

Philippines: Minimum age of criminal responsibility must not be lowered

Geneva, 22 January 2019

Re: Minimum age of criminal responsibility must not be lowered

Dear Hon. Gloria Macapagal Arroyo,

The World Organization Against Torture (OMCT), the leading global network of civil society organizations against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment or punishment in the world, is writing to you seek your support in implementing your international human rights obligations, including your pledge made on 1er October 2018 in the context of the United Nations Human Rights Council "to continue to be a voice for vulnerable people, including (...) children (...) and support human rights based approaches that addresses their concerns in a comprehensive, positive and practical way".

The OMCT is gravely concerned about the draft Bill tabled which seeks to lower the Minimum Age of Criminal Responsibility for approval by the House of Representatives.

International human rights bodies have repeatedly encouraged the Philippines to not lower the minimum age of criminal responsibility currently set at 15 years old. The United Nations Committee on the Rights of the Child specifically urged the Philippines to "take all necessary measures to ensure that the age of criminal responsibility is not lowered".[1] Commenting on the previous draft Bill No. 922, rejected early 2017, which sought to lower the minimum age of criminal responsibility to nine years, the United Nations Committee against Torture recommended that "the age of criminal responsibility be maintained at the age of 15 years." [2]

There is ample evidence showing that early contact with the justice system and detention of children, especially young children, leads to serious and life-long negative impacts on their mental, emotional and physical health and development.

Lowering the minimum age of criminal responsibility will not reduce crime. On the contrary, research show that children in contact with the law have a higher chance of further involvement with the justice system. In addition, it is often the most disadvantaged and vulnerable children who come in contact with the justice system at a very young age. For instance, in 2018, the monitoring of holding centers of Caloocan City by the OMCT and partners showed that around 20% of children are detained because they have been rescued from the street or abusive parents. Another 30% are accused of only committing minor offences.[3]

The approval of the proposed bill would also worsen the seriously overcrowded detention facilities throughout the Philippines, conditions which frequently amount to torture or cruel, inhuman or degrading treatment.[4]

During prison visits, the OMCT and its partners have documented several incidents of corporal punishment of children while being apprehended and detained. This included physical and verbal abuse by staff as well as solitary confinement in small windowless cells. Visits also revealed poor sanitary installations, lack of medical services, lack of food and inadequate recreational activities.[5]

Accordingly, the World Organization Against Torture respectfully urges the Congress of the Philippines to:

- Immediately withdraw the current draft Bill under consideration with the view to maintaining the minimum age of criminal responsibility at 15 years old.

- To ensure that deprivation of liberty is only used as a measure of last resort, as recommended by the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

- To "Expand the use of alternative measures to deprivation of liberty, such as diversion, probation and counselling and community services", as recommended by the United Nations Committee on the Rights of the Child.

- To ensure that the fundamental rights of children in detention are respected in accordance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Convention on the Rights of the Child.

In the hope that the concerns expressed in this letter will receive the attention they deserve, we remain at your disposal for any further information.

Yours sincerely,

Gerald Staberock

Secretary General

OMCT

[1] CRC/C/PHL/CO/3-4.

[2] CAT/C/PHL/CO/3.

[3] OMCT, CLRDC and PAHRA's Follow-up Report to the Concluding Observations of the Committee against Torture on the Philippines' Third Periodic Report

[4] According to official figures from the Commission of Audit the overcrowding of prisons has reached over 600 %.

[5] OMCT, CLRDC and PAHRA's Follow-up Report to the Concluding Observations of the Committee against Torture on the Philippines' Third Periodic Report.