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GAP ANALYSIS OF IMPLEMENTATION AND ENFORCEMENT OF RA 9231 AND RA 10533 VIS-À-VIS CONVENTIONS 182 AND 183; ADDRESSING THE GAP BETWEEN THE AGE OF COMPULSORY SCHOOLING AND MINIMUM AGE OF WORK

Brenalyn A. Peji

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ABBREVIATIONS

DepEd	Department of Education
D.O.	Department Order
DOLE	Department of Labor and Employment
EFA	Education for All
ILO	International Labor Organization
IRR	Implementing Rules and Regulations
NCLC	National Child Labor Committee
PPACL	Philippine Program Against Child Labor
SDG	Sustainable Development Goals
UNCRC	United Nations Convention on the Right of the Child
USDOL	United States Department of Labor

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ABSTRACT

In 2003, Republic Act (RA) 9231 or “An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child” was passed to serve as legal framework for the work against child labor in the country. It amended and enhanced Republic Act 7610 or the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act”. In the past 14 years, concerns have been raised about the degree of effectiveness and adequacy of the law as an instrument in addressing child labor. Both the ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) in its comments for the Philippines in 2011 and the US Department of Labor (USDOL) in its Worst Forms of Child Labor Report for 2012, for example, have expressed concern about how this has been used to a very few convictions. On this issue, prosecutors have pointed to the lighter sanctions provided by RA 9231 which forces them to use RA 10364, the country’s anti-trafficking law, to process child labor cases instead.

Evaluations on the implementation of the Philippine Program Against Child Labor (PPACL) have cited gaps in the operations of the National Child Labor Committee (NCLC), e.g., lack of legal mandate, absence of dedicated secretariat, and absence of a program budget, as factors for insufficient implementation. These elements are not stipulated in RA 9231 which is in contrast to how RA 10364 provides for the creation of the Inter-Agency Council Against Trafficking (IACAT), designating it a dedicated secretariat, and allocating funds for its operations.

In 2013, because of the passage of the RA 10533, the country’s basic education act which pushed the age of completion of compulsory education to 18 years old, children 15 to below 18 years old have been allowed to combine work and studies. However, existing provisions of RA 9231 do not allow for working youth to effectively do this as it provides for work up to 10 p.m. and more than 8 hours for this age range, for example.

If these gaps, among others, are left unaddressed the country’s fight against child labor will not have the effective legal tool that it needs to be successful. A process thus needs to be undertaken to determine further areas in RA 9231 and its enforcement that needs to be improved and to ensure that national laws are compliant with the provisions of international instruments on child labor.

The Gap Analysis approach was used to determine the extent to which national laws and regulations and other measures complement the requirements of ILO Convention No. 182 and 138. The gap analysis was used to identify how the provisions of the conventions are reflected in the existing laws and regulations, and practices in the country; and to identify which provisions of the Conventions would require changes or adjustments in the existing laws and practices in the country.

Results of the study indicate that the national laws particularly Republic Act No. 9231, “An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Children” and the Republic Act No. 10533, “The Enhanced Basic Education Act of 2013”, are both consistent with the provisions of Convention 182 on the Worst Forms of Child Labor and Convention 138 on Minimum Age. It may be noted, however, that while national policies are aligned with the provisions of international standards of minimum employable age and compulsory completion of schooling age, various implementation gaps and challenges have been observed. A set of policy recommendations has been outlined to address the identified gaps particularly on issues surrounding the linkage between child labor and education.

I. INTRODUCTION

Worldwide, 218 million children between 5 and 17 years are in employment. Of this number, 152 million children are in child labor situations and almost half of them are in hazardous working conditions. That means, one out of ten children in world are in child labor; one out of 20 in hazardous child labor with huge variations between countries, regions, sectors and occupations.

At the national level, data from the Philippine Statistics Authority (PSA) indicates that there are 2.1 million child laborers aged 5-17 years old in the Philippines. Of this number, about 95% of them are in hazardous work, and 69% of them are aged 15-17 years old, beyond the minimum allowable age for work but still exposed to hazardous working conditions. Children work on farm and plantations, in dangerous mines, in streets, in factories, and in private homes as child domestic workers. Agriculture remains to be the sector where most child laborers can be found at 58 percent.

In 2003, Republic Act No. 9231 or “An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child” was passed to serve as legal framework for the work against child labor in the country. It amended and enhanced Republic Act No. 7610 or the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act”.

For the past 14 years since the implementation of the law, concerns have been raised about the degree of effectiveness and adequacy of the law as an instrument in addressing child labor. Both the ILO’s Committee on Experts on the Application of Conventions and Recommendations (CEACR) in its commitment for the Philippines on 2011 and the US Department of Labor (USDOL) in its Worst Forms of Child Labor Report for 2012, for example, have expressed concern about how this has been used to a very few convictions. On this issue, prosecutors have pointed to the lighter sanctions provided by RA 9231 which forces them to use RA 10364, the country’s anti-trafficking law, to process child labor cases instead.

Evaluations on the implementation of the Philippine Program Against Child Labor (PPACL) have cited gaps in the operations of the National Child Labor Committee (NCLC), e.g. lack of legal mandate, absence of dedicated secretariat, and absence of a program budget, as factors for insufficient implementation. These elements are not stipulated in RA 9231 which is in contrast to how RA 10364 provides for the creation of the Inter-Agency Council Against Trafficking (IACAT), designating it a dedicated secretariat, and allocating funds for its operations.

In 2013, with the passage of RA 10533, the country’s Basic Education Act which pushed the age of completion of compulsory education to 18 years old, children 15 to below 18 years old have been allowed to combine work and studies. However, existing provisions of RA 9231 do not allow for working youth to effectively do this as it provides for work up to 10:00 p.m. and more than 8 hours for this age range, for instance.

If these gaps, among others, are left unaddressed, the country's fight against child labor will not have the effective legal tool that it needs to be successful. A process thus needs to be undertaken to determine further areas in RA 9231 and its enforcement that needs to be improved.

1.1. Research Problem

a. The efforts of the government to address the issue of child labor in the country are consistently continuing and intensifying. The DOLE updated the country's hazardous work list for children and conducted additional research on child labor in agriculture to inform policy and programs. The government has also been implementing the HELP ME Convergence Programs against Child Labor (2013-2016) to assist local governments in creating child labor free communities. Various livelihood programs are being implemented to transform the lives of child laborers, their families and their communities towards their sense of self-worth, empowerment and development. In addition, the Expanded Anti-Trafficking in Persons Act was also passed to establish a permanent inter-agency council, create a database on trafficking cases, expand provisions to protect victims of trafficking, and establish stronger penalties for violations, including those against children. Much efforts have been done, however, children in the Philippines continue to engage in child labor as a consequence of pervasive poverty, thus, forcing children to leave school to work in agriculture and domestic service.

b. In the past 14 years, various concerns have been raised about the degree of effectiveness and adequacy of the law as an instrument in addressing child labor. Both the ILO's Committee on Experts on the Application of Conventions and Recommendations (CEACR) in its comments for the Philippines in 2011 and the US Department of Labor (USDOL) in its Worst Forms of Child Labor Report in 2012 have expressed concerns about how this has been used to a very few convictions. In relation to this, prosecutors have pointed to the lighter penalties provided by RA 9231 or "An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child", which forces them to use RA 10364, the country's anti-trafficking law, to process child labor cases.

c. Evaluations on the implementation of the Philippine Program Against Child Labor (PPACL) have cited gaps in the operations of the National Child Labor Committee (NCLC) that impede efficient and effective implementation of the country's anti-child labor laws, policies and programs. Contrary to RA 10364 which provides for the creation of the Inter-Agency Council Against Trafficking (IACAT), designating it a dedicated secretariat and allocating for its operation, RA 9231 does not provide for the same elements.

d. In 2013, because of the passage of RA 10533 or the Enhanced Basic Education Act, children 15 to 18 years old have been allowed to combine work and studies. However, existing provisions of RA 9231 do not allow for working youth to effectively combine work and school as the law regulates the working hours of children.

e. Excessive involvement in the world of work traps millions of children into a cycle of poverty, vulnerability and diminished opportunities. As indicated in the UCW Report, child laborers in the Philippines are clearly disadvantaged in terms of being able to attend school. The report noted that the school attendance gap between child laborers and other children increases with age and is particularly marked at the 5-17 years age range. In addition, working children who entered school are most likely to remain there for less time than non-working children.

f. Withdrawing children from hazardous and exploitative work, even when they are in school, is an integral part of eliminating child labor in the Philippines. To accelerate action against child labor, making education a key element in integrated national strategies to curbing child labor is perceived to deliver a good result. Compulsory education has the potential to provide a powerful impetus towards the eradication of child labor.

g. Establishing the precise relationship between education and child labor is difficult. What is clear, however, is that child labor exacerbates the risks of being out of school. Hence, gaps in the existing policies must be addressed particularly on various issues surrounding the link between child labor and education. If these gaps, among others, are left unaddressed, the country's fight to eliminate child labor will not be effective and efficient. It is in this context that the Gap Analysis of the implementation and enforcement of RA 9231 and RA 10533 vis-à-vis international conventions has been undertaken.

1.2. Research Objectives

General: This research aims to assess the implementation and enforcement of RA 9231 and RA 10533 vis-à-vis the requirements of ILO Convention 182 (Worst Forms of Child Labor Convention, 1999) and 138 (Minimum Age Convention, 1973).

Specific: Hence, to achieve such objective, this research seeks to meet the following specific objectives:

1. Determine the extent to which RA 9231 and RA 10533 complement the requirements of ILO Convention 182 and 138;

2. Determine the gaps in the implementation and enforcement of national laws vis-à-vis international standards;
3. Identify the provisions of RA 9231 and RA 10533 that would require amendments to comply with ILO Convention 182 and 138; and
4. Provide recommendations on how the law can be improved or strengthened.

1.3. Research Methodology

The research was qualitative in nature, which primarily used secondary data from desk review of child labor related documents, the output of which served as input to the gap analysis.

The Gap Analysis approach was used to determine the extent to which national laws and regulations and other measures complement the requirements of ILO Convention No. 182 and 138. The gap analysis was used to identify how the provisions of the conventions are reflected in the existing laws and regulations, and practices in the country; and to identify which provisions of the Conventions would require changes or amendments in the existing laws and practices in the country. The gap analysis included a review of the existing assessments and evaluations done on the implementation of RA 9231 and RA 10533, the assessment of the Philippine Program Against Child Labor (PPACL) and the review of the operations of the National Child Labor Committee (NCLC).

1.4. Research Methodology

Figure 1 illustrates the way by which all the data and information gathered through the desk review were analyzed and synthesizes into conclusions on the extent to which the Philippine legal or regulatory framework and existing practices comply with the requirements of Conventions 182 and 138. In areas where gaps were identified, a set of possible actions and recommendations are being recommended to address such issues and challenges. In addition, this research likewise used the Input-Output-Process Model indicating the contextual information taken into account in doing the gap analysis.

Figure 1. Gap Analysis Framework

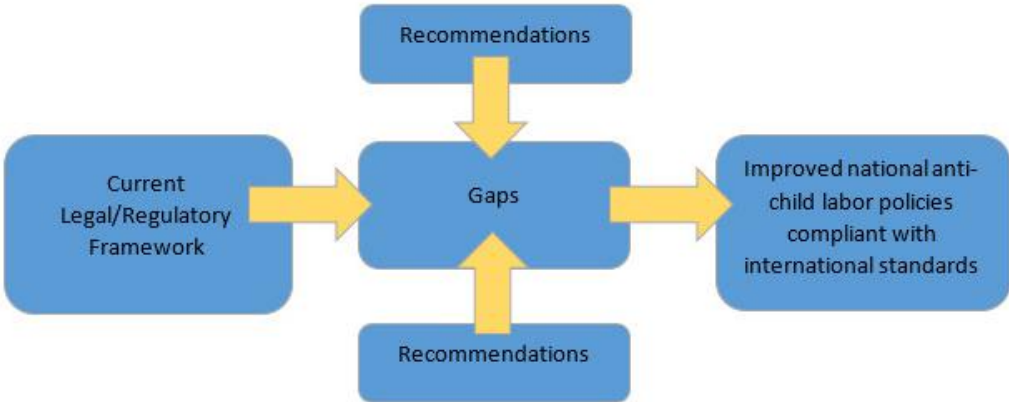
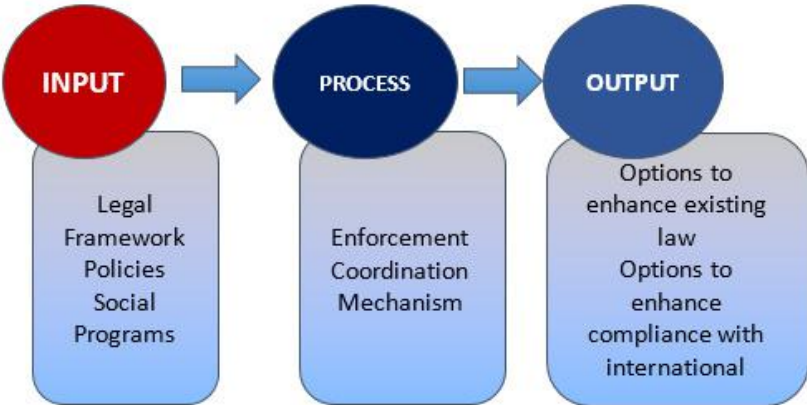


Figure 2. Input-Process-Output Model



II. BACKGROUND AND CONTEXTUAL INFORMATION: FACTS ABOUT CHILD LABOR

There are diverging views from early researches on child labor. While some argue that child labor is totally harmful to the child in all aspects of the child's life and as such should be abolished, others argue that there are justifications for children being involved in the labor market; hence abolishing is not the solution but addressing the causes can solve the problem.

According to Afenyadu, (2010, p. 2), engaging children in work is not perceived as dangerous if it does not jeopardize the child's mental, physical, or moral health and development. Rather, it is considered that such work is socially necessary, as the child acquires basic knowledge, skills, and sense of responsibility, which could prove beneficial in later life. Such diverging views pose a problem for policy makers, it is therefore necessary to look at child labor in a multidimensional way in order to address the issue wholly.

2.1. Child Work and Child Labor

Not all work is considered to be harmful to children. It is considered permissible for children, even at a young age, to help around the home, do some errands, and assist their parents in the family farm or business. As children get older, they start to take on light work or learn valuable traditional trades which help them acquire skills, knowledge, competencies and attitude they will need as future members of the labor force and useful members of the community. Light work for children, if carefully monitored and performed under the supervision of responsible adult, can be an essential part of children's development process which helps them learn to take responsibility, and gain pride in their own accomplishments. Hence, light work, although cannot be generally said to be without risk, is considered permissible work.

Child labor, on the other hand, is work which, by its nature or intensity, is considered detrimental to children's schooling and is harmful to their development, health and life. As defined by both international and national laws, child labor refers to any work or economic activity performed by a child that endangers his or her safety or physical, mental or psychosocial development. The main concern is with children who are being denied of their childhood and a healthy and decent future, who work at too young an age, who work long hours for very low wages, who work under conditions harmful to their health and life and to their physical and mental development, who are separated from their families, and who are deprived of education (ILO, 2002). Such condition can create irreversible damage to the child and is in violation of both international and national laws and legislations. Table 1 provides the distinction between child work and child labor.

Table 1. Difference between Child Work and Child Labor

Child Work	Child Labor
Work is appropriate to child' age and mental capabilities	Work burdens the child; too heavy for child's age and capabilities
Supervised by responsible and caring adults	Child works unsupervised or supervised by abusive adults
Limited hours of work; does not hinder the child from going to school, playing or resting	Very long hours of work; child has limited or no time for school, play or rest
Workplace is kept safe and child friendly, does not pose hazards to health and life of the child	Workplace poses hazards to child's health and life
Child's physical, emotional and mental well-being are nourished evening in the work environment	Child is subject to psychological, verbal, or physical/sexual abuse
Child work voluntarily to participate in the family responsibility of maintaining the household	Child is forced by circumstances or by coercive individuals to work
Child is justly compensated materially and psychologically	Limited or no positive rewards for the child
Child's work is regulated by law or governed by family/community norms and values	Child's work is excluded from legislation, social security and benefits
Child's work serves as vehicle for social advancement and improvement in child's quality of life	Child's work is utilized for exploitative, subversive or clandestine operations or disguised illegal activities

Source: ILO, 2010

2.2. Causes of Child Labor

In most of the research work done on child labor, it is usually the economic implications that dominate theoretical models. Jafarey and Lahiri (2000a, p. 5) in their research noted that economic theories of child labor have been based on the following shared premises: (a) child labor is a socially undesirable phenomenon and as such its reduction is a commendable objective by any society; and (b) there exist other more desirable activities that a child can engage in and these include school attendance and leisure; and (c) child labor decisions in most of the situations are not the prerogative of the children but of a parent. Parents are not however, motivated by narrow self-interest but by a compassionate and rational outlook which takes into account the welfare of the whole household, including that of the child. In view of this, the parents share in the detrimental consequences of child labor through the introduction of a psychological cost of children working.

Jafarey and Lahiri further noted that if parents are averse to child labor, then the decision to nevertheless impose it upon their children must be based on the economic conditions facing the household. Many studies in the past that attempted to give economic explanations of child labor emphasized abject poverty as the most important reason for engaging children in market activity.

However, in the words of Kailash Satyarthi (2014):

“Children are employed not just because of parental poverty, illiteracy, ignorance, failure of development and education programs, but quite essentially due to the fact that employers benefit immensely from child labor as children come across as the cheapest option, sometimes working even for free.”

The arguments above show that when a child works, he or she is not the only bearer of the consequences, but the parents, the members of the household, the community, other participants in the labor market and hence the economy as a whole are affected in diverging ways. It is therefore important to discuss the issue of child labor in a multifaceted manner in order to measure the various consequences.

This research, however, did not intend to specifically examine the various determinants of child labor. Instead, the research generally looks at poverty as one of the many reasons for child's engagement in child labor and withdrawal from school.

Poverty is deep-rooted, thus, illiteracy, powerlessness and the lack of viable options further exacerbate the deprivations confronting poor parents who feel compelled to put a child to work. It has to be understood, however, that poverty is not the only factor in child labor and cannot justify all types of employment and servitude.

Poverty pushes the parents or members of households to pull their children out from school. Hard-pressed parents may not feel the long-term returns of education outweigh the short-term economic gains and skills acquired through child work. Education for poor children may be costly, inaccessible, of low quality or seen as irrelevant. In addition, many families depend on a girl's labor at home to enable the adults to work outside.

Children may decide to work knowing that their family needs the income, or through the influence of their friends and peers to join them on the streets or elsewhere.

There is a market demand for child labor since children are generally docile, obedient, hired at cheaper rates than adults, and dispensed with easily if labor demands fluctuate. Other literatures noted that child labor incurs no long-term investment on the part of the industry in terms of insurance or social security and low paid child labor may be perceived as a significant element for industries wishing to maintain a competitive edge in national and international markets (ILO, 2002). Children are unprotected, powerless and silent as far as their rights as workers are concerned. Children are often preferred in industries that are labor intensive, function with rudimentary technology and require laborious or repetitive work for long hours.

2.3. Worst Forms of Child Labor

Children in hazardous work are those involved in any activity or occupation that, by its nature or circumstances in which it is carried out, is likely to be harm their health, safety, or morals. In general, hazardous work may include night work or long hours of work, exposure to physical, psychological or sexual abuse; work underground, under water, at dangerous heights or in confined spaces; work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; and work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging their health.

There are four types of child labor that the international community has declared to be particularly heinous: (a) slavery; (b) sexual exploitation; (c) illicit activities; and (d) hazardous work.

A large number of children work in extremely hazardous occupations or dangerous conditions such as construction, mining, quarrying and deep-sea fishing. Some are trapped in virtual slavery, bought and sold for the debts of their parents. They are trafficked across national border, and commercial sexual exploitation of children is on the rise.

The employment of very young children is particularly alarming. The younger the children, the more vulnerable they are to hazards at the workplace and to economic exploitation. Furthermore, the higher the engagement of children in economic activities, the lesser their school attendance rate is. In view of this, this research particularly looked at the linkage between child labor and education.

2.4. Inextricable Link between Child Labor and Education

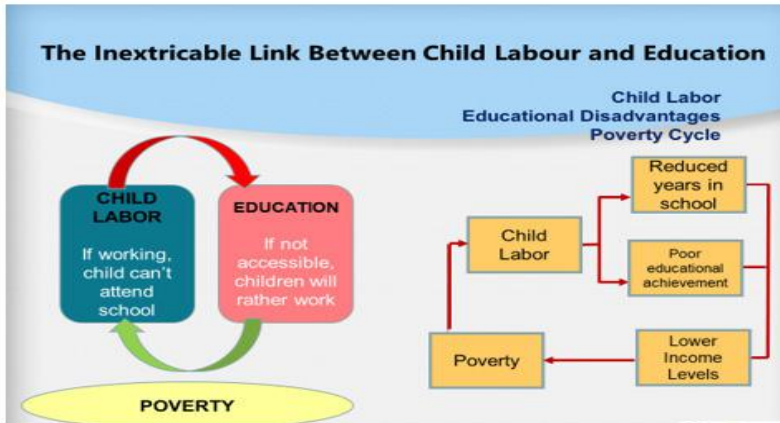
This research would like to highlight the inextricable link between child labor education (Figure 2). There is a growing recognition that child labor elimination and the achievement of universal basic education are interrelated challenges – that one cannot be achieved without the other.

Excessive involvement in the world of work traps millions of people into a cycle of poverty, vulnerability and diminished opportunities.

Compulsory education and child labor laws proved to be mutually reinforcing. Child labor legislation became enforceable only when children were required to attend school. Compulsory education laws (and birth registration systems) usually preceded child labor laws, and they proved less difficult to enforce than child labor laws. It must be understood, however, that the linkages between education and child labor are two-way. Poverty forces many households to withdraw children from school and send them to work. But many children are working at least in part because education is unaffordable, inaccessible, or seen as irrelevant. Thus, gaps in education policy can increase the number of children draw into labor markets.

The effective enforcement of compulsory education laws substantially reduces or eliminates child labor and entailed an interlocking system combining truant officers, home visits, school registers that are accurate and detailed, and the ultimate sanction of the law.

Figure 3. Linkage between Child Labor and Education



A number of literatures indicate that education is part of the cycle of deprivation facing the child laborers. Excessive involvement in the world of work traps millions of children into a cycle of poverty, vulnerability and diminished opportunities. Establishing the precise relationship between education and child employment is difficult. What is clear, however, is that child labor exacerbates the risk of being out of school.

Withdrawing children from hazardous and exploitative work, even when they are in school, is an integral part of eliminating child labor in the Philippines. To accelerate action against child labor and to attain the international development target of achieving primary education, making education a key element in integrated national strategies is perceived to deliver a good result.

Compulsory education has the potential to provide a powerful impetus towards the eradication of child labor. Universal access to education, and particularly to free and compulsory education of good quality secured until the minimum age for entry to employment, is a critical factor in the struggle against the economic exploitation of children. Getting children out of work and putting them back to school could provide an impetus for poverty reduction and the development of skills needed to boost growth, generate decent jobs and create more inclusive societies. Hence, suffice to say that understanding the interplay between education and child labor is therefore critical to achieving both the Education for All (EFA) and child labor elimination goals.

However, the linkages between child labor and educational disadvantage are two-way. Poverty forces many households to withdraw children from school and send them to work. But many children are working at least in part because education is unaffordable, inaccessible, or seen as irrelevant. Thus, gaps in education policy can increase the number of children drawn into labor markets. It follows that strategies for the eradication of child labor have to tackle the underlying source of the problem in an integrated fashion, balancing development approaches and stringent enforcement of rules and incentives to combat poverty with improved education provision.

This research is anchored on the premise that there is a strong link between educational disadvantage and child labor. Children forced out of school and into work to help their families make ends meet face elevated risks of getting trapped in a cycle of deprivation. The transmission operates in both directions. The interaction between poverty and labor markets pulls children into child labor. But ‘failure’ in education can generate a push factor by creating a supply of potential child laborers from the ranks of children whose school careers have been prematurely ended.

III. BACKGROUND AND CONTEXTUAL INFORMATION: LEGAL AND REGULATORY FRAMEWORK

This section focuses on the international and national standards, and policy framework on curbing child labor and the achievement of universal basic education.

3.1. Historical Trends in Child Labor Law and Policy

Child labor only began to be seriously questioned when industrialization and urbanization fundamentally changed children's working relationships and multiplied the dangers. Although some governments began to intervene in the nineteenth (19th) century to protect children from the worst excesses of the factory system and the most dangerous activities, the major change came when government's commitment to education increased as part of their development into modern nations. Even then, the move against child labor was not without challenge. Major arguments on child labor phenomenon include: (a) education would make children unsuitable for the mundane work that society required; (b) child labor was necessary for the welfare of poor families, as well as for certain industries if they were to remain competitive; (c) child labor laws would be impossible to enforce because of the number of enterprises involved; (d) numerous tasks could only be done by children; and (e) it was not the role of the state to interfere with parental wishes concerning what was best for their children (ILO, 2002).

Although several ILO Conventions and Recommendations on child labor date from the beginning of the ILO itself, the minimum age standards for work in various sectors were regarded as a rather technical topic of employment conditions rather than a major social problem. Since 1970s, there was a growing conviction among the ILO's constituent Members that:

- a. Childhood is a period of life which should be dedicated, not to work, but to education and development;
- b. Child labor, by its nature of because of the condition in which it is undertaken, often jeopardizes children's chances of becoming productive adults, able to take their place in the community;
- c. Child labor can jeopardize a country's present reputation and long-term productivity by denying education to the future workforce; and
- d. Child labor is not inevitable and progress towards its reduction and even its elimination is possible when the political will to fight it exists.

In view of this, a major new child labor convention was adopted in 1973, the Minimum Age Convention (No. 138), which requires the member States to design and apply national policies to ensure the effective abolition of all forms of child labor and set minimum age for employment. This obligation, however, met much resistance from vested commercial interests, market pressures, moral indifference, and traditional cultural attitudes.

To address such challenges and to assist member States in hurdling those aforementioned obstacles, the International Labor Organization (ILO) launched in 1992 the International Programme on the Elimination of Child Labor (IPEC). This program provided a range of technical and policy assistance to countries which were taking steps to address child labor. IPEC's experience of the gross exploitation and abuses of children in certain activities led to the idea of prioritizing child labor action giving urgent and particular attention on the worst forms of child labor while pursuing the wider, longer-term aim of reducing child labor in all its forms.

The growing awareness of children's rights in the 1990s, culminated in 1999 in the unanimous adoption by the ILO of Convention No. 182 on the worst forms of child labor. It has had a large number of ratification by member States and has stimulated ratification of Convention No.138 as well. Gradually, member States are taking various initiatives to make their respective national legislations aligned with the provisions of these conventions.

3.2. Policy Framework Prohibiting Child Labor

Child labor has long been recognized as a significant violation of children's rights, fundamental labor and human rights, as well as substantial barrier to national development. The international community has set the standards on how child labor should be defined and how its elimination should be prioritized. Three international conventions namely, (a) Minimum Age Convention, 1973 (No. 138) and Recommendation No. 146; (b) ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and Recommendation No. 190; and (c) the United Nations Convention on the Rights of the Child (CRC), set the legal boundaries for child labor, and provide the legal basis for national and international actions against it.

Minimum Age Convention (No. 138). The ILO Convention No. 138, which has been ratified by 164 countries as of December 2012, represents the most comprehensive and authoritative international norm concerning minimum age for admission to work or employment. This Convention continues to be the fundamental international standard on child labor which requires ratifying states to: “undertake to pursue a national policy designed to ensure the effective abolition of child labor and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons”.

Consisting of 18 articles or provisions, this Convention calls on member States to pursue a national policy to ensure the effective abolition of child labor. Within this framework, it calls on member States to set a general minimum age for admission to work or employment of at least 15 years of age (Article 2.3) and a higher minimum age of not less than 18 years for employment or work in hazardous conditions, which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons (Article 3.1).

Further, the Convention states that national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received (Article 7).

ILO Convention 138 provides certain flexibilities relating to minimum age allowing those member States whose economy and educational facilities are insufficiently developed to specify a lower general minimum age of 14 years (Article 2.4) and lower age range for light work of 12 to 14 years (Article 7.4).

The Convention applies to all sectors of economic activity, whether or not the children are employed for wages. It is a flexible instrument allowing for progressive improvement, and most importantly, for developing countries to set lower ages for employment to start with. Exceptions are allowed for certain sectors (e.g. non-commercial agriculture in developing countries), for limited categories of work, for education and training, and for artistic performances.

Fixing the minimum age for admission to employment is a basic obligation of ratifying member States, and the Convention establishes three categories for this:

1. The minimum age should not be less than the age of completing compulsory schooling, and in no event less than 15 years of age. Countries whose economy and educational facilities are insufficiently developed may initially fix the age of admission to employment at 14.
2. A higher minimum age of 18 is set for hazardous work “which by its nature or the circumstances to which it is carried out is likely to jeopardize the health, safety, or morals of young persons”. It is left to the individual countries to determine which work is considered hazardous work, after consultation with employers’ and workers’ organizations.
3. A lower minimum age for light work, i.e. work which is not likely to be harmful to children’s health or development or to prejudice their attendance at school may be set at 13. For a country that initially sets a minimum age of 14, the minimum age for light work may be set at 12.

Table 2. Minimum Age in Accordance with C138

General Minimum Age	Light Work	Hazardous Work
<i>For most countries</i>		
15 years or more	13 years	18 years
<i>For countries whose economy and educational facilities are insufficiently developed:</i>		
14 years	12 years	18 years

ILO Recommendation No. 146. This instrument provides guidance on enforcement measures and addresses some of the specific issues that child labor raised for inspection services. The Recommendation emphasizes the need to strengthen labor inspection and related services by, for example, providing special training for inspectors on detecting abuses in the employment or work of children and young persons and on correcting such abuses. It also underscores the need to strengthen government services for the improvement of training offered in enterprises. Placing emphasis on the role which can be played by the inspectors in supplying information and advice on effective means of complying with relevant provisions of the law and in securing enforcement of the law is likewise highlighted by the ILO Recommendation. Furthermore, the Recommendation noted the importance of coordinating labor inspection and inspection of training to provide economic efficiency and the importance of having the labor administration services work in close coordination with the services responsible for the education, training, welfare and guidance of children and young persons.

Moreover, ILO Recommendation No. 146 enumerated the areas that labor inspection should give special attention to. These include: (a) enforcement of provisions concerning hazardous type of employment or work; (b) prevention of work during the hours when instruction is available where education or training is compulsory; (c) taking measures to facilitate the verification of ages, such as: (1) maintaining an effective system of birth registration, including issuance of birth certificates; (2) requiring employers to keep and make available to the competent authority registers or other documents which give the names and ages or dates of birth of children and young people who are employed and who receive vocational orientation or training in their enterprises; and (3) issuing licenses or other documents to children and young persons who work in the streets, in outside stalls, in public places, in itinerant occupations or in other circumstances which make checking employers' records impracticable and which indicate the eligibility to work.

The Worst Forms of Child Labor Convention (No. 182). ILO Convention No. 182 that was adopted in 1999 serves as a supplementary instrument to Convention No. 138 by emphasizing the subset of worst forms of child labor requiring priority action. This Convention calls on member States to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency. For the purposes of the Convention, worst forms of child labor is as follows: (a) 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 labor, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) 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 (Article 3). The ratification of Convention No. 182 by 176 countries as of December 2012 has been the fastest in the history of the ILO.

ILO Recommendation No. 190. The accompanying Recommendation (No. 190) draws attention to such cases where children are exposed to: (a) physical, psychological, or sexual abuse; (b) work underground, under water, at dangerous heights, in confined spaces; (c) manual handling or transport of heavy loads; (d) an unhealthy environment exposing workers to hazardous substances, agents or processes, temperatures, noise levels or vibration damaging to health; (e) work under difficult circumstances, including long hours during the night; and (f) unreasonable confinement to the employer's premises.

Of particular concern that the Convention calls on ratifying States is the setting up of mechanisms to monitor implementation of the new laws that have been set up regarding the worst forms of child labor, and allows for effective enforcement, including penal or other sanctions. The Recommendation suggests several measures that could make such enforcement effective, such as the provision of appropriate training for the government officials concerned, especially labor inspectors and law enforcement officials. In addition, the Recommendation specifically underscored the following: (a) design and implementation of national programs of action which aim at: (1) identification and denunciation of the worst forms of child labor; (2) preventive action and the removal from work, rehabilitation and social integration of the children concerned through measures that address their educational, physical and psychological needs; (3) giving special attention to younger children, girls, hidden work in which girls are at special risk, children with special vulnerabilities or special needs; (4) identifying and working with communities where children are at risk; and (5) raising awareness and mobilizing society; (b) determination of the types of work that are hazardous; and (c) various measures for the elimination of hazardous and other worst forms of child labor, including: (1) compilation of data; (2) establishment of monitoring mechanisms to ensure effective implementation; (3) designation of certain worst forms of child labor as criminal offences; and (4) effective enforcement measures.

The UN Convention on the Rights of the Child (CRC). The UNCRC is the third key international legal standard concerning child labor. This Convention sets out the civil, political, social and cultural rights of every child, regardless of their race, religion or abilities. Adopted in 1990 and with 193 parties as of December 2012, the Convention recognizes the child's right 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 (Article 32.1). In order to achieve this goal, the CRC calls on States parties to set minimum ages for admission to employment, having regard to other international instruments (Article 32.2).

According to the CRC, the worst forms of child labor is said to exist if: (a) the child is sold; (b) is bonded; (c) works without pay; (d) works excessive hours; (e) works in isolation or during the night; (f) is exposed to grave safety or health hazards; (g) is abused; (h) is at risk of physical violence or sexual harassment; and (i) works at a very young age.

The same Convention establishes the rights of the child to education, and with a view to achieving this right progressively, and on the basis of equal opportunity, it obliges the government to take measures to encourage regular attendance in school and reduce drop-out rates. Thus, it is mandated that all appropriate measures be undertaken to ensure that school discipline is administered in a manner consistent with the child's human dignity, and in conformity with the CRC.

3.3. Other International Instruments

The ILO Declaration on Fundamental Principles and Rights at Work that was adopted in 1998 makes it clear that these rights are universal, and that they apply to all people in all States regardless of the level of economic development. This Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) elimination of forced or compulsory labor; (c) abolition of child labor; and (d) elimination of discrimination in respect of employment and occupation.

Following the entry into force of ILO Convention No. 182, the ILO constituency in 2006 set the goal of eliminating all worst forms of child labor by 2016. A global action plan was developed to provide a strategic framework and action plan for the ILO in the period up to 2016. By endorsing the plan and the 2016 target, the ILO Governing Body reaffirmed its commitment to the elimination of child labor as one of the ILO's highest priorities. This commitment was reinforced in 2012 when the ILO Governing Body approved a new plan of action on the fundamental principles and rights at work. In addition, the plan of action underscores the universal nature of these rights, their interrelated and mutually reinforcing qualities, and their significance as enabling rights for the achievement of all the ILO strategic objectives related to the fundamental principles and rights at work, employment, social protection and social dialogue.

A Roadmap for achieving the elimination of the worst forms of child labor by 2016 was adopted at The Hague Global Child Labour Conference of 2010 and subsequently endorsed by the ILO's Governing Body in recognition of the need for a "new momentum" if the world is to attain the ambitious 2016 target. The Roadmap highlights the urgent need to scale up and accelerate country-level actions against child labor in the years up to 2016. The 2012 action plan adopted by the ILO Governing Body specifically calls for support to member States in implementing the Roadmap.

Policy priorities identified in the Roadmap include: national legislation and enforcement; education and training; attention to labor markets; and social protection. In the area of social protection, the Roadmap identified the following imperatives:

- Implement strategies, policies and programs that offer access to and delivery of social and health services to vulnerable and socially excluded households, hard-to-reach children and children with special needs, including where possible a basic social protection floor;
- Fight discrimination that contributes to child labor;
- Support families' capacity to protect their children by working towards a system of social protection through, for instance, cash transfer schemes, public works, access to credit, insurance and saving schemes, and strengthening and implementing national protection to protect children from exploitation.
- Assist victims of the worst forms of child labor to prevent their return to child labor

Child Labor and Sustainable Development Goals. The 2030 Sustainable Development Goals (SDGs) particularly SDG 8 likewise underscores the countries' initiatives on addressing the issue of child labor. SDG 8 (decent work and economic growth) focuses on promoting sustained, inclusive and sustainable growth and full and productive employment and decent work for all. SDG Target 8.7 aims to “take immediate and effective measures to eradicate forced labor, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all its forms.

3.4. National Policies

The legal and policy environment for the abolition and prevention of child labor and forced labor is well developed in the Philippines, and the country is also a signatory to associated UN and ILO conventions. The Philippines takes pride as one of the first countries to ratify international instruments for the protection of children particularly ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labor and Convention No. 183 on the Minimum Age for Employment. ILO Convention No. 138 and Convention No. 182 were ratified by the Philippines on 4 June 1998 and 28 November 2000, respectively.

The national legal and policy framework for the abolition and prevention of child labor are contained in the following several laws and regulations.

Pursuant to the **1987 Philippine Constitution**, the State shall defend 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 (Article XV, Section 3 [2]).

The Constitution further provides that all educational institutions shall inculcate patriotism and nationalism, foster love of humanity, respect for human rights, appreciation of the role of national heroes in the historical development of the country, teach the rights and duties of citizenship, strengthen ethical and spiritual values, develop moral character and personal discipline, encourage critical and creative thinking, broaden scientific and technological knowledge, and promote vocational efficiency. (Article XIV, Section 3 [2]).

The **Labor Code of the Philippines** prohibits the employment of children under the age of 15, except when working directly for a parent and when the work does not interfere with schooling. Article 139 of the Labor Code restricts children under the age of 18 from engaging in hazardous work.

The **Republic Act No. 7658, The Act Prohibiting the Employment of Children below 15 Years of Age in Public and Private Undertakings** amended Section 12, Article VIII of Republic Act No. 7610. Exceptions are permitted if the child works directly under the sole responsibility of his/her parent or guardian and his/her employment does not interfere with his/her education. In addition, children under the age of 15 may be employed in public entertainment or information through cinema, theater, radio or television, if their employment is essential. This exception is subject to the conditions of DOLE Department Order No. 65-04 requiring submission by the employers of, among others, working permit, proof of schooling, proof of age and medical certificate.

To ensure strict compliance to international standards, the Philippine government has institutionalized a very strong legal framework which regulates the hiring of working children in all industries and prohibits child labor particularly in its worst forms. In 2003, the Philippines enacted its landmark anti-child labor legislation – **Republic Act No. 9231 “An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child”** to protect and remove children from the worst forms of child labor. The Department of Labor and Employment issued Department Order No. 65-04 as the Implementing Rules and Regulations of RA 9231.

Further, the IRR of RA 9231 provides a clear delineation between child work and child labor. As indicated in the IRR, the “Child” refers to any person below 18 years of age. “Child labor” is defined as any work or economic activity performed by a child that subjects his/her health and safety or physical, mental or psychological psychosocial development, while “working child” is defined as any child engaged in the following” (a) when the child is below eighteen (18) years of age, in work or economic activity that is not child labor as defined in the immediately preceding paragraph; (b) when the child is below fifteen (15) years of age, (i) in work where he/she is directly under the responsibility of his/her parents or legal guardian and where only members of the child’s family are employed; or (ii) in public entertainment or information.

Providing specific guidelines on undertakings deemed as hazardous is DOLE Department Order No. 4-1999. It identifies a list of work and activities considered as hazardous to persons below 18 years of age. After more than a decade, the list was updated through the issuance of D.O. 149, series of 2016 taking into account child labor issues in traditional and emerging sectors.

Under the Philippine Development Plan 2017-2022, the government targets to reduce the cases of child labor by 30 percent.

3.5. Policy Framework for the Achievement of Universal Basic Education

The language of rights has been integral to all attempts to combat child labor. In 1921, the ILO linked compulsory education with the minimum age for employment. By recognizing the role of education in eliminating child labor, this policy development – and the movement of the previous century to end child labor that led to the establishment of the ILO – helped to provide the underpinnings for the emergence of the right to education. Historically, the labor movement played an important role, both at the national and international level, in promoting the right to education.

The right to free and compulsory education, at least at the primary or basic level, is enshrined in a number of international human rights treaties, starting with the Universal Declaration of Human Rights (1948).

The Universal Declaration of Human Rights. The 1948 Universal Declaration of Human Rights states: Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (Article 26).

UNESCO Convention against Discrimination in Education. The 1960 UNESCO Convention against Discrimination in Education states: The States Parties to this Convention undertake to formulate, develop and apply a national policy which will tend to promote equality of opportunity and of treatment and in particular to make primary education free and compulsory.

International Covenant on Economic, Social and Cultural Rights. The 1966 International Covenant on Economic, Social and Cultural Rights has in Article 13 the most wide-ranging and comprehensive article on the right to education in international human rights law. Article 13 states that “Primary education shall be compulsory and available free to all; secondary education in its different forms, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education” (Article 13 (2)). The International Covenant goes on to state that any ratifying State that does not provide free and compulsory primary education shall undertake within two years, to work out and adopt a detailed plan of action

for the progressive implementation, within a reasonable number of years...of the principle of compulsory education free of charge for all (Article 14).

Convention on the Rights of the Child. The first specific global reference to the right of children to education was enshrined in principle 7 of the 1959 Declaration of the Rights of the Child. The 1989 Convention on the Rights of the Child (CRC) stipulates, in Article 28, that the right to education should be achieved “progressively” and on the basis of equal opportunity. The latter reflects the fact that vast numbers of children suffer discrimination in access to education, including working children. Given the cost of education not all States will be able to meet the educational needs of all their children at a stroke – hence the reference to the right being achieved “progressively”. That said, article 28 states a core minimum: free, compulsory primary education for all, and different forms of secondary education and vocational guidance “available and accessible” to all. Higher education must be accessible “on the basis of capacity”.

Article 28 also addresses the delivery of education, in so far as States must take measures to reduce dropout and ensure that school discipline respects the child’s rights. States are also asked to promote international co-operation in the field of education, not least to meet the needs of developing countries. Several other article of the Convention are also pertinent, for example article 19 concerning measures to protect children against all forms of physical or mental violence, injury or abuse; article 22 on the rights of refugee children; article 23 about the rights of children with disabilities; article 30 about children of minorities, and not least article 32 about child labor; and article 27 guaranteeing a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.

Equally, if not more important as part of the CRC, are the “general principles” laid out in particular in Articles 2 (Non-discrimination), 3 (Best interests of the Child), 6 (The Right to Life, Survival and Development), and 12 (The Views of Children). These provide a useful guide concerning implementation of Article 28 and raise important issues.

ILO Conventions. ILO Conventions since 1921 (Convention No.10 on the minimum age for employment in agriculture) have linked compulsory education with the minimum age for work. The Minimum Age Convention, 138 (1973) states in Article 2 (3): The Minimum Age shall be not less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. Convention 182 on the Worst Forms of Child labor continues this tradition. In Article 7 (2)) it states: Each Member shall, taking into account the importance of education in eliminating child labor, take effective and time-bound measures to: (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labor. In Article 8 universal education is mentioned as one of the objectives of international co-operation and/or assistance. Mention should also be made of the Convention concerning Indigenous and Tribal Peoples, 1989, No.169 which has a number of pertinent elements relating to securing the right to education of groups who are often most at risk of discrimination and of child labor.

3.6. National Policy: RA 10533 or the Enhanced Basic Education Act

In an attempt to implement curriculum change and to improve national education system and make it at par with those of many other countries, the Philippine government through the Department of Education initiated the improvement by enacting and implementing Republic Act No. 10533 or the Enhanced Basic Education Act of 2013.

The said law seeks to inject and develop its curriculum for its students to be able to adapt to 21st century changes around the nation and across the globe.

With the passage of RA 10533, the country's basic education act which pushed the age of completion of compulsory education to 18 years old, children 15 to below 18 years old have been allowed to combine work and studies. However, existing provisions of RA 9231 do not allow for working youth to effectively do this as it provides for work up to 10:00 p.m. and more than 8 hours for this age range, for instance.

3.7. Other Policies: General Protection Framework in the Philippines.

Child protection needs a clear foundation in national legislation. In its concluding observations to the Philippine Government in 2007, the United Nations Committee on the Rights of the Child (CRC) has noted the fairly advanced general legal framework for child protection in the Philippines. The table below provides a summary of various policies implemented on this regard.

Table 3. Other Relevant National Laws on Child Protection

Law	Title	Description	Year Enacted
Republic Act No.8972	Solo Parents Welfare Act	Provides for benefits and privileges to solo parents and their children	2000
Republic Act No. 8980	Early Childhood Care and Development (ECCD) Act		2000
Republic Act No. 9231	An Act Providing for The Elimination Of The Worst Forms Of Child Labor And Affording Stronger Protection For The Working Child		2003
Republic Act No. 9208	Anti-Trafficking in Persons Act Creates the Inter-Agency Council Against Trafficking (IACAT)	Considers as trafficking the adoption of children for prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage	2003
Republic Act No. 9262	Anti-Violence Against Women and Their Children Act of 2004	Gives the protection of the law to women and children suffering from domestic abuse	2004
Republic Act No. 9255	Act Allowing Illegitimate Children to Use the Surname of their Father Amends the Family Code of the Philippines		2004
Republic Act No. 9344	Juvenile Justice and Welfare Act	Establishes a comprehensive juvenile justice and welfare system and creates the Juvenile Justice and Welfare Council under the Department of Justice, and of its Implementing Rules and Regulations (IRR)	2006

Republic Act No. 9346		Prohibits the imposition of the death penalty	2006
Republic Act No. 9710	Magna Carta of Women		2009
Republic Act No. 9775	Anti-Child Pornography Act	Provides the full legal armor against producers, transmitters, sellers and users of child pornography in whatever form, as well as the means of production, dissemination and consumption, in public and private spaces	2009
Republic Act No. 9745	An Act Penalizing Torture and Other Cruel, Inhuman and Degrading Punishment Recognizes torture committed against children as punishable by law		2009
Department of Education Department Order No. 40	DepEd Child Protection Policy	Policy and Guidelines on Protecting Children in School from Abuse, Violence, Exploitation, Discrimination, Bullying and other Forms of Abuse	2012

Also established the Crisis Intervention Units (CIU) on a nationwide scale. Another government agency, the Department of Justice (DOJ), has a Special Committee for the Protection of Children which drafted the CPCP. A DOJ-attached agency, the National Bureau of Investigation (NBI), has a Task Force on Child Protection, and also an Anti-Abuse and Discrimination Division (ACADED).

Child 21 and the National Plan of Action for Children (NPAC). The following section describes the national framework that shaped the child protection policies in the country.

Child 21: The Philippine National Strategic Framework for Plan Development for Children or Child 21 sets a vision for Filipino children’s welfare and development in the year 2025. It provides a road map, rather than a comprehensive or detailed plan, for national government, local government units, private initiatives and non-governmental organizations to use when planning priorities for action and in allocating and utilizing resources to promote the rights

of Filipino children. The vision of Child 21 was that the services of these stakeholders would converge on the child and on the protection of his or her rights throughout his or her life cycle. As a rights-based framework, Child 21 identified protection as one of the rights categories. Interestingly, the term Children in Need of Special Protection (CNSP) was used to replace the category Children in Especially Difficult Circumstances (CEDC), a trend that seemed to emerge in national and international child rights legal documents in this decade. We could remember that the CEDC as a term which was heavily criticized for the tendency to isolate the focus of possible rights issues on particular conditions deemed to be dysfunctional or marginal. While the term CNSP may also potentially lead people to view them as a distinct group apart from other children, the intention is both to address the ways in which they may be marginalized from general forms of provision, and to provide for the specific services which may be needed in order to overcome their problems, as these children often have needs beyond those of children in ordinary situations.

National Plan of Action for Children (2005): The National Plan of Action for Children (NPAC) has been drawn in an attempt to concretize the vision in Child 2143. NPAC seeks to harmonize with the Millennium Development Goals (MDG) and World Fit for Children (WFC) goals and targets. The NPAC considers children in need of special protection as a special sector of children in requiring unique interventions. The following are considered to be in need of special protection: a) children who experience violence, abuse and exploitation; b) children in situations of commercial sexual exploitation; and c) children in emergency and difficult circumstances. In particular, the NPAC prescribes: a) broad nationwide interventions, cutting across life stages; b) interventions specific to a particular life stage; and sector specific interventions. In terms of protection, NPAC is aligned with the Comprehensive Program on the Protection of Children, a joint effort by the Department of Justice and the Department of Social Welfare and Development.

Localizing the NPAC. The success of the NPAC depends on a large extent to its adoption at the local government level. However, localizing the policies, programs and services continues to be a challenge. Existing mechanisms for localization do not work well. While local government units (LGUs) are urged to formulate local development plans for children, annual investment plans for children, local codes for children, and annual local state of the children reports, only a minority of the LGUs have complied. Monitoring by the Department of Interior and Local Government (DILG) should focus on ensuring that the local plans, investments and programs are implemented accordingly and that they reach the target groups of children. Lack of awareness of local chief executives on new policies and programs and lack of capacity of local government personnel are some of the factors that prevent policies and programs from reaching the target groups.

An effort to encourage compliance from LGUs is the search for “child-friendly” cities and municipalities. Initiated by the Council for the Welfare of Children (CWC), the Presidential Award for the Most Child-Friendly Cities and Municipalities was launched in November

1999 to promote the Child Friendly Movement (CFM). However, the United Nations Children's Fund (UNICEF) study on child-friendly cities in the Philippines observed that cities dubbed as child-friendly varied greatly in fulfilling expectations. It also cautioned against a tendency among LGUs to rest on their laurels once they were recognized for their efforts. It is clear that the State Party should continue to explore other strategies that may help LGUs internalize these processes even without the external rewards. The goal of the child-friendly awards is not just to encourage LGU compliance but more importantly to truly benefit children. Thus, the local chief executives need to understand what the child-friendly concept truly means, and what it entails in terms of developing programs and budget allocations for children. As such, assessments should consider not only reports from the LGUs but also the views of community beneficiaries. It should also include successful efforts to involve children in planning and developing policies and programs for children and in actions to address violence against children, such as summary executions, corporal punishment, and other forms of violence in all settings.

Comprehensive Programme on Child Protection (CPCP): With CPCP, it is envisioned that by 2010, all identified CNSP will have been provided with appropriate interventions including rescue, recovery, healing, and reintegration services; and legal and judicial protective measures. Children at risk shall also be prevented from becoming victims of various forms of abuse, neglect, exploitation, and violence by making available and improving basic social services such as education, health, and nutrition.

3.7. Coordination and Integration Mechanism

The Council for the Welfare of Children (CWC) is the focal inter-agency body of the Philippine government for children's concerns. It is tasked to: a) coordinate and monitor the implementation of the NPAC/Child 21; b) formulate and advocate policies on children; and c) monitor the State's implementation of the CRC. One of the main strengths of the CWC is to serve as the conduit of the seven line agencies, two coordinating bodies and other individuals that make up the CWC Board. It is also very open to collaboration with NGOs and other civil society organizations. This created many opportunities for different NGOs to engage and work with the government.

At the CWC itself, there is the National Task Force for Children in Need of Special Protection. This government task force is composed of the chairpersons of the sub-task forces for the different categories of children. The Special Committee for the Protection of Children, composed of 9 Government agencies and 3 NGOs, receives reports on regular basis from the Task Force on Child Protection on the nature of child abuse cases. These different inter-agency and multi-sectoral task forces function under the CWC Technical Management Committee which recommends policies to the Council Board.

With the passage of RA 8980 or the Early Childhood Care and Development (ECCD) Act of 2000, CWC was mandated to serve as the National Early Childhood Care and Development

Coordinating Council (NECCDCC) as well. As such, it is expected to promulgate policies and guidelines for the nationwide implementation of ECCD Program. The Regional Sub-Committee/Committee for the Welfare of Children (RSCWC/RCWC) was designated as subnational extension of the national CWC, based on the implementing rules and regulations of RA 8980. At the regional level, 17 RSCWC/RCWC function as the focal institution and facilitate collaborative efforts in child protection. In addition, they also link up collective efforts between the national government and the local government units (LGUs).

However, CWC is challenged in fulfilling its other obligations, such as policy formulation and advocacy, and monitoring of the implementation of the UN CRC, due to a number of factors: a) inadequate funding support; b) inadequate personnel; and c) the lack of clout to actually influence other government agencies. In 1987, the CWC was transferred from the Department of Social Welfare and Development (DSWD) to the Office of the President in order to “strengthen its functions and mandate”. However, it was returned to the DSWD in 2007, with the position of the Executive Director downgraded from its previous Undersecretary level, a move which may diminish its status as an inter-agency, multi-sectoral monitoring body. With its roles and functions, the CWC must have a strong and assertive leadership in order to influence the different agencies in all matters pertaining to children. The different line agencies need to work more actively to enable CWC to perform this role.

Meanwhile, the DSWD has also established the Crisis Intervention Units (CIU) on a nationwide scale. Another government agency, the Department of Justice (DOJ), has a Special Committee for the Protection of Children which drafted the CPCP. A DOJ-attached agency, the National Bureau of Investigation (NBI), has a Task Force on Child Protection, and also an Anti-Abuse and Discrimination Division (ACADED).

The National Programme Against Child Labor (NPACL) is a comprehensive program which consolidates the efforts of various social partners to eliminate the worst forms of child labor and to transform the lives of child laborers, their families and communities, towards their sense of self-worth, empowerment and development. The guiding principles of the NPACL include demonstrated caring quality service delivery, continuous learning, competency building and service innovation, rights-based and needs-driven advocacy and action, partnering, supportiveness, convergence of resources, both financial and human, strong sense of social responsibility, results orientation, diversified resource base.

The NPACL is implemented through a multi-sectoral coordinating body in congruence with the goals enunciated in the Medium Term Philippine Development Plan (MTPDP) and the Philippine National Strategic Framework For Plan Development for Children, 2000-2025 (Child 21). Institutional mechanisms of the NPACL at the national and regional levels involving interagency efforts have also been established, with the Department of Labor and Employment (DOLE) – Bureau of Workers with Special Concerns (BWSC) taking the lead role.

The NPACL is being implemented by partners at different levels:

- At the Local Level - The Program Implementation Committee (PIC) is composed of representative(s) from local government units (LGUs), local representatives of the partner agencies, NGOs and community or people's organisations, the working children themselves and their family.
- At the Regional Level - The Regional Child Labor Committee (RCLC) is composed of regional representatives of the partner agencies and the chairperson of the PIC
- At the National Level - The National Child Labor Committee (NCLC) is composed of national representatives from member agencies: Department of Health (DOH), Department of Education (DepEd), Department of Social Welfare and Development (DSWD), Department of Interior and Local Government (DILG), Department of Agriculture (DA), Department of Justice (DoJ), National Youth Commission (NYC), Philippine Information Agency (PIA), Council for the Welfare of Children (CWC), Employers Confederation of the Philippines (ECOP), Trade Union Congress of the Philippines (TUCP),) and the Department of Labor and Employment (DOLE), with its Undersecretary as Chairman. Non-Government Organizations (NGOs) like the Educational Research and Development Assistance Foundation (ERDA), World Vision and Visayan Forum are also a member of the NCLC.

3.8. PREVENTIVE MEASURES

Preventive measures include information campaigns and training on child rights and child protection, support to parents and caregivers, and inspection and monitoring services. The CPCP adopts an approach that includes actions and interventions that will (i) sensitize families, communities and LGUs on the CRC; (ii) facilitate effective access of children at risk to relevant early and basic education and vocational training; (iii) equip children with knowledge and life skills to protect themselves; (iv) promote responsible and effective parenting education among families of CNSP; (v) support livelihood activities and facilitate access to credit and employment opportunities; (vi) establish effective built-in screening and monitoring mechanisms for children at risk within basic social services at barangay, city, and municipal levels; (vii) organize, activate, and strengthen local councils for the protection of children (LCPC), particularly at barangay level and (viii) upgrade technical competencies of program managers, supervisors, social workers, and other service providers in helping children.

Promoting awareness of UN CRC. To date, there are no measures that adequately determine the level of awareness and understanding of the UN CRC among Filipinos. Available data, such as those cited in the State reports to the UNCRC51, are not direct measures of how the UN CRC was disseminated by the State Party. In fact, children and adult participants in the

three consultations conducted by the NGO Coalition have observed that the awareness and knowledge of the UN CRC are shared only by children and adults who have been involved in children's rights work. Most of their knowledge about rights came from trainings and workshops organized by the NGOs.

UNICEF also provides orientation to local officials on the Convention on the Rights of the Child (CRC) and Convention on the Elimination of Discrimination against Women (CEDAW). It builds their capacity to respond to these two international instruments through planning, budgeting, legislation and reporting.

Promoting access to early education. The Department of Social Welfare and Development (DSWD) used to provide for public day care centres. It has since become the responsibility of local government units (LGUs) by virtue of the 1991 Local Government Code. Since then, the DSWD has focused on accreditation standards setting, compliance monitoring, provision of technical assistance and/or capability building. There are also day care centers that are operated by NGOs, faith-based organizations, parents' groups and private individuals. Day care centers are designed to provide supplemental parental care to children of working mothers during part of the day. It can accommodate 30 children at a time; with morning and afternoon sessions, a center's capacity doubles to 60. Some factories and government agencies and corporations also provide worksite-based child care centers for their employees.

Promoting responsible parenting. The government, through the DSWD, has implemented training and capability building programs targeted at parents (Parents' Effectiveness Service or PES) and Parents, Teachers and Community Associations (PTCAs). However, it was noticed that PES sessions are attended mostly by mothers. Thus, specially designed modules for fathers were developed: the Empowerment and Reaffirmation of Paternal Ability (ERPAT) and Ang Mapagkalingang Ama (AMA) or the Nurturing Father.

Organizing LCPC. Another strategy is the organization of local councils for the protection of children (LCPC) at all levels of local government, especially at the barangay level. The barangay is the primary implementing structure closest to children. This unit, however, has to implement many other duties in compliance to a multitude of directives coming from the local chief executive and national level agencies. There is an urgent need to support barangays to directly respond to the needs of children. While organizing rates are high, their functionality remains in question. In most cases, the activities of the BCPCs depend on the priorities of the local chief (barangay captain), who also sits as chair of the BCPC. The programs take off or falter depending on his/her interest. Wherever children's concerns are not the main priority, the BCPCs are not convened, or if convened at all, are non-functional. In many cases, civil society groups undertake initiatives without much barangay support. The same is true at the municipal, city or provincial levels.

3.9. PROGRAMMES AND SERVICES FOR CHILDREN, FAMILIES AND COMMUNITIES

The CPCP also requires services that will (i) strengthen and expand monitoring and rescue mechanisms such as Sagip-Bata Manggawa (SBM) and Bantay Banta, among others, and link them with the LCPCs; (ii) improve psychosocial recovery and healing services and social reintegration programs; (iii) promote alternative family care for children without families or children deprived of a family environment; (iv) empower families and communities to facilitate psychosocial recovery, healing and social reintegration.

Rescue mechanisms. In general, the Crisis Intervention Unit (CIU), a special unit of the DSWD, provides integrated services such as immediate rescue and protection, augmentation assistance during disasters, provision of direct financial and material assistance, and referrals for medical, legal, psychosocial, temporary shelter, and other services to clients⁵⁴. Rescued children are provided Critical Incident Stress Debriefing. Then they are referred to appropriate centers for temporary shelter and protective custody.

For child pornography cases, rescue operations are handled by the National Bureau of Investigation in cooperation with the appropriate local government unit and their social welfare and development offices. Meanwhile, government operations to rescue street children in Manila have been heavily criticized for being ineffective, indiscriminate, and involuntary, done for the wrong reasons, and seen by the supposed beneficiaries as arrests, and thus become child protection issues as well. Rescue mechanisms for the following child protection issues are discussed in separate chapters: children in exploitative and hazardous working conditions (Chapter 4); children in trafficking situations (Chapter 5); children in disasters (Chapter 6) and children in armed conflict (Chapter 7).

Psychosocial recovery and healing services and social reintegration. A review conducted in 2000 categorized the available services into: center-based, street-based and community-based services. Centre-based services provide any of the following services: a) skills training, values formation and alternative education or tutorials; b) legal assistance, case work and psychological/psychiatric services; and c) recreation, sports and even livelihood opportunities. Street-based services usually offer “street education,” which adopts a protective approach that includes counselling, referral to health centers, health education, first aid, and advocacy for prevention.

3.10. Programs and Services for Child Laborers, Parents, Families and Communities of Child Laborers.

At present, the focus of actions in the country is on the elimination of risk to children rather than on ending their participation in all forms of work. Such approach is needed to accommodate the poverty element in child labor and allow the families flexibility in maintaining their essential survival mechanisms while protecting the children involved. Thus, among the emerging strategies now being pursued by the government is the

focusing of rescue efforts on the most exploitative forms of child labor or the high-risk children such as the very young (below age 12 or 13), those in hazardous working conditions, or those in bonded labor.

For the rest of the working children, however, until alternatives for survival are set in place, heightened efforts should be exerted to assure that they are in jobs that are not harmful to their health and physical and mental development, that they have opportunities for education and recreation, and that they receive the same conditions of employment and protection as ordinary workers in addition to their rights as children. The protection of existing labor legislation, standards, as well as welfare schemes designed to protect workers' well-being, should be extended to them. At the same time, sufficient and effective programs of rehabilitation are needed to complement the said strategy.

To realize the foregoing objectives in the area of law enforcement, community groups and local government units have been mobilized to immediately respond to complaints of child abuse and exploitation and to assist the concerned children in obtaining redress for the violation of their rights. Nevertheless, to assure them complete and adequate relief throughout the entire judicial process, the training of significant actors such as labor inspectors, prosecutors, judges, social workers and NGOs for a better comprehension of the laws and legal procedures on children, and for a deeper sensitization on children's rights still need to be intensified.

The immediate measures required for the protection of child workers, as suggested above, would be ineffective unless accompanied by schemes to address the root causes of child labor. Thus, aside from existing social welfare services to needy families, income generating or community livelihood projects must be strengthened to increase the families' earning power. In like manner, educational programs that are free, relevant to the needs of the child workers and flexible enough to allow them enough time to carry on traditional but non-hazardous work should be made accessible to them.

The Sagip Batang Manggagawa (Rescue Child Laborers) is an inter-agency program, which aims to respond to cases of child labor and rescue victims from hazardous and exploitative conditions. The quick reaction teams have also been strengthened and consist of teams of policemen and social workers to rescue children and women victimized by prostitution and sexual exploitation.

3.11. Civil society initiatives

The Kasambahay Program is the national initiative of Visayan Forum (VF) that provides direct services and social protection; acts for the empowerment and promotion of self-help organizations; conducts advocacy for legislation and policies, programs and related services; and offers a Resource Center that documents and consolidates material on child domestic workers.

The Direct Services and Social Protection component consists the continued provision of immediate response to child domestic workers at risk. This involves providing immediate assessment, and removal and interception during trafficking if needed, while making medical, legal, psychosocial, and police assistance readily available by tapping available resources from government agencies, NGOs, workers and employers groups within the National Program Against Child Labor. Send your concerns through our email hotline here.

VF offers psychosocial services in temporary shelters which provide, apart from a place of help and safety in crisis for abused CDWs referred and reached out, the opportunity to develop deeper relationships between care-givers and among 37 other initially distrustful CDWs, the opportunity to make informed choices in the future, and the opportunities to learn life skills that may help them engage in income generation. Eventually, they are reintegrated to their families or other foster institutions whichever is appropriate. A half-way house in the Manila port is also initially part of the program to help intercepted, stranded or run-away working children who are victims of trafficking.

The Visayan Forum envisages entering into long-term working arrangements for joint action on domestic work. The recent extension of partnership with the Philippine Ports Authority to five years of continued operation of the halfway house for stranded domestic workers is an example. It is also working closely with the national Social Security System (SSS) and the National Health Insurance System (PhilHealth) where the Visayan Forum has been asked to assist in social security registration and remittances of domestic workers.

IV. GAP ANALYSIS

The assessment of the extent to which the existing Philippine legal and regulatory framework are aligned with the provisions of Conventions 182 and 138 thoroughly made in this paper indicates, by and large, strong compliance. The 1987 Philippine Constitution and the Labor Code are two broad statutory documents that contain general and specific provisions covering the whole range of enforcement of minimum employable age and age of completing compulsory education which the two international conventions seek to promote. Piecemeal legislations, policy reforms and various administrative orders issued by various agencies and competent authorities provide various measures and mechanisms that stand to operationalize the broad provisions of the 1987 Constitution and the Labor Code pursuant to those provisions enshrined in Convention 138 and 182. Based on the preceding sections of this paper, it may be noted that the Philippines laws have not been remiss in addressing the issue of child labor. A number of legislations, executive orders and attendant policy guidelines have been formulated with the intention of (a) providing national laws in compliance with existing international conventions on child labor; and (b) providing legal sanctions against the abuse, exploitation and violations of the rights of minors.

4.1. Compliance of National Laws with International Standards

In terms of countries compliance with C. 182 and 138, the research finds that the country is compliant with the provisions of these conventions. The Labor Code provides that 15 years shall be the minimum age for admission to non-hazardous employment. However, a child below 15 years may be allowed to work provided that such child works directly under the sole responsibility of a parent or guardian (Article 139) and that the work does not interfere with the child's schooling. However, the Labor Code underscores that a child cannot be employed in commercials and advertisements promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts, and violence (Sec. 14, RA No. 7610).

In hazardous undertaking, the minimum age is set as a higher age of 18 years. Those between 15 and 18 years of age are eligible only for employment in non-hazardous work (Article 139, Labor Code). "Non-hazardous work" is one where the employee is not exposed to any risk, which poses risks and danger to safety and health. "Hazardous work" or workplaces, on the other hand, include those where the nature of work exposes the workers to dangerous environmental elements, contaminants or work conditions including ionizing radiation, chemical, fire, flammable substances, noxious components and the likes.

Moreover, RA 9231 and its implementing rules and regulations (IRR) provides stringent conditions under which children under 15 years old may be allowed to work. Specifically, the national law limits the hiring of children below 15 years old strictly to the activities that are directly under the sole responsibility of their parents or legal guardian and where only family members are employed; and to cinema, theater, radio or television where their participation is essential, provided a work permit is secured from the Department of Labor

and Employment (DOLE). It also states that children's work should neither endanger their lives, safety, health and morals nor impair their normal development. Further, it mandates the parent or legal guardian to provide the children the prescribed compulsory education. In all instances of child employment, all the existing laws and regulations require the active involvement of the DOLE as a regulating body by controlling the grant of work permits.

4.2. Observed Challenges and Gaps

It may be noted however, that while national policies are generally compliant with the provisions of the Convention, there remain a number of gaps and deficiencies particularly in terms of implementation and enforcement of legal or regulatory framework. The gap analysis surfaced some of the issues with regard to some policies and implementation.

1. **Possible abuse of the “light work” concept.** Convention No. 138 applied to all kinds of work or undertakings, without distinction, and provided a uniform minimum age for admission to employment of not less than the age of completion of compulsory schooling, or, in any case, not less than 15 years. While it provided exemptions, including: (a) work done by children and young persons in schools for general, vocation or technical education; (b) work done by persons at least 14 years of age in undertakings that are an integral part of a course of education or training for which a school or training institution is primarily responsible or a program of training approved by the competent authority; and (c) artistic performances upon issuance of appropriate permits by the competent authority, it no longer exempted family undertakings from its application, although it allowed the minimum age to vary depending on prevailing national circumstances.

While the national laws provide all the necessary safeguards, the government cannot remain complacent particularly in its position on family-supervised child work considering some observations that much of children's labor in the rural areas consist of either unpaid family work activities, or labor tied up to family-hire work arrangements.

Observations of this particular research concurs with the observation of earlier studies on this regard that existing national laws presume that the “home” given parental supervision and guarantees for the ‘normal’ development of the child, is a relatively “safe” place. It should be underscored, however, that this cannot be assumed, especially as so many homes now have become virtual industrial production centers under subcontracting. Simply put, if a child performs industrial homework under the supervision of parents or legal guardians, such supervision cannot be presumed to be a guarantee against abuse and exploitation of children.

2. Overlapping jurisdiction over child labor cases. As may be observed in the preceding section of this research, the issue of child labor concerns various government agencies and non-government institutions. While engagement and involvement of all stakeholders is crucial in addressing the issue of child labor, overlapping functions and even fragmented laws and regulation on this matter likewise present a challenge and even threat to effectively and efficiently address the issues. An efficient and effective structure or mechanism still has to be put in place in order to constantly monitor the situation of child workers, and to act for their protection particularly of child laborers.

3. Need to integrate anti-child labor agenda in all national and local policies affecting children. Taking into consideration that child labor is a multidimensional phenomenon and cuts across various disciplines, national and local development strategies should at least take into consideration this issue to ensure that implementation of such strategies and interventions will not have an adverse effect, either directly or indirectly, to the welfare and development of children.

4. Need to strengthen compliance to anti-child labor policies and regulations by strengthening the labor inspection system. Line agencies monitoring and supervising activities involving children often suffer from lack of adequate personnel and funding. In the DOLE, the inspection system is carried out by insufficient number of labor inspectors distributed across all regions of the country. They are expected to look into the terms and conditions of employment, non-payment of minimum wage, unfair labor practices, safety and health, and check if there is presence of child labor in the workplace. In view, however, of the budgetary constraints and limitations on the number of personnel, there is a high possibility that the labor inspectorate become highly dependent on the complaint being filed first rather than acting on its own volition.

Labor inspectors in the field are often adversely affected by organizational deficiencies such as lack of training, lack of transport and running costs, lack of information and guidance, lack of clear programs and priorities, and a lack of support when dealing with the particularly sensitive and intractable problem of child labor.

5. Lack of clear mandate of the NCLC. Unlike the Inter-Agency Committee Against Trafficking (IACAT), there is no legal provision for the creation or institutionalization of the National Child Labor Committee (NCLC). Hence, the lack of funding, legal mandate and power to address the issue of child labor.

6. Lack of central authority in charge of addressing of child labor issues. Unfortunately, there is no single authority mandated to handle all child labor issues and concerns. With the absence of institutionalized NCLC, policies and programs

on child labor are fragmented. There is a need to have a sole responsible agency that will take care of all child labor issues and concern. Meantime, given this gap, all the line agencies should ensure that there exist the closest practical cooperation between existing bodies at every level.

7. Mismatch between the minimum employable age and the age of completion of compulsory education. The passage of RA 1055 which adds two more years to compulsory education, wherein the minimum age of completion of compulsory education is estimated to be at age 17 or 18, creates a mismatch between the minimum employable age (15) and the minimum age of completing compulsory education (17 or 18). Such mismatch, if not immediately responded to, can further exacerbate the child labor situation in the country. If the minimum age for admission to work or employment is lower than the school-leaving age, children may be encouraged to leave school as children required to attend school may also be legally authorized to work. On the other hand, if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children.

8. Need to strengthen child protection mechanism at the school and community level. While the Department of Education implements Child Protection Policy, specific policies or guidelines in detecting and monitoring child labor cases in school needs to also be prioritized.

V. POLICY RECOMMENDATIONS

Based on the foregoing discussions and on the result of the gap analysis, the following recommendations or policy options have been identified:

- Possible amendment of RA 9231 to possibly increase minimum employable \ age, subject to consultation with, and concurrence of stakeholders.
- Possible amendment of the law to provide for the creation and/or institutionalization of the NCLC.
- Strengthen labor inspection system to ensure that child labor cases are strictly monitored and addressed. The authority of labor inspectors must be clearly defined and be unambiguous in relation to child labor.
- Mainstream child labor issues in all national and local policies and regulatory framework. Policy responses to child labor need to be integrated into broader national development efforts and strategies and adapted to local circumstances. Ensuring that child labor concerns are reflected in broader policies in the areas of education, social protection, labor markets and labor standards is particularly relevant to progress against child labor. Strategies responses need to be tailored to the variety of contexts in which child labor persists.
- Continued investment in building the knowledge base on child labor is needed to inform policy. There is a general need for more knowledge on the implications for child labor of broader global challenges like climate change, migration, inequality, informality, urbanization and changes in the world of work. The effective targeting of policies and program development will require better information on children in the worst forms of child labor other than hazardous work, building on the research and other methodological work already undertaken by various research institutions.
- Education, child labor and development agenda should be wholistically treated in policy formulation. The fundamental shift needed in education and child labor is one of ambition. These issues have to be integrated into the national development effort and should engage not just the DepEd and DOLE, but also the planning and finance departments, that are politically more influential in public policy formulation.
- Define the roles of all stakeholders. The roles and responsibilities of the various duty bearers to ensure free and compulsory education of good quality for all children and implementing policies and programs toward reducing or ending child labor must be clearly and strategically identified. Policy responses to child labor are unlikely to be effective in the absence of the active participation of all stakeholders. Similarly, laws to protect children from child labor are unlikely to

be effective if they are not backed by broad social consensus. Stakeholders participation is therefore crucial in addressing the issue of child labor.

- Skills development and access to formal education or alternative learning system must be readily available. A number of initiatives and programs on this regard already exists. Effectively coordinating these wide-ranging efforts, and successfully extending them based on needs-based criteria to ensure they reach all underserved groups of vulnerable youth, however, remain a key priority. Additional investment is likewise needed in evaluating the impacts of existing efforts and in tracing labor market outcomes of participants, in order to identify the approaches with most potential for expansion.
- Make education a more effective part of the strategy for eliminating child labor. Education must be placed at the center of the national strategy for combating child labor, with the age for compulsory and free education provision raised from 12 to at least 15 years or more.

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