

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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PHILIPPINES: REJECT ATTEMPTS TO LOWER MINIMUM AGE OF CRIMINAL RESPONSIBILITY TO 12

Amnesty International is deeply concerned at renewed efforts by the Philippine government to lower the minimum age of criminal responsibility from 15 to 12 years old. The proposed change is contrary to authoritative guidance on international standards relating to juvenile justice, which urges States not to lower their minimum age of criminal responsibility to the age of 12. This move is all the more disturbing when seen in the context of the Philippines' 'war on drugs', which has left thousands dead and continues to claim children's lives. Amnesty International calls on the Philippine Congress to reject any proposed law that seeks to lower the minimum age of criminal responsibility, and instead comply with the country's obligations under the UN Convention on the Rights of the Child (CRC).

The current bill, approved by the House Committee on Justice, is part of the government's "anti-drug campaign" which has targeted children and young people as well. Since the beginning of this administration, government officials including President Rodrigo Duterte himself have declared their intention to deal with drug-related harms by lowering the minimum age of criminal responsibility. In addition, proponents of the bill have justified its necessity by citing how criminal organizations that are trafficking in illicit drugs have been using children in their illicit operations.

The Philippine authorities have an obligation to ensure that children who are suspected of having committed a criminal offence are treated in accordance with the rules of juvenile justice and in compliance with the country's obligations under the CRC. In particular, the authorities must ensure that the arrest and detention of children under criminal law is used only as a measure of last resort.

In its General Comment No. 10 (2007) on the CRC, the Committee on the Rights of the Child recognises that it is the obligation of the State to set a minimum age of criminal responsibility. However, the Committee recommends, in accordance with the UN Standard Minimum Rules for the Administration of Juvenile Justice (the "Beijing Rules"), that the minimum age of criminal responsibility not be set at an age level that is too low, particularly taking into account the facts of emotional, mental, and intellectual maturity.

Also, while the Committee identifies age 12 as the absolute minimum internationally acceptable age of criminal responsibility, it categorically urges States not to lower their existing minimum age to 12 if already set at a higher level. Furthermore, the Committee notes that "a higher [minimum age of criminal responsibility], for instance 14 or 16 years of age, contributes to a juvenile justice system which, in accordance with article 40 (3) (b) of the CRC, deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected". Indeed, there is an emerging consensus that the minimum internationally acceptable age of criminal responsibility should be set at 14, and under no circumstances should States reduce the minimum age if current penal law sets it at 14 or higher.

Further, research by international institutions, including the UN, has shown that structural inequalities and the failure of States to respect, protect and fulfil economic, social and cultural rights such as the rights to education, housing and health can increase children's vulnerability and their chances of coming into conflict with the law. In this context, States are encouraged to focus resources on the realization of economic, social and cultural rights rather than penalization measures that do not address the root causes of poverty and social exclusion.

Amnesty International urges the Philippine Congress to reject attempts to lower the minimum age of criminal responsibility and, as it considers these issues, to ensure that all legislation regarding children is in strict compliance with the country's obligations under the Convention on the Rights of the Child. Lawmakers should ensure that the Juvenile Justice and Welfare Act of 2006 is effectively implemented as it stands, including by establishing more child-caring institutions and sufficiently funding existing ones, as well as working for the reintegration of children in conflict with the law back into society.

BACKGROUND

During the 2016 election campaign, President Rodrigo Duterte vowed to clamp down on crime. As part of this promise, he pledged to lower the minimum age of criminal responsibility, generating widespread condemnation from children's rights organisations and the international community, including the UN. During the review of the Philippines' human rights record before the UN Human Rights Council on 8 May 2017, numerous states called on the authorities to refrain from lowering the minimum age of criminal responsibility and instead ensure the effective implementation of the Juvenile Justice and Welfare Act of 2006.

On 23 January 2019, the House of Representatives approved on second reading a bill that would lower the minimum age of criminal responsibility from 15 to 12 years old. It will still be subject to a final reading. If also approved in the Senate, the proposed legislation would amend Republic Act 10630, which sets the minimum age of criminal liability at 15 years old. Currently, children under the age of 15 in the Philippines are exempt from criminal liability, but subject to intervention by the government under the provisions of the Juvenile Justice and Welfare Act of 2006. The Act takes into account the best interests of children in conflict with the law, including their need for adequate protection, rehabilitation and re-integration into society.