetua</i>
337	Qualified seduction	<i>Prision correccional</i> in its minimum and medium periods	One degree higher
339	Acts of lasciviousness	<i>Arresto mayor</i>	One degree higher
340	Corruption of minors	<i>Prision mayor</i>	One degree higher
341	White slave trade	<i>Prision correccional</i> in its medium and maximum periods	One degree higher

Children in Armed Conflict

Section 22 of R.A. No. 7610, on children in situations of armed conflict, provides that:

Children are hereby declared as Zones of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflicts in order to promote the goal of children as zones of peace. To attain this objective, the following policies shall be observed.

105 R.A. No. 7610, Section 10

(a) *Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhumane or degrading treatment...*(emphasis supplied)

Section 15 of the **Rules and Regulations on Children in Situations of Armed Conflict**, which was promulgated pursuant to Section 32 of R.A. No. 7610, contains a similar provision:

A child who is taken into custody by government forces in an area of armed conflict shall be informed of his constitutional rights and *treated humanely. He shall not be subjected to torture or to cruel, inhuman or degrading treatment, or used in a military occupation in any capacity.* The government forces shall ensure, the physical safety of the child under its custody; provide him with food and the necessary medical attention or treatment; and remove him from the area of armed conflict and transfer him at the earliest possible time to higher echelons of command/office for proper disposition. (emphasis supplied)

Working Children

The provision applicable to working children under R.A. No. 7610 was amended by R.A. No. 7658¹⁰⁶ in 1993 and further amended by **R.A. No. 9231, An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child**, on 19 December 2003. Laws related to working children are included in the research since “work” may be used as a form of discipline or punishment for children, whether in the context of the family, educational institutions or detention centres.

Under Section 12 of R.A. No. 9231, children below fifteen (15) years of age shall not be employed except:

- 1) When a child works directly under the sole responsibility of his/her parents or legal guardian and where only members of his/her family are employed: Provided, however, That his/her employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development: Provided, further, That the parent or legal guardian shall provide the said child with the prescribed radio, primary and/or secondary education; or
- 2) Where a child’s employment or participation in public entertainment or information through cinema, theater, television or other forms of media is essential: Provided, That the Employment contract is concluded by the child’s parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: Provided,

106 Republic Act No. 7658 (1993), An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for this Purpose Section 12, Article VII of Republic Act No. 7610

further, That the following requirements in all instances are strictly complied with:

- (a) *The employer shall ensure the protection, health, safety, morals and normal development of the child;*
- (b) *The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and*
- (c) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisitions of the child.

In the above-exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the above requirements. (emphasis supplied)

Section 12-D contains the prohibition against worst forms of child labour, which include the following:

- (1) All forms of slavery, as defined under the "Anti-trafficking in Persons Act of 2003", or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict; or
- (2) The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances; or
- (3) The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances prohibited under existing laws; or
- (4) Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:
 - a) *Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or*
 - b) *Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or*
 - c) Is performed underground, underwater or at dangerous heights; or

- d) Involves the use of dangerous machinery, equipment and tools such as power-driven or explosive power-actuated tools; or
- e) Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or
- f) Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or
- g) Is performed under particularly difficult conditions: or
- h) Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites; or
- i) Involves the manufacture or handling of explosives and other pyrotechnic products. (emphasis supplied)

Violation of abovementioned provisions is penalised under Section 16 of R.A. No. 9231. Whereas employers or other persons who violate the provisions of said Act are penalised with imprisonment or fines, parents or guardians of children are imposed with the penalty of community service or payment of fines:

- a) Any employer who violates Sections 12, 12-A, and Section 14 of this Act, as amended, shall be penalized by imprisonment of six (6) months and one (1) day to six (6) years or a fine of not less than fifty thousand pesos (Php50,000.00) but not more than three hundred thousand pesos (Php300,000.00) or both at the discretion of the court.
- b) Any person who violates the provision of Section 12-D of this Act or the employer of the subcontractor who employs, or the one who facilitates the employment of a child in hazardous work, shall suffer the penalty of a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than One Million Pesos (Php1,000,000.00), or imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years, or both such fine and imprisonment at the discretion of the court.
- c) Any person who violates Section 12-D (1) and 12-D(2) shall be prosecuted and penalized in accordance with the penalty provided for by R.A. 9208 otherwise known as the “Anti-trafficking in Persons Act 2003:” Provided, That such penalty shall be imposed in its maximum period.

- d) Any person who violates Section 12-D (3) shall be prosecuted and penalized in accordance with R.A. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002:” Provided, That such penalty shall be imposed in its maximum period.
- e) If a corporation commits any of the violations aforesaid, the board of directors/trustees and officers, which include the president, treasurer and secretary of the said corporation who participated in or knowingly allowed the violation, shall be penalized accordingly as provided for under this Section.
- f) Parents, biological or by legal fiction, and legal guardians found to be violating Sections 12, 12-A, 12-B and 12-C of this Act shall pay a fine of not less than Ten thousand pesos (P10,000.00) but not more than One hundred thousand pesos (P100,000.00), or be required to render community service for not less than thirty (30) days but not more than one (1) year, or both such fine and community service at the discretion of the court: Provided, That the maximum length of community service shall be imposed on parents or legal guardians who have violated the provisions of this Act three (3) times: Provided further, That in addition to the community service, the penalty of imprisonment of thirty (30) days but not more than one (1) year or both at the discretion of the court, shall be imposed on the parents or legal guardians who have violated the provisions of this Act more than three (3) times.
- g) The Secretary of Labor and Employment or his/her duly authorized representative may, after due notice and hearing, order the closure of any business firm or establishment found to have violated any of the provisions of this Act more than three (3) times. He/she shall likewise order the immediate closure of such firm or establishment if:
 - (1) The violation of any provision of this Act has resulted in the death, insanity or serious physical injury of a child employed in such establishment; or
 - (2) Such firm or establishment is engaged or employed in prostitution or in obscene or lewd shows.
- h) In case of such closure, the employer shall be required to pay the employee(s) the separation pay and other monetary benefits provided for by law. (emphasis supplied)

Common Penal Provisions

R.A. No. 7610 provides that where any violation is committed by an “ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity,” the applicable penalty shall be imposed in its maximum period.¹⁰⁷ Hence, when the victim is the child of the perpetrator, the relationship is considered an aggravating circumstance enough to warrant the imposition of the maximum penalty.

JUDICIAL BRANCH

The Supreme Court of the Philippines has the power to “promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all court... Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights.”¹⁰⁸

The Supreme Court issued several rules covering the handling and treatment of children who comes into contact within the judicial system.

I. The Revised Rules of Criminal Procedure

Date of effectivity: 01 December 2000

Arrest is defined as the “taking of a person into custody in order that he may be bound to answer for the commission of an offense.” Section 2, Rule 113 of the Revised Rules of Criminal Procedure provides the guidelines for conducting an arrest, which also apply to arrest of children:

An arrest is made by an actual restraint of a person to be arrested, or by his submission to the custody of the person making the arrest.

No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention. (emphasis supplied)

2. Rule on Custody of Minors and Writ of Habeas Corpus in

Relation to Custody of Minors Administrative Matter (A.M.) No. 03-04-04-SC

Date of effectivity: 15 April 2002

The rule applies to petitions for custody of minors and writs of *habeas corpus*¹⁰⁹ in relation thereto. Section 14 of the Rule provides the guidelines for determining custody of children:

In awarding custody, the court shall consider the best interests of the

107 R.A. No. 7610, Section 31

108 1987 Constitution, Article VIII, Section 5, Par. 5

109 *Habeas corpus* is one of a variety of writs that may be issued to bring a party before a court or judge, having as its functions the release of the party from unlawful restraint.

minor and shall give paramount consideration to his material and moral welfare. The best interests of the minor refer to the totality of the circumstances and conditions as are most congenial to the survival, protection, and feelings of security of the minor encouraging to his physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the minor.

The court shall also consider the following:

- (a) Any extrajudicial agreement which the parties may have bound themselves to comply with respecting the rights of the minor to maintain direct contact with the non-custodial parent on a regular basis, except when there is an existing threat or danger of physical, mental, sexual or emotional violence which endangers the safety and best interests of the minor;
- (b) The desire and ability of one parent to foster an open and loving relationship between the minor and the other parent;
- (c) The health, safety and welfare of the minor;
- (d) *Any history of child or spousal abuse by the person seeking custody or who has had any filial relationship with the minor, including anyone courting the parent;*
- (e) The nature and frequency of contact with both parents;
- ...
- (g) Marital misconduct;
- (h) The most suitable physical, emotional, spiritual, psychological and educational environment for the holistic development and growth of the minor; (emphasis supplied)
- ...

Section 17 of the Rule provides for a remedy in the form of a protection order, in the following cases:

The court may issue a Protection Order requiring any person:

- ...
- (b) To cease and desist from harassing, intimidating or threatening such minor or the other parent or any person to whom custody of the minor is awarded;
- (c) To refrain from acts of commission or omission that create an unreasonable risk to the health, safety, or welfare of the minor...

3. Rule on Juveniles in Conflict With the Law

A.M. No. 02-1-18-SC

Date of effectivity: 15 April 2002

The Rule on Juveniles in Conflict with the Law (JICL) seeks to provide a procedure in the adjudication of children in conflict with the law that “takes into account their district circumstances and assures the parties of a fair hearing with their constitutional and statutory rights recognized and respected.”¹¹⁰ One of the objectives of the Rule is to provide for the care, protection and wholesome moral, mental, and physical development of children in conflict with the law. A child in conflict with the law is a person who, at the time of the commission of the offence, is below 18 years of age but not less than 9 years of age.¹¹¹

Under the JICL, to be in conflict with the law means “being charged with the commission of an act defined and punished as a crime or offence under the law, including violations of traffic laws, rules and regulations, and ordinances of local government units.”¹¹²

Corporal Punishment

The JICL defines corporal punishment as “any kind of physical punishment inflicted on the body as distinguished from pecuniary punishment or fine.”¹¹³

The JILC provides that “all hearings shall be conducted in a manner conducive to the best interests of the juvenile and in an environment that will allow him to participate fully and freely in accordance with the Rule on Examination of a Child Witness.”¹¹⁴ The guiding principles in judging the child are provided in Section 30, which states that:

Subject to the provisions of the Revised Penal Code, as amended, and other special laws, the judgment against a [child] in conflict with the law shall be guided by the following principles:¹¹⁵

1. It shall be in proportion to the gravity of the offense, and shall consider the circumstances and the best interests of the juvenile, the rights of the victim, the needs of society in line with the demands of restorative justice.
2. Restrictions on the personal liberty of the juvenile shall be limited to the minimum. Where discretion is given by law to the judge to determine whether the penalty to be imposed is fine or imprisonment, the imposition of the latter should be preferred as the more appropriate penalty.
3. *No corporal punishment shall be imposed.* (emphasis supplied)

110 Rule on Juveniles in Conflict with the Law (2002), Section 2

111 *Ibid.*, Section 1

112 *Ibid.*, Section 4(a)

113 *Ibid.*, Section 4(q)

114 *Ibid.*, Section 29

115 *Ibid.*, Section 30

4. Rule on Commitment of Children
A.M. No. 02-1-19-SC
Date of effectivity: 15 April 2002

The Rule aims to “ensure that every effort is exerted to promote the child’s welfare and enhance his opportunities for a useful and happy life. Toward this end, this Rule seeks to protect the child from all forms of neglect, abuse cruelty, exploitation and other conditions prejudicial to his development.”¹¹⁶

The Rule covers the court procedure for voluntary or involuntary commitment¹¹⁷ of children who may fall into any of the following categories:¹¹⁸

Dependent child is one who is without a parent, guardian or custodian, or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody, and is dependent upon the public for support.

Abandoned child is one who has no proper parental care or guardianship, or whose parents or guardian has deserted him for a period of at least six (6) continuous months.

Neglected child is one whose basic needs have been deliberately unattended to or inadequately attended to, physically or emotionally, by his parents or guardian.

According to Section 3, physical neglect “occurs when the child is malnourished, ill-clad and without proper shelter’ and emotional neglect ‘occurs when a child is raped, seduced, maltreated, exploited, overworked or made to work under conditions not conducive to good health; made to beg in the streets or public places, or when placed in moral danger, or exposed to drugs, alcohol, gambling, prostitution and other vices.”

5. Rule on Adoption
A.M. No. 02-6-02-SC
Date of effectivity: 22 August 2002

The Rule covers the domestic adoption of Filipino children, including children in vulnerable situations. Section 3 defines children in vulnerable situations as:

...

- (e) ‘Foundling’ refers to deserted or abandoned infant or child whose parents, guardians or relatives are unknown; or a child committed to an orphanage or charitable or similar institution

116 Rule on Commitment of Children (2002), Section 1

117 Commitment is the legal act of entrusting a child to the care of the DSWD or any duly licensed child-placement or child-caring agency or individual by the court, parent or guardian or any interested party. Rule on Commitment of Children (2002), Section 3(m)

118 Rule on Commitment of Children, Section 3

with unknown facts of birth and parentage and registered in the Civil Register as a 'foundling.'

- (f) 'Abandoned child' refers to one who has no proper parental care or guardianship or whose parents have deserted him for a period of at least six (6) continuous months and has been judicially declared as such.
- (g) 'Dependent child' refers to one who is without a parent, guardian or custodian or one whose parents, guardian or other custodian for good cause desired to be relieved of his care and custody and is dependent upon the public for support.
- (h) 'Neglected child' is one whose basic needs have been deliberately not attended to or inadequately attended to, physically or emotionally, by his parents or guardian.
- (i) 'Physical neglect' occurs when the child is malnourished, ill-clad and without proper shelter.
- (j) 'Emotional neglect' exists when a child is raped, seduced or maltreated, exploited, overworked or made to work under conditions not conducive to good health or made to beg in the streets or public places, or placed in moral danger, or exposed to drugs, alcohol, gambling, prostitution and other vices.

Rescission of Adoption

The procedure and grounds for rescission of domestic adoption is found in Section 19 of the Rule:

The petition shall be verified and filed by the adoptee who is over eighteen (18) years of age, or with the assistance of the Department, if he is a minor, or if he is over eighteen (18) years of age but is incapacitated, by his guardian or counsel.

The adoption may be rescinded based on any of the following grounds committed by the adopter:

- 1) *Repeated physical and verbal maltreatment by the adopter despite having undergone counselling;*
- 2) Attempt on the life of the adoptee;
- 3) Sexual assault or violence; or
- 4) Abandonment or failure to comply with parental obligations. (emphasis supplied)

Inter-Country Adoption

The Rule also contains specific provisions applicable to the inter-country adoption of Filipino children by foreign nationals and Filipino citizens permanently residing abroad. Section 30 provides the requirements that should be included in the petition for adoption:

Contents of Petition.-

The petitioner must allege:

...

- b) That he can provide the proper care and support and instill the necessary moral values and example to all his children, including the child to be adopted.

...

6. Rule on Legal Separation

A.M. No. 02-11-12-SC

Date of effectivity: 15 March 2003

The Rule covers petitions for legal separation under the Family Code of the Philippines, with Section 2 reiterating the provisions of the Family Code on legal separation. The grounds for legal separation by either spouse include the following causes:

- (a) *Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;*

...

- (c) *Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement*

... (emphasis supplied)

The petition for legal separation must be filed within five years from the time of the occurrence of said causes.

7. Rule on Provisional Orders

A.M. No. 02-11-12-SC

Date of effectivity: 15 March 2003

The Rule on Provisional Order is applicable in the following circumstances:

Upon receipt of a verified petition for declaration of absolute nullity of void marriage or for annulment of voidable marriage, or for legal separation, and at any time during the proceeding, the court, *motu proprio* or upon application under oath of any of the parties, guardian

or designated custodian, may issue provisional orders and protection orders with or without a hearing. These orders may be enforced immediately, with or without a bond, and for such period and under such terms and conditions as the court may deem necessary.

Custody of the Child

Section 4 of the Rule provides that “in determining the right party or person to whom the custody of the child of the parties may be awarded pending the petition, the court shall consider the best interests of the child and shall give paramount consideration to the material and moral welfare of the child.” The court may also consider the following factors:

...

- (b) The desire and ability of each parent to foster an open and loving relationship between the child and the other parent;
- (c) The child’s health, safety, and welfare;
- (d) *Any history of child or spousal abuse by the person seeking custody or who has had any filial relationship with the child, including anyone courting the parent;*
- (e) The nature and frequency of contact with both parents;

...

- (g) Marital misconduct;
- (h) The most suitable physical, emotional, spiritual, psychological and educational environment... (emphasis supplied)

EXECUTIVE BRANCH

Office of the President

I. Code of Ethics for Professional Teachers

Professional Regulatory Commission, Resolution No. 435, Series of 1997

Date of promulgation: 11 November 1998

The Professional Regulatory Commission regulates and supervises the practice of professionals. In the exercise of its functions, the Commission formulates rules and policies on professional regulation.¹¹⁹

The Code of Ethics for Professional Teachers covers “all public and private school teachers in all educational institutions at the preschool, primary, elementary, and secondary levels whether academic, vocational, special, technical, or non-formal.”¹²⁰ The term “teacher” includes industrial

119 <http://www.prc.gov.ph>

120 Code of Ethics for Professional Teachers (1997), Section 2

arts or vocational teachers and all other persons performing supervisory and/or administrative functions in all schools in the aforementioned levels, whether on full-time or part-time basis.¹²¹

Article VIII of the Code on Ethics of the Teachers and Learners provides that:

...

Section 2. A teacher shall recognize that the interest and welfare of learners are his first and foremost concern, and shall handle each learner justly or impartially.

...

Section 8. *A teacher shall not inflict corporal punishment on offending learners nor make deductions from their scholastic ratings as a punishment for acts which are clearly not manifestations of poor scholarship.* (emphasis supplied)

Section 1, Article XII on Disciplinary Action provides that:

Any violation of any provision of this Code shall be sufficient ground for the imposition against the erring teacher of disciplinary action consisting of revocation of his Certificate of Registration and License as Professional Teacher, suspension from the practice of the teaching profession, reprimand, or cancellation of his temporary/special permit under causes specified in Section 23, Article III of R.A. No. 7836, and under Rule 31, Article VIII, of the Rules and Regulations Implementing R.A. No. 7836

Department of Interior and Local Government

The Department of Interior and Local Government (DILG) assists the President of the Philippines in the general supervision of local government units, oversees and monitors the implementation of the Local Government Code of 1991,¹²² enhances the capabilities of the local government units for self-governance and implements plans and programs on local autonomy.¹²³ The Bureau of Jail Management is an attached agency under the supervision of the DILG.

I. Bureau of Jail Management and Penology Operating Manual (1994)

The Bureau of Jail Management and Penology (BJMP) is tasked “to direct, supervise and control the administration and operation of all district, city and municipal jails.”¹²⁴ Persons sentenced to serve a penalty of imprisonment for not more than three years are under the supervision of the Bureau.

121 *Ibid.*

122 Republic Act No. 7160 (1991) An Act Providing for a Local Government Code of 1991.

123 <http://www.dilg.gov.ph>

124 BJMP Operating Manual, Rule I, Section I

The following are among the principles to be observed in the implementation of the rules under the Manual:

...

- g. No jail personnel shall use *abusive, insulting and indecent language on the offenders*.
- h. No jail personnel shall use *unnecessary force* on offenders, except for legitimate self-defense or in cases of attempted active and passive physical resistance to a lawful order.
- i. No penalty shall be imposed upon any offender for violation of rules/regulations unless in accordance with duly approved disciplinary measures.
- j. Penalties to be imposed shall not be cruel, inhuman, or degrading. *No physical punishment shall be employed as a correctional measure.*¹²⁵ (emphasis supplied)

Rule XIV on Reception Procedures, Classification Board, Disciplinary Board and Punishable Acts of Offenders provide for the creation of a Disciplinary Board in jails 'for the purpose of hearing disciplinary cases involving any offender who violates jail rules and regulations.'¹²⁶

The Disciplinary Board is authorised to impose any of the following disciplinary punishments:¹²⁷

- (1) Reprimand
- (2) Temporary or permanent cancellation of some or all recreational privileges
- (3) Cancellation of visiting privileges
- (4) Extra-fatigue duty
- (5) Close confinement in a cell which shall not exceed seven days in any calendar month (imposed only in the case of an incorrigible prisoner, when other disciplinary measures had been proven ineffective).

125 *Ibid.*, Rule I, Section 3

126 *Ibid.*, Rule XIV, Section 3

127 *Ibid.*, Rule XIV, Section 3(c)

However, Section 3(d), Rule XIV provides limitations to the abovementioned disciplinary punishments, namely:

- (3) *Corporal punishment, confinement in dark ill-ventilated cells and any form of cruel, unusual, inhuman or degrading punishment are absolutely prohibited.*

...

Instruments of restraint such as handcuffs, leg iron and strait jackets are not to be applied as a form of punishment. They shall only be used as a precaution against escape and on medical grounds to prevent an offender from injuring himself or others.

Breaches of discipline shall be handled without anger or emotionalism and decisions executed firmly and justly.

As a general rule, every violation of discipline shall be dealt with accordingly. In extreme cases where the violation necessitates immediate action, the Warden or the Officer of the Day may administer the necessary restraints and report the action taken to the Disciplinary Board. (emphasis supplied)

Rule XV on Treatment of Special Need or Unusual Offenders provides that “as a general rule, special/unusual offenders should not be held in jails with other offenders... However, until adequately equipped detention homes shall have been provided, the jail will continue to serve as their temporary homes.” Children in conflict with the law are among those listed as special/unusual offenders under Rule XV.¹²⁸

Selected Local Government Units

The legislative bodies of provinces, cities and municipalities are also empowered by the Local Government Code to enact laws applicable to its territorial jurisdiction. Bohol, Camarines Norte, Cebu City, Cotabato and Davao City have all issued local laws applicable to children. The provisions relevant to the research are attached as **Appendix 4**.

In general, the text of said local laws on children adopted the provisions of the UNCRC, P.D. No. 603 and R.A. No. 7610. However, there are provisions that may only be found in said local laws.

The provisions of the Bohol Province Children’s Code on Responsibilities of the Child and the Rights to Discipline Children were primarily adopted from P.D. No. 603. In addition to all the acts defined and penalised under that law, as well as under R.A. No. 7610, R.A. No. 7658 on Child Labor and other pertinent laws, the Bohol Code also penalises the following acts:¹²⁹

128 *Ibid.*, Rule XV, Section 1 (i)

129 Bohol Province Children’s Code on Responsibilities of the Child and the Rights to Discipline Children, Article 5, Section 50

- f. Discrimination of illegitimate children. For schools to discriminate illegitimate children as follows but not limited to the following:
 - 1. Refusal to accept enrollment of illegitimate children in the school by reason of one's illegitimacy;
 - 2. Requiring the marriage contract of parents as a requirement for environment of the child;
- g. Expulsion by Reason of Pregnancy. For schools to impose a penalty of expulsion against a child who has complied with all academic requirements by reason of pregnancy. Schools may impose any other penalty which shall be made applicable to both the pregnant girl and her partner if also enrolled in the same school;
- h. Refusal to Graduate by Reason of Pregnancy. For schools to refuse to graduate a child who has complied with or is willing to comply with all academic requirements by reason of pregnancy;
- i. Refusal to Issue Clearances by Reason of Pregnancy. For schools to refuse to issue clearances to child by reason of pregnancy;
- j. *Physical and Degrading Forms of Punishment. Subjecting the child to physical and degrading forms of punishment such as, but not limited to the following:*
 - 1) *Ordering or directing a child to kneel on salt;*
 - 2) *Placing a child inside a sack and/or hanging him/her;*
 - 3) *Shaving the head of a child;*
 - 4) *Harsh whipping of the child with the tail of a stingray (pagi), stick, belt and other objects;*
 - 5) *Stripping the child or his/her clothes;*
 - 6) *Locking up the child in a cabinet or aparador or any closed structure;*
 - 7) *Tying up the child or otherwise detaining him/her;*
 - 8) *Throwing of objects such as but not limited to eraser, chalk, notebook at the child;*
 - 9) *Pulling the hair of the child;*
 - 10) *Making the child stand under the heat of the sun;*
 - 11) *Exposing the child to be bitten by ants. (emphasis supplied)*

The Bohol Code also prohibits specific acts against children in conflict with the law:¹³⁰

Prohibited Acts Against Youth Offenders. Any and all acts and practices which are prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physician health and well-being of the minor shall be prohibited.

- a. Authorities shall refrain from employing threats of whatever kind and nature and/or abusive, coercive and punitive measures in dealing with minors. *Such practices, whether committed directly or indirectly by person in authority, their representatives, or any other persons acting under them or in their behalf – such as cursing, beating, stripping, and detaining minors in cells – shall be dealt with administratively and criminally;*
- b. *Likewise, degrading, inhuman and cruel forms of punishment such as shaving the heads of minors, pouring irritating, corrosive or harmful substances over their bodies, or forcing minors to walk around the community wearing sign which embarrass, humiliate, and degrade their personality and dignity and which harm them psychologically, emotionally, spiritually, morally, and physically shall be prohibited;*
- c. No minors shall likewise be made subject to involuntary servitude in any and all forms under any and all instances by their arresting officers and/or custodians. *Designating and/or compelling minors to act and serve as errand boys/girls, cleaners, or helpers are also prohibited.*

Any violation shall be penalized with one (1) year imprisonment and a fine of not more than One Thousand Pesos (Php1,000.00). However, if these violations are likewise penalized in any national law, the penalty imposed in such national shall be followed.
(emphasis supplied)

Ordinance No. 1922¹³¹ in Cebu City also provides for very specific procedure to be followed by arresting officers in the handling and treatment of children in conflict with the law, which is not found in other national and local laws:

I. APPREHENSION

- 1.a. The arresting police officers must serve the child a warrant of arrest in a legal, humane and responsible manner. They must be in plain clothes and avoid using marked vehicles;

130 *Ibid.*, Article 5, Section 63

131 An Ordinance Amending City Ordinance No. 1874, otherwise known as an Ordinance Establishing the Cebu City Children's Code

- 1.b. In cases of warrantless arrest and seizures, they must avoid using vulgar words and a tone that will attract the attention of people around the child;
- 1.c. They should take the child by the hands instead of collaring or dragging him;
- 1.d. They should avoid the use of handcuffs;

II. INVESTIGATION/INTERVIEWING

- II.b. In no case should deceit, false promises or intimidation, or harsh treatment be employed against the child during the investigation process;
- II.c. Third degree methods of physical punishment or any device that will tend to affect the physical and mental health of the youth should never be used;

...

V. PROHIBITED ACTS

Arresting police officers are further prohibited from committing the following acts during arrest:

- V.a. Resort to vulgarity or profanity;
- V.b. Brand the child, calling him words such as thief, liar, burglar, etc, in the presence of other people;
- V.c. Lose his temper;
- V.d. Use of physical force;
- V.e. Oppression which imports acts of cruelty, severity or excessive use of authority.

Department of Justice

The Department of Justice is tasked with upholding the rule of law. Its mission is to establish and maintain a just and orderly society through an effective, speedy and compassionate administration of justice.¹³²

I. Bureau of Corrections Operating Manual 30 March 2000

The Bureau of Corrections is charged with the custody and rehabilitation of national offenders, persons who are sentenced to serve imprisonment of more than three years. The Operating Manual of the Bureau of Corrections was adopted in order to “integrate existing laws, rules and regulations that govern the safekeeping and treatment of inmates confined in national penal establishments.” Said establishments include the New Bilibid Prison; the Correctional Institution for Women; the Leyte Regional Prison; and the Davao, San Ramon, Sablayan and Iwahig Prison and Penal Farms.¹³³

General Treatment of Inmates

Section 1, Chapter 2, Part IV (Discipline and Punishment of Inmates) of the Manual mandates the Bureau of Corrections Director to establish a Board of Discipline in each prison to hear cases involving an inmate who violates prison rules.

Section 3 provides that:

An inmate shall be treated with respect and fairness by prison employees.

He shall be protected against the following:

- a. *The imposition of any cruel, unusual or degrading act as a form of disciplinary punishment;*
- b. *Corporal punishment;*
- c. The use of physical force by correctional officers, except in cases where the latter act in self-defense, to protect another person from imminent physical attack, or to prevent a riot or escape;
- d. Deprivation of clothing, bed and bedding, light and ventilation, exercise, food or hygienic facilities; and
- e. Forced labor. (emphasis supplied)

132 www.doj.gov.ph

133 Bureau of Corrections Operating Manual, Part I, Section 3(a)

Discipline of Obstinate Inmates

Section 5 of the Manual contains guidelines for discipline of inmates considered as obstinate:

If the above corrective measures prove to be ineffective,¹³⁴ an obstinate inmate may be punished by confinement in a disciplinary cell from one (1) to two (2) months depending upon the gravity of the offense committed. This punishment shall only be meted out if the prison medical officer, after examination, certifies that the inmate is fit to undergo the same or will not adversely affect his physical or mental health.

Restraint of Inmates

Guidelines on the restraint of inmates are contained in Section 8:

Instruments of restraint, such as handcuffs and strait jackets, shall not be applied as punishment. They shall only be used:

- a. To prevent an escape during an inmate's transfer or movement; or
- b. To prevent an inmate from harming himself or others, or from destroying public or private property.

2. Public Attorney's Office

Standard Office Procedures in Extending Legal Assistance to Juveniles in Conflict with the Law
Memorandum Circular No. 22, Series of 2002

The Public Attorney's Office provides persons who are charged with criminal offences, including children in conflict with the law, who are not able to afford the services of a private counsel free legal assistance. The Standard Office Procedures outlines courses of action and measures to be undertaken by PAO lawyers handling cases involving juveniles in conflict with the law, consistent with the principles of the UNCRC, the UN Minimum Rules for the Administration of Juvenile Justice, and Philippine laws and rules on the subject.

Although the Procedures itself contain no relevant provision on the treatment of children in general, including the discipline and punishment of children, it offers a definition of corporal punishment. Article III (q) of the Procedures adopted Section 4 of Administrative Matter No. 02-1-18-SC (Rule on Juveniles in Conflict with the Law) of the Supreme Court:

Corporal punishment is a kind of physical punishment inflicted on the body as distinguished from pecuniary punishment or fine.

134 Corrective measures which may be imposed by the Board of Discipline include: (a) Caution or reprimand; (b) Cancellation of recreation, education, entertainment and visiting privileges; (c) Deprivation of Good Conduct Time Allowance for a specific period; and (d) Change of security status to the next higher category, eg, from medium to maximum.

Department of Social Welfare and Development

The Department of Social Welfare and Development (DSWD) provides “assistance to local government units, non-governmental organizations, other national government agencies, people’s organization, and other members of civil society in effectively implementing programs, projects and services that will alleviate poverty and empower disadvantaged individuals, families and communities for an improved quality of life.”¹³⁵ DSWD’s programmes and services for children include the following: Child Care and Placement Services; Social Services for Children in Need for Special Protection; Social Welfare Services to street children rescued from the streets; Assistance to Disadvantaged Transnational Children. Under the Child Care and Placement Services, DSWD provides alternative parental care to children in especially difficult circumstances.

I. Standards in the Implementation of Residential Care Services Administrative Order No. 141, Series 2002

The Standards in the Implementation of Residential Care Services were adopted by the DSWD to: (1) Protect the interest and welfare of centre/institution residents; (2) Ensure that programmes and services are geared towards the residents’ healing, recovery and social reintegration; and (3) Promote quality programmes and services for the target beneficiaries in a residential setting.

The Standards apply to agencies or centres, which provide residential care service, defined as “24-hour group care that provides alternative family care arrangement to poor, vulnerable and disadvantaged individuals or families in crisis whose needs cannot be adequately met by their families and relatives or by any other forms of alternative family care arrangements over a period of time.”¹³⁶ These include residential care services provided to children, whether administered by public or private agencies.

Subsection 1.4, under Daily Living Experiences, specifically provides that:

Behavior and conduct of residents is governed by a set of rules with corresponding disciplinary action formulated in consultation with them for acceptability and easy understanding. This is made known to all residents and staff and is applied in a consistent manner to allow opportunities for learning desired positive behavior. *Corporal punishment detrimental to the residents’ emotional, psychological and physical development shall never be used.* (emphasis supplied)

135 <http://www.dswd.gov.ph>

136 Administrative Order No. 141, Series of 2002, Preamble

Department of Education

The Department of Education, which regulates both public and private schools, aims to “provide quality basic education that is equitably accessible to all and lay the foundation for life-long learning and service for the common good.”¹³⁷

I. Public Schools Service Manual (1992)

The Service Manual is the first regulatory document that the Department of Education, then known as the Department of Education, Culture and Sports, produced after the 1960 Service Manual of the Bureau of Public Schools. It covers public schools and is designed to provide the central, regional and field offices of the Department of Education a reference material for the effective and efficient performance of their duties and responsibilities.¹³⁸

Chapter 3 of the Manual is devoted to providing the parameters for the imposition of school discipline. It specifically provides that:

Section 1. Authority to Maintain School Discipline (D.O. No. 92, s. 1992 pages 22 to 23)

Every school shall maintain discipline inside the school campus as well as outside the school premises when pupils or students are engaged in activities authorized by the school.

1.1 Imposition of Disciplinary Action

1.1.1 *School officials and teachers shall have the right to impose appropriate and reasonable disciplinary measures in case of minor offenses or infractions of good discipline. However, no cruel or physically harmful punishment shall be imposed or applied against any pupil or student.*

1.1.2 Suspension/Expulsion (Sections 145-151, Part VI Chapter III, Service Manual 1960)

- For first and other offenses which are not very serious in nature, a suspension from school not to exceed three (3) days may be authorized by the principal without the prior approval of the Division Superintendent. However, parents must be informed by the teacher or the school principal of any misconduct on the part of their children for which disciplinary action is necessary.

137 <http://www.deped.gov.php>

138 Department of Education Service Manual (1992), Foreword

- For a persistent offender or one guilty of a serious offense, a suspension for not more than one (1) year may be imposed subject to the approval of the Division Superintendent.
- Suspension for a school year or more, or expulsion from school can be ordered only by the Secretary.
- In all cases of suspension, a written promise of future exemplary conduct signed by the pupil/student and countersigned by his parents or guardian shall be required as a condition for readmission and must be required in the case of suspension for more than three (3) days.
- Offenses punishable by suspension or expulsion depending on the seriousness of the offense:
 - ▶ Gross misconduct
 - ▶ Cheating and stealing
 - ▶ Assaulting a teacher or any other school authority or his agents or students
 - ▶ Smoking inside the school premises
 - ▶ Vandalism, writing on or destroying school property like chairs, tables, windows, books, laboratory equipment and others
 - ▶ Gambling of any sort
 - ▶ Drinking intoxicants and liquor
 - ▶ Carrying and concealing deadly weapons
 - ▶ Extortion and asking money from others
 - ▶ Fighting, causing injury to others
 - ▶ Using, possessing, and selling prohibited drugs
 - ▶ Hazing in any form or manner whether inside or outside the school premises
 - ▶ Immorality/sexual harassment
 - ▶ Instigating, leading or participating in concerted activities leading to stoppage of classes
 - ▶ Preventing, threatening students or faculty members or school authorities from discharging their duties or from attending classes or entering school premises

- ▶ Forging or tampering with school records or transfer forms
- *The use of corporal punishment by teachers (slapping, jerking or pushing pupils/students about) imposing manual work or degrading tasks as penalty, meting out cruel and unusual punishments of any nature, holding up a pupil/student to unnecessary ridicule, the use of epithets and expressions tending to destroy the pupil/student's self-respect and the permanent confiscation of the personal property of pupils/students are forbidden. (emphasis supplied)*

2. Private Schools

Manual of Regulations for Private Schools, Eighth Edition

DECS Order No. 92, Series of 1992

10 August 1992

The Eighth Edition of the Manual of Regulations for Private Schools applies to all private educational institutions at all levels. The Manual accords every private schools the right to promulgate reasonable norms, rules and regulations as it may deem necessary for the maintenance of good school discipline and class attendance.¹³⁹

Article XIV on School Discipline provides, among others, that:

Section 73. Absences

A pupil or student in every private school who incurs absences of more than twenty (20%) percent of the prescribed number of class or laboratory periods during the school year or term should be given a failing grade and given no credit for the course or subject. However, the school may adopt an attendance policy to govern absences of its pupils or students who belong to the upper half of their respective classes.

Section 74. Authority to Maintain School Discipline

Every private school shall maintain good school discipline inside the school campus as well as outside the school premises when pupils or students are engaged in activities authorized by the school.

139 *Ibid.*, Section 78

Section 75. Imposition of Disciplinary Action

School officials and academic personnel shall have the right to impose appropriate and reasonable disciplinary measures in case of minor offenses or infractions of good school discipline committed in their presence. *However, no cruel or physically harmful punishment shall be imposed or applied against any pupil or student.*

Section 76. Filing of Administrative Action

When the offense committed is serious and circumstances so warrant, the school head shall cause the filing of the corresponding administrative action against the erring pupil or student. No disciplinary action shall be applied upon any pupil or student except for cause as defined in the rules and regulations of the school or in this Manual, and after due process shall have been observed. The punishment shall be commensurate with the nature and gravity of the offense.

Section 77. Categories of Administrative Penalties

The three categories of disciplinary administrative sanctions for serious offenses or violation of school rules and regulations which may be applied upon an erring pupil or student are: Suspension, Exclusion, and Expulsion.

- a. Suspension. Suspension is a penalty in which the school is allowed to deny or deprive an erring pupil or student attendance in classes for a period not exceeding twenty (20%) per cent of the prescribed class days for the school year or term.

The decision of the school on every case involving the penalty of suspension which exceeds twenty (20%) per cent of the prescribed school days for a school year or term shall be forwarded to the Regional Office concerned within 10 days from the termination of the investigation of each case for its information.

- (1) Preventive Suspension. A pupil or student under investigation in a case involving the penalty of expulsion may be preventively suspended from entering the school premises if the evidence of guilt is strong and the school head is morally convinced that the continued stay of the pupil or student during the period of the investigation constitutes a distraction to the normal operations of the school or poses a risk or danger to the life of persons and property in the school.

- b. Exclusion. Exclusion is a penalty in which the school is allowed to exclude or drop the name of the erring pupil or student from the school rolls for being undesirable, and transfer credentials immediately issued. A summary investigation shall have been conducted, and no prior approval by the Department is required in the imposition of the penalty.

The decision of the school on every case involving the penalty of exclusion from the rolls, together with all the pertinent papers therefore, shall be filed in the school for a period of one year in order to afford the Department the opportunity to review the case in the event an appeal is taken by the party concerned.

- c. Expulsion. Expulsion is an extreme penalty on an erring pupil or student consisting of his exclusion from admission to any public or private school in the Philippines and which requires the prior approval of the Secretary. The penalty may be imposed for acts or offenses constituting gross misconduct, dishonesty, hazing, carrying deadly weapons, immorality, selling and/or possession of prohibited drugs such as marijuana, drug dependency, drunkenness, hooliganism, vandalism, and other serious school offenses such as assaulting a pupil or student or school personnel, instigating or leading illegal strikes or similar concerted activities resulting in the stoppage of classes, preventing or threatening any pupil or student or school personnel from entering the school premises or attending classes or discharging their duties, forging or tampering with school records or school forms, and securing or using forged school records, forms and documents.

The decision of the school on every case involving the penalty of expulsion, together with the supporting papers shall be forwarded to the Regional Office concerned within ten days from the termination of the investigation of the case.

A sampling of rules and regulations on discipline contained in private school manuals and student handbooks is attached as **Appendix 3**.

Department of Health

National Center for Mental Health

The National Center for Mental Health is a special training and research hospital mandated to render a comprehensive range of quality mental health services and offers the following services: Hospital-Based Services; Community-Based Services; Special Programs; Pharmacy; Training; Nursing; Administrative Services.¹⁴⁰

Under the Standard Operating Procedure of the Forensic Section, adolescent patients with commitment order for confinement are admitted directly to the Child and Adolescent Section.¹⁴¹ There is no specific provision related to discipline and punishment of children under the Standard Operating Procedure of the Child and Adolescent Section and it is not known as to what parameters are allowed by the National Center for Mental Health. However the Forensic Section provides that in case there is an escape or attempted escape:¹⁴²

1. Patient who attempts to escape is placed in the restricted or isolation ward with active escape precautions.
- ...
2. If apprehended, Physician-In-Charge is notified immediately and mental status examination and body search is done. Administrative Office notifies family and court regarding apprehension of patient.

Inter-Governmental Agencies

I. Memorandum of Agreement on the Handling and Treatment of Children Involved in Armed Conflict Signed on 21 March 2000

The Memorandum on Agreement on the Handling and Treatment of Children Involved in Armed Conflict was adopted by different agencies of the government in order to “affirm the responsibility of the State that in all actions concerning the rescued and surrendered children in situation of armed conflict, their best interests shall be the paramount consideration, they shall be treated as victims rather than as offenders irrespective of their being members of an armed group.”

The following government agencies took part and signed the Memorandum:

- Department of National Defense;
- Armed Forces of the Philippines;
- Department of Interior and Local Government;

140 <http://www.ncmh.gov.ph>

141 II. Admission, A. Criteria for Admission, Par. 10

142 X. Escape and Attempted Escape

- Philippine National Police;
- Department of Social Welfare and Development;
- Department of Health;
- Commission on Human Rights;
- Office of the Presidential Adviser on the Peace Process; and
- National Program for Unification and Development Council.

The Armed Forces of the Philippines and the Philippine National Police undertook the following obligations with respect to the treatment of children involved in armed conflict:

2. The Armed Forces of the Philippines shall:

...

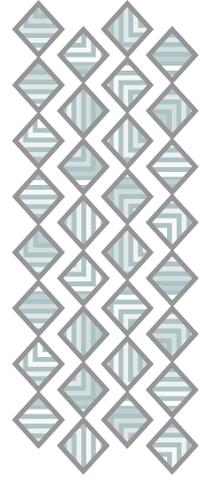
- f. Protect the child from further exploitation and trauma (no tactical interrogation or any similar forms of investigation or use in military operations).

...

3. The Philippine National Police shall

- f. Protect the child from further exploitation and trauma (no custodial interrogation or any similar forms of investigation used in police operations).

These laws, rules and regulations are summarised and analysed, in accordance with the legal framework established, in the next chapter.



Chapter 4

Summary and Analysis of Philippine Laws

As presented in Chapter 3, Philippine laws related to the discipline and punishment of children may be categorised in accordance with the source of said laws: the 1987 Constitution, and the legislative, judicial and executive branches of government. Legislative laws may be further categorised in accordance with their nature – whether penal, civil or a special law on children. Laws issued by the executive branch are further categorised as to the specific agency that issued the law.

This chapter presents a summary of the laws compiled in Chapter 3 in accordance to the relevant institutions and analyses these according to the framework presented in Chapter 2 of this research.

RESPONSIBILITIES OF CHILDREN

Compared with the UNCRC, Philippine laws provide for more specific duties and responsibilities of children. While the UNCRC gives children the responsibility of respecting the rights of others, especially those of their parents, the following provisions in Philippine laws express the duties of children more concretely:

Table 6. Responsibilities and Duties of Children under Philippine Law

LAW	ARTICLE/SECTION	PROVISION
Family Code	Article 211	Children shall always observe and respect and reverence towards their parents and are obliged to obey them as long as the children are under parental authority.

Table 6 Continued...

Continued...Table 6. Responsibilities and Duties of Children under Philippine Law

LAW	ARTICLE/SECTION	PROVISION
Code of Muslim Personal Laws	Article 72	Children shall respect, revere, and obey their parents always unless the latter cast them into disbelief. Grandparents are likewise entitled to respect and reverence, and shall be consulted whenever practicable by all members of the family on all important questions.
Child and Youth Welfare Code	Article 4	Every child, regardless of the circumstances of his birth, sex, religion, social status, political antecedents and other factors shall: <ul style="list-style-type: none"> • Love, respect and obey his parents, and co-operate with them in the strengthening of the family • Respect not only his elders but also the customs and traditions of our people, the memory of our heroes, the duly constituted authorities, the laws of our country, and the principles and institutions of democracy

Although there is no enforcement mechanism to ensure that children are complying with abovementioned duties, the fact that such provisions are included in the Philippine laws somehow “implies” that children need to accept and follow the discipline and punishment imposed by parents, other family members and the responsible persons in institutions. These provisions on the responsibilities of children need to be related to P.D. No. 603, which specifically provides that parents may require from the child “obedience to just and reasonable rules, suggestions and admonitions,”¹⁴³ and to other laws and instruments relevant to the discipline and punishment of children.

Under the Family Code, the parents, or in their absence or incapacity, the individual entity or institution exercising parental authority, may even file a petition before courts for an order providing disciplinary measures over the child. This presupposes that the child failed to obey or follow the counsel of the parents or relevant persons in institutions with custody of the child. However, the Family Code failed to identify or enumerate the “disciplinary measures” that the court may impose. The rules and guidelines issued by the judiciary do not include guidelines for courts with respect to imposing disciplinary measures over a child.

Another issue is the need to strike a balance between the discipline of children that respects their dignity and the duty of the children to “respect and obey” their parents and elders. How will the

143 P.D. No. 603, Article 45

children be informed that the discipline and punishment imposed on them is in accordance with the law and their dignity as children? On the part of the parents, are there guidelines which they may refer to in imposing discipline and punishment on their children?

In answering these questions, it would be helpful to define the parameters of discipline and punishment under Philippine laws. The discussion below summarises the definition and parameters of discipline and punishment under the Philippine laws and enumerates remedies available to children in case relevant persons or institutions act outside of these parameters.

THE FAMILY

The Constitution of the Philippines recognises the natural and primary right and duty of parents in the rearing of their children. The Supreme Court of the Philippines explained that the purpose of parental authority exercised by parents is for the “children’s physical preservation and development, as well as the cultivation of their intellect and the education of their hearts and senses.”¹⁴⁴ This parental right and duty jointly exercised by the father and mother is reiterated under the Family Code and P.D. No. 603. According to Article 220 of the Family Code, the role of parents with respect to their children includes the right and duty “to impose discipline on them as may be required under the circumstances.”

The Code of Muslim Personal Laws, which provides the legal system governing Muslims in the Philippines in relation to their persons, also contains a similar provision which expressly states that parents have the power to correct, discipline, and punish them moderately.

The rationalisation as to why parents are accorded the primary right and obligation to discipline children is provided under P.D. No. 603, which states that:

Parents have the right to discipline the child as may be necessary for the formation of his good character, and may therefore require from him obedience to just and reasonable rules, suggestions and admonitions.¹⁴⁵

The role of the family, especially that of parents, in the harmonious development of children’s personality is also emphasised in international human rights instruments. The UNCRC requires States Parties to respect the responsibilities, rights and duties of parents to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights under the Convention.

144 Santos, Sr. vs. Court of Appeals, *op cit*.

145 P.D. No. 603, Article 45

Discipline and Punishment: Definition and Procedure

The power accorded to parents to discipline and punish their children is not without limitations. The laws qualifies the exercise of discipline and punishment with such terms as “may be required under the circumstances,” “moderately,” and “just and reasonable rules, suggestions and admonitions.” In applying these qualifications, it is important to ask whether the point of view to be considered is that of the parents or of the child. Is the discipline and punishment that are required to be moderate and just and reasonable based on the point of view of the parent or the child?

Another concern is that since the qualifications provided by law are subjective, what is moderate and just and reasonable for the parent may already be considered as “excessive” or “unreasonable” by the child. Also, what is moderate and just for one set of parents may already be considered as excessive or unreasonable by another set. The parameters which are applied subjectively, are too general and vague to guide parents in the exercise of their application and, more importantly, to protect the physical integrity and human dignity of children.

Discipline and punishment in the context of the family, as long as it does not fall under offences punished by penal laws, “impliedly” allows acts defined by Save the Children as constituting corporal or physical punishment and humiliating or degrading punishment.

Another concern with respect to laws relevant to families is that unlike the provisions with respect to educational institutions, residential homes and detention and penal institutions, wherein corporal punishment is expressly prohibited, the law is silent as to whether corporal punishment is allowed within the context of the family. Nevertheless, as previously mentioned, if the physical punishment imposed on the children qualifies as an offence under penal laws, the said act is penalised with imprisonment or fine.

The lack of express provisions prohibiting corporal punishment under Philippine laws is a reflection of a similar situation with respect to international human rights law. Unlike rules applicable to educational or penal institutions, discipline of children within the context of the family is also not expressly addressed under the UNCRC. If we apply the provisions of the UNCRC on the protection of children against abuse and neglect and the prohibition against torture under international human rights instruments such as the ICCPR, as reflected in the statements and comments made by relevant treaty monitoring bodies, corporal punishment is implied as prohibited within the context of the family.

In the Philippine setting, family and penal laws need to be amended to specifically prohibit corporal punishment and humiliating and degrading punishment within the family, as defined by Save the Children. It is also worthwhile to note that religious beliefs play an important role in how parents raise their children, including the manner by which they discipline and punish children. As listed under **Appendix 5**, the Holy Bible, Catechism of the Catholic Church and the Qur’an and Sunnah contain provisions which may be interpreted as condoning corporal punishment of children. Aside from penal laws, a separate law must specifically be enacted to counter religious teachings, cultural customs and family practices which allow discipline and punishment of children that violates their human dignity. Said law should expressly prohibit all forms of physical, humiliating and degrading punishment. The existing penal laws are not sufficient to counter said practices.

Discipline and Punishment as a Violation of Penal Laws

Even if sanctions exist against the parents, the crimes covered by penal laws are specifically defined. The elements of the crime must be present, enough for probable cause to exist, before a person may be charged before the courts. There is a possibility that the act of the parents in disciplining the child may not fall under definitions of relevant offences under penal laws. One example is the crime of slight physical injuries and maltreatment under Article 266 of the RPC. Slight physical injuries is committed “when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance.” Discipline such as hitting the child with the hand or with an object; shaking, pinching or pulling their hair; forcing a child to stay in uncomfortable or undignified positions, or to take excessive physical exercise, may not result in physical injuries covered under Article 266.

With respect to maltreatment under the same Article, it becomes punishable “when the offender shall ill-treat another by *deed* without causing any injury.” The act of hitting the child with the hand or with an object or shaking, pinching or pulling their hair, which do not result in physical injuries, may be prosecuted under Article 266 as maltreatment. However, said provision does not cover the second category of discipline: humiliating or degrading punishment which takes various forms such as psychological punishment, verbal abuse, ridicule, isolation, or ignoring the child, as maltreatment requires that a deed or physical act be committed.

Discipline and Punishment as Child Abuse

The UNCRC requires States Parties to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” There are several legislative measures which address child abuse in the Philippines and which are relevant to the discussion on discipline and punishment of children within the family.

R.A. No. 7610, which is a special penal law that addresses abuses committed against children, defines child abuse as maltreatment, whether *habitual or not*, of the child which includes any of the following:

- Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- Unreasonable deprivation of his basic needs for survival, such as food and shelter; and
- Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

The Rules and Regulations on the Reporting and Investigation of Child Abuse Cases (Rules on Child Abuse), which was promulgated pursuant to Section 32 of R.A. No. 7610, further expounded on the

abovementioned acts. Section 2 of the Rules on Child Abuse provides that discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury:

Table 7. Child Abuse: Definition of Terms under Philippine Laws

LAW	P.D. No. 603	R.A. No. 7610	Reporting and Investigation of Child Abuse Cases	Rule on Commitment of Children	Rule on Adoption
YEAR	1975	1992	1993	2002	2002
Child abuse		<p>Maltreatment, whether habitual or not, of the child which includes any of the following:</p> <ul style="list-style-type: none"> • Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment • Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being • Unreasonable deprivation of his basic needs for survival, such as food and shelter • Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death. 	<p>Infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child</p>		

Table 7 Continued...

Continued...Table 7. Child Abuse: Definition of Terms under Philippine Laws

LAW	P.D. No. 603	R.A. No. 7610	Reporting and Investigation of Child Abuse Cases	Rule on Commitment of Children	Rule on Adoption
YEAR	1975	1992	1993	2002	2002
Cruelty			<p>Any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.</p> <p>Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein</p>		
Physical injury			Includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child		
Psychological injury			Any harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition		

Table 7 Continued...

Continued...Table 7. Child Abuse: Definition of Terms under Philippine Laws

LAW	P.D. No. 603	R.A. No. 7610	Reporting and Investigation of Child Abuse Cases	Rule on Commitment of Children	Rule on Adoption
YEAR	1975	1992	1993	2002	2002
Neglect	<p>A neglected child is one whose basic needs have been deliberately unattended or inadequately attended.</p> <p>Neglect may occur in two ways: (1) Physical neglect - when the child is malnourished, ill clad and without proper shelter.</p> <p>A child is unattended when left by himself without provisions for his needs and/ or without proper supervision.</p> <p>(2) Emotional neglect exists when children are:</p> <ul style="list-style-type: none"> • Maltreated, raped or seduced • Exploited, overworked or made to work under conditions not conducive to good health • Made to beg in the streets or public places, in moral danger, or exposed to gambling, prostitution and other vices. 		<p>Failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child</p>	<p>Neglected child is one whose basic needs have been deliberately unattended to or inadequately attended to, physically or emotionally, by his parents or guardian.</p> <p>Physical neglect occurs when the child is malnourished, ill-clad and without proper shelter.</p> <p>Emotional neglect occurs when a child is:</p> <ul style="list-style-type: none"> • Raped, seduced or maltreated • Exploited, overworked or made to work under conditions not conducive to good health • Made to beg in the streets or public places • Placed in moral danger or exposed to drugs, alcohol, gambling, prostitution and other vices. 	<p><i>Same provisions as the Rule on Commitment of Children.</i></p>

Table 7 Continued...

Continued...Table 7. Child Abuse: Definition of Terms under Philippine Laws

LAW	P.D. No. 603	R.A. No. 7610	Reporting and Investigation of Child Abuse Cases	Rule on Commitment of Children	Rule on Adoption
YEAR	1975	1992	1993	2002	2002
Dependent Child	A dependent child is one who is without a parent, guardian or custodian; or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody; and is dependent upon the public for support			Dependent child is one who is without a parent, guardian or custodian, or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody, and is dependent upon the public for support.	“Dependent child” refers to one who is without a parent, guardian or custodian or one whose parents, guardian or other custodian for good cause desired to be relieved of his care and custody and is dependent upon the public for support.
Abandoned Child	An abandoned child is one who has no proper parental care or guardianship, or whose parents or guardians have deserted him for a period of at least six continuous months.			Abandoned child is one who has no proper parental care or guardianship, or whose parents or guardian has deserted him for a period of at least six (6) continuous months.	“Abandoned child” refers to one who has no proper parental care or guardianship or whose parents have deserted him for a period of at least six (6) continuous months and has been judicially declared as such.

Although the discipline of children is not specifically mentioned under R.A. No. 7610, it is impliedly covered by the definition of child abuse. The definition of child abuse speaks of maltreatment, whether habitual or not. Even if the act of disciplining the child only happened once, the act may be considered as child abuse. The definition is more exhaustive compared with other laws, especially civil laws, as it covers both physical and psychological abuse. The phrase “any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being” encompasses the definition of corporal or physical punishment and humiliating or degrading punishment provided by Save the Children. Compared with R.A. No. 7610, the Rules on Child Abuse are more restrictive in its interpretation of the law.

Cruelty is considered as child abuse under the Rules on Child Abuse. Discipline does not constitute cruelty as long as it is imposed in a reasonable manner, moderate in degree and does not constitute

physical or psychological injury. Again, the first two requirements are dependent on subjective interpretation. The last requirement provides a high threshold of seriousness before the results of discipline imposed may be considered as physically or psychologically injurious. It impliedly allows acts constituting corporal or physical punishment and humiliating or degrading punishment as long as it does not meet the threshold of physical and psychological injury.

Discipline and Punishment as a Violation of P.D. No. 603

Unlike the previously mentioned laws, the point of view of the child is considered when charging a parent for violation of P.D. No. 603. Article 59 provides that if a parent or guardian may be held criminally liable if he or she deliberately subjects the child to indignations and other excessive chastisement that embarrass or humiliate the child.

However, the article is far from satisfactory to adequately protect the child. First, it does not define what may be considered as cruel and unusual punishment. As previously stated, these terms are open to subjective interpretation. What is cruel and unusual for one person may be normal to another. Second, a parent is held liable only when he or she “deliberately” subjects the child to indignations. Aside from the act itself, the intention of the parent is examined. It implies that if the act producing the indignations or excessive chastisement that embarrass or humiliate the child is not deliberate, the parent is not liable. Even if the act is “unintentional” or “innocent” on the part of the parent, or if the parent, in good faith, believes that the discipline is for the benefit of the child, it may still embarrass or humiliate the child. Hence, the terms used by article, “deliberately subjects” and “embarrass or humiliate him,” render said provision as ineffective in protecting the physical integrity and human dignity of the child.

Procedure in Imposing Discipline

P.D. No. 603 also specifies the procedure in case discipline is to be imposed upon the child:¹⁴⁶

Whenever proper, parents shall allow the child to participate in the discussion of family affairs, especially in matters that particularly concern him.

In cases involving his discipline, the child shall be given a chance to present his side. (emphasis supplied)

This provision is not found under the Civil Code or even the Family Code. (Both laws just mention in general terms the extent of parents’ authority in the discipline of children.) This specific provision is important as it provides substance to the right to children under the UNCRC to express their views and to have their views taken seriously and given due weight. Any amendment or changes in the law pertaining to the discipline and punishment of children should contain similar provisions.

146 *Ibid.*, Article 47

Court Order for Disciplinary Measures

As a means of assisting parents in imposing discipline on a child, the Family Code of the Philippines provides that parents or, in their absence or incapacity, the individual, entity or institution exercising parental authority, may file a petition before the proper court of the place where the child resides, for an order providing for disciplinary measures over the child.¹⁴⁷ It is significant to note that the law does not define or list disciplinary measures which may be imposed by the court. As previously mentioned, the rules and guidelines issued by the judiciary contained no guidelines for courts with respect to issuing orders for disciplinary measures over a child.

Liability of Parents or Family Members/Remedies Against Parents

Aside from recognising the natural and primary right and duty of parents in the rearing of their children, the laws also accorded to the State the inherent duty to act as *parens patriae* (father of his country) where minors are involved. It has the duty of protecting the rights of persons or individuals who, because of age or incapacity, are in an unfavourable position *vis-à-vis* other parties.¹⁴⁸

In exercising its duty to act as *parens patriae* where children are involved, various Philippine laws impose a greater or higher penalty in case offences are committed against children by parents or family members.

Family Ties as Aggravating Circumstance

Revised Penal Code

The RPC provides that “relationship” is one of the circumstances that must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. Furthermore, it provides that “relationship” shall be taken into consideration when the offended party is the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

The law is silent as to when “relationship” is considered mitigating or aggravating. However, “relationship” is an aggravating circumstance under Article 263, when a serious physical injury is committed against an offended party, even when he or she is a descendant of the offender.¹⁴⁹

Article 263 imposes a higher penalty on the offender if the offence is committed against any of the persons enumerated in Article 246, i.e., the offender’s father, mother, or child (whether legitimate or illegitimate), spouse, ascendants or descendants.

What is significant about Article 263 is that it specifically provides that the higher penalties “*shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.*” If in the course of chastising the child, physical injuries resulted, the penalty for parents is the same

¹⁴⁷ Family Code, Article 223

¹⁴⁸ *Nery, et al., vs. Lorenzo, et al., op cit.*

¹⁴⁹ See Table 4 in Chapter Three for the text of Article 263.

as that of any person. Since physical injuries inflicted by parents as a result of excessive chastisement is punished by the same penalty as when it is committed by an ordinary person, it implies that parents imposing physical injuries in the context of excessive chastisement is not abhorrent enough to deserve a higher penalty. Although there is still question as to whether imprisonment of parents is an effective tool for the protection of the children against corporal punishment or humiliating and degrading treatment, the 'relationship' between the parent and the child should be re-examined further as an aggravating circumstance under Article 263.

Anti-Rape Law

The Anti-Rape Law, which amended the RPC's provisions on rape, provides that the death penalty shall be imposed, instead of *reclusion perpetua*, if the crime of rape is committed with the following aggravating/qualifying circumstance:

When the victim is under eighteen (18) years of age and the offender is a *parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim.*¹⁵⁰

R.A. No. 7610

Common to all the provisions under R.A. No. 7610,¹⁵¹ is a provision stating that any penalty provided under this law shall be imposed in its maximum *period* when the perpetrator is an ascendant, *parent guardian, stepparent or collateral relative within the second degree of consanguinity or affinity* of the child.

Punishment as Principals

The RPC also specifies ascendants, including parents, among persons punished as principals¹⁵² although they co-operated merely as accomplices¹⁵³ in the perpetration of the crimes embraced in second, third and fourth chapters of Title XI (Crimes Against Chastity) of the Code. Crimes under these chapters include the following:

- Rape (which has been reclassified as a crime against persons by R.A. No. 8353 [1997]);
- Acts of lasciviousness;
- Qualified seduction;
- Simple seduction;

150 RPC, Article 266-B

151 R.A. No. 7610 provides protection to children in the following vulnerable situations: Child prostitution and other sexual abuse; Child trafficking; Obscene publications and indecent shows; Other acts of abuse; Sanctions for establishments or enterprises; Working children; Children of indigenous cultural communities; Children in situations of armed conflict.

152 Art. 17. *Principals*. — The following are considered principals:

1. Those who take a direct part in the execution of the act;
2. Those who directly force or induce others to commit it;
3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

153 Art. 18. *Accomplices*. — Accomplices are those persons who, not being included in Art. 17, cooperate in the execution of the offense by previous or simultaneous acts.

- Acts of lasciviousness with the consent of the offended party;
- Corruption of minors;
- White slave trade;
- Forcible abduction; and
- Consented abduction.

Criminal Liability of Parents

Aside from imposing a higher penalty when the parent is the offender or charging a higher level of participation, from an accomplice to principal, Philippine laws also penalises crimes specifically committed by parents or provides for a specific category for parents as offenders in the imposition of penalties.

P.D. No. 603

Article 59 of P.D. No. 603 provides that criminal liability shall attach to any parent, including the guardian, who:

- Conceals or abandons the child with intent to make such child lose his civil status;
- Abandons the child under such circumstances as to deprive him or her of the love, care and protection he or she needs;
- Sells or abandons the child to another person for valuable consideration;
- Neglects the child by not giving him or her the education which the family's station in life and financial conditions permit;
- Fails or refuses, without justifiable grounds, to enroll the child as required by Article 72 ;
- Causes, abates, or permits the truancy of the child from the school where he is enrolled;
- Improperly exploits the child by using him or her, directly or indirectly, such as for purposes of begging and other acts which are inimical to his or her interest and welfare;
- Inflicts cruel and unusual punishment upon the child or deliberately subjects the child to indignations and other excessive chastisement that embarrass or humiliate him or her; and
- Causes or encourages the child to lead an immoral or dissolute life.

If a parent deliberately subjects the child to indignations and other excessive chastisement that embarrass or humiliate the child, the guilty parent may be held liable under abovementioned article.

Rules and Regulations on the Trafficking of Children

The Rules and Regulations on the Trafficking of Children, which was promulgated pursuant to Section 32 of R.A. No. 7610, also specifies a period of imprisonment for a parent who abandons a child:

A parent who abandons a child who is under seven (7) years of age for six (6) continuous months shall, if found guilty, be punished with *arresto mayor*¹⁵⁴ and payment of a fine not exceeding five hundred pesos (P500.00).

If the child dies as a result of the abandonment, the culprit shall be punished by *prision correccional*¹⁵⁵ in its medium or maximum periods.

R.A. No. 9231

Whereas employers or other persons who violate the provisions of R.A. No. 9231 are penalised with imprisonment or fines, parents or guardians of children are given a much lighter penalty of community service of 30 days to one year or payment of fines ranging from Php10,000 to Php100,000. Imprisonment is only imposed on parents or guardians who have violated the provisions of R.A. No. 9231 more than three times.¹⁵⁶

This is one instance wherein “relationship” is favourable or to the advantage of the parent, as the law prescribes a much lighter penalty for a parent compared with other persons penalised. Although the law may have considered imprisonment as too harsh an imposition for parents for violating R.A. No. 9231 and as having a detrimental effect on the children, further studies should be conducted on the effectivity of the abovementioned lighter penalties in terms of preventing children from being engaged in the worst forms of child labour.

Admonishment by the DSWD, LCPC or the Courts

P.D. No. 603 empowers the DSWD or LCPC to admonish a parent or guardian found to have been unreasonably neglectful in the performance of his duties toward the child.¹⁵⁷ Whenever a child is found delinquent by any court, the father, mother or guardian may also be judicially admonished.¹⁵⁸ However, the law does not define or list the type of admonishments which may be imposed by said government institutions.

154 The penalty of *arresto mayor* ranges from 1 month and 1 day to six years.

155 The penalty of *prision correccional* in its medium and maximum periods range from 2 years, 4 months and 1 day to 4 years and 2 months to 6 years.

156 See Chapter Three for complete text of penalties under R.A. No 9231, Section 16

157 P.D. No. 603, Article 61

158 *Ibid.*

Custody of Children and Protection Orders

Rule on Custody of Minors

The Rule on Custody of Minors and Writ of *Habeas Corpus* in Relation to Custody of Minors, issued by the Supreme Court, prescribes guidelines in awarding custody of children. Section 14 of the Rule specifies that, among others, courts should consider the following in the award of custody:

- Any history of child or spousal abuse by the person seeking custody or who has had any filial relationship with the minor, including anyone courting the parent
- The most suitable physical, emotional, spiritual, psychological and educational environment for the holistic development and growth of the minor.

Section 17 of this Rule also provides for a remedy in the form of a protection order to be issued by the court, requiring any person, including parents, to:

- Cease and desist from harassing, intimidating or threatening such minor or the other parent or any person to whom custody of the minor is awarded
- Refrain from acts of commission or omission that create an unreasonable risk to the health, safety, or welfare of the minor.

Rule on Provisional Orders and Protection Orders

The Rule on Provisional Order and Protection Orders, also issued by the Supreme Court, reiterates the provisions under the Rule on Custody of Minors and Writ of *Habeas Corpus* in Relation to Custody of Minors in terms of determining the right party or person to whom custody of the child may be awarded. Among others, Section 4 of this Rule provides that the following should be considered in awarding custody:

- Child's health, safety, and welfare
- Any history of child or spousal abuse by the person seeking custody or who has had any filial relationship with the child, including anyone courting the parent
- Nature and frequency of contact with both parents
- Most suitable physical, emotional, spiritual, psychological and educational environment.

Relinquishment of Parental Rights

Children in vulnerable situations are given special attention by P.D. No. 603. It provides that dependent, abandoned and neglected children¹⁵⁹ may be committed or surrendered to the care of the DSWD or any duly licensed child placement agency or individual either involuntarily or voluntarily. Involuntary commitment of a child can be made only after a court order. The Rule on Commitment of Children, issued by the Supreme Court, covers the court procedure for voluntary or involuntary commitment of children who are dependent, abandoned or neglected.

Legal Separation

The Rule on Legal Separation issued by the Supreme Court covers petitions for legal separation under the Family Code. Section 2 of this Rule specifically provides that a petition for legal separation may be filed by either spouse within five years from the time of the occurrence of any of the following causes:¹⁶⁰

- Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner
- Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement.

Rescission of Adoption

The Rule on Adoption, which was also issued by the Supreme Court, provides for the grounds for rescission of domestic adoption:¹⁶¹

- Repeated physical and verbal maltreatment by the adopter despite having undergone counseling
- Attempt on the life of the adoptee
- Sexual assault or violence
- Abandonment or failure to comply with parental obligations.

159 See Table 7 in this chapter for the definitions of dependent, abandoned and neglected children.

160 Rule on Legal Separation, Section 2

161 Rule on Adoption, Section 19

EDUCATIONAL INSTITUTIONS

The right to education is recognised in UNCRC and ICESCR, with Article 28(2) of the UNCRC specifically providing a standard for discipline of children in schools:

States Parties shall take all appropriate measures to ensure that *school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention*. (emphasis supplied)

In the Philippines, special parental authority and responsibility over a child is vested by law in schools, its administrators and teachers, or the individual, entity or institution engaged in child care. However, such authority and responsibility may only be exercised while the child is under their supervision, instruction or custody, including all authorised activities whether inside or outside the premises of the school, entity or institution.¹⁶²

One of the roles prescribed under the Family Code for those exercising parental authority over children include the right and duty to impose discipline on them as may be required under the circumstances.¹⁶³ Although the right to impose discipline is included in the exercise of special parental authority of school administration, teachers, or individual engaged in child care, Article 233 of the Family Code is very explicit in stating that corporal punishment should not be imposed on children. However, it is significant to note that the “threat” of corporal or physical punishment and humiliating or degrading punishment, which takes various forms such as psychological punishment, verbal abuse, ridicule, isolation or ignoring the child, are not covered by this prohibition.

The right and duty to impose discipline on children is not absolute as it is qualified by the phrase “as may be required under the circumstances.” As previously discussed in the context of discipline within the family, such qualification is vague and is dependent on the interpretation of the person disciplining the child as to what is “required under the circumstances.” Being subject to different interpretations, the qualification provided by law is too general and vague to guide those exercising special parental authority parents in imposing discipline on children in their custody.

However, the Department of Education (DepEd) and the Professional Regulatory Commission (PRC) issued guidelines to teachers and schools, which elaborated on the subject of discipline of children within educational institutions.

Public and Private Schoolteachers

The Code of Ethics for Professional Teachers, issued by the PRC, covers “all public and private school teachers in all educational institutions at the preschool, primary, elementary, and secondary levels whether academic, vocational, special, technical, or non-formal.”¹⁶⁴ The term “teacher” includes industrial arts or vocational teachers and all other persons performing supervisory and/or

¹⁶² Family Code, Article 218

¹⁶³ *Ibid.*, Article 220

¹⁶⁴ Code of Ethics for Professional Teachers (1997), Section 2

administrative functions in all schools in the aforementioned levels, whether on full-time or part-time bases.¹⁶⁵ Among others, the Code prohibits teachers from inflicting corporal punishment on offending learners or from making deductions in their scholastic ratings as a punishment for acts which are clearly not manifestations of poor scholarship.¹⁶⁶

Public Schools

The Service Manual (1992) of the DepEd authorises every school to maintain discipline inside the school campus as well as outside the school premises when pupils or students are engaged in activities authorised by the school. Chapter 3 of the Manual on school discipline specifically provides that school officials and teachers shall have the right to impose “appropriate and reasonable disciplinary measures” in case of minor infractions of good discipline. It prohibits, however, the imposition of cruel or physically harmful punishment.

Moreover, the Manual, under subsection 1.1.2 (Suspension/Expulsion), specifically prohibits certain types of disciplinary action:

- Corporal punishment such as slapping, jerking or pushing about pupils/students
- Imposing manual work or degrading tasks as penalty
- Meting out cruel and unusual punishments of any nature
- Holding up a pupil/student to unnecessary ridicule
- Use of epithets and expressions tending to destroy the pupil/student’s self-respect
- Permanent confiscation of the personal property of pupils/students

Subsection 1.1.2 also prescribes the forms of discipline which may be imposed by public schools and the procedure for the imposition of such. Among others, it requires the teacher or school principal to inform parents of any misconduct on the part of their children for which disciplinary action is necessary. It is significant to note that although the Manual requires parents to be informed of any misconduct by their child, the participation of the child in the disciplinary proceedings is not mentioned.

Private Schools

The Eighth Edition of the Manual of Regulations for Private Schools authorises every private school to maintain good school discipline inside the school campus as well as outside the school premises when pupils or students are engaged in activities authorised by the school.¹⁶⁷ Private schools are also given the right to promulgate reasonable norms, rules and regulations as it may deem necessary for

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.* Article VIII, Section 8

¹⁶⁷ Manual of Regulations for Private Schools, Section 74

the maintenance of good school discipline and class attendance.¹⁶⁸ However, it is specified that no cruel or physically harmful punishment shall be imposed or applied against any pupil or student.¹⁶⁹

The procedure for imposing disciplinary measures in private schools is more detailed compared to that of public schools. Under the Manual of Regulations for Private Schools:¹⁷⁰

- When the offense committed is serious and circumstances so warrant, the school head shall cause the filing of the corresponding administrative action against the erring pupil or student.
- No disciplinary action shall be applied upon any pupil or student except for cause as defined in the rules and regulations of the school or in this Manual, and after due process shall have been observed.
- The punishment shall be commensurate with the nature and gravity of the offense.

The three categories of disciplinary administrative sanctions for serious offences or violation of school rules and regulations which may be applied upon an erring pupil or student are suspension, exclusion and expulsion.¹⁷¹

Compliance with the UNCRC

Both the Department of Education guidelines for public and private schools prohibit the use of cruel or physically harmful punishment against students. However, the Service Manual which covers public schools elaborated on the rule and specifically prohibited corporal punishment. These guidelines focus on the effect of the punishment on the children, and covers physical as well as emotional and psychological effects upon the child. It recognises that the effect of punishment is not limited to the physical well-being but also affects the child's human dignity; thus, humiliating and degrading punishment are covered by the prohibition under the Service Manual for Public Schools.

It is significant to note, however, that both procedures for public and private schools make no mention of the participation of the child who is the subject of the disciplinary proceedings. This falls short of what the General Guidelines for Periodic Reports under the UNCRC prescribes. The General Guideline specifies that school discipline is allowed provided that:

- It is administered in a manner consistent with the child's human dignity.
- It excludes all forms of violence, including corporal punishment.
- It is not a form of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.
- It does not run counter to the aims of education.

168 *Ibid.*, Section 78

169 *Ibid.*, Section 75

170 *Ibid.*, Section 76

171 See Chapter 3, Section IV (Executive Branch), Subsection E2 for the definition of these penalties.

- It is not equivalent to torture or other cruel, inhuman or degrading treatment or punishment.
- It is consistent with the general principle of non-discrimination.
- It is in the best interest of the child.
- It is undertaken with respect for the views of the child.
- The child, or the representative, is given the opportunity to be heard during the disciplinary proceedings.

Liability of Educational Institutions and/or Teachers

In recognition of the special parental authority and responsibility exercised by the schools, its administrators and teachers over the child, various Philippine laws impose greater or higher penalty in case offences are committed against children by school officials or when the offences are committed within school premises.

Disciplinary Action Against the Teacher

The Code of Ethics for Professional Teachers specifies that the following actions may be imposed against the teacher for any violation of the Code:¹⁷²

- Revocation of his Certificate of Registration and Licence as Professional Teacher;
- Suspension from the practice of the teaching profession;
- Reprimand; and
- Cancellation of his temporary/special permit.

Punishment as Principals, Including Disqualifications

The RPC specifies teachers and any person who abuses authority or confidential relationships among those persons punished as principals although they co-operate merely as accomplices in the perpetration of the following crimes:

- Rape;
- Acts of lasciviousness;
- Qualified seduction;
- Simple seduction;
- Acts of lasciviousness with the consent of the offended party;
- Corruption of minors;

172 Code of Ethics for Professional Teachers, Article XII, Section I

- White slave trade;
- Forcible abduction; and
- Consented abduction.

Teachers or other persons entrusted in any other capacity with the education and guidance of youth, also suffer the penalty of temporary special disqualification in its maximum period to perpetual special disqualification.¹⁷³

Criminal Liability

Revised Penal Code

The RPC establishes the basic principles affecting criminal liability; explains penalties, including civil and criminal liability; and defines crimes and provides the corresponding penalties for its commission. Selected provisions of the RPC listed under Chapter Three of this research may apply to teachers and school officials.

Aside from charging a higher level of participation, from an accomplice to principal, Philippine laws also penalise crimes specifically committed by teachers or provide for a specific penalty for teachers and school officials when they commit certain offences.

Anti-Hazing Law

R.A. No. 8049 (1995) prohibits the use of physical violence in hazing or initiation rites and requires a fraternity, sorority or other organization to serve prior written notice to school authorities before conducting such rites. Section 4 of this law provides that school authorities, including faculty members, who consent to the hazing or who have actual knowledge thereof but fails to take any action to prevent its occurrence shall be punished as accomplices for the acts of hazing committed. Furthermore, the school may impose the appropriate administrative sanctions on the person or persons charged under this provision even before their conviction.

Anti-Sexual Harassment Act

The Anti-Sexual Harassment Act declared unlawful all forms of sexual harassment in the employment, education or training environment. Section 5 holds the employer or head of office of an educational or training institution solidarily liable for damages arising from the acts of sexual harassment committed in the employment, education or training environment if said person is informed of such acts by the offended party and no immediate action is taken.¹⁷⁴

173 Article 31 of the Revised Penal Code provides that:

Effect of the penalties of perpetual or temporary special disqualification. — The penalties of perpetual or temporal special disqualification for public office, profession or calling shall produce the following effects:

1. The deprivation of the office, employment, profession or calling affected;
2. The disqualification for holding similar offices or employments either perpetually or during the term of the sentence according to the extent of such disqualification.

174 R.A. No. 8049, Section 5

Observations on Selected Private Schools

Attached as **Appendix 3** are relevant provisions of student manuals of private education institutions on discipline of students. As information presented in said annex is limited, only a general observation can be made with respect to said provisions.

Although the procedure for imposing disciplinary measures in private schools is more detailed compared to that provided in public schools; it still falls short of the requirements expressed under the General Guidelines for Periodic Reports under the UNCRC. Under the General Guidelines, discipline should be administered in a manner consistent with the child's human dignity. This can be fulfilled if the discipline is undertaken with respect for the views of the child and the child is given the opportunity to be heard during the disciplinary proceedings.

Although the General Guidelines requires that the either the child, or the representative, should be given the opportunity to be heard during the disciplinary proceedings, this research recommends that all disciplinary proceedings include a provision that the child himself or herself be heard, and not merely the representative, in order to fully realise the right of the child under Article 12 of the UNCRC:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The available student manuals of private schools provide grounds for discipline and the imposable disciplinary measure, which may be imposed upon the child. However, only a few schools provide detailed procedures to be followed by school officials, thereby leaving a wide latitude of discretion on the latter's part in imposing disciplinary measures.

Of the schools that provided for such disciplinary procedures in the student handbook, the representative of the child, specifically the parents, were made part of the proceedings. Only one private school specifically provided in its manual a provision providing the student with an opportunity to be heard and refute the charges against him or her.¹⁷⁵ There is also only one school, which included a student representative as part of its Disciplinary Board.¹⁷⁶

Although the Eighth Edition of the Manual of Regulations for Private Schools authorises private schools to impose disciplinary administrative sanctions for serious offences or violation of school rules and regulations, i.e., suspension, exclusion, and expulsion, further studies should be made

175 St. Paul School College, Bocaue, Bulacan

176 Ateneo De Davao University

as to whether the imposition of these penalties in itself, and the procedure for its imposition, are consistent with the child's dignity. As stated by UNICEF, "governments must ensure that school administrators review their discipline policies and eliminate any discipline practices involving physical or mental violence, abuse or neglect."¹⁷⁷

CHILD WELFARE AGENCIES

Dependent, abandoned and neglected children may be committed or surrendered to the care of the DSWD or any duly licensed child placement agency or individual either involuntarily or voluntarily.¹⁷⁸ In cases of foundlings, abandoned, neglected or abused children and other children similarly situated, parental authority is vested in the heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency in proper court proceedings. The persons exercising substitute parental authority has the same authority as that of parents over the child.

The DSWD enacted rules for the administration of child welfare agencies, which provide parameters for the discipline of children under its care.

Standards in the Implementation of Residential Care Services

The Standards in the Implementation of Residential Care Services, adopted by the Department of Social Welfare and Development apply to agencies or centres, which provide residential care service. Subsection 1.4, under Daily Living Experiences, specifically provides that "corporal punishment detrimental to the residents' emotional, psychological and physical development shall never be used." However, it is unclear from the preceding statement whether the prohibition covers all forms of corporal punishment, considering that all forms of corporal punishment are detrimental to the child. Moreover, the Standard is silent on the use of humiliating and degrading punishment.

Court Order for Disciplinary Measures

As a means of assisting parents in imposing discipline on a child, the Family Code provides that the individual, entity or institution exercising parental authority may file a petition, before the proper court of the place where the child resides, for an order providing for disciplinary measures over the child.¹⁷⁹ As previously mentioned, the law does not define or list disciplinary measures which may be imposed by courts.

Liability of Child Welfare Agencies

Child welfare agencies, whether public or private, which provides "encouragement, care, and protection to any category of children and youth whether mentally gifted, dependent, abandoned,

177 <http://www.unicef.org/crc/parentsfaq>

178 P.D. No. 603, Articles 149 and 155

179 Family Code, Article 223

neglected, abused, handicapped, disturbed, or youthful offenders” are also regulated by P.D. No. 603.¹⁸⁰ When granting, suspending or revoking licenses issued to said agencies, the DSWD is directed to apply the protection and best interests of the child as the first and basic consideration.¹⁸¹

The DSWD is also empowered, after notice and hearing, to suspend or revoke the licence of a child welfare agency on any of the following grounds:¹⁸²

- The children therein are being neglected or are undernourished.
- The place is so unsanitary so as to make it unfit for children.
- The agency is located in a place or community where children should not be, or is physically dangerous to children or would unduly expose children to crime, vice, immorality, corruption or severe cruelty.
- The agency has, by any act or omission, shown its incompetence or unworthiness to continue acting as a child welfare agency.

EMPLOYERS

Children are present in working environments and in the context of their work; employers also impose discipline and punishment on their child employees. Unlike laws on family relations, educational institutions and child welfare agencies, there are no provisions which are directly applicable to discipline and punishment of children in the context of work. Although there are several penal laws which are applicable for certain acts committed against children, a more direct provision prohibiting corporal and humiliating and degrading punishment of children should be enacted to cover persons who employ children.

Criminal Liability of Employers

R.A. No. 9231

R.A. No. 9231 prohibits the worst forms of child labour, which include work that, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:

- Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; and
- Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals.¹⁸³

Employers are penalised for violations of R.A. No. 9231, with fines ranging from Fifty Thousand to One Million Pesos (Php50,000 to Php1,000,000) and imprisonment from six months and one day

180 P.D. No. 603, Article 117

181 *Ibid.*, Article 119

182 *Ibid.*, Article 120

183 R.A. No. 9231, Section 12-D

to 20 years, depending on the type and severity of the violation. If it is a corporation that commits the violation, its board of directors/trustees and officers who participated or knowingly allowed said violation shall be held liable.¹⁸⁴

Anti-Sexual Harassment Act

Sexual harassment is committed when an employer, employee, manager, supervisor, agent of the employer, or any other person who, having authority, influence or moral ascendancy over another in a work, training or education environment, demands, requests or otherwise requires any sexual favour from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said act.¹⁸⁵ Similar to the employer or head of an educational institution, the employer or head of office is solidarily liable for damages arising from the acts of sexual harassment committed in the work environment if such employer or head was informed of such acts by the offended party and no immediate action is taken.¹⁸⁶

Anti-Hazing Law

R.A. No. 8049 imposes a penalty of imprisonment against any person who participates in the hazing in the context of the work environment, this penalty applies to the president, manager, director or other responsible officer of a corporation engaged in hazing as a requirement for employment.

LAW ENFORCEMENT AND PENAL INSTITUTIONS

The prohibition against torture and against cruel, inhuman or degrading treatment or punishment is contained in major international human rights declarations and treaties, including the ICCPR. The prohibition against such acts is contained in the Constitution of the Philippines and in laws applicable to the rights of the accused, including children in conflict of the law. Guidelines applicable to law enforcement, detention and correction agencies of the government emphasise the prohibition against torture and cruel, inhuman or degrading treatment or punishment.

Rights of the Accused

Article III (Bill of Rights) of the Constitution enshrines the rights of any person, including children in conflict with the law, under investigation for the commission of an offence. Section 12(2) thereof specifically prohibits the use of “torture, force, violence, threat, intimidation, or any other means which vitiate the free will” against any person under investigation for the commission of an offence. Secret detention places, solitary, incommunicado, or other similar forms of detention are likewise prohibited.

In case a person has already been convicted, Section 19 of Article III guarantees the following:

184 See Chapter 3, Section II (Legislative Branch), Subsection C2 for the prohibited acts and their corresponding penalties.

185 R.A. No. 7877, Section 3

186 *Ibid.*, Section 5

- Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.¹⁸⁷
- The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

Children in Armed Conflict

The Rules and Regulations on Children in Situations of Armed Conflict specifically provides that a child taken into custody by government forces in an area of armed conflict shall be treated humanely and shall not be subjected to torture or to cruel, inhuman or degrading treatment, or used in a military occupation in any capacity.

Under the Memorandum of Agreement on the Handling and Treatment of Children Involved in Armed Conflict, the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) undertook to protect children from further exploitation and trauma, including tactical interrogation or any similar forms of investigation or use in military or police operations, respectively.

Children in Conflict with the Law

Aside from the prohibition against torture and other cruel, inhuman or degrading treatment or punishment, Article 37 of the UNCRC provides that: “every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.”¹⁸⁸ Although corporal punishment and other forms of discipline and treatment are not specifically mentioned in Article 37, various international human rights guidelines and rules related to the treatment of children in conflict with the law specifically prohibit corporal punishment. The prohibition is reflected in laws related to the apprehension and detention of children in conflict with the law.

Apprehension of Children

Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders

Section 5 of the Rules on Youth Offenders specifies the following limitations on the manner of apprehension of children:

187 Congress enacted R.A. No. 7659 in 1993, which imposed the death penalty on certain heinous crimes (e.g., treason, murder, infanticide, kidnapping, rape under certain circumstances, etc). In 1996, R.A. No. 8177 designated death by lethal injection as the method of carrying out capital punishment.

188 UNCRC, Article 37

- The arresting police officer shall not employ unnecessary force in arresting or searching the child.
- A female child shall only be searched by a female police officer.
- Vulgar or profane words shall not be used.
- Unless absolutely necessary, handcuffs or other instrument of restraint shall not be used on the child.

Revised Rules of Criminal Procedure

The Revised Rules of Criminal Procedure also provides guidelines for conducting an arrest, which are applicable to the arrest of children:

An arrest is made by an actual restraint of a person to be arrested, or by his submission to the custody of the person making the arrest.

No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention. (emphasis supplied)

Detention of Children

In lieu of provisions that specifically apply to detention of children, the general rules provided by government institutions are observed. The BJMP Operation Manual provides that “penalties to be imposed shall not be cruel, inhuman, or degrading. No physical punishment shall be employed as a correctional measure.”¹⁸⁹ Meanwhile, the Operating Manual of the Bureau of Corrections provides that an inmate shall be treated with respect and fairness by prison employees and shall be protected from:

- Imposition of any cruel, unusual or degrading act as a form of disciplinary punishment;
- Corporal punishment;
- Use of physical force by correctional officers, except in cases where the latter act in self-defence, to protect another person from imminent physical attack, or to prevent a riot or escape;
- Deprivation of clothing, bed and bedding, light and ventilation, exercise, food or hygienic facilities; and
- Forced labour.

189 BJMP Operation Manual, Rule I, Section 3

Liability of Law Enforcement and Penal Institutions

Criminal Liability

Anti-Rape Law

The Anti-Rape Law provides that the death penalty shall be imposed, instead of *reclusion perpetua*, if the crime of rape is committed with the following aggravating/qualifying circumstances:¹⁹⁰

- The victim is under the custody of the police or military authorities or any law enforcement or penal institution.
- Rape is committed by any member of the AFP or para-military units thereof or the PNP or any law enforcement agency or penal institution and the offender took advantage of his position to facilitate the commission of the crime.

Hazing Law

The organisations prohibited from using physical violence in its hazing or initiation rites include “any club or the Armed Forces of the Philippines, Philippine National Police, Philippine Military Academy, or officer and cadet corp of the Citizen’s Military Training and Citizen’s Army Training.”¹⁹¹ Responsible officials of the police, military or citizen’s army training organisation may impose the appropriate administrative sanctions on the person or the persons charged with hazing under this law even before their conviction.¹⁹²

Disciplinary Measures

The BJMP Operation Manual provides for the creation of a Disciplinary Board in jails “for the purpose of hearing disciplinary cases involving any offender who violates jail rules and regulations.”¹⁹³

The Disciplinary Board is authorised to impose disciplinary punishments, subject to certain limitations, including a prohibition against corporal punishment, confinement in dark ill-ventilated cells and any form of cruel, unusual, inhuman or degrading punishment.¹⁹⁴

190 RPC, Article 266-B

191 R.A. No. 8049, Section 1

192 *Ibid.*, Section 4

193 BJMP Operation Manual, Rule XIV, Section 3

194 *Ibid.*, Rule XIV, Section 3(d)

COURTS

The Rule on Juveniles in Conflict With the Law (JICL) defines corporal punishment as “any kind of physical punishment inflicted on the body as distinguished from pecuniary punishment or fine.”¹⁹⁵

Section 29 of the JICL provides that “all hearings shall be conducted in a manner conducive to the best interests of the juvenile and in an environment that will allow him to participate fully and freely in accordance with the Rule on Examination of a Child Witness.” The guiding principles in judging the child are provided in Section 30 of this Rule, which states that the judgment against a child in conflict with the law shall be guided by the principle that no corporal punishment shall be imposed.

Aside from prohibiting corporal punishment, the JICL prescribes that the judgment should also be guided by the principle that it should not be degrading or humiliating upon the child. It is important to note the observations made by Commissioner Maambong with respect to Section 19 (2) of the Constitution of the Philippines which is applicable given the present conditions of jails and penal institutions in the Philippines:

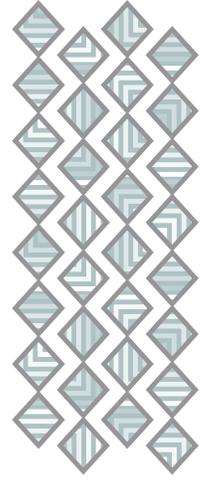
Confinement itself within a given institution may amount to cruel and unusual punishment prohibited by the Constitution where the confinement is characterized by conditions and practices that are so bad as to be shocking to the conscience of reasonably civilized people. It must be understood that the life, safety and health of human beings, to say nothing of their dignity, are at stake.

...

Unless facilities of the penitentiary are brought up to a level of constitutional tolerability, they should not be used for the confinement of prisoners at all. Courts in other jurisdictions have ordered the closure of substandard and outmoded penal institutions...¹⁹⁶ (emphasis supplied)

¹⁹⁵ Rule on Juveniles in Conflict with the Law, Section 4(q)

¹⁹⁶ I RECORD 778, as cited in Bernas, *op cit*, p. 561



Chapter 5

Conclusion and Recommendations

This chapter presents the conclusion and recommendations of the research on Philippine laws related to the discipline and punishment of children based on the summary and analysis presented in the preceding chapter.

STRENGTHENING INTERNATIONAL HUMAN RIGHTS INSTRUMENTS TO PROTECT CHILDREN WITHIN THE FAMILY

Unlike other settings important to the development of children such as educational institutions, the discipline of children within the context of the family is not expressly and specifically addressed under the UNCRC and other international human rights treaties. Although the provisions of the UNCRC on the protection of children against abuse and neglect, and the prohibition against torture under several international human rights instruments may be applied to the discipline and punishment of children within the context of the family, it is suggested that an additional international instrument be adopted, which specifically prohibits corporal, and humiliating and degrading punishment in the family.

In most countries, laws are already in place that define what sorts of punishments are considered excessive or abusive and it is up to each country to review these laws in light of the UNCRC. To extend wider protection to all children, it is proposed that an international instrument or treaty be adopted instead of merely relying on individual States to enact local laws on the matter of discipline and punishment of children. In reviewing or interpreting discipline and punishment of children, States may interpret it differently, depending on the culture, tradition, custom and religious beliefs of its nationals. As previously mentioned, the Holy Bible, the Catechism of the Catholic Church and the Qur'an and Sunnah contain provisions, which may be interpreted as condoning corporal punishment of children. [Please refer to **Appendix 5**]. An international instrument or treaty defining what constitutes allowable and prohibited discipline and punishment could fill in the gaps in local laws.

THE ROLE OF CHILDREN

Aside from the rights of children, the UNCRC also provides for the responsibility of children to respect the rights of others, especially those of parents. The responsibility of the child to respect the rights of others are exemplified by provisions of the UNCRC on the right to freedom of expression, freedom of thought, conscience and religion, freedom of association and freedom of peaceful assembly. Compared to the Convention's language, Philippine laws provide for more specific duties and responsibilities of children. As such, the child is seen by the UNCRC and the Philippines, not only as a holder of rights but as a possessor of duties and responsibilities in spite of their age and their early stages of development.

Although there is no enforcement mechanism to ensure that indeed children are complying with the abovementioned duties, the fact that such provisions are included in the Philippine laws somehow "implies" that children need to accept and follow the discipline and punishment imposed by parents, other family members and the responsible persons in institutions. However, the child's duties need to be balanced by the P.D. No. 603 provision, which allows parents to require the child to obey "just and reasonable rules, suggestions and admonitions." Mechanisms at the international and local levels should ensure that the rights of the child are not violated or encroached upon when "duties" or "responsibilities" are required of children, especially in the context of discipline and punishment. Factors such as the age of the child and his or her level of development should be considered when said duties and responsibilities of children are discussed with them.

STRENGTHENING PROTECTION OF CHILDREN IN THE CONTEXT OF DISCIPLINE WITHIN THE FAMILY

The right to discipline and punish children accorded to parents are not without limitations. Philippine laws refer to terms such as "may be required under the circumstances," "moderately" and "just and reasonable rules, suggestions and admonitions" in the exercise of discipline and punishment. In applying these qualifications, it is not clear whose point of view is considered – whether that of the parents or the child. Another major concern is that the qualifications provided by law are open to subjective interpretation. What is moderate and just and reasonable for the parent may already be considered as "excessive" or "unreasonable" by the child. Also, what is moderate and just for one parent may already be considered as "excessive" and "unreasonable" by another set of parents. These restrictions, which are applied subjectively, are too general and vague to guide parents in the exercise of their right to discipline children and, more importantly, to protect the physical integrity and human dignity of children.

Another concern with the law applicable to discipline of children in the context of the family is that the law is silent on whether corporal punishment is allowed. The lack of express provisions prohibiting corporal punishment under Philippine laws is a reflection of a similar situation with respect to international human rights law.

In addition, even if sanctions exist against the parents in disciplining the child, the crimes covered by penal laws are specifically defined. There is a possibility that the act of the parents in disciplining the child may not fall under definitions of offences under penal laws. General penal laws do not cover the second category of discipline: humiliating or degrading punishment which takes various forms

such as psychological punishment, verbal abuse, ridicule, isolation or ignoring the child, because the law requires that a deed or physical act be committed before any person may be deemed to have committed an offence.

POSITIVE ASPECTS OF THE PRESENT LAWS ON THE FAMILY

First, the enactment of R.A. No. 7610 is a positive step in the development of laws protecting the physical integrity and human dignity of children. Although discipline of children is not specifically mentioned under R.A. No. 7610, it is impliedly covered by the definition of child abuse, which speaks of maltreatment, whether habitual or not. Even if the act of disciplining the child only happens once, the act may be considered as child abuse. This definition is more exhaustive compared with other laws as it covers both physical and psychological abuse. The phrase “any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being” encompasses both corporal or physical punishment and humiliating or degrading punishment as defined by Save the Children.

Second, P.D. No. 603 specifies that “whenever proper, parents shall allow the child to participate in the discussion of family affairs, especially in matters that particularly concern him. In cases involving his discipline, the child shall be given a chance to present his side.” This specific provision is important as it provides substance to the right of children under the UNCRC to express their views and to have their views taken seriously and given due weight. Any amendment or change in the law pertaining to the discipline and punishment of children should contain similar provisions.

Third, in exercising the State’s duty to act as *parens patriae* where children are involved, various Philippine laws impose greater or higher penalty in case offences are committed against children by parents or family members. However, further study is needed on whether imprisonment of parents is the best remedy, considering the best interest of the child.

DISCIPLINE OF CHILDREN WITHIN EDUCATIONAL INSTITUTIONS

In the Philippines, special parental authority and responsibility over a child is vested by law to schools, its administrators and teachers, or the individual, entity or institution engaged in child care. Such authority and responsibility may be exercised while the child is under their supervision, instruction or custody, including all authorised activities whether inside or outside the premises of the school, entity or institution. Accordingly, field trips, excursions and other activities of the students conducted outside the school premises are covered by the exercise of such special parental authority and responsibility.

Both DepEd guidelines for public and private schools prohibit the use of cruel or physically harmful punishment against students. However, the public schools’ Service Manual elaborates on the rule, specifically prohibiting corporal punishment while also covering humiliating and degrading punishment. A similar provision should be added to the manual for private schools.

It is also significant to note that both procedures for public and private schools make no mention of the participation of the child in the disciplinary proceedings. This falls short of what the General Guidelines for Periodic Reports under the UNCRC prescribes. The guidelines should be amended

to specify procedures for the imposition of discipline and should expressly provide for the child's participation in the decision-making process.

CHILD WELFARE AGENCIES

The Standards in the Implementation of Residential Care Services, adopted by the DSWD, apply to agencies or centres that provide residential care service. However, it only provides that "corporal punishment detrimental to the residents' emotional, psychological and physical development shall never be used." The Standards should be further amended to include all forms of punishment, physical or emotional, which violates the physical integrity and human dignity of the child.

PROTECTION OF CHILDREN IN THE WORKING ENVIRONMENT

Children are present in working environments and in the context of their work, employers also impose discipline and punishment on children employees. Unlike laws on family relations, educational institutions and child welfare agencies, there are no provisions which are directly applicable to discipline and punishment of children in the context of work. Although there are several penal laws that are applicable to certain acts committed against children, a more direct provision prohibiting corporal and humiliating and degrading punishment of children should be enacted to cover persons who employ children.

LAW ENFORCEMENT AND PENAL INSTITUTIONS

The prohibition against torture and cruel, inhuman or degrading treatment or punishment is contained in the Constitution of the Philippines and laws applicable to the rights of the accused, including children in conflict of the law. The Constitution itself prohibits the employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

Just as the prohibition against torture has been emphasised in several international human rights instruments, the prohibition against such is contained in several guidelines applicable to law enforcement, detention and correction agencies of the government. The guidelines cover arrest, detention and sentencing of children in conflict with the law.

Even the judiciary issued guidelines specific to children in conflict with the law which defines and prohibits corporal punishment. However, aside from prohibiting corporal punishment, the judgment should also be guided by the principle that it should not be degrading or humiliating for the child.

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YEAR OF EFFECTIVITY – 1994

INSTITUTIONS/ PERSONS COVERED – Bureau of Jail Management and Penology

SPECIFIC PROVISION/S –

Rule 1, Section 3

...

- g. No jail personnel shall use abusive, insulting and indecent language on the offenders.
- h. No jail personnel shall use unnecessary force on offenders, except for legitimate self-defense or in cases of attempted active and passive physical resistance to a lawful order.
- i. No penalty shall be imposed upon any offender for violation of rules/regulations unless in accordance with duly approved disciplinary measures.
- j. Penalties to be imposed shall not be cruel, inhuman, or degrading. No physical punishment shall be employed as a correctional measure.

Rule XIV, Section 3d

- (3) Corporal punishment, confinement in dark ill-ventilated cells and any form of cruel, unusual, inhuman or degrading punishment are absolutely prohibited.

...

Instruments of restraints such as handcuffs, leg iron and strait jackets are not to be applied as a form of punishment. They shall only be used as a precaution against escape and on medical grounds to prevent an offender from injuring himself or others.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Bureau of Corrections Operating Manual

YEAR OF EFFECTIVITY – 2000

INSTITUTIONS/ PERSONS COVERED – Bureau of Corrections

SPECIFIC PROVISION/S –

Part IV, Chapter 2, Section 1,

An inmate shall be treated with respect and fairness by prison employees.

He shall be protected against the following:

- a. the imposition of any cruel, unusual or degrading act as a form of disciplinary punishment;
- b. corporal punishment;
- c. the use of physical force by correctional officers, except in cases where the latter act in self-defense, to protect another person from imminent physical attack, or to prevent a riot or escape;
- d. deprivation of clothing, bed and bedding, light and ventilation, exercise, food or hygienic facilities; and
- e. forced labor.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

II. Discipline and Corporal Punishment

A. Children in conflict with the law

Administrative Matter No. 02-1-18-SC -- Rule on Juveniles in Conflict With the Law

YEAR OF EFFECTIVITY – 2002

INSTITUTIONS/ PERSONS COVERED – Courts

SPECIFIC PROVISION/S –

Section 4(q)

Corporal punishment is any kind of physical punishment inflicted on the body as distinguished from pecuniary punishment or fine.

Section 30

Subject to the provisions of the Revised Penal Code and other special laws, the judgment against a [child] in conflict with the law shall be guided by the following principles:

1. It shall be in proportion to the gravity of the offense, and shall consider the circumstances and the best interests of the juvenile, the rights of the victim, the needs of society in line with the demands of restorative justice.
2. Restrictions on the personal liberty of the juvenile shall be limited to the minimum. Where discretion is given by law to the judge to determine whether the penalty to be imposed is fine or imprisonment, the imposition of the latter should be preferred as the more appropriate penalty.
3. No corporal punishment shall be imposed.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Memorandum Circular No. 22, Series of 2002 -- Standard Office Procedures in Extending Legal Assistance to Juveniles in Conflict with the Law

YEAR OF EFFECTIVITY – 2002

INSTITUTIONS/ PERSONS COVERED – Lawyers from the Public Attorney's Office

SPECIFIC PROVISION/S –

Article III

Corporal punishment is a kind of physical punishment inflicted on the body as distinguished from pecuniary punishment or fine.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Presidential Decree No. 603 -- The Child and Youth Welfare Code

YEAR OF EFFECTIVITY – 1975

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Article 45

Parents have the right to discipline the child as may be necessary for the formation of his good character, and may therefore require from him obedience to just and reasonable rules, suggestions and admonitions.

Articles 47

Whenever proper, parents shall allow the child to participate in the discussion of family affairs, especially in matters that particularly concern him.

In cases involving his discipline, the child shall be given a chance to present his side.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Administrative Matter No. 02-11-12-SC -- Rule on Provisional Orders

YEAR OF EFFECTIVITY – 2003

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Section 4

In determining the right party or person to whom the custody of the child of the parties may be awarded pending the petition, the court shall consider the best interests of the child and shall give paramount consideration to the material and moral welfare of the child. The court may also consider the following factors:

...

(b) The desire and ability of each parent to foster an open and loving relationship between the child and the other parent;

(c) The child's health, safety, and welfare;

(d) Any history of child or spousal abuse by the person seeking custody or who has had any filial relationship with the child, including anyone courting the parent;

(e) The nature and frequency of contact with both parents;

...

(g) Marital misconduct;

(h) The most suitable physical, emotional, spiritual, psychological and educational environment...

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Court may award custody of the child to the other parent

Public Schools Service Manual

YEAR OF EFFECTIVITY – 1992

INSTITUTIONS/ PERSONS COVERED – Public Schools

SPECIFIC PROVISION/S –

Chapter 3, Section 1, 1.1.1

School officials and teachers shall have the right to impose appropriate and reasonable disciplinary measures in case of minor offenses or infractions of good discipline. However, no cruel or physically harmful punishment shall be imposed or applied against any pupil or student.

The use of corporal punishment by teachers (slapping, jerking or pushing pupils/students about) imposing manual work or degrading tasks as penalty, meting out cruel and unusual punishments of any nature, holding up a pupil/student to unnecessary ridicule, the use of epithets and expressions tending to destroy the pupil/student's self-respect and the permanent confiscation of the personal property of pupils/students are forbidden.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Manual of Regulations for Private Schools, 8th edition -- DECS Order No. 92, series of 1992

YEAR OF EFFECTIVITY – 1992

INSTITUTIONS/ PERSONS COVERED – Private Schools

SPECIFIC PROVISION/S –

Section 75

School officials and academic personnel shall have the right to impose appropriate and reasonable disciplinary measures in case of minor offenses or infractions of good school discipline committed in their presence. However, no cruel or physically harmful punishment shall be imposed or applied against any pupil or student.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Continued...

Rules and Regulations on the Trafficking of Children promulgated pursuant to Republic Act No. 7610, Section 32

Department [of Social Welfare and Development] shall, if found true, immediately take custody of said child or arrange for the immediate transfer of the child to a duly accredited child-caring or placement agency.

Thereafter, the Department shall file a petition for the involuntary commitment of the abandoned child in favor of a duly accredited child placement agency or private individual in accordance with the provisions of the Code. The Department shall also file the appropriate criminal complaint against the parent who abandoned the child.

A parent who abandons a child who is under seven (7) years of age for six (6) continuous months shall, if found guilty, be punished with *arresto mayor* and payment of a fine not exceeding five hundred pesos (P500.00).

If the child dies as a result of the abandonment, the culprit shall be punished by *prision correccional* in its medium of maximum periods.

3. Children in institutions

Administrative Matter No. 02-1-19-SC -- Rule on Commitment of Children

LAW – A.M. No. 02-1-19-SC -- Rule on Commitment of Children

YEAR OF EFFECTIVITY – 2002

INSTITUTIONS/ PERSONS COVERED – Institutions where children may be committed

SPECIFIC PROVISION/S –

Section 3

Dependent child is one who is without a parent, guardian or custodian, or one whose parents, guardian or other custodian for good cause desires to be relieved of his care and custody, and is dependent upon the public for support.

Abandoned child is one who has no proper parental care or guardianship, or whose parents or guardian has deserted him for a period of at least six (6) continuous months.

Neglected child is one whose basic needs have been deliberately unattended to or inadequately attended to, physically or emotionally, by his parents or guardian.

Physical neglect 'occurs when the child is malnourished, ill-clad and without proper shelter' and emotional neglect 'occurs when a child is raped, seduced, maltreated, exploited, overworked or made to work under conditions not conducive to good health; made to beg in the streets or public places, or when placed in moral danger, or exposed to drugs, alcohol, gambling, prostitution and other vices.'

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

The Rule covers the court procedure for voluntary or involuntary commitment of children who may fall into any of the categories mentioned.

6. Adopted children

Republic Act No. 8552 -- Domestic Adoption Act

YEAR OF EFFECTIVITY – 1998

INSTITUTIONS/ PERSONS COVERED – Adopter

SPECIFIC PROVISION/S –

Section 19

[T]he adoption may be rescinded on any of the following grounds committed by the adopter(s):

- (a) repeated physical and verbal maltreatment by the adopter(s) despite having undergone counseling;
- (b) attempt on the life of the adoptee;
- (c) sexual assault or violence; or
- (d) abandonment and failure to comply with parental obligations.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Rescission of adoption

SPECIFIC PROVISION/S –

Section 21

(a) The penalty of imprisonment ...shall be imposed on any person who shall commit any of the following acts:

- (i) obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts;
- (ii) non-compliance with the procedures and safeguards provided by the law for adoption; or
- (iii) subjecting or exposing the child to be adopted to danger, abuse, or exploitation.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment ranging from six (6) years and one (1) day to twelve (12) years and/or a fine not less than Fifty thousand pesos (P50,000.00), but not more than Two hundred thousand pesos (P200,000.00) at the discretion of the court

Administrative Matter No. 02-6-02-SC -- Rule on Adoption

YEAR OF EFFECTIVITY – 2002

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Section 19

The adoption may be rescinded based on any of the following grounds committed by the adopter:

- 1) repeated physical and verbal maltreatment by the adopter despite having undergone counseling;
- 2) attempt on the life of the adoptee;
- 3) sexual assault or violence; or
- 4) abandonment or failure to comply with parental obligations.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Adoption may be rescinded by the court

7. Working children

Republic Act No. 9231 - Amending provisions in Republic Act No. 7610 on working children

YEAR OF EFFECTIVITY – 1992

INSTITUTIONS/ PERSONS COVERED – Family and employees

SPECIFIC PROVISION/S –

Section 12

Children below fifteen (15) years of age shall not be employed except:

- 1) When a child works directly under the sole responsibility of his/her parents or legal guardian and where only members of his/her family are employed: Provided, however, That his/her employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development... or
- 2) Where a child's employment or participation in public entertainment or information through cinema, theater, radio, television or other forms of media is essential: Provided, That the Employment contract is concluded by the child's parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: Provided, further, That the following requirements in all instances are strictly complied with:
 - (a) The employer shall ensure the protection, health, safety, morals and normal development of the child;
 - (b) The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time;

...

Section 12-D

- (1) All forms of slavery, as defined under the 'Anti-trafficking in Persons Act of 2003', or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict; or
- (2) The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances; or
- (3) The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances prohibited under existing laws; or
- (4) Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:
 - a) Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or
 - b) Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or
 - c) Is performed underground, underwater or at dangerous heights; or
 - d) Involves the use of dangerous machinery, equipment and tools such as power-driven or explosive power-actuated tools; or
 - e) Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or
 - f) Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or
 - g) Is performed under particularly difficult conditions: or
 - h) Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites; or
 - i) Involves the manufacture or handling of explosives and other pyrotechnic products.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment, depending on the circumstances, for employers or guardians; Closure of business firm or establishment

Republic Act No. 7877 -- Anti-Sexual Harassment Act

YEAR OF EFFECTIVITY – 1995

INSTITUTIONS/ PERSONS COVERED – Persons in a working environment

SPECIFIC PROVISION/S –

Section 3 (a)

(a) In a work-related or employment environment, sexual harassment is committed when:

- (1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms of conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;
- (2) The above acts would impair the employee's rights or privileges under existing labor laws; or
- (3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Ten thousand pesos (P10,000) nor more than Twenty thousand pesos (P20,000), or both such fine and imprisonment at the discretion of the court; An employer or head of office is solidarily liable for damages.

8. Children covered by R.A. No. 7610

Republic Act No. 7610 -- Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act

YEAR OF EFFECTIVITY – 1992

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Section 31

The penalty provided herein [R.A. No. 7610] shall be imposed in its maximum period when the perpetrator is an ascendant, parent guardian, stepparent or collateral relative within the second degree of consanguinity or affinity.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Administrative Matter No. 03-04-04-SC -- Rule on Custody of Minors and Writ of Habeas Corpus in Relation to Custody of Minors

YEAR OF EFFECTIVITY – 2002

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Section 14

The court shall also consider the following:

- (a) Any extrajudicial agreement which the parties may have bound themselves to comply with respecting the rights of the minor to maintain direct contact with the non-custodial parent on a regular basis, except when there is an existing threat or danger of physical, mental, sexual or emotional violence which endangers the safety and best interests of the minor;
- (b) The desire and ability of one parent to foster an open and loving relationship between the minor and the other parent;
- (c) The health, safety and welfare of the minor;
- (d) Any history of child or spousal abuse by the person seeking custody or who has had any filial relationship with the minor, including anyone courting the parent;
- (e) The nature and frequency of contact with both parents;
- ...
- (h) The most suitable physical, emotional, spiritual, psychological and educational environment for the holistic development and growth of the minor;

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

The court may award custody of the child to the other parent

SPECIFIC PROVISION/S –

Section 17

The court may issue a Protection Order requiring any person:

- (b) To cease and desist from harassing, intimidating or threatening such minor or the other parent or any person to whom custody of the minor is awarded;
- (c) To refrain from acts of commission or omission that create an unreasonable risk to the health, safety, or welfare of the minor...

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

The court may issue a Protection Order and/or award custody of the child to the other parent

Republic Act. No. 7610 -- Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act

YEAR OF EFFECTIVITY – 1992

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Section 3

‘Child abuse’ refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

SPECIFIC PROVISION/S –

Section 10

Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child’s Development. -

- (a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child’s development
- ...
- (e) Any person who shall use, coerce, force or intimidate a street child or any other child to:
 - (1) Beg or use begging as a means of living;
 - (2) Act as conduit or middlemen in drug trafficking or pushing; or
 - (3) Conduct any illegal activities

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment, depending on the circumstances

Rules and Regulations on The Reporting and Investigation of Child Abuse Cases promulgated pursuant to Republic Act No. 7610, Section 32

YEAR OF EFFECTIVITY – 1993

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Section 2

b.) ‘Child abuse’ refers to the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child;

...

d.) ‘Physical injury’ includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child;

e.) ‘Psychological injury’ means harm to a child’s psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

f.) ‘Neglect’ means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child;

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – None

Act No. 3815 - Revised Penal Code

YEAR OF EFFECTIVITY – 1932

INSTITUTIONS/ PERSONS COVERED – Public Officers

SPECIFIC PROVISION/S –

Article 235

Any public officer or employee who shall overdo himself in the correction or handling of a prisoner or detention prisoner under his charge, by the imposition of punishment not authorized by the regulations, or by inflicting such punishment in a cruel and humiliating manner.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment; Fine depending on the circumstances; Temporary special disqualification depending on the circumstances

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Article 246 [Parricide]

Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment to death

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Article 248 [Murder]

Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder if committed with any of the following attendant circumstances:

- (1) With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity
- (2) In consideration of a price, reward or promise
- (3) By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin
- (4) On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity
- (5) With evident premeditation
- (6) With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment to death

Continued...

Continued... Act No. 3815 - Revised Penal Code

YEAR OF EFFECTIVITY – 1932

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Article 271

Anyone who shall induce a minor to abandon the home of his parent or guardians or the persons entrusted with his custody...

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment and fine

INSTITUTIONS/ PERSONS COVERED – General/Family

SPECIFIC PROVISION/S –

Article 276

Any one who shall abandon a child under seven years of age, the custody of which is incumbent upon him

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment; Fine depending on the circumstances

INSTITUTIONS/ PERSONS COVERED – Family

SPECIFIC PROVISION/S –

Article 277

Anyone who, having charge of the rearing or education of a minor, shall deliver said minor to a public institution or other persons, without the consent of the one who entrusted such child to his care or in the absence of the latter, without the consent of the proper authorities; Parents who shall neglect their children by not giving them the education which their station in life require and financial conditions permit...

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment and fine

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Article 282

Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment; Fine depending on the circumstances

Continued...

Continued... Act No. 3815 - Revised Penal Code

YEAR OF EFFECTIVITY – 1932

INSTITUTIONS/ PERSONS COVERED – General/ Family/ Schools/ Institutions

SPECIFIC PROVISION/S –

Article 337

The seduction of a virgin over twelve years and under eighteen years of age, committed by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman seduced...

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Article 338

Seduction of a woman who is single or a widow of good reputation, over twelve but under eighteen years of age, committed by means of deceit

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment

INSTITUTIONS/ PERSONS COVERED – General/ Family/ Schools/ Institutions

SPECIFIC PROVISION/S –

Article 339

Any other acts of lasciviousness committed by the same persons and the same circumstances as those provided in Articles 337 [qualified seduction] and 338 [simple seduction]

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment

INSTITUTIONS/ PERSONS COVERED – General/ Public Officers

SPECIFIC PROVISION/S –

Article 340

Any person who shall promote or facilitate the prostitution or corruption of persons underage to satisfy the lust of another...

REMEDIES AVAILABLE OR IMPOSABLE PENALTY –

Imprisonment; Temporary special disqualification, if public officer or employee

Continued...

Continued... Act No. 3815 - Revised Penal Code

YEAR OF EFFECTIVITY – 1932

INSTITUTIONS/ PERSONS COVERED – General

SPECIFIC PROVISION/S –

Article 343

The abduction of a virgin over twelve years and under eighteen years of age, carried out with her consent and with lewd designs

REMEDIES AVAILABLE OR IMPOSABLE PENALTY – Imprisonment

- 20.17 Tampering with or lending of I.D. cards, excuse slips or other official documents to other students or outsiders;
- 20.18 Preventing or threatening students and faculty and administrators from discharging their duties or from attending their classes or entering school premises;
- 20.19 Any form of public immorality on campus or during a university function;
- 20.20 Frequent and contemptuous disregard of established school policies;
- 20.21 Any serious violation of the laws of the land within or outside the campus;
- 20.22 Possession of or exploding firecrackers in campus;
- 20.23 Any other grounds similar or analogous to the foregoing.

21 SANCTIONS

The Manual of Regulation for Private Schools specifies three categories of Disciplinary Administrative Sanctions, which may be imposed on erring students and which should be commensurate to the gravity of violation of school rules and regulations.

21.1 DROPPING

The University reserves the right to drop or dismiss at any time a student who is found after due investigation to have violated the rules and regulations of the school and the Commission on Higher Education (CHED) and the laws of the land. A student who is dropped should be issued his transfer credentials immediately.

21.2 SUSPENSION

A school may suspend an erring student during school year or term for a maximum period not exceeding 20% of the prescribed school days. Suspension, which will involve the loss of the entire year or term, shall not be effective unless approved by the CHED.

21.3 EXPULSION

The penalty of expulsion is an extreme form of administrative sanction, which may debar a student from all public and private schools. To be valid and effective, the penalty of expulsion requires the approval of the CHED.

22 OTHER SANCTIONS

- 22.1 Reprimand or admonition
- 22.2 Public apology
- 22.3 Payment of actual damage inflicted
- 22.4 Failure in a subject or test
- 22.5 Exclusion from extra curricular activities
- 22.6 Disqualification from holding or seeking any position either by election or appointment
- 22.7 Cancellation of scholarship
- 22.8 Denial of graduation privileges
- 22.9 Stripping of honors and awards

22.10 Disallowing of readmission to the college due to academic undesirability

22.11 Community service

22.12 Such other sanctions as may be approved by the Disciplinary Board.

23. PROCEDURE FOR DISCIPLINARY ACTION

23.1 Based on the complaint filed with the Office of Student Affairs, the Director shall conduct a preliminary investigation, calling both parties after proper notification has been made, and shall effect settlement at the OSA level.

23.2 If no settlement shall have been reached at the OSA level, the OSA Director shall elevate the unresolved case and submit his report to the Disciplinary Board Committee for study. The report shall include the formal charges, the facts of the case, the evidence and other relevant materials presented and recital of precedent cases.

23.3 Cases which, in the judgment of the OSA Director are guidance and counseling matters, shall be referred directly to the Guidance Office.

23.4 In the event that the complainant is dissatisfied with the settlement made by the OSA Director, he/she reserves the right to elevate the matter to the Disciplinary Board.

23.5 The Disciplinary Board shall convene for the hearing of the case, after receipt of the following:

23.5.1 Copy of the formal complaint

23.5.2 Result of preliminary investigation

23.5.3 Pertinent documents (e.g., evidence)

23.5.4 Counter-statement of the student being charged

23.6 Both parties shall be notified of the scheduled hearing through the Office of Student Affairs. Parents and other counsel may likewise be invited at any stage of the proceeding, should the board find their presence necessary.

23.7 Deliberation shall be conducted by the Board sitting en banc. In the course of determining the gravity of violation committed, the following shall be considered:

23.7.1 Degree of violation (light or grave).

23.7.2 Occasion (first, second, third, etc)

23.7.3 Year level

23.7.4 Mitigating & aggravating circumstances

23.8 Rationale of sanctions should be clearly stated in view of the gravity of the offense and the probable effect it can have on the student's wellbeing given the particular circumstances he/she is in.

23.9 Formulation of decisions shall be by majority vote (2/3 + 1).

23.9.1 Decisions involving major sanctions must always be referred to the University Lawyer before being finalized.

23.9.2 Except in cases so provided by the Board, all disciplinary measures shall be accompanied with referrals for counseling.

23.9.3 Findings and recommendations shall be forwarded to OSA not later than three days immediately following its finalization.

- 23.10 The Disciplinary Board shall then forward its findings and recommendations to the Director of the Office Students Affairs.
- 23.11 The Director of the Office of Students Affairs shall forward this report to the Dean for decision. The Director thereafter notifies the student in writing regarding the Dean's decision.
- 23.12 The decision is implemented if not appealed within the (10) days after the receipt of the notice from the Director of the Office Student Affairs.
- 23.13 Appeals shall be made to the University President.
- 23.14 In cases involving Freshmen, the FYCF –up Follow Committee acts as The Disciplinary Board.
- 23.15 Offenses involving Freshmen except minor offenses (ID lending, ID tampering, non wearing of prescribed uniform - to be reported directly to the Office of Student Affairs) must be formally reported to the FYCF follow-up Committee Chairman c/o to the FYCF Coordinator or the FYCF Facilitator concerned.
- 23.16 The FYCF Follow-up Committee shall follow the same procedure as that of the Office of Student Affairs in conducting preliminary investigation.

24. GUIDELINES FOR THE DISCIPLINARY BOARD

24.1 Guiding Principles

The Disciplinary Board affirms the University's mission, that is, of helping young men or women in its care strive for academic excellence, grow in faith and develop a keen sense of empathy for the needs of others. The Board believes that the students in their maturing process must be guided in proper ways of coping with challenges in life. It is tasked with the responsibility of adjudicating infraction of school rules and regulations committed by students in the school. It subscribes to the principle that whatever judgment is made is in accordance with due process of law and it will be for the well-being of the person.

24.2 Tasks

- 24.2.1 To investigate student cases presented by the Office of Student Affairs
- 24.2.2 To recommend sanction.
- 24.2.3 To propose additions and amendments to existing policies involving student discipline.
- 24.2.4 To refer to the Guidance Counselor students with disciplinary problems, whenever necessary.

24.3 Organizational Structure

- 24.3.1 The Disciplinary Board is a standing committee of the Higher Education Council. It works closely with the Office of Student Affairs in the dispensation of its function.
- 24.3.2 The Board shall be comprised of five faculty members and four students. Members of the Board shall have a term of at least two years renewable in accordance with the decision of the Higher Education Council. For reasons of continuity, at the end of the term, fifty percent of the members will be retained and other fifty percent can be replaced.
- 24.3.3 The Board Chairperson and members are nominated by the Director of Student Affairs and approved by the Higher Education Council for a term of one year.
- 24.3.4 Student representatives will be chosen by the Samahan Central Board from among their membership. Their appointment shall likewise be approved by the Higher Education Council.

2. THE AGS Code of Discipline

The Ateneo Grade School recognizes the fact that most students, given their current stage of development, do not yet possess the self control of mature individuals. Consequently, the school authorities, by virtue of their being *in loco parentis*, have set norms to help the students evolve into motivated self-disciplined individuals.

Discipline is looked upon as a very important tool for developing self control and for character formation. For this reason, good order and behavior are emphasized in Ateneo.

It is every student's personal obligation to know and obey the rules contained in this handbook as they are intended to bring about order. Every Atenean is a gentleman who is expected to behave in a manner that speaks well of his school and family.

An Atenean should aspire to be a gentleman at all times. He should show a deep respect for the sacredness of the human person both in himself and his fellowmen.

...

C. Disciplinary Code for Students of Grades 2 and 3

When applied to a student of the Primary Level (Grades 2 and 3), the star-bar system shall serve as a measuring device or as a running score indicative of his conduct and behavior in the grade level.

D. Disciplinary Code for Students from Grade 4 to 7

The merit-demerit system, when applied to a student of the Grade School, shall serve as a measuring device or a running score indicative of his conduct and behavior during his stay in the Middle School. Merits and demerits given by the Grade Level Coordinators are considered national merits and demerits.

Merit Awards and Demerits

1. Please refer to "Chapter VI: Policy Guidelines on Honors and Awards."
2. Demerits shall be imposed in the following manner.
 - a. One demerit for every official warning from the Grade Level Coordinator.
 - b. One demerit for each 'D' mark in deportment.
 - c. Two demerits for every day of benching.
 - d. Three demerits for every day of suspension.
3. Earned demerits and demerits cancel out each other on a one-to-one correspondence.
4. A student shall be allowed a maximum of 25 demerits during his stay in the Grade School.
5. At the end of the school year, all demerits shall be carried over to the next school year.
6. Official action on demerits are as follows:
 - a. The Grade Level Coordinator sends an official written notification to parents each time a demerit is imposed on a student.
 - b. When a student accumulates ten (10) or more demerits, he is immediately placed on probation.
 - c. A student is placed on strict probation as soon as he accumulates fifteen (15) demerits. The parents sign a written agreement with the Assistant Headmaster for Academic Affairs.

- b. The GLC sends for the parents to notify them of the suspension. The suspension starts on the day after the conference with the parents/guardian. The suspended student reports to the GLC to do whatever work may be assigned to him.
- c. The notice of suspension shall either be posted on the grade level bulleting board or announced to the grade level concerned (Grades 4 to 7).
- d. Non-school days, Sundays and holidays (foreseen or not) are not counted as part of an offender's period of suspension.
- e. Upon his return to school, the student must report to the GLC for re-admission.

6. Dismissal/Exclusion

The procedure observed is as follows:

- a. The class teacher submits a written report to the GLC of the grade level concerned stating the nature and the circumstances of the offense, including any evidence or materials relevant to the case.
- b. The GLC the conducts an investigation of the case during which the student is called to give his side. The GLC submits a report of his findings to the Headmaster.
- c. The Headmaster convenes the Disciplinary Board composed of the Assistant Headmaster, the Grade Level Coordinator, the Child Development Center (CDC) counselor, and the Grade Level Parent Representative Chairperson. The classroom teacher shall attend the session as a resource person who will shed light on the case. The CDC Coordinator and other school personnel who could help the Board make a fair and objective evaluation may also be invited.
- d. The Board shall evaluate the case and submit its recommendation to the Headmaster for review and approval. The Headmaster makes a decision and forwards it to the President of the University.

7. Expulsion

Expulsion/Dismissal is the most serious of all penalties. A student who is expelled or dismissed from school is debarred from all private and public schools. (Cf. Amendment to paragraph 146, subparagraph (a) and (c) of the 'Manual of Regulations for Private Schools,' first edition, 1995). Hence, student is expelled or dismissed only if he commits an offense that merits separation from the Ateneo or after probation was attempted but failed to effect the desired improvement on the part of the erring student.

F. Official Disciplinary Sanctions for Grades 2 to 7

1. The Sanctions

- a. For minor infractions:
Writing extra lines or jugs, and a deprivation of privileges.
- b. For more serious infractions:
 - i. Warning – issued by the Grade Level Coordinator.
 - ii. grounding – issued to Primary School students.
 - iii. Benching – issued to Middle School students.

- n. Smoking, including the possession of cigarettes
Sanction may range from one to four days' grounding/suspension.
- o. Gambling
Sanction may range from a warning to a three-day grounding/suspension, depending on the gravity of the offense.
- p. Possession and/or passing of pornographic or indecent literature
Sanction may range from a warning to a five-day grounding/suspension.
- q. Stealing or extortion
Any sanction from one to five days' grounding/suspension.
- r. Possession of a deadly weapon
Sanction may range from two to five days' grounding/suspension.
- s. Membership in organizations or fraternities banned by the school
The sanction is outright separation.
- t. Possession of prohibited drugs
The Ateneo considers the possession of prohibited drugs a very serious violation, as it is both physically and morally harmful. Thus, the sanction for such is outright separation.
- u. Other offenses similar or related to those mentioned above
The sanction will depend on the gravity of the offense. Offenses not mentioned will be treated on a case-to-case basis.

G. Offenses According to Penalties

A penalty is determined by the gravity of the offense. Where the offense has a minimum and maximum penalty, the GLC decides on which penalty to apply, depending on the intention of the offender, the gravity of the offense and the circumstances surrounding the case.

- 1. Offenses Punishable with Jug
 - a. Classroom misbehavior or the disturbance of classes. However, the penalty may be raised to a warning or benching, depending on the gravity of the case.
 - b. Failure to perform an assigned task.
 - c. Improper behavior during flag ceremony, the Morning Prayer, the Holy Mass, assemblies and the like.
 - d. Improper use of classroom or school facilities. Second offense merits benching or suspension. Reparation shall also be required for any damage caused.
 - e. No excuse slip after absence/tardiness. A student who consistently fails to bring an excuse slip is referred to the GLC.
- 2. Offenses Punishable with Warning
 - a. Bringing unnecessary materials to school. The second offense is meted benching or a two-day suspension.
 - b. Bullying acts and malicious name-calling. The second offense is meted benching or one to three days' suspension depending on the gravity of the case.
 - c. Dishonesty in any form. The penalty may be raised to one to three days' suspension depending on the seriousness of the case.
 - d. Uniform code and haircut violation. Penalty may be raised to benching or suspension depending on the case.

gun, a letter-opener, a hammer, and the like. Depending on the gravity of the case, the penalty may be raised from one to five days' suspension, and possibly, to dismissal from the school.

- d. Driving any kind of motor vehicle inside the campus. Depending on the gravity of the case, one to four days' suspension may be imposed.
- e. Possession and ownership of explosive materials. Exploding materials in school is banned. Where the explosion causes damage or injury, restitution or reparation shall be required. The penalty may be increased to dismissal depending on the circumstances and/or gravity of the damage or injury caused.
- f. Forgery. The act of presenting a document with a fake signature is considered forgery. One to two days' suspension may be imposed.
- g. Physical assault. Depending on the gravity of the case, the penalty may be raised to a suspension of one to three days', or dismissal from the school.
- h. Smoking and/or possession of a cigarette and/or any smoking paraphernalia. One to four days' suspension may be given depending on the gravity of the case.
- i. Theft/Extortion. Theft involves actually taking or stealing, or assisting in the acquisition of materials belonging to someone else without his consent. A duly authorized school personnel has the right to search students, their personal belongings and their lockers with the permission and in the presence of the GLC. Restitution or reparation shall be required for damage caused. The maximum penalty is dismissal.
- j. Truancy involves leaving the classrooms for an unreasonable length of time, or leaving the campus without permission. A student whose absence is NOT authorized by his parents or legal guardian is considered a TRUANT. Depending on the gravity of the case, one to three days' suspension may be imposed.

5. An offense is punishable with dismissal: membership in fraternities

Fraternities or societies that are secret in nature foster loyalty to the group, whether rightly or wrongly. In principle, they run contrary to moral values and the school order. Consequently, membership in such groups is cause for dismissal from the school.

6. Offense punishable with expulsion:

The illegal possession/ownership/use of prohibited or dangerous drugs.

Any student found to be in possession of, actually taking or using, buying or selling, giving or trafficking barbiturates, hypnotic amphetamines, suppressants, marijuana or other dangerous/prohibited drugs in the University premises or its extension facilities, or during school activities, is subject to expulsion from the school. The school deems all these substances physically or morally harmful. Any student found guilty of such an offense can be meted outright separation from the school, even if he has not reached the maximum 25 demerits.

H. Ateneo is a Peace Zone

The Ateneo campus has been declared a Peace Zone. The Ateneo Grade School subscribes to the advocacy of a gun-less society. In this regard, bringing any type of gun to school is strictly prohibited.

I. The Disciplinary Board

The Disciplinary Board is an ad hoc Body convened by the Headmaster whenever a disciplinary case involving penalties like expulsion, dismissal or the mandatory withdrawal of a student from the Ateneo is being contemplated.

The Board performs the following functions:

1. It reviews the facts of the case as presented by GLC.
2. It ensures that due process has been observed in the investigation of the case.
3. It affirms whether or not there has been a serious violation of the Code of Discipline of the school.
4. It recommends appropriate action to the Headmaster.

C. COLEGIO DE SAN LORENZO

Quezon City

Student's Handbook

SCHOOL DISCIPLINE

The Ruizian should understand the importance of maintaining school discipline and of complying with disciplinary rules set forth by the school in accordance with government regulations.

- a. Every school is required by DECS to maintain discipline and to improve disciplinary measures for offense which warrants it. These disciplinary measures are designed to develop among the pupils/ students the highest standard of decency, morality and good behavior.
- b. The causes for which students may be subjected to disciplinary action are classified as follows:
 1. As a general rule, the following offenses are punishable by dropping even only for the first offense:
 - Sale, use or possession of narcotics or dangerous drugs
 - Fraternity affiliation
 2. Major Offenses
 - Immoral conduct committed within the school and in appropriate cases, outside the limits of the school premise
 - Stealing and other forms of dishonesty
 - Smoking, gambling, bringing in liquor or drunkenness while in the school premises
 - Extortion
 - Vandalism or destruction of school property, including writing on the walls and desks/armchairs
 - Carrying unauthorized deadly/harmful weapons or explosives within the school premises (including toy guns).
 - Assault upon administrators, teachers, employees and students as well as uttering defamatory or libelous statements against them.
 - Disrespect, disobedience and dishonesty to school authorities and personnel
 - Forgery, falsification and tampering of school records

- Possession, exhibition and display of pornographic materials
- Hazing in any form committed in connection with any student activity whether within or outside school limits
- Use of obscene/indecent language
- Provoking fights/fist duels
- Gross misconduct
- Frequent and continued disregard of school rules and regulations despite repeated warnings
- Disturbance, obstruction or interference with the normal functioning of classes, school offices and recognized school activities
- Inflicting physical harm
- Using the name of the school in undertaking unauthorized projects/activities
- Direct or indirect involvement in activities that will give the school a bad image
- Cutting classes and leaving the school campus during the school hours without permission
- Wearing of uniform in public places like movie houses, groceries, fun centers (ie, computer, play station, billiards, etc) or any places for gallivanting

3. Minor Offenses

- Improper and wrong use of uniforms
- Failure to wear one's ID
- Improper haircut/hair color
- Having long nails/wearing nail polish
- Violation of Library, Laboratory, H.E. rules
- Non-submission of letter of excuse
- Buying food outside the school during school hours
- Disruption of classes and making unnecessary noise during cultural presentations, religious activities and other related assemblies
- Eating during class hours
- Leaving the room during class hours without permission
- Littering
- Sitting on teacher's table
- Staying in the room during recess and dismissal time
- Use of comfort rooms not assigned to the grade/year level
- Staying in rooms not assigned to his section
- Wearing of earrings (boys)
- Loitering in the corridors
- Non-observance of curfew hours (5:00)
- Disregarding safety rules
- Refusal to obey traffic rules in the stairways, corridors and the gates

C. Disciplinary Procedure

1. Minor offenses and violation of rules in the classrooms are handled by the teachers concerned who take these into consideration when they compute the conduct marks.
2. Repeated and/or serious violation of rules are referred to the Prefect of Discipline, Guidance Counselor and reported to the Assistant Principal, then to the Principal.
3. Appropriate disciplinary action is given after due investigation by the Committee on Discipline.
4. Being placed on probationary status.
5. Dismissal if no improvement is noted during the probationary period.

D. Disciplinary measures take the form of:

1. Oral warning
2. Written warning
3. Suspension from classes & doing special tasks

E. Sanctions/Punishments

1. For major offenses after investigation has been made [suspension, dismissal and/or expulsion]
2. For minor offenses letter c.1 above is followed

F. Cheating during tests and examinations or with the intention to cheat.

A student caught cheating and/or with intention to cheat automatically gets a zero for the quiz or unit test. For periodical tests he automatically gets a grade of 70 in the subject for the grading period and is placed on conduct probation. In case he is an officer or an honor student he is dropped from his position or rank.

D. COLEGIO DE STA. MARIA
Bagbaguin, Sta. Maria, Bulacan

STUDENT'S HANDBOOK
General Guidelines on School Discipline

The school classifies the offenses into minor, major and special cases.

THE MINOR CASES INCLUDE:

1. Littering
2. Failure to submit return slip to the adviser
3. Misbehavior during program and other activities
4. Eating inside the classroom
5. Howling/shouting inside the classroom and along the corridor and stairways

6. No patch on boys' polo shirt and necktie among girls
7. Not pinning the school ID
8. Staying in the house of classmates after class hours
9. Using cellphone, gameboys, walkman and the like during class hours

THE MAJOR OFFENSES:

1. The improper wearing of school uniform (rubber shoes, printed T-shirt)
2. Habitual tardiness
3. Wearing earrings (boys)
4. Boisterous conduct inside the classroom and other misdemeanor
5. Improper haircut, unnecessary coloring of hair (boys and girls)
6. Bringing to school/or possessing or circulating pornographic pictures and/or literature
7. Destroying school property or fixtures (including writing on walls and desks)
8. Breach of promise
9. Saying bad words
10. Disobedient
11. Defiant behavior/attitude towards school and authorities
12. Public display of affection (kissing, holding hands, embracing, sitting and lying on laps)

DISCIPLINARY SANCTIONS

Disciplinary occurrence the offense was committed to the nature and gravity of the offense committed may be imposed upon erring students [sic].

MINOR OFFENSE:

- First: Warning reprimand.
The student's offense is entered in the class logbook.
- Second: Parents are called to the office (Parent-Adviser Conference).
The student serves his confinement.
- Third: Parent – Adviser – Guidance Counselor Conference.
The student is suspended for one (1) day.
- Fourth: Parent – Adviser – Guidance Counselor Conference.
The student is suspended for one (1) week.
- Fifth: Parent – Adviser – Guidance Counselor Conference.
Warning before dismissal.
- Sixth: Parent – Principal – Guidance Counselor Conference.
The student is advised to transfer to another school.

MAJOR OFFENSE:

- First. Parents are called to the office (Parent – Adviser – Guidance Counselor Conference) the student is suspended for three (days)
- Second. Parents are called to the office (Parent – Adviser – Guidance Counselor Conference) the student is suspended for one (1) week
- Third. Parents are called to the office (Parent – Adviser – Guidance Counselor Conference) the student is suspended for three (3) weeks

- Fourth. Parents are called to the office (Parent – Adviser – Guidance Counselor Conference) the student is [given a] warning for dismissal
- Fifth. Parents are called to the office (Parent – Adviser – Guidance Counselor Conference) the student is advised to transfer to another school

SPECIAL CASES:

Parents are called to the office and the students will be given one-week suspension and a warning before dismissal.

- a. Tampering with records and/or documents and forging teacher's signature
- b. Assaulting and/or insulting a teacher or any school authority
- c. Engaging in vices such as gambling, smoking and drinking alcoholic beverages, including bringing of school paraphernalia
- d. Stealing property of the school or the students
- e. Bringing to school or possessing deadly weapons
- f. Cutting classes
- g. Going out of the campus without permission (escaping)
- h. Truancy
- i. Cheating in examination – the test will be invalidated and the students will receive or be given demerit of two points in conduct.
 - Forms of cheating
 - a. Dictation of answer including whispering and using signs
 - b. Copying answers from seatmates
 - c. Bringing or using materials which will lead to cheating
 - d. Leakage
- j. Fighting/inflicting physical injury
 - a. Fighting with physical injury (recommended for transfer)
 - b. Fighting outside the school campus or in public within the vicinity (recommended for transfer)
 - c. Petty quarrel (including saying bad words) – one week suspension
- k. Students who are caught roaming around and inside the malls and department stores in uniform (especially during class hours)
- l. Students caught stealing inside the malls and department stores
- m. Joining organizations not recognized by the schools like gangs and fraternities – parents are called to the office and the student is advised to transfer to another school
- n. Taking prohibited drugs causing ... others to take the same. Parents are called to the office and the students are advised to transfer to another school.
- o. Elopement, pregnancy. Students will be advised to transfer to another school

NOTE: No certification of good moral character will be issued to students with records of offenses.

E. EARLY CHRISTIAN SCHOOL
Poblacion, Sta. Maria Bulacan
Student Handbook

ANNEX B
OFFENSES AND PENALTIES

1. Expulsion/Dismissal – A student who is expelled from the school is debarred from public an private schools. The following offenses merit the penalty of expulsion or dismissal depending on the nature and gravity of the offense committed.
 - a. Frequent and continued disregard of school rules and regulations.
 - b. Gross dishonesty or stealing, lying, deception.
 - c. Hazing or any activity tending to hazing.
 - d. Carrying deadly weapons or fighting with the use of deadly weapons inside and outside the school campus.
 - e. Immorality.
 - f. Possessing, using, trafficking in or selling narcotics, prohibited and regulated drugs and alcoholic drugs.
 - g. Vandalism or malicious damage or destruction of school property and that of other's.
 - h. Hooliganism in or off the school premises.
 - i. Preventing or threatening personally or through a third party students or faculty members or school authorities from discharging their duties or from attending classes or entering the school premises.
 - j. Assaulting a teacher, student or any other school authority.
 - k. Instigating or engaging in activities resulting in damage to campus or school facilities/property or injury to persons.
 - l. Forging or tampering records or transfer forms or securing or using forged transfer credentials.
 - m. Incurigible absences, tardiness and truancy.
 - n. Gross disrespect for or disobedience to school authorities and personnel.
 - o. Bringing/Distributing/Selling pornographic or indecent materials.
 - p. Cheating during examination or colluding to enable others to cheat or tamper test results (second offense).
 - q. Bribing personnel and others to have access to and/or possess examination papers, school record or any personal record.
 - r. Extorting money or in kind or soliciting unauthorized contributions.
 - s. Membership in unauthorized fraternities or organization.
 - t. Recruiting members for unauthorized fraternities or organization.
 - u. Any off-campus activity detrimental to the name of the school.
 - v. Any offense similar or analogous to these.

2. Suspension. – Suspension is given to a student whose offense merits a sanction short of dismissal. It means exclusion from classes to a certain period of time. A student who is suspended a second time is put on Probation, while a third time shall merit Dismissal. The following offenses carry the penalty of suspension:
 - a. Use of foul abusive language.

- b. Forgery of parent's signature in Report Cards, reply slips, excuse letter and notices.
 - c. Gambling irrespective of the kind or amount of the bet.
 - d. Tampering with bulletin board notices and the things of others.
 - e. Possession and use of firecrackers and other pyrotechnic wares.
 - f. Cheating during examination or colluding to enable others to cheat or tamper test results including possession or reviewer or codigo within reach.
 - g. Fighting with physical injury inside and outside the campus.
 - h. Smoking inside and outside the campus.
 - i. Five unexcused absences.
 - j. Five unexcused tardiness.
 - k. Leaving the school without permission/cutting classes.
 - l. Possessing/lending pornographic or indecent materials.
 - m. Any offense similar or analogous to these.
3. Warning – The following merit WARNING.
- a. Possession or cigarettes.
 - b. Curfew violation.¹⁹⁹
 - c. Loitering in corridors.
 - d. Inappropriate attire and appearance.
 - e. Entering class without an Admission Slip after having been late or absent.
 - f. Improper decorum during the flag ceremony.
 - g. Eating in the classroom.
 - h. Littering.
 - i. Unexcused Tardiness.
 - j. Misbehavior in the classroom or other places inside the school. Playing/Running/Chasing one another inside the classroom and along the corridors or in the campus.
 - k. Deliberate negligence in the performance of assigned duties, such as not bringing assigned books or materials to class.
 - l. Leaving the classroom without permission from the teacher.
 - m. Fighting inside or outside the school depending on the nature of the case.
 - n. Any offense similar or analogous to the above mentioned.

NOTE: Repeated/Accumulated violation of the above shall merit SUSPENSION.

¹⁹⁹ By 5:45 p.m., all students are expected to have left the campus. In case a student or a group would like to stay late, a written request to stay late must be submitted to the Principal for proper notification.

F. MANILA CENTRAL UNIVERSITY
Caloocan City
Student Handbook (revised 2003)

VII. TABLE OF OFFENSES AND CORRESPONDING PENALTIES FOR STUDENT MISDEMEANOR

Following are offenses with their corresponding sanctions:

LEGEND: Reprimand (R)
 Suspension (S)
 (S-3) For three days
 (S-5) For five days
 (S-7) For seven days
 (S-10) For ten days
 Failure (F) In examination
 Non-Readmission (NR)

MINOR OFFENSES	1 st	2 nd	3 rd	4 th
1. Not wearing proper ID/uniform	R	S-3	S-7	NR
2. Lending one's ID card/library card, for the use of another person and other forms of misrepresentation	S-3	S-7	S-10	NR
3. Unofficial use of vacant rooms, making noise in classrooms and loitering in corridors	R	S-3	S-5	NR
4. Male-Sporting long hair, wearing earrings on any part of the body; Female-Above the knee skirts, using clogs, sandals	R	S-3	S-5	NR
5. Littering or any form of unsanitary acts, eg, spitting, urinating anywhere in the campus premises	R	S-3	S-5	NR
6. Use of vulgar, disrespectful, indecent or profane language that may injure the feelings of				
a) other students	R	S-3	S-5	NR
b) any employee, faculty member or any official of MCU	R	S-3	S-5	NR

MAJOR OFFENSES	1 st	2 nd	3 rd	4 th
1. Cheating during examinations	F	F&NR		
2. Smoking in the classroom, laboratory, library, hallway, corridors, other enclosed places within the university or any area within the University grounds	S-3	S-5	S-7	NR
3. Creating unnecessary noise or causing commotion of any kind during programs, convocations or other functions	S-5	S-7	S-10	NR
4. Vandalism (Sketching, etching, carving, engraving, drawing/printing words and figures) on any property of MCU	S-10	NR		
5. Gambling and its many forms	S-5	S-7	NR	
6. Inflicting physical injury on other persons	NR			
7. Carrying deadly weapons inside the University	NR			
8. Removing official notices and posters from the bulletin board without authorization; unauthorized alteration or erasure of official announcements	S-7	S-10	NR	
9. Willful abuse/misuse or deliberate destruction of MCU property resulting in damage (expenses shall be charged to the offender)	S-10	NR		
10. Bringing into the campus alcoholic drinks and/or prohibited drugs or reporting to class under the influence of drugs and/or liquor	NR			
11. Bringing into the campus pornographic or lewd materials	NR			
12. Submitting false or misleading statements to the University, publishing or disseminating false and derogatory information about the University, its officials, faculty members, employees and students (fraud/and slander)	NR			

Continued on next page...

...Continued Major Offenses

MAJOR OFFENSES	1 st	2 nd	3 rd	4 th
13. Forging signatures, tampering with school records or credentials, or securing or using forged materials.	NR			
14. Stealing	NR			
15. Unauthorized use and/or operation of machines, tools or equipment of the University	S-10	NR		
16. Malicious remarks or oral defamation resulting in injury to the reputation of another person	S-10	NR		
17. Unauthorized solicitation or contribution of cash from fellow students or employee or faculty member of MCU	S-10 (written apology)	NR (written apology)		
18. Unauthorized use/misuse of college/ organizational funds (misappropriation of funds)	S-10 (payment of misappropriated funds)	NR (payment of misappropriated funds)		
19. Unauthorized use of the name of MCU	NR			
20. Preventing the entrance/exit of any student, faculty member, employee to/ from MCU with grave threats	S-10	NR		
21. Willful affiliation with any unrecognized student organization within MCU	S-5	S-10	NR	
22. Involvement in any activity that may cause physical injury or loss of life.	NR			

G. MATTER DEI ACADEMY
Km. 39 Pulong Buhangin, Sta. Maria, Bulacan
Student's Handbook on School Rules and Regulations

VII. COMMITTEE ON DISCIPLINE

- A. This committee is composed of the class adviser, the teacher/school authority reporting the case and a neutral teacher.
- B. The committee investigates and makes a final recommendation to the Officer-in Charge after student involved has undergone due process and consultation with the parents/guardians.
- C. This committee will deal with only grave disciplinary cases. Other offenses will be supervised by the class adviser.

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XII. GENERAL BEHAVIOR/CONDUCT

- A. The following acts committed for the first time are considered violations of the school rules and regulations. These are subject to warning and conference:
 - 1. Truancy
 - a. Leaving the school campus without permission during class hours.
 - b. Cutting classes.
 - c. Gallivanting while wearing the school uniform instead of reporting to class.
 - 2. Vandalism
 - a. Spoiling or destroying school property.
 - b. Writing on walls, tables, chairs, etc
 - c. Destroying notices of the school/bulletin boards and displays.
 - 3. Forgery
 - a. Falsification of letters/signatures in report cards and other school records.
 - b. Altering or erasing remarks in official communications of the school.
 - 4. Insubordination to School Authorities
 - a. Defiance/disrespect towards school authorities.
 - b. Instigating others to insubordination.
 - c. Causing incidents harmful to the good name of the school.
 - d. Spreading false orders (Official announcements come from the Office)
 - 5. Disruption of Classes
 - Threatening and/or preventing:
 - a. Students from attending classes
 - b. Teachers and other school authorities from discharging their duties

6. Fighting, smoking, drunkenness, gambling and stealing.
7. Cheating in any form during tests and examinations.
8. Membership in fraternities or any organization inimical to the integrity of the school.
9. Possession and distribution of pornographic and other smutty materials.
10. Improper/not wearing the school and P.E. uniform and official ID.
11. Unauthorized haircut.
12. Littering.
13. Non-submission of report cards and other official correspondence on or before the deadline.
14. Violation of library rules.
15. Drinking alcohol.
16. Use of indecent language.
17. House playing or playing practical jokes, shouting/howling inside the classroom, library, corridors, assembly area, canteen and office.
18. Overstaying in the campus after school hours.
19. Indecent acts.
20. Boys making fun/maligning girls or vice versa.

[Note: Grievous offense of any of the above is subject to suspension/dismissal from school.]

- B. The following acts are considered as gross offense. These will be ground for disqualification for readmission/graduation:
1. Gross vandalism.
 2. Hazing.
 3. Immorality.
 4. Assault of teacher or any person in authority.
 5. Carrying deadly weapon.
 6. Instigating, leading, participating in concerted activities tending to stop or disrupt classes and other school activities.
 7. Forging or tampering with school official record.
 8. Drug-taking, drug-pushing or possession of drugs.
 9. Publishing or circulating false or malicious information about the school, a teacher or any school official, or student.
 10. Theft or robbery.
 11. Lying in official investigation or hearing.
 12. Extortion.
 13. Direct or indirect involvement in examination leakage.

14. Dishonesty such as malversation of class or school funds, cheating in personal dealings with other members of the community, not returning found articles and other forms of dishonesty.
15. Affiliation with an organization whose objectives and/or activities are contrary to school objectives, policies and rules.
16. Continued disregard to school policies and rules.
17. All other offenses which the school deems serious.

H. NUESTRA SENORA DE ARANZU PAROCHIAL SCHOOL²⁰⁰
San Mateo, Rizal

1. Maintenance of Discipline

Every School is required by government regulation to maintain discipline and to issue disciplinary rules for strict compliance. They are designed to develop among students the highest standard of decency, morality and good behavior.

1. Any student who, after due investigation, has been found guilty of violating any disciplinary rule shall be punished in accordance with the provisions as specified in the NSDAPS Student Handbook.
2. A record of the investigation and the action taken by the school authorities shall be kept by the school.

2. Rules and Regulations

Students are expected to familiarize themselves of the general disciplinary rules of the school contained in the NSDAPS Students Handbook.

A student who has been proven unsatisfactory through repeated violations are placed on disciplinary probation. Such probation is considered a serious warning that any subsequent violation shall be a basis for dismissal or expulsion.

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E. Causes for Disciplinary Action

1. Frequent tardiness and absence (this includes cutting classes)
2. Truancy
3. Immoral conduct committed within the school and in appropriate cases, outside the limits of the school premises.
4. Stealing
5. Smoking
6. Bringing liquor or drunkenness when in the school premises.
7. Gambling in any form within the school premises.

200 http://www.geocities.com/nsda_ps/podiscipline.htm

8. Vandalism, such as tearing off or defacing any library book or magazine, writing or drawing on the walls, breaking glass windows and electrical gadgets, unauthorized removal of notices and posters from the bulletin boards, and similar acts.
9. Carrying unauthorized deadly / harmful weapons or explosive tear gas within the school premises.
10. Assault upon administration, teachers, employees and other students, as well as writing or uttering defamatory or libelous statements against them.
11. Tampering or forging school records and credentials, and using them, knowing them to be tampered or forged.
12. Giving and submitting fake, fabricated or misleading information in any official record or document submitted to the school administration.
13. Organizing, recruiting and joining any fraternity / sorority unauthorized by the school, or any subversive organization in or outside of the school.
14. Hazing in any form, committed in connection with any student activity, whether within or outside the school premises. Due to serious injuries to health and even death of victims of hazing, the following penalty / action may be adopted depending upon the gravity of the case:
 - recruiters who undertake the hazing may be dismissed / dropped or excluded from the school roll immediately.
 - victims of hazing (whether voluntary or not) may be allowed to finish the school year but will be asked to transfer to another school at the end of the school year.
15. Discourtesy to school officials, faculty members and non-academic employees.
16. Disturbance, obstruction or interference with the normal functioning of classes, school offices and recognized school activities.
17. The use, possession, sale or distribution of narcotics or dangerous drugs, such as shabu, marijuana or lysergic acid (LSD), except when expressly permitted by law.
18. Theft or damage to the school property owned by any member of the school community.
19. Bringing, possession, exhibition and / or display any obscene or pornographic magazine or picture within the school premises.

Any other causes analogous to the foregoing as may be deemed appropriate.

F. Categories of Administrative Penalties

The three (3) categories of disciplinary administrative sanctions for serious offenses or violation of school rules and regulations which may be applied upon an erring student are:

1. Suspension is the penalty in which the school is allowed to deny or deprive an erring student of attendance in classes for a period not exceeding twenty (20%) percent of the prescribed class days for the school year or term.
The decision of the school on every case involving the penalty of suspension exceeds twenty (20%) percent of the prescribed school year of term shall be forwarded to the DepEd Regional Office concerned within ten (10) days from the termination of the investigation of each case for its information.
2. Exclusion or Dismissal is a penalty in which the school is allowed to exclude or drop the name of the erring student from the school roll for being undesirable; and transfer credentials immediately

LESS GRAVE OFFENSES are punishable by Suspension (1st Offense) and Dismissal (repeated offense or commission of more than one type of offense). IN addition to the proper punishment, cheating or plagiarism shall be punishable by a failing mark in the academic requirement.

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GRAVE OFFENSES are punishable upon first commission of an offense, by Dismissal or Expulsion.

J. ST. PAUL OF COLLEGE
Bocaue, Bulacan
Handbook of Information

STEPS FOR DISCIPLINARY ACTION

The Homeroom Adviser handles routine disciplinary cases in the section and keeps the Year Level Coordinator informed. Minor offenses are dealt with by the Homeroom Adviser.

1. Anyone who witnessed the commission of an offense is expected to immediately report or inform the proper school authorities. Initial investigation should commence immediately.
2. The case is then forwarded to the SWC²⁰¹ for investigation. The student concerned is given the opportunity to defend himself/herself from the accusations and to present evidence or witnesses to clear him/her.
3. The SWC chairman convenes the Disciplinary Board composed of the following: Class Adviser, Year Level Coordinator, and other persons significant to the case.
4. The SWC chairman informs the Principal of the case and its recommended resolution.
5. After the Principal has approved the sanction, the SWC Chairman summons the parents and the corresponding appropriate sanction is presented to them. The violation report is signed by the parent and the Principal.
6. Sanction is implemented.

OFFENSES AND SANCTIONS

1. Minor offenses
 - a. Not wearing the school uniform properly
 - ...
 - b. Yelling, boisterous laughter in the classroom, the canteen, or along the corridors.
 - c. Tardiness after recess or lunch break.
 - d. Unnecessary writing on the board.
 - e. Going out during class hours without permission.

- f. Loitering.
- g. Littering.
- h. Bringing things that cause disturbance of classes.
- i. Escaping from cleaning responsibility.
- j. Swapping of ID card.

Sanctions for Minor Offenses:

- 1st offense: oral reprimand
- 2nd offense: warning notice
- 3rd offense: deduction from the conduct grade

2. Major Offenses and their sanctions:

2.1 70% in conduct for the following moderately grave offenses:

- 1.1.1 Forging signatures on letters, report cards, or tampering with grades.
- 1.1.2 Minor forms of cheating in quizzes, periodic test, projects.
- 1.1.3 Cutting classes (missing one or two subjects without permission; student is inside the campus)
- 1.1.4 Truancy (missing classes without permission from parents and school authorities; student is outside the campus).
- 1.1.5 Dishonesty or misleading statements or information during an investigation.
- 1.1.6 Fighting in any form or inducing others to fight.
- 1.1.7 Use of profane language.
- 1.1.8 Possessing cigarettes.
- 1.1.9 Possessing gambling materials.
- 1.1.10 Vandalism, which includes writing and scratching chairs, tables, walls.
- 1.1.11 Possessing alcoholic drinks.

2.2 Suspension with 70% in conduct for the following grave offenses:

- 1.1.1 Gambling in any form/betting in sports events inside or outside the school campus.
- 1.1.2 Smoking inside or outside of the school campus.
- 1.1.3 Drinking alcoholic beverages inside or outside of the school campus.
- 1.1.4 Gross forms of cheating.
- 1.1.5 Repeated truancy.
- 1.1.6 Repeated cutting classes.
- 1.1.7 Disrespect to Authorities, faculty, Staff, Maintenance and Security personnel.
- 1.1.8 Possessing, disseminating or showing pornographic materials.
- 1.1.9 Major forms of vandalism, like deliberate destruction of chairs, tables, toilet bowls, doors, and manipulating alarms.
- 1.1.10 Illegal collection or solicitation of money, checks or other instruments used as equivalent of money.
- 1.1.11 Stealing or shoplifting.
- 1.1.12 Repeated fighting.

- 1.1.13 Insubordination or influencing others to insubordination.
- 1.1.14 Coming to school under the influence of alcohol.
- 1.1.15 Petting, necking
- 1.1.16 Carrying deadly weapon.

2.3 Dropping out from the enrollment list for the following extremely grave Offenses:

- 1.1.1 Receiving two disciplinary probation sanctions.
- 1.1.2 Willful stoppage of classes.
- 1.1.3 Possession/use of firearms and explosives and threatening others with them.
- 1.1.4 Use of deadly weapon to inflict harm.
- 1.1.5 Immoral conduct, which includes pre-marital sex, eloping, incest, and exhibition.
- 1.1.6 Possessing, passing, pushing or using prohibited or dangerous drugs in or out of the school campus.
- 1.1.7 Threatening or preventing students, Faculty, members, personnel, or members of the administration from discharging their duties, attending classes, or entering the school premises.
- 1.1.8 Organizing or membership in fraternities, sororities, pseudo fraternities, gangs or other organizations deemed contrary to SPCB's²⁰² ideals and aspirations in the pursuit of quality Christian education.
- 1.1.9 Leading or participating in rallies, demonstrations, assemblies, strikes or other forms of radical expression of opinions or grievances against students, faculty members, the administration, or school policies.
- 1.1.10 Gross disrespect to students, student leaders, or school authorities, especially during the exercise of their official functions.
- 1.1.11 Abortion.
- 1.1.12 Possessing, sneaking in, or bringing unauthorized firecrackers and other forms of explosive.

Article 2
RIGHTS AND OBLIGATIONS OF THE CHILD

...

Section 8.

Rights of the Child. –

- a. All children shall be entitled to the rights herein set forth without distinction as to legitimacy, sex, social status, religion, political antecedents, and other factors.
- b. All Children shall possess the following rights which are classified into survival, development, protection and participation rights:
 1. Survival rights ensure children the inherent right to life and to the needs that are most basic to existence, the right to name and nationality, the right to identify and those dealing with parental and governmental duties and obligations, adequate and decent standard of living, access to basic healthcare and medical services, social security and rehabilitation. The following are the survival rights:
 - a. Children have the right to be born well, endowed with the dignity and worth of a human being from the moment of his/her conception.
 - b. *Children have the right to wholesome family life that will provide them love, care and understanding, guidance and counseling and moral and material security.* Dependent or abandoned children shall be provided with nearest substitute of a home.
 - c. Children have the right to a balanced diet, adequate clothing, sufficient shelter, proper medical attention, and all the basic physical requirements of a healthy and vigorous life.
 2. ‘Development Rights’ refer to the rights of a child to education to develop the child’s personality, talent and mental and physical abilities to the fullest extent, cultural activities, access to appropriate and relevant information, opportunity for rest, play and leisure, rights to freedom of thought, conscience and religion and the right to education. The following are the development rights:
 - a. Children shall have the right to a well-rounded development of their personality to the end that they may become happy, useful, and active members of society.
 - a.1. Gifted children shall be given the opportunity and encouragement to develop their special talents.
 - a.2. Emotionally disturbed or socially maladjusted children shall be treated with sympathy and understanding, and shall be entitled to treatment and competent care
 - a.3. Physically or mentally disabled children shall be given treatment, education and care required by their particular condition.
 - b. Children have the right to be brought up in an atmosphere of morality and rectitude for the enrichment and the strengthening of their character.
 - c. Children have the right to grow up as free individuals in an atmosphere of peace, understanding, tolerance and universal brother/sisterhood, and with the determination to contribute their share in the building of a better world.
 - d. Children have the right to education. Primary education must be compulsory and higher education must be available and accessible to all on the basis of capacity by every appropriate means:

- d.1. To develop children's personality, talents and mental and physical abilities to the fullest extent;
 - d.2. To prepare children for an actual adult life in a free society;
 - d.3. *To foster respect for their parents, their cultural identity, language and values, and for the cultural background and values of others.*
 - d.4 To develop respect for the national environment.
1. 'Protection Rights' cover those rights for the protection of children from all forms of abuses and discrimination such as protection from cruelty, torture, arbitrary separation from family, abuses in the justice and penal system, involvement in armed conflict, child labor, drug abuse, sexual abuse, and exploitation.
 2. 'Participation Rights' refer to children's rights to participate in matters that affect them most by providing all appropriate venues where children can express their opinions freely and to have these opinions taken into account, involvement in decision-making and consultative process, freedom and association and assembly. The following are the participation rights:
 - a. Children have the right to be provided the opportunity to be.
 - b. Children have the right freedom of thought, conscience and heard in any judicial and administrative proceedings affecting them, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national laws, religion, subject to appropriate parental guidance.
 - c. Children have the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds.
 - d. Children have the right to express their opinion freely and to have opinion taken into account in any matter or procedure affecting them.
 - e. Children have a right to privacy.

Section 9

Responsibilities of the Child. Children regardless of the circumstances of birth, sex, religion, social status, political antecedents and other factors shall:

- a. Strive to lead an upright and virtuous life in accordance with the tenets of their religion, the teaching of their elders and mentors, and the bidding of a clean conscience;
- b. *Love, respect and obey their parents, and cooperate with them in the strengthening of the family;*
- c. Extend to their brothers and sisters their love, thoughtfulness, and helpfulness, and endeavor with them to keep the family harmonious and united;
- d. Exert their outmost to develop their potentialities for service, particularly by undergoing a formal education suited to their abilities, in order that they may become an asset to themselves and to society;
- e. *Respect not only their elders but also the customs and traditions of their people,* the memory of their heroes, the duly constituted authorities, the laws of their country and principles and institutions of democracy;
- f. Actively participate in civic affairs and in the promotion of the general welfare, recognizing that it is the youth who will eventually be called upon to discharge the responsibility of leadership in shaping the nation's future; and

- g. Help in the observance of individual human rights, the strengthening of freedom everywhere, the fostering of cooperation among nations in the pursuit of their common aspiration for unity and prosperity, and the furtherance of world peace.

Article 3

ROLES AND FUNCTIONS OF VARIOUS SECTORS

Section 10.

The Family. The family is the central unit responsible for the primary socialization of children that is important in the prevention of children's rights violations. Governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued.

Section 11.

Primary Rights of Parents. – The family has the primary responsibility of nurturing and protecting children from infancy to adolescence. Introduction of children to the culture, values and norms of their society shall begin in the family. The parents shall have the right to the company of their children and, in relation to all other persons or institutions dealing with children's development, the primary right and obligation to provide for their upbringing.

Section 12.

Rights Under the Family Code. – Parents shall continue to exercise the rights mentioned in Articles 209 to 237 of the Family Code over the person and property of their children.

Section 13.

Rights to Discipline Children. – *Parents have the right to discipline their children as may be necessary to the formation of their good character, provided it does not fall under the prohibited acts mentioned in this Code. Parents may require from their children obedience to just and reasonable rules, suggestions and admonitions.*

Section 14.

General Duties of Parents. – Parents shall have the following general duties toward their children:

- a. To give them affection, companionship and understanding;
- b. To extend to them the benefits of moral guidance, self-discipline and religious instruction;
- c. To supervise their activities, including their recreation;
- d. To inculcate in them the value of industry, thrift and self-reliance;
- e. To stimulate their interests in civic affairs, teach them the duties of citizenship, and develop their commitment to their country;
- f. To advice them properly on any matter affecting their development and well-being;
- g. To always set a good example.
- h. To provide them with adequate support, as defined in Article 194 of the Family Code; and
- i. To administer their property, if any, according to their best interest subject to the provisions of Article 225 to 227 of the Family Code.

...

- i. Refusal to Graduate by Reason of Pregnancy. For schools to refuse to graduate a child who has complied with or is willing to comply with all academic requirements by reason of pregnancy;
- j. Refusal to Issue Clearances by Reason of Pregnancy. For schools to refuse to issue clearances to child by reason of pregnancy;
- k. *Physical and Degrading Forms of Punishment. Subjecting the child to physical and degrading forms of punishment such as, but not limited to the following:*
 - 1) *Ordering or directing a child to kneel on salt;*
 - 2) *Placing a child inside a sack and/or hanging him/her;*
 - 3) *Shaving the head of a child;*
 - 4) *Harsh whipping of the child with the tail of a stingray (pagi), stick, belt and other objects;*
 - 5) *Stripping the child or his/her clothes;*
 - 6) *Locking up the child in a cabinet or aparador or any closed structure;*
 - 7) *Tying up the child or otherwise detaining him/her;*
 - 8) *Throwing of objects such as but not limited to eraser, chalk, notebook at the child;*
 - 9) *Pulling the hair of the child;*
 - 10) *Making the child stand under the heat of the sun;*
 - 11) *Exposing the child to be bitten by ants.*
- l. Pushing/Enticing Minors to Live-In Arrangements. It shall be unlawful for parents to entice, encourage and/or push their children to live together with any person as husband and wife in exchange for money or any other consideration;
- m. Sexual Exploitation of Minors. Sexual exploitation of children by any person, foreigner or otherwise, shall be prohibited. Consorting with children not related by affinity or consanguinity, with public display or lascivious conduct shall be considered prima facie evidence of sexual exploitation;
- n. Entry, Selling and Distribution of Pornographic Materials. The Local Councils for the Welfare of Children/local law enforcers shall monitor and prevent the entry of pornographic materials. It shall be unlawful for any person to sell and distribute such materials;
- o. Selling Liquor and Cigarettes to a Child. It shall be unlawful for any person to sell liquor or cigarette to children.

The above acts which are likewise punishable in R.A. 7610 or the Child Abuse Act. R.A. 7658 on Child Labor, the Revised Penal Code, or other pertinent nation, laws shall be penalized hereunder. Acts or omissions not falling under said laws shall be penalized by imprisonment of one (1) year and a fine of not more than P1,000.00.

Section 63.

Prohibited Acts Against Youth Offenders. Any and all acts and practices which are prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physician health and well-being of the minor shall be prohibited.

- d. Authorities shall refrain from employing threats of whatever kind and nature and/or abusive, coercive and punitive measures in dealing with minors. Such practices, whether committed directly or indirectly by person in authority, their representatives, or any other persons acting under them

or in their behalf – such as cursing, beating, stripping, and detaining minors in cells – shall be dealt with administratively and criminally;

- e. Likewise, degrading, inhuman and cruel forms of punishment such as shaving the heads of minors, pouring irritating, corrosive or harmful substances over their bodies, or forcing minors to walk around the community wearing sign which embarrass, humiliate, and degrade their personality and dignity and which harm them psychologically, emotionally, spiritually, morally, and physically shall be prohibited;
- f. No minors shall likewise be made subject to involuntary servitude in any and all forms under any and all instances by their arresting officers and/or custodians. Designating and/or compelling minors to act and serve as errand boys/girls, cleaners, or helpers are also prohibited.

Any violation shall be penalized with one (1) year imprisonment and a fine of not more than ONE THOUSAND PESOS (P1,000.00). However, if these violations are likewise penalized in any national law, the penalty imposed in such national shall be followed.

B. CAMARINES NORTE PROVINCE

OFFICE OF THE *SANGGUNIANG PANLALAWIGAN*

Excerpts from the Minutes of the 124th Regular Session of the Honorable Sangguniang Panlalawigan of Camarines Norte Held on February 2, 2001 at 9:00 A.M. at the Provincial Capitol Session Hall, Daet, Camarines Norte.

Section 6. Sanctuary or Foster Homes for Disadvantaged Children.

- (a) The provincial government in its efforts to establish a community-based strategy for the protection of abused, neglected, or exploited children shall be guided by the pertinent provisions of the implementing guidelines of RA 6972.
- (b) The Provincial Government shall enjoin every municipal government unit to develop and maintain a sanctuary or foster home for abused, neglected, or exploited children where they shall be placed temporarily for protective custody under the supervision of the Municipal Social Welfare and Development Officer.
- (c) The management of the foster home shall regularly coordinate with the BCWCs²⁰⁴ in the municipality or with any barangay level 'Bantay Bata' which later on may be established to be able to urgently respond to the needs of the victims of abuse, neglect or exploitation.
- (d) The duly accredited foster home in the municipality shall be the responsibility of the LGU concerned; however, it shall receive annual financial and other assistance from the Provincial Government.
- (e) Child welfare-oriented organizations and groups shall be encouraged by the provincial government to support and extend assistance to the foster home.

- (f) The foster home in cooperation with the aforesaid organizations and groups shall endeavor to design programs, counseling services and activities that will prevent abuse, neglect and exploitation in their respective areas through strategies like, but not limited to, information dissemination, education and advocacy and other programs that will help protect and fully rehabilitate the victims.
- (g) In cases where the parents or guardians themselves of the disadvantaged child are the perpetrators of the abuse, neglect or exploitation against the child, the management of the sanctuary or foster home shall be deemed as the legal guardian of the child until necessary rehabilitation of the parents or guardians shall have been effected.
- (h) The foster homes in the province shall be duly accredited by the Provincial Social Welfare and Development Office and their operation monitored by such office.

C. CEBU CITY

RESOLUTION NO. '00-2437

The *Sangguniang Panlungsod*²⁰⁵ of the City of Cebu, on motion of Member Legaspi, seconded by Member Beno, RESOLVED, to approved the following ordinance:

ORDINANCE NO. 1874

- e) 'Anti-Social Related Activities' are those acts against property, chastity and person which include but not limited to the following:
 - 1. Petty crimes such as snatching, shoplifting, misrepresentation;
 - 2. Using and pushing prohibited drugs, selling illegal or lewd reading materials;
 - 3. Pimping for young and old prostitutes and sexual perversion, doing or participating in obscene shows;
 - 4. Gambling of any form;
 - 5. Rape and incest; and
 - 6. Any other circumstances as defined in the existing laws.

Article II
Protection Rights of Children

Section 4. Programs on Child Exploitation, Discrimination and other forms of Child Abuse. – The existing programs of the city government which are being implemented by the Cebu City Task Force on Street Children to protect children against exploitation, discrimination and other forms of child abuse presently undertaken by the Cebu City Commission for the Welfare and Protection of Children in cooperation with the Cebu City Task Force on Street Children and other NGOs shall continue to be implemented.

The Commission shall formulate new and other effective programs to bring about a more comprehensive program for children.

Toward this end, the Sangguniang Panlungsod of the City of Cebu recently approved City Ordinance No. 1838, an ordinance requiring hotels, beer joints and similar establishments to post a warning sign in their lobby and/or any conspicuous place within their vicinity about the offense penalized in Section 10, paragraph B of Republic Act 7610, An Act providing stronger deterrence and special protection against child abuse, exploitation and discrimination.

...

Section 8. Child Trafficking. Any person who shall engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty as prescribed in Article IV of Republic Act No. 7610.

Section 9. Attempt to Commit Child Trafficking. There is an attempt to commit child trafficking under section 8 of this ordinance:

- a) When a child below 15 years old travels alone to or from Cebu City without any valid reason therefore and without clearance issued by the Department of Social Welfare Services, Cebu City or written permit or justification from the child's parents or legal guardians;
- b) When a pregnant mother, father or guardian executes an affidavit of consent for adoption for a consideration; or consent, participates or in any manner causes the registration of the birth of such child in the name of mother with or without consideration;
- c) When a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purpose of child trafficking;
- d) When a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person stimulates birth for the purpose of child trafficking;
- e) When a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers or other children caring institutions who can be offered for the purpose of child trafficking; or
- f) When any person, authority, agency or institution who are witnesses to and falls to report transactions related to circumstances in child trafficking.

A penalty in Article IV of Republic Act No. 7610 shall be imposed upon the principal of the attempt to commit child trafficking under this Ordinance.

Section 10. Other Acts and/or Conditions Prejudicial to the Child's Development. It shall be unlawful for any person to sell liquor, cigarette, illegal drugs and other items detrimental to the development of the child.

For the purpose of this Ordinance, the penalty for the commission of such acts as prescribed in Article IV of Republic Act No. 7610 shall be imposed. The victim of the acts committed under this section shall be entrusted to the care of the Commission.

Section 11. Control on Children's Exposure to Commercial Video Games. Commercial establishments catering to rental of electronic video games to children during school days from 7:00 o'clock in the morning to 5:00 o'clock in the afternoon shall be penalized in accordance with City Ordinance No. 1860 entitled: An Ordinance making it unlawful to install, establish and/or operate internet casino gaming on internet cafes and other similar establishments within the territorial, jurisdiction of Cebu City, providing penalties for violation thereof.

Section 12. Children Involved in Anti-Social Related Activities. Children who are involved in anti-social or related activities shall be registered in a rehabilitation program that shall assist the children to rebuild themselves and reintegrate in the mainstream of society.

Section 12.A. Monitoring of Suspended Cases of Children and Appropriate Assistance. Application for suspension of sentences of children involved in anti-social activities shall be done by the Cebu City Commission for the Welfare and Protection of Children through the DSWS. A special team from such office shall monitor closely the cases involving children in court to adequately enforce the suspension of sentences. Appropriate and responsive rehabilitation program shall be afforded to them under the care of the DSWS which shall design the framework of assistance for the children concerned.

Section 12.B. Child and Youth Relations Officer and Police Procedures. Every Police Station in Cebu City which already has a Child and Youth Relations Officer (CYRO) shall continue to maintain the same and appoint one in every other station which has none. The CYRO is tasked to handle cases involving children. Child-friendly police procedures shall be implemented as contained in the Police Handbook on the Management of Cases of Children in Especially Difficult Circumstance. Each PNP element shall be provided a copy of the said handbook.

Section 12.C. Special Course for PNP Members. A special course for members of the Philippine National Police shall be designed for the purpose of inculcating in every PNP element the basic knowledge on how to handle effectively the children involved in anti-social activities. All police officers shall take up the course especially those who are interested to be assigned with the Child and Youth Relations Section (CYRS) and other CYR Officers in each PNP detachment.

The course shall be designed and provided by the Cebu City Commission for the Welfare and Protection of Children in close coordination with the PNP Child Protection Team per police manual and, NGOs and professional organizations focused on child and youth programs.

Section 12.D. Police Brutality. Any brutality committed against children by police authorities shall be subjected to penalty under this Ordinance as determined by the local People's Law Enforcement Board (PLEB) without prejudice to the provisions of the Revised Penal Code.

Section 13. Employment of Children. Children as defined in this Ordinance may be employed, only under the following circumstance:

- a) The minimum requirements listed in Section 12 of Republic Act No. 7610 are present; and
- b) The employer shall register the child with the DSWS to enjoy benefits and other special protection as may be provided for by law, ordinances and other rules and regulations applicable herein.

The CCCWPC in cooperation with the Department of Labor and Employment (DOLE) shall promulgate rules and regulations necessary for the effective implementation of this section.

Section 13.A. Prohibition on the Employment of Children in Certain Advertisements. – No person shall employ a child to model in all forms of commercial or advertisements promoting alcoholic beverages, intoxicating drinks, tobacco and its by-product, junk foods, and violence.

Relative to this, The Sangguniang Panlungsod of the City of Cebu passed City Ordinance No. LXXXIX, an ordinance amending Section 7, Chapter II of the City Tax Ordinance No. LXIX, otherwise known as The Revised Omnibus Tax of the City of Cebu, requiring establishments to submit a certification of not employing minors upon renewal of business permit.

Section 13.B. Penalties. Any person who shall violate any provision of this Article shall suffer penalty as prescribed in Section 16 of the Republic Act No. 7610. And any unlawful act violative of this Article that

cannot be penalized by R.A. No. 7610 shall be punishable by imprisonment not less than 5 months but not more than one (1) year or fine of not more than P5,000.00, or both, at the discretion of the court.

Section 14. Specialized Team of Educators for Moro and Indigenous People's Children. In addition to the rights guaranteed to indigenous and Moro children under the RA No. 7610 and other existing laws, the Division of City Schools of Cebu shall create a team of special educators to look into the appropriateness of curriculum for indigenous and Moro children in Cebu City and to design training for teachers assigned to their communities which is culture-specific and relevant to the needs and existing situation of their communities.

Section 14.A. Creation of Moro and Indigenous People's Council. A council for indigenous communities in Cebu City shall be created to facilitate planning, decision-making, implementation, and evaluation of all government programs affecting children of indigenous people, NGOs focused on these communities shall also be recognized, respected and represented to the Council.

Section 15. Children as Social Indicators of Local Condition. Children are hereby declared as Social Indicators of Local Condition. It shall be the responsibility of the Local Government of Cebu City and all other sectors concerned to resolve armed conflicts in order to idealize the UN Convention on the rights of the Child.

Section 16. Respect for the International Covenants Relevant to Armed-Conflict. The Local Government of Cebu City undertakes to respect and to ensure respect for rules of international humanitarian law applicable to Philippine political armed-conflict which are relevant to the child. Specifically the following policies shall be observed.

- a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or order cruel, inhumane or degrading treatment;
- b) Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, not be allowed to take part in the fighting, or used as guides, or couriers, or spies;
- c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;
- d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;
- e) Public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depot; and
- f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

Section 16.A. Evacuation of Children During Armed Conflict. Children shall be given priority during evacuations as a result of armed conflict. Existing people's organizations shall be tapped to look after the safety and well-being of children during evacuations operations. Measures shall be taken to ensure that children evacuated are accompanied by persons responsible for their safety and well-being.

Section 16.B. Family Life & Temporary Shelter. Whenever possible, members of the same family shall be housed in the same premises and given separate accommodation from other evacuees and provided with families to lead a normal family life. In places of temporary shelter, expectant and nursing mothers and children shall be given additional food in proportion to their physiological needs. Whenever feasible, children shall be given opportunities for physical exercise, sports and outdoor games.

Section 16.C. Children and Family Psycho-Social Program. It is important for the children and their families that they shall be part of a psycho-social program. The Cebu City Special Office for Children's Concerns shall design a comprehensive psycho-social programs for both children and their families affected by the armed-conflict.

Section 16.D. Rights of Children Arrested for Reasons Related to Armed Conflict. Any child who has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy is entitled to the following rights:

- a) Separate detention from adults except where families are accommodated as family rights;
- b) Immediate free legal assistance;
- c) Immediate notice of such arrest to the parents or guardians of the child; and
- d) Release of the child on recognizance within twenty-four (24) hours to the custody of any responsible member of the community as determined by the court.

If after hearing the evidence in the proper proceedings the court should find that the aforesaid child has committed the acts charged against him/her, the court shall determine the imposable penalty, including any civil liability chargeable against him/her. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such child to the custody or care of the DSWS or to any training institution operated by the government, or duly-licensed agencies or any other responsible person, until he/she has reached eighteen (18) years of age or, for a shorter period as the court may deem proper, after considering the reports and recommendation of the DSWS or the agency or responsible individual under whose care he/she has been committed.

The aforesaid child shall be subjected to visitation and supervision by a representative of the DSWS or any duly-licensed agency or such other officer as the court may designate to such conditions as it may prescribe.

Section 16.E. Monitoring and Reporting of Children in Situations of Armed Conflict. The Chairperson or any designated official of the Barangay affected by the armed conflict shall submit the names of children residing in said barangay to the DSWS within twenty-four (24) hours from the occurrence of the armed conflict.

Section 17. Selective Ban on Benefit Dance in the Barangays. Barangay level fund-raising activities shall not include 'benefit dance' as defined in this ordinance.

Culturally relevant activities shall be promoted instead of promoting young women as commodities during 'benefit dance' by the City Court accordingly for the violation of this provision.

Section 18. Curfew on Minors. As provided for in City Ordinance No. 1786 and for the protection of children below 18 years of age, they shall be prohibited from loitering around or sleeping in public places after 10 o'clock in the evening until 4 o'clock in the morning of the following day unless they are in company with their parents or guardians.

The penalties provided for in said ordinances shall be strictly implemented.

RESOLUTION NO. '01-1560

The *Sangguniang Panlungsod* of the City of Cebu, on motion of Member Carillo, seconded by Member Legaspi, RESOLVED, to approve the following ordinance:

ORDINANCE NO. 1922

AN ORDINANCE AMENDING CITY ORDINANCE NO. 1874 OTHERWISE
KNOWN AS AN ORDINANCE ESTABLISHING THE CEBU CITY
CHILDREN'S CODE AND FOR OTHER PURPOSES.

III. APPREHENSION

- 1.a. The arresting police officers must serve the child a warrant of arrest in a legal, humane and responsible manner. They must be in plain clothes and avoid using marked vehicles;
- 1.b. In cases of warrantless arrest and seizures, they must avoid using vulgar words and a tone that will attract the attention of people around the child;
- 1.c. They should take the child by the hands instead of collaring or dragging him;
- 1.d. They should avoid the use of handcuffs;
- 1.e. They should take the child to any available government medical or health officer in the area for a physical and mental examination immediately after apprehension, as provided for under Art. 190 of P.D. No. 603. The examination and treatment papers shall form part of the records of the case of the child. For drug users/dependents, the police should facilitate the conduct of a drug test with the Dangerous Drugs Board or any accredited physician in the locality and refer the case to appropriate agencies for assistance;
- 1.f. They should inform the Senior Social Worker of the Dept. of Social Welfare and Development of the apprehension of the child within eight (8) hours so that immediate intervention can be provided;
- 1.g. They should inform the parents within (8) hours about the arrest and ask them to come to the police station.

IV. INVESTIGATION/INTERVIEWING

- II.a. In no case should a child be investigated by the police or a statement be extracted from him in the absence of his parents, guardian or social worker. In their presence, the child shall be informed of his constitutional rights in remain silent and to counsel in a language that is clearly understood by the child, the parents, guardian or relatives. Such investigations should be conducted within the legal detention period;
- II.b. In no case should deceit, false promises or intimidation, or harsh treatment be employed against the child during the investigation process;
- II.c. Third degree methods of physical punishment or any device that will tend to affect the physical and mental health of the youth should never be used;
- II.d. In interviewing the child, there should be sufficient privacy, avoiding unnecessary interruptions as much as possible. The child should feel comfortable in a separate interview room.

V. PROHIBITED ACTS

Arresting police officers are further prohibited from committing the following acts during arrest:

- V.a. Resort to vulgarity or profanity;
- V.b. Brand the child, calling him words such as thief, liar, burglar, etc, in the presence of other people;
- V.c. Lose his temper;
- V.d. Use of physical force;
- V.e. Oppression which imports acts of cruelty, severity or excessive use of authority.

D. COTABATO PROVINCE

THE CHILD AND YOUTH WELFARE AND
DEVELOPMENT CODE OF COTABATO PROVINCE

Provincial Ordinance No. 292
Series of 2003

SECTION 4. DEFINITION OF TERMS AND ACRONYMS. *The following terms, acronyms and phrases used in this Code shall mean or construed as follows.*

Abandoned Children – refers to one with no proper parental care or guardianship, or whose parents or guardians have deserted him/her for a period of at least six months.

Abused/Exploited Children and Youth – those deliberately inflicted with physical injuries or are unreasonably deprived of basic needs for survival such as food and shelter or both to a degree that if not immediately remedied could impair growth and development or result in permanent incapacity or death. This definition covers physical abuse/maltreatment, sexual abuse and sexual exploitation, emotional abuse, and physical neglect.

Child Abuse – a maltreatment, whether habitual or not, of the child which includes any of the following:

- a. Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- b. Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- c. Unreasonable deprivation of basic needs for survival, such as food, clothing and shelter; or
- d. Failure to immediately give medical treatment to an injured child result in serious impairment to growth and development or in permanent incapability or death.

Children and Youth in Situations of Armed Conflict (CYSAC) – Armed conflict is the eruption of hostility or armed clash between government forces and insurgent groups, warring clans or political groups. CYSAC are those who:

- a. Face direct threat to their lives by being targets of combats, survivors of crossfire and discarded weapons;
- b. Are physically weakened by evacuations caused by armed conflict;
- c. Are usually unaccompanied, abandoned, lost or orphaned owing to armed conflict;

- d. Are emotionally traumatized after having experienced family or community violence or separation from their loved ones;
- e. Actually engage in combat;
- f. Whose schooling has been disrupted by internal wars;
- g. Are disabled by armed conflict; and
- h. Are out-of-school youth in conflict areas.

Children and Youth with Special Needs – are those marginalized by existing societal circumstances, namely: in indigenous cultural communities, with disabilities, in situations of armed conflict, survivors of natural disasters and calamities, offenders, delinquents, drug-dependent, the poorest of the poor sector, abused/exploited, and abandoned/neglected.

Gang – is a notorious group where a child/youth is involved with either voluntarily or by coercion.

Special Concerns – are circumstances which gravely threaten or endanger the survival and normal development of children including but not limited to the following:

- a. Being in a community where there is armed conflict or being affected by armed conflict-related activities;
- b. Working under conditions hazardous to life, safety and morals which unduly interfere with their normal development;
- c. Living or fending for themselves in the streets of urban or rural areas without the care of parents or a guardian or any adult supervision needed for their welfare;
- d. Living under conditions of extreme poverty or in an area which is undeveloped and/or lacks or has inadequate access to basic services needed for a good quality of life;
- e. Being a victim-survivor of a human-made or natural disaster or calamity; or
- f. Analogous circumstances which endanger the life, safety or normal development of children.

Street Children/Youth – are those who have adopted the streets as their abode or source of livelihood or both.

ARTICLE II RIGHTS AND RESPONSIBILITIES

SECTION 5. RIGHTS OF THE CHILDREN AND YOUTH. *Children and youth shall be entitled to the rights hereinafter set forth, as provided in the Convention on the Rights of Children (CRC), in addition to those rights espoused in the 1987 Constitution, Child and Youth Welfare Code (P.D. 603), and The Special Protection Act (R.A. 7610), and other related laws, irrespective of their race, color sex, language, religion, ethnic or social origin, property, disability, birth or other status, to wit:*

Survival Rights

- a) The right to be born well with the dignity and worth of a human being from the moment of conception.
- b) The right to a wholesome family life endowed with love, care and understanding guidance and counseling, and moral and material security.

- c) The right to a balanced diet, adequate clothing, sufficient shelter, proper medical attention, and all the basic physical requirements of a healthy and vigorous life.

Development Rights

- a) The right to a well-rounded development of one's personality to the end that may become a happy, useful and active member of the society, specially:
 - 1. The gifted individual who shall be given opportunity and encouragement to develop one's special talents.
 - 2. The emotionally disturbed or socially maladjusted individual who shall be treated with sympathy and understanding, and shall be entitled to treatment and competent care.
- b) The right to be brought up in an atmosphere of morality and rectitude for the enrichment and strengthening of one's character.
- c) The right to education commensurate to one's ability and to the development of skills for the improvement of capacity for service to oneself and to fellowmen.
- d) The right to full opportunities for safe and wholesome recreation and activities for the use of one's leisure hours.

Protection Rights

- a) The right to protection against exploitation, improper influence, hazards, and other conditions or circumstances prejudicial to one's physical, mental, emotional, social, spiritual and moral development.
- b) The right to live in the community and a society that can offer an environment free from pernicious influences and conducive to the promotion of health and the cultivation of desirable traits and attributes.
- c) The right to care, assistance, and protection of the State, particularly when parent/s or guardian/s fail or are unable to provide the fundamental needs for growth, development, and improvement.
- d) The right to efficient and honest government that will deepen one's faith in democracy and inspire children and youth with the morality of the constituted authorities both in public and private lives.
- e) The right to grow up as a free individual in an atmosphere of peace, understanding, tolerance, and universal humanhood, and with the determination to contribute one's share in the building of a better world.
- f) The right to privacy and shall be protected against unlawful interference with such privacy, family, home or correspondence, and to unlawful attacks against one's honor and reputation.

Participation Rights

- a) The right to be provided with the opportunity to be heard in any judicial and administrative proceedings affecting him/her, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of law.
- b) The right to freedom of thought, conscience and religion, subject to appropriate parental guidance.
- c) The right to freedom of expression which includes freedom to seek, receive and impart information and ideas of all kinds.

- d) The right to express one's opinions freely and to have these opinions taken into account in any manner or procedure affecting one's well-being.

SECTION 6. RESPONSIBILITIES OF CHILDREN/YOUTH. *The children and the youth, regardless of the circumstances of their birth, sex, religion, social status, political antecedents and other factors, shall:*

- a) Strive to lead an upright and virtuous life in accordance with the tenets of their religion, the teachings of their elders and mentors, and the biddings of a clean conscience;
- b) Love, respect and obey their parents, cooperate with them in the strengthening of the family;
- c) Extend to their brothers and sisters their love, thoughtfulness, and helpfulness, and endeavor with them to keep the family harmonious and united;
- d) Exert their utmost effort to develop their potentials particularly by undergoing a formal education suited to their abilities, in order that they may become assets to the society;
- e) Render service to others and show care and concern specially to those who are in need or less fortunate;
- f) Respect not only their elders but also the customs and traditions of our people, the memory of our heroes, the duly constituted authorities, the laws of our country, and the principles and institutions of democracy;
- g) Participate actively in civic affairs and in the promotion of the general welfare, always bearing in mind that it is the youth who will eventually be called upon to discharge the responsibility of leadership in shaping the nation's future; and
- h) Help in the observance of individual human rights, the strengthening of freedom everywhere, the fostering of cooperation among nations in the pursuit of their common aspirations for progress and prosperity, and the furtherance of world peace.

SECTION 7. RESPONSIBILITIES OF VARIOUS SECTORS

THE FAMILY as the central unit responsible for the primary socialization of children is important in the prevention of children's rights violations. Governmental and social efforts to preserve the integrity of the family, should be pursued as follows:

- a) **Parent** - Parents have the primary responsibility of nurturing and protecting children from conception to adolescence. Introduction of children to the culture, values and norms of their society shall begin in the family. The parent/s shall have the right to the company of their children and in relation to all other persons or institution dealing with children's development, and the primary right and obligation to provide for their upbringing.
- b) **Rights Under the Family Code** – Parents shall continue to exercise the rights mentioned in Article 209 to 237 of the Family Code over the persons and property of their children.
- c) **Right to Discipline Children** – The parents have the right to discipline their children as may be deemed necessary for the formation of their good character, provided it does not fall under the prohibited acts mentioned in this Code. Parents may require from their children obedience to just and reasonable rules, suggestions and admonitions.
- d) **General Duties of Parents** – Parents shall have the following general duties toward their children:
 - 1. To give them affection, companionship and understanding;
 - 2. To extend to them the benefits of moral guidance, self-discipline and religious instructions;

- f. The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;
- g. Public infrastructures such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots; and
- h. All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

**ARTICLE II
LIABILITIES OF PARENTS**

SECTION 134. TORTS. *Parents and guardians are responsible for the damage caused by the child under their parental authority in accordance with the Civil Code.*

SECTION 135. CRIMES. *Criminal liability shall attach to any parent who:*

- a. Abandons the child under such circumstances as to deprive him/her of the love, care and protection he/she needs;
- b. Sells or abandons the child to another person for valuable consideration;
- c. Neglects the child by not giving him the basic education as mandated by RA 9155;
- d. ... Truancy as here used means absence without cause for more than twenty school days, not necessarily consecutive. It shall be the duty of the teacher in charge to report to the parents the absences of the child the moment these exceed five school days;
- e. Improperly exploits the child by using him/her, directly or indirectly, such as for purposes of begging and other acts which are inimical to his/her interest and welfare;
- f. Inflicts cruel and unusual punishment upon the child or deliberately subjects him/her to indignations and other excessive chastisement that embarrass or humiliate him/her;
- g. Causes or encourages the child to lead an immoral or dissolute life;
- h. Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership; and
- i. Allows or requires the child to drive without a license or with a license which the parent knows to have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he permitted or ordered the child to drive.

E. DAVAO CITY

Republika ng Pilipinas
*LUNGSOD NG DABAW*²⁰⁶
*Tanggapan ng Sangguniang Panlungsod*²⁰⁷

Excerpt from the Minutes of the Regular Session of the *Sangguniang Panlungsod*, City of Davao, held on Friday, December 2, 1994.

Section 3. – Definition of Terms

- b) Survival Rights – deal with the provision in relation to parental and governmental duties and liabilities, adequate living standard and access to basic health and health services and social security.
- c) Development Rights – pertain to the access of a child to educational opportunities, access to relevant information, play, leisure, cultural activities and the right to freedom of thought, conscience and religion.
- d) Protection Rights – cover those which guard children against all forms of child abuse, exploitation and discrimination in the major areas where a child is considered in an extremely difficult circumstances.
- e) Participation Rights – include the child’s freedom to express oneself in matters affecting his/her life as part of preparation for responsible parenthood and to freedom of association.
- f) Child Abuse – refers to the maltreatment of the child, whether habitual or not, which includes any of the following:
 - 1. Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
 - 2. Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as human being;
 - 3. Unreasonable deprivation of his/her basic needs of survival such as food and shelter; or
 - 4. Failure to immediately give medical treatment to an injured child resulting to serious impairment of his/her growth and development or permanent incapacity or death.
- g) Circumstances which gravely threaten or endanger the survival and normal development of children – include, but are not limited to the following:
 - 1. Being in the community where there is armed conflict or being affected by armed conflict-related activities;
 - 2. Working under conditions hazardous to life, safety and morals which unduly interfere with their normal development or working without provision for their education;
 - 3. Living in and fending for themselves in the streets of urban and rural areas without the care of parents or guardian or any adult supervision needed for their welfare;

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4. Being a member of an indigenous cultural community and/or living under conditions of extreme poverty or in an area which is underdeveloped and/or lack or has inadequate access to basic services needed for a good quality of life.
 5. Being with family members or guardians having psychological problems grave enough for them to commit incest, siblings rape, lascivious acts and other forms of physical and mental abuse;
 6. Being a victim of man-made or natural disasters or calamity;
 7. Being a victim of an illegal transnational union; or child trafficking;
 8. Circumstances analogous to those above stated which endanger the life, safety or normal development of children.
- l) Anti-Social Related Activities – are those acts against property, chastity and person which include but not limited to the following:
1. Petty crimes such as snatching, shoplifting, misrepresentation;
 2. Using and pushing prohibited drugs, selling illegal or lewd reading materials;
 3. Pimping for young and old prostitutes and sexual perversions, doing and participating in obscene shows;
 4. Gambling of any form;
 5. Rape and incest; and
 6. Any other circumstances as defined in the existing laws.
- m) 'Benefit Dance' – refers to a dance in the locality where young girls and boys in the process are being commodified for fund raising purposes.

Article - II **Protection Rights of Children**

Section 4. – Program on Child Abuse, Exploitation and Discrimination. There shall be a comprehensive program to be formulated by the Davao City Social Services and Development Office and the Davao City Council for the Welfare of Children in coordination with the Special Office for Children's Concerns, other government agencies, and the private sector concerned within one (1) year from the effectivity of this Ordinance, to protect children against child prostitution and other sexual abuse; child trafficking, obscene publications and indecent shows and other acts of abuse; and circumstances which endanger child survival and normal development.

...

Section 8. – Child Trafficking. Any person who shall engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty as prescribed in Article IV of the Republic Act No. 7160.

Section 9. – Attempt to commit Child Trafficking. There is an attempt to commit child trafficking under section 6 of this Ordinance:

- a) When a child below Fifteen (15) years old travels alone to or from Davao City without valid reason therefore and without clearance issued by the Davao City Special Office for Children's Concerns or written permit or justification from the child's parents or legal guardians;

- b) When a pregnant mother, father or guardian executes an affidavit of consent for adoption for a consideration; or consent, participates or in any manner causes the registration of the birth of such child in the name of another with or without consideration;
- c) When a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purpose of child trafficking;
- d) When a Doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person stimulates birth for the purpose of child trafficking;
- e) When a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers or other child caring institutions who can be offered for the purpose of child trafficking; or
- f) When any person, authority, agency or institution who are witnesses to and fails to report transactions related to circumstances in child trafficking.

A penalty prescribes in Article IV of Republic Act No. 7610 shall be imposed upon the principles of the attempt to commit child trafficking under this Ordinance. In addition, a one month community service shall be imposed for the commission and commission of acts under Section 7. Such service shall be defined by the Social Development Committee of the City Development Council.

Section 10. – Other Act and/or Condition Prejudicial to the Child’s Development. It shall be unlawful for any person to sell liquor, cigarette, illegal drugs and other items detrimental to the development of the child.

For purposes of this Ordinance, the penalty for the commission of such act as prescribed in Article IV of Republic Act No. 7610 shall be imposed. The victim of the act committed under this section shall be entrusted to the care of the Davao Special Office Children’s Concerns.

Section 11. Control on Children’s Exposure to Commercial Video games. Commercial establishments catering rental of electronic video games to children during school days from 7:00 o’clock in the morning to 5:00 o’clock in the afternoon shall be subjected to suspension of business permit for fifteen (15) days during the first offense and, one (1) month suspension of the same for the second offense.

Confiscation of all video units of said establishment and cancellation of business permit shall constitute the penalty for the third offense.

Section 12. – Children Involved in Anti-Social Activities. Children involved in anti-social activities shall be registered in a rehabilitation program that shall assist the children to rebuild themselves and reintegrate in the mainstream of society.

Section 12-a. – Monitoring of Suspended Cases of Children and Appropriate Assistance. Application for suspension of sentences of children involved in anti-social activities shall be done by the Davao City Special Office for Children’s Concerns. A special team from such office shall monitor closely the cases involving children in court to adequately enforce the suspension of sentences. Appropriate and responsive rehabilitation program shall be afforded to them under the care of the Davao City Special Office for Children’s Concerns. The framework of assistance shall be designed by the Davao City Special Office for Children’s Concerns in close coordination with the NGO’s and professionals with special interests on rehabilitation.

Section 12-b. – Appointment of Child and Youth Relations Officer and Police Procedures. Each Police Station in Davao City shall have a Child and Youth Relation Officer tasked to handle cases involving children. Child-friendly police procedures shall be implemented as contained in the Police Handbook on

the Management of Cases of Children in Especially difficult circumstances. Each PNP elements shall be provided a copy of the said handbook.

Section 12-c. – Special Course for PNP Members. A special course for members of the Philippine National Police shall be designed to handle effectively the children involved in anti-social activities. All police officers shall take up the course especially those who are interested to be assigned with the Child and Youth relations Section (CYRO) and other CYR Offices in each PNP detachments.

Section 12-d. – Police Brutality. Any brutality committed against children by police authorities shall be subjected to penalty under this ordinance as determined by the local People’s Law Enforcement Board (PLEB) without prejudice to provisions of the Revised Penal Code.

Section 13. – Employment of Children. Children as defined in this Ordinance shall not be employed: Provided, that;

- a.) The minimum requirements as stated in Section 12 of Republic Act NO. 7610 shall be present; and
- b.) The employer shall register the child to the Davao City Special Office for Children’s Concerns to enjoy benefits and other special protection as may be provided for by the said special office tasked to formulate rules and regulations.

The Davao City Special Office for Children’s Concern shall promulgate rules and regulations necessary for the effective implementation of this section.

Section 13-a. – Prohibition of the Employment of Children in Certain Advertisements. No person shall employ child to model in all forms of commercial or advertisements promoting alcoholic beverages, intoxicating drinks, tobacco and its by product, junk foods and violence.

Section 13-b. – Penalties. Any person who shall violate any provision of this Article shall suffer penalty as prescribed in Section 16 of the Republic Act No. 7610.

Section 14. – Specialized Team of educators for Moro and Indigenous People’s Children. In addition to the rights guaranteed to indigenous and Moro children under R.A. No. 7610 and other existing laws, the Division of City School of Davao shall create team of special educators to look into appropriateness of curriculum for indigenous and Moro children in Davao City and to design training for teachers assigned to their communities which is culture specific and relevant to the needs and existing situation of their communities.

Section 14-a. – Creation of Moro and Indigenous People’s Council. A council for Moro and Indigenous communities in Davao City shall be created to facilitate planning, decision making, implementation, and evaluation of all government programs affecting children of indigenous and Moro peoples. NGO’s focused on these communities shall also be recognized, respected and represented to the council.

Section 15. – Children as Social Indicators of Local Condition. Children are hereby declared as Social Indicator of Local Condition. It shall be the responsibility of the Local Government of Davao City and all other sectors concerned to resolve armed conflicts in order to idealize the UN Convention on the Rights of the Child.

Section 16. – Respect for the International Covenant Relevant to Armed Conflict. The Local Government of Davao City undertakes to respect and to ensure respect for rules of international humanitarian law applicable to Philippine Political armed-conflict which are relevant to the child. Specifically the following policies shall be observed:

- a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhumane or degrading treatment;
- b) Children shall not be recruited to become a members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, or couriers, or spies;
- c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;
- d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;
- e) Public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command post, barracks, detachments and supply depots; and
- f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

Section 16-a. – Evacuation of Children During Armed Conflict. Children shall be given priority during evacuations as a result of armed conflict. Existing People’s organizations shall be tapped to look after the safety and well being of children during evacuation operations. Measures shall be taken to ensure that children evacuated are accompanied by persons responsible for their safety and well being.

Section 16-b. – Family Life and Temporary Shelter. Whenever possible, members of the same family shall be housed in the same premises and given separate accommodation from other evacuees and provided with facilities to lead a normal family life. In places of temporary shelter, expectant and nursing mothers and children shall be given additional food in proportion to their physiological needs. Whenever feasible, children shall be given opportunities for physical exercises, sports and outdoors games.

Section 16-c. – Children and Family Psycho-Social Program. It is important for the children and their families that they shall be a part of a psycho-social program. The Davao City Special Office for Children’s Concern shall design a comprehensive psycho-social program for both children and their families affected by the armed conflict.

Section 16-d. – Rights of Children Arrested for Reasons Related to Armed Conflict. Any child who has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy is entitled to the following rights:

- a) Separate detention from adults except where families are accommodated as family rights;
- b) Immediate free legal assistance;
- c) Immediate notice of such arrest to the parents or guardian of the child; and
- d) Release of the child on recognizance within twenty-four (24) hours to the custody of the Davao City Special Office for Children’s Concern or any responsible member of the community as determined by the court.

If after hearing the evidence in the proper proceedings the court should find that the aforesaid child has committed the acts charged against him/her, the court shall determine the imposable penalty, including any civil liability chargeable against him/her. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such child to the custody of care of the Davao City.

Special Office for Children's Concerns or to any training institution operated by the government, or duly licensed agencies or any other responsible person, until he/she has reached eighteen (18) years of age or, for a shorter period as the court may deem proper, after considering the reports and recommendations of the Davao City Special Office for Children's Concerns or the agency or responsible individual under whose care he/she has been committed.

The aforesaid child shall be subjected to visitation and supervision by a representation of the Davao City Special Office for Children's Concerns or any duly-licensed agency or such other officer as the court may designate to such conditions as it may prescribe.

Section 16-e. – Monitoring and reporting of Children in Situations of Armed Conflict. The chairperson or any designate official of the Barangay affected by the armed conflict shall submit the names of children residing in said barangay to the District Social Welfare and Development Officer within twenty four (24) hours from the occurrence of the armed conflict.

Section 17. – Selected Ban on Benefit Dance in the Barangays. Barangay level fund raising activities shall not include 'benefit dance' as define in this Ordinance.

Culturally relevant activities shall be promoted instead of promoting young women as commodities during 'benefit dance'. A penalty shall be imposed to the organizers of the benefit dance by the City Court accordingly for the violation of this provision.

Section 18. – Curfew on Minors. For the protection of children below 15 years of age, they shall be prohibited from loitering around or sleeping in public places after 10 o'clock in the evening until 4 o'clock in the morning of the following day unless they are in company with their parents or guardians.

A penalty equivalent to a whole day seminar on duties and responsibilities of children and parents shall be imposed to the parents or guardians of the violators of this provision.

A 15-day community service as determined by the Local court shall be imposed as penalty for second-time offenders.

Proverbs - Chapter 23:13-14

¹³Do not withhold discipline from a child; if you punish him with the rod, he will not die.

¹⁴Punish him with the rod and save his soul from death.

Proverbs 29:15 & 17(AMP):

¹⁵The rod and reproof give wisdom, but a child left undisciplined brings his mother to shame.

¹⁷Correct your son, and he will give you rest; yes, he will give delight to your heart.

Hebrews - Chapter 12:7-11

⁷Endure hardship as discipline; God is treating you as sons. For what son is not disciplined by his father?

⁸If you are not disciplined (and everyone undergoes discipline), then you are illegitimate children and not true sons.

⁹Moreover, we have all had human fathers who disciplined us and we respected them for it. How much more should we submit to the Father of our spirits and live!

¹⁰Our fathers disciplined us for a little while as they thought best; but God disciplines us for our good, that we may share in his holiness.

¹¹No discipline seems pleasant at the time, but painful. Later on, however, it produces a harvest of righteousness and peace for those who have been trained by it.

Ephesians 6:1-4:

¹Children, obey your parents in the Lord: for this is right.

²Honour thy father and mother; which is the first commandment with promise;

³That it may be well with thee, and thou mayest live long on the earth.

⁴And, ye fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord.

B. CATECHISM OF THE CATHOLIC CHURCH²⁰⁹

The following provisions were lifted from the website of the Vatican. Emphasis supplied for purposes of the research.

**PART THREE
LIFE IN CHRIST**

**ARTICLE 4
THE FOURTH COMMANDMENT**

Honor your father and your mother, that your days may be long in the land which the Lord your God gives you.

He was obedient to them.

209 Lifted from the website of the Vatican

The Lord Jesus himself recalled the force of this ‘commandment of God.’ The Apostle teaches: “Children, obey your parents in the Lord, for this is right. ‘Honor your father and mother,’ (This is the first commandment with a promise.) that it may be well with you and that you may live long on the earth.”

2197 The fourth commandment opens the second table of the Decalogue. It shows us the order of charity. God has willed that, after him, we should honor our parents to whom we owe life and who have handed on to us the knowledge of God. We are obliged to honor and respect all those whom God, for our good, has vested with his authority.

2198 This commandment is expressed in positive terms of duties to be fulfilled. It introduces the subsequent commandments which are concerned with particular respect for life, marriage, earthly goods, and speech. It constitutes one of the foundations of the social doctrine of the Church.

2199 *The fourth commandment is addressed expressly to children in their relationship to their father and mother, because this relationship is the most universal. It likewise concerns the ties of kinship between members of the extended family. It requires honor, affection, and gratitude toward elders and ancestors. Finally, it extends to the duties of pupils to teachers, employees to employers, subordinates to leaders, citizens to their country, and to those who administer or govern it.*

This commandment includes and presupposes the duties of parents, instructors, teachers, leaders, magistrates, those who govern, all who exercise authority over others or over a community of persons.

2200 Observing the fourth commandment brings its reward: ‘Honor your father and your mother, that your days may be long in the land which the LORD your God gives you.’⁸ Respecting this commandment provides, along with spiritual fruits, temporal fruits of peace and prosperity. Conversely, failure to observe it brings great harm to communities and to individuals.

I. THE FAMILY IN GOD’S PLAN

The nature of the family

2201 The conjugal community is established upon the consent of the spouses. Marriage and the family are ordered to the good of the spouses and to the procreation and education of children. The love of the spouses and the begetting of children create among members of the same family personal relationships and primordial responsibilities.

2202 A man and a woman united in marriage, together with their children, form a family. This institution is prior to any recognition by public authority, which has an obligation to recognize it. It should be considered the normal reference point by which the different forms of family relationship are to be evaluated.

2203 In creating man and woman, God instituted the human family and endowed it with its fundamental constitution. Its members are persons equal in dignity. For the common good of its members and of society, the family necessarily has manifold responsibilities, rights, and duties.

The Christian family

2204 ‘The Christian family constitutes a specific revelation and realization of ecclesial communion, and for this reason it can and should be called a *domestic church*.’ It is a community of faith, hope, and charity; it assumes singular importance in the Church, as is evident in the New Testament.

- The protection of security and health, especially with respect to dangers like drugs, pornography, alcoholism, etc;
- The freedom to form associations with other families and so to have representation before civil authority.

2212 The fourth commandment *illuminates other relationships in society*. In our brothers and sisters we see the children of our parents; in our cousins, the descendants of our ancestors; in our fellow citizens, the children of our country; in the baptized, the children of our mother the Church; in every human person, a son or daughter of the One who wants to be called 'our Father.' In this way our relationships with our neighbors are recognized as personal in character. The neighbor is not a 'unit' in the human collective; he is 'someone' who by his known origins deserves particular attention and respect.

2213 Human communities are *made up of persons*. Governing them well is not limited to guaranteeing rights and fulfilling duties such as honoring contracts. Right relations between employers and employees, between those who govern and citizens, presuppose a natural good will in keeping with the dignity of human persons concerned for justice and fraternity.

III. THE DUTIES OF FAMILY MEMBERS

The duties of children

2214 The divine fatherhood is the source of human fatherhood; this is the foundation of the honor owed to parents. The respect of children, whether minors or adults, for their father and mother is nourished by the natural affection born of the bond uniting them. It is required by God's commandment.

2215 Respect for parents (*filial piety*) derives from *gratitude* toward those who, by the gift of life, their love and their work, have brought their children into the world and enabled them to grow in stature, wisdom, and grace. 'With all your heart honor your father, and do not forget the birth pangs of your mother. Remember that through your parents you were born; what can you give back to them that equals their gift to you?'

2216 Filial respect is shown by true docility and *obedience*. 'My son, keep your father's commandment, and forsake not your mother's teaching. . . When you walk, they will lead you; when you lie down, they will watch over you; and when you awake, they will talk with you.' 'A wise son hears his father's instruction, but a scoffer does not listen to rebuke.'

2217 As long as a child lives at home with his parents, the child should obey his parents in all that they ask of him when it is for his good or that of the family. 'Children, obey your parents in everything, for this pleases the Lord.' ***Children should also obey the reasonable directions of their teachers and all to whom their parents have entrusted them. But if a child is convinced in conscience that it would be morally wrong to obey a particular order, he must not do so.***

As they grow up, children should continue to respect their parents. They should anticipate their wishes, willingly seek their advice, and accept their just admonitions. Obedience toward parents ceases with the emancipation of the children; not so respect, which is always owed to them. This respect has its roots in the fear of God, one of the gifts of the Holy Spirit.

2218 The fourth commandment reminds grown children of their *responsibilities toward their parents*. As much as they can, they must give them material and moral support in old age and in times of illness, loneliness, or distress. Jesus recalls this duty of gratitude.

2226 *Education in the faith* by the parents should begin in the child's earliest years. This already happens when family members help one another to grow in faith by the witness of a Christian life in keeping with the Gospel. Family catechesis precedes, accompanies, and enriches other forms of instruction in the faith. Parents have the mission of teaching their children to pray and to discover their vocation as children of God. The parish is the Eucharistic community and the heart of the liturgical life of Christian families; it is a privileged place for the catechesis of children and parents.

2227 Children in turn contribute to the *growth in holiness* of their parents. Each and everyone should be generous and tireless in forgiving one another for offenses, quarrels, injustices, and neglect. Mutual affection suggests this. The charity of Christ demands it.

2228 Parents' respect and affection are expressed by the care and attention they devote to bringing up their young children and *providing for their physical and spiritual needs*. As the children grow up, the same respect and devotion lead parents to educate them in the right use of their reason and freedom.

2229 As those first responsible for the education of their children, parents have the right to *choose a school for them* which corresponds to their own convictions. This right is fundamental. As far as possible parents have the duty of choosing schools that will best help them in their task as Christian educators. Public authorities have the duty of guaranteeing this parental right and of ensuring the concrete conditions for its exercise.

2230 When they become adults, children have the right and duty to *choose their profession and state of life*. They should assume their new responsibilities within a trusting relationship with their parents, willingly asking and receiving their advice and counsel. Parents should be careful not to exert pressure on their children either in the choice of a profession or in that of a spouse. This necessary restraint does not prevent them - quite the contrary from giving their children judicious advice, particularly when they are planning to start a family.

2231 Some forgo marriage in order to care for their parents or brothers and sisters, to give themselves more completely to a profession, or to serve other honorable ends. They can contribute greatly to the good of the human family.

IV. THE FAMILY AND THE KINGDOM

2232 Family ties are important but not absolute. Just as the child grows to maturity and human and spiritual autonomy, so his unique vocation which comes from God asserts itself more clearly and forcefully. Parents should respect this call and encourage their children to follow it. They must be convinced that the first vocation of the Christian is to *follow* Jesus: 'He who loves father or mother more than me is not worthy of me; and he who loves son or daughter more than me is not worthy of me.'

2233 Becoming a disciple of Jesus means accepting the invitation to belong to *God's family*, to live in conformity with His way of life: 'For whoever does the will of my Father in heaven is my brother, and sister, and mother.'

Parents should welcome and respect with joy and thanksgiving the Lord's call to one of their children to follow him in virginity for the sake of the Kingdom in the consecrated life or in priestly ministry.

The Apostle exhorts us to offer prayers and thanksgiving for kings and all who exercise authority, 'that we may lead a quiet and peaceable life, godly and respectful in every way.'

2241 The more prosperous nations are obliged, to the extent they are able, to welcome the *foreigner* in search of the security and the means of livelihood which he cannot find in his country of origin. Public authorities should see to it that the natural right is respected that places a guest under the protection of those who receive him.

Political authorities, for the sake of the common good for which they are responsible, may make the exercise of the right to immigrate subject to various juridical conditions, especially with regard to the immigrants' duties toward their country of adoption. Immigrants are obliged to respect with gratitude the material and spiritual heritage of the country that receives them, to obey its laws and to assist in carrying civic burdens.

2242 The citizen is obliged in conscience not to follow the directives of civil authorities when they are contrary to the demands of the moral order, to the fundamental rights of persons or the teachings of the Gospel. *Refusing obedience* to civil authorities, when their demands are contrary to those of an upright conscience, finds its justification in the distinction between serving God and serving the political community. 'Render therefore to Caesar the things that are Caesar's, and to God the things that are God's.' 'We must obey God rather than men':

When citizens are under the oppression of a public authority which oversteps its competence, they should still not refuse to give or to do what is objectively demanded of them by the common good; but it is legitimate for them to defend their own rights and those of their fellow citizens against the abuse of this authority within the limits of the natural law and the Law of the Gospel.

2243 Armed *resistance* to oppression by political authority is not legitimate, unless all the following conditions are met: 1) there is certain, grave, and prolonged violation of fundamental rights; 2) all other means of redress have been exhausted; 3) such resistance will not provoke worse disorders; 4) there is well-founded hope of success; and 5) it is impossible reasonably to foresee any better solution.

The political community and the Church

2244 Every institution is inspired, at least implicitly, by a vision of man and his destiny, from which it derives the point of reference for its judgment, its hierarchy of values, its line of conduct. Most societies have formed their institutions in the recognition of a certain preeminence of man over things. Only the divinely revealed religion has clearly recognized man's origin and destiny in God, the Creator and Redeemer. The Church invites political authorities to measure their judgments and decisions against this inspired truth about God and man:

Societies not recognizing this vision or rejecting it in the name of their independence from God are brought to seek their criteria and goal in themselves or to borrow them from some ideology. Since they do not admit that one can defend an objective criterion of good and evil, they arrogate to themselves an explicit or implicit totalitarian power over man and his destiny, as history shows.

2245 The Church, because of her commission and competence, is not to be confused in any way with the political community. She is both the sign and the safeguard of the transcendent character of the human person. 'The Church respects and encourages the political freedom and responsibility of the citizen.'

2246 It is a part of the Church's mission 'to pass moral judgments even in matters related to politics, whenever the fundamental rights of man or the salvation of souls requires it. The means, the only means, she may use are those which are in accord with the Gospel and the welfare of all men according to the diversity of times and circumstances.'

IN BRIEF

2247 ‘Honor your father and your mother’ (*Deut 5:16; Mk 7:10*).

2248 According to the fourth commandment, God has willed that, after him, we should honor our parents and those whom he has vested with authority for our good.

2249 The conjugal community is established upon the covenant and consent of the spouses. Marriage and family are ordered to the good of the spouses, to the procreation and the education of children.

2250 ‘The well-being of the individual person and of both human and Christian society is closely bound up with the healthy state of conjugal and family life’ (*GS 47 # 1*).

2251 *Children owe their parents respect, gratitude, just obedience, and assistance. Filial respect fosters harmony in all of family life.*

2252 Parents have the first responsibility for the education of their children in the faith, prayer, and all the virtues. They have the duty to provide as far as possible for the physical and spiritual needs of their children.

2253 Parents should respect and encourage their children’s vocations. They should remember and teach that the first calling of the Christian is to follow Jesus.

2254 Public authority is obliged to respect the fundamental rights of the human person and the conditions for the exercise of his freedom.

2255 It is the duty of citizens to work with civil authority for building up society in a spirit of truth, justice, solidarity, and freedom.

2256 Citizens are obliged in conscience not to follow the directives of civil authorities when they are contrary to the demands of the moral order. ‘We must obey God rather than men’ (*Acts 5:29*).

2257 Every society’s judgments and conduct reflect a vision of man and his destiny. Without the light the Gospel sheds on God and man, societies easily become totalitarian.

C. QUR’AN AND SUNNAH²¹⁰

Children

According to Qur’an and Sunnah

To Allah belongs the kingdom of the heavens and the earth.

He creates what He wills.

He bestows female (offspring) upon whom He wills,
and bestows male (offspring) upon whom He wills.

The Noble Qur’an - Ash-Shura 42:49

210 Lifted from the website of Muttaqun Online, <http://www.muttaqun.com>

Discipline

Hadith - Bukhari (#883) and Abu Dawud

Nafi' said, "Ibn 'Umar رضي الله عنهما used to beat his children for mistakes in diction."

Hadith - Dawud, Narrated As-Saburah رضي الله عنهما

[Also recorded by Ahmand and al-Hakim. Al-Syuti has give in a notation signifying that it is authentic. Al-Albani has graded it hasan. Al-Albani, *Sahih al-Jami*, vol. 2, p. 1021.]

The Prophet صلى الله عليه وسلم said: Order your children to pray at the age of seven. And beat them lightly if they do not do so by the age of ten. And separate them in their bedding.

Hadith - Bukhari 3:734, Narrated Abu Huraira رضي الله عنهما

The Prophet صلى الله عليه وسلم said, "If somebody fights (or beats somebody) then he should avoid the face."

It is permissible to admonish a child that is not your own...

Hadith - Bukhari 7:177, Narrated Aisha رضي الله عنها

Abu Bakr رضي الله عنهما admonished me and poked me with his hands in the flank, and nothing stopped me from moving at that time except the position of Allah's Apostle صلى الله عليه وسلم whose head was on my thigh.

Philippine Laws

related to the

Discipline and Punishment of Children

The physical and emotional punishment of children is a violation of their rights. This compilation and analysis of existing Philippine laws related to the discipline and punishment of children seeks to inform the policy and programming work of children's rights advocates particularly in the Philippines. This book identifies the gaps in current laws and underscores the importance of bridging these gaps by coming up with concrete policy recommendations to ensure that children are constantly and consistently protected from all forms of physical and emotional violence in the home, school, community, work setting, institution, and other settings.



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