

# THE YOUTHFUL OFFENDER BEFORE THE JUVENILE COURTS

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## I. INTRODUCTION

There has never been a civilized society that did not find itself continuously coping with crime, and no society, including ours, has yet devised a method to cope up with crime on a continuing basis. We have in the Philippines a system of criminal justice, which begins from the commission of a crime; followed by police investigation, apprehension, and prosecution and followed by the institutionalized process of court hearings. It is a two-sided adversary structure—with the prosecution (representing the State) on the one hand, and defense (hired or retained counsel or a counsel de oficio), on the other. The process ends with correctional or rehabilitation institutions as imprisonment, probation or parole.

We will attempt here to scrutinize the court component of the system, paying particular attention only to a specialized branch thereof: the juvenile court system vis-a-vis its operation in the determination of criminal cases involving the Filipino youthful offender. A review of the functions and responsibilities of a juvenile court in the exercise of its limited criminal jurisdiction as well as the procedure it follows will be presented. The purpose here is to determine and evaluate the effectiveness of a juvenile court in coping with the problem of delinquency among the youth, now prevalent in our own society. It will also assay to point out problem areas that confront us in the overall administration of the juvenile justice system.

## II. RECOGNITION OF RIGHTS OF CHILDREN

The Filipino child is acknowledged to be one of the most important assets of the nation.<sup>1</sup> Statistics show that 56.80% of our population are children and youth below twenty one years of age.<sup>2</sup> However, only four out of ten children receive nutritional, educational, and other social services considered vital to the develop-

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<sup>1</sup> See Art. 1, Pres. Decree No. 603 (1974).

<sup>2</sup> The Filipino Child's Decade, A published article.

ment of the child.<sup>3</sup> Of those who enter school during the compulsory period of elementary education, forty three percent (43%) attend for a few years, drop out and lapse into functional illiteracy. We also observe in day to day reports the alarming situation of juvenile delinquency.

The government has been trying its best to uplift the condition of the Filipino child. Efforts in this direction are manifested in nutrition programs, mental feeding and physical fitness programs as well as educational programs. There can be no serious objection to these programs if we all realize the necessity of saving our children who, after all, constitute the bulk of the Filipino nation.

The care and protection of the child has also been shown in the field of law. In the international sphere, a resolution was passed by the United Nations General Assembly declaring that by reason of the child's physical and mental immaturity, he needs special safeguards and care, including appropriate legal protection.<sup>4</sup> The resolution called up for parents, voluntary organizations, local authorities and national governments to recognize the rights therein proclaimed, and strive for their observance by legislative and other measures.<sup>5</sup>

Under our Constitution, there are provisions affirming certain rights of, and measures for the Filipino children.<sup>6</sup> Furthermore, the New Civil Code of the Philippines defines the rights and obligations of the child<sup>7</sup> recognizing at the same time in the provisions thereof, property, successional and other rights. With P.D. No. 603 came the true embodiment, in the legal field of our concern for the best interests of the Filipino children.

### III. JUVENILE DELINQUENCY IN THE PHILIPPINES

A good number of descriptive studies made by social workers, sociologists and educators gives highlights on the socio-economic factors of juvenile delinquency coming mostly from the home, family and community. There is an assumption that socio-economic deprivation, family disintegration, poor environment, influence of peer group, absence of religious training and lack of education and guidance are operative as delinquency-predisposing and delinquency-

<sup>3</sup> *Ibid.*

<sup>4</sup> Declaration of the Rights of the Child, Resolution No. 1386, November 20, 1959. See also, *The Geneva Declaration of the Rights of the Child of 1924.*

<sup>5</sup> *Ibid.*

<sup>6</sup> See art. II, secs. 4, 5, and art. XV, sec. 8, pars. 4, 5, 6, 8.

<sup>7</sup> NEW CIVIL CODE, art. 356 and 357.

provoking variables especially in the lives of the lower class,<sup>8</sup> where most of the reported delinquents come from.

Although there is no evidence that other unfavorable social conditions always associated with high rates of juvenile delinquency are only prevalent in high-delinquency areas, a certain pattern emerges which characterizes typical high delinquency areas. Usually, the places are large manufacturing towns with the structure of an industrial population, a high proportion of small income, considerable though not excessive infant mortality, and with significant adult criminality.<sup>9</sup>

Here in the Philippines, it seems that rates of delinquency vary from place to place although several studies support the finding that Manila has had the highest rate, particularly in youthful criminality, from as far back as 1945 and onwards. Systematic observations bear out the fact that most of the offenders ply their trade in busy business sections of the city like Quiapo and Sta. Cruz.<sup>10</sup> In a study conducted by the Bureau of Public Schools in 1970, it was made clear that the presence of slums in Tondo may well account for the fact that it consistently maintained its position with the highest frequency of offenses during the years covered by the study; while Binondo and Sampaloc "see-sawed for the rank of the lowest frequencies among the congressional districts in Manila."<sup>11</sup>

Findings of studies show that the age range of the minor offenders is between thirteen and eighteen years old, with most offenses highly rating at ages 13, 14, 15 and 16.<sup>12</sup> In spite of the fact that the total female population in this age group usually outnumber the male population, it has been established by several serious observers that male minor offenders outnumber their female counterparts. The ratio may vary as: for every girl offender, there were four boy offenders,<sup>13</sup> or for every 2.3 females, there were 7.7 males.<sup>14</sup> In a report about Philippine juvenile courts, the boys numbered eight times more than girl offenders. For both light and serious offenses committed by minors, juvenile court records of 1968 and

<sup>8</sup> Endrinal, Mary Ofelia, G., *Psychological Dimensions in Predisposition to Juvenile Delinquency*, (Unpublished Doctorate Dissertation, U.S.T., 1971).

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Bugay, Eufrocina, *A Study of Juvenile Delinquency in Bo. Obrero, Tondo, Manila*. (Unpublished Master's Thesis, National Teachers College, 1966).

<sup>14</sup> Cayatano, Hortencia, *Juvenile Delinquency in Manila After Liberation*. (Unpublished Master's Thesis, U.S.T., 1948-49).

1969 show more male offenders than female, and consistently, it seems that much more boys than girls are likely to become delinquent.<sup>15</sup>

#### IV. HISTORICAL INSIGHTS ON PHILIPPINE JUVENILE JUSTICE LEGISLATION

Against the increasing magnitude of juvenile delinquency and the recognized protection in law afforded to the children and youth, it is necessary to consider, therefore, the treatment that the law gives to those who have violated the criminal law. Before proceeding on this point and before presenting the juvenile court, its jurisdiction over criminal cases, and the processes involved, it is appropriate to show the trend and development in juvenile justice legislation in the Philippines.

The treatment of criminals in the Philippines at the turn of this century centered on punishment and retribution rather than on the reformation and rehabilitation of the offender. This was true regardless of the age, sex, or mental condition of the offender.

In the early part of the American regime, Act No. 1438, which became effective on January 11, 1906, was enacted in favor of juvenile offenders. It has been considered as the first humane legislation in the treatment of criminals. It was a law providing for the care, and custody of juvenile offenders, who were defined to be male minors between 8 and 16 years of age, and female minors between 8 and 18 years of age. Under its provisions, if a minor as so defined, shall be found guilty by any court of competent jurisdiction, of any offense not punishable by death or life imprisonment, the court, instead of directing the confinement of such minor in any public prison or jail, shall in its discretion, suspend judgment and commit such minor to the custody of any orphan asylum, reformatory school, charitable society, or society for the prevention of cruelty to children, or to any charitable or educational institution having for its purpose the care betterment, reformation and education of minors, until such minors shall have reached majority, or for such lesser period as the court may deem proper.

At about the end of the first quarter of the century, in harmony with the new trend in crime prevention, treatment of offenders and the socialization of justice, Act No. 3203, which became effective on December 3, 1924, was passed raising the age level of all minor offenders covered by the previous law to the flat-age level of 18 years. This law provided that juvenile offenders be regarded

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<sup>15</sup> Article published by the Bureau of Public Schools, 1970.

as children in need of encouragement and guidance. It was then recognized that at no time is a child more in need of care, sympathy and understanding than when he has come into conflict with law, and this can be done only by a scientific study of the delinquent himself, of his background, environment and association, mental attitudes, sense of values and physical characteristics.

Our penal laws were revised and consolidated in one code known as the Revised Penal Code in 1930. Article 80, described as our only juvenile delinquency law, was embodied in said code. The original version of Article 0 refers to a minor who is below 18 years of age at time of the commission of the offense. That has been changed from "commisison of any crime" to one "who has committed a grave or less grave felony." So that under the amendment brought about by Commonwealth Act No. 99 (October 27, 1936), a minor committing a light felony will not be covered by Article 80. Republic Act No. 47 (October 3, 1946) further amended Article 80, by changing the age limit for which the article will be applicable, that is, from below 18 years of age to below 16 years of age at the time of the commission of the offense.

Under the martial law regime, a number of decrees have been issued to meet the need of the new order intended basically to protect the interest of minor offenders. One decree in particular is Presidential Decree No. 44, which amended Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972. Section 32 of Republic Act No. 6425 provides for the suspension of sentence for the first offense of a minor who is less than 21 years old and who is accused of possession or use of any prohibited or regulated drug as therein defined. In cases of minors under 16 years of age at the time of the commission of the offense penalized under the Dangerous Drugs Act as amended, the provisions of Article 80 is made applicable without prejudice to the application of the provisions of Section 32 of the Dangerous Drug Act.

The other presidential decree which affected Article 80 are Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, and Presidential Decree No. 1178 and Presidential Decree No. 1210, the latter two amending Presidential Decree No. 603. Presidential Decree No. 1179 went to the extent of declaring the repeal of Article 80 in express terms.<sup>16</sup> In the original version of Presidential Decree No. 603, there was no

<sup>16</sup> See Pres. Decree No. 1179 (1977), amending art. 189 of Pres. Decree No. 603 (1974).

express repeal of Article 80, but it stated that the provisions of Article 80, are modified in accordance with the provisions of Chapter III on youthful offenders. It should be noted that Presidential Decree No. 1210, made no mention of the fact that Article 80 is repealed. According to an eminent professor, if there is any repeal of Article 80, by virtue of Presidential Decree No. 1179 in connection with Presidential Decree No. 1210, it is nothing but a repeal by reenactment or a repeal by substitution as the case may be.<sup>17</sup>

## V. THE JUVENILE COURTS

### A. *Establishment*

In answering the need for the promotion of the full growth of the faculties of every child the New Civil Code provides for the establishment, whenever possible of juvenile courts.<sup>18</sup> The call to establish such specialized courts is further reiterated in a subsequent article.<sup>19</sup>

It is said that juvenile court legislation has two primary common law sources. First, equity courts have jurisdiction to protect those unable to care for themselves. Second, there is a historic idea that young children under seven years of age are legally incapable of criminal acts.<sup>20</sup> The Massachusetts legislature in 1869-1870 was the first to pass acts providing for separate court sessions in juvenile cases.<sup>21</sup>

The juvenile court system began to develop to meet specific local needs for juvenile care in the court and penal system. The juvenile courts as separate courts, are fairly recent additions to the court system here in the Philippines. The first was established in the City of Manila as a pilot project.<sup>22</sup> This was followed by the creation of similar courts in Iloilo City,<sup>23</sup> Quezon City,<sup>24</sup> Caloocan City,<sup>25</sup> Dumaguete City,<sup>26</sup> Baguio City,<sup>27</sup> Cebu City,<sup>28</sup> and Naga City.<sup>29</sup> After the declaration of martial law, one branch each

<sup>17</sup> *Attending Circumstance of Minority in the Aftermath of Amendatory Decrees*. A Lecture Delivered by Prof. Bienvenido Ambion during The Second Judge Guillermo Guevarra Professorial Chair Lecture, March 2, 1978.

<sup>18</sup> NEW CIVIL CODE, art. 359 (4).

<sup>19</sup> NEW CIVIL CODE, art. 361.

<sup>20</sup> Hanes, Jr., *Juvenile Court Procedure—Intake to Disposition*, 19 ALA. L. REV. 402-410 (1967).

<sup>21</sup> *Ibid.*

<sup>22</sup> Rep. Act No. 1401 (1955), as amended.

<sup>23</sup> Rep. Act No. 4834 (1966).

<sup>24</sup> Rep. Act No. 4836 (1966).

<sup>25</sup> Rep. Act No. 5502 (1969).

<sup>26</sup> Rep. Act No. 5797 (1969).

<sup>27</sup> Rep. Act No. 6512 (1972).

<sup>28</sup> Rep. Act No. 6586 (1972).

<sup>29</sup> Rep. Act No. 6591 (1972).

of the courts of first instance of the provinces of Cebu, Leyte and Negros Occidental was converted into a juvenile domestic relations court (J.D.R.C.).<sup>30</sup> The latest JDRC established by a decree is that of Pasay City.

### B. *Jurisdiction*

In all of the charters or statutes creating the JDRCs in the Philippines, the courts are vested with both civil and criminal jurisdiction over cases properly cognizable by them as defined by the statutory charters. The jurisdiction of a PDRC in civil cases usually involves the following, to wit: (1) custody, guardianship, adoption, revocation of adoption, paternity and acknowledgement; (2) annulment of marriage, relief from marital obligations, legal separation, and actions for support; (3) petitions for the declaration of absence and for change of name; (4) proceedings affecting a dependent or neglected child as defined by law;<sup>31</sup> and, (5) actions for separation of property of spouses.

Our main concern regarding a JDRC's jurisdiction is with respect to its authority to hear and determine criminal cases involving minor offenders. Most of the statutes creating JDRC's are uniform in providing that the court shall have exclusive original jurisdiction over criminal cases wherein the accused is under sixteen years of age at the time of trial. "At the time of the trial" has been construed to mean as being under sixteen years of age at the time the criminal information is filed.<sup>32</sup>

The phraseology of the Law creating the JDRC of Quezon City<sup>33</sup> is to this effect, "... the court shall have exclusive original jurisdiction to hear and decide the following cases: ... Criminal cases wherein the accused is *sixteen years of age* or under sixteen at the time of the trial."<sup>34</sup> The significance that can be laid upon this is that unlike the majority of laws creating the other JDRCs, the statutory charter of JDRC Quezon City still affords the accused, a minor offender, who is exactly sixteen years of age, of a hearing before a juvenile court where trial is conducted with a more liberal attitude.

<sup>30</sup> See Pres. Decree No. 411, 411-A (1974).

<sup>31</sup> Special classes of children, like neglected or abandoned children are defined by the statutes creating the JPRC's. See also Pres. Decree No. 603, Chapter on Neglected and Abandoned Children.

<sup>32</sup> Agrava, Article 80 of the Revised Penal Code As the law on *Juvenile Delinquency*. Trial Problems in City and Municipal Courts, U.P. Law Center (1971).

<sup>33</sup> Rep. Act No. 4836 (1966).

<sup>34</sup> Underscored supplied.

Another clear deviation in the phraseology of the law which can give rise to varying interpretation is the statute creating the JDRC for the province of Camarines Sur and the Cities of Naga and Iriga,<sup>35</sup> wherein the law states that the accused is under sixteen years of age *at the time of filing of the case*. (Under scoring supplied). Usually, the time to be reckoned with as to the jurisdictional age of an accused minor is *at the time of the trial*. The wording of the law at this instance, however, is in consonance with the interpretation given by a judge of a juvenile court earlier mentioned. It may still be further noted in the same law, that excepted from the criminal jurisdiction of the JDRC are cases involving violations of municipal ordinances. This same situation obtains in the case of the two most recent juvenile court legislation,<sup>36</sup> where city and municipal courts are given, by express authority, concurrent jurisdiction over (a) all violations of municipal or city ordinances committed within their respective territorial jurisdictions; and (b) malicious mischief, concealment of deadly weapons and all criminal cases under the laws relating to gambling. These laws, to a certain extent, deviate from the ordinary criminal jurisdiction conferred upon other JDRCs regardless of whether it is a mere violation of a local ordinance or an offense under our criminal substantive law, which is the Revised Penal Code.

More noteworthy to consider is the statutory charter of the JDRC of Dumaguete City.<sup>37</sup> Section 12 of Article XI thereof extends a little further the criminal jurisdiction of the Juvenile and Criminal Domestic and Relations Court by including the following:

Section 92.

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. . . . the court shall have exclusive original jurisdiction to hear and decide the following cases:

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(h) Crimes committed by public officers, crimes against persons and crimes against property as defined and penalized under the Revised Penal Code, whether simple or complexed with other crimes;

(i) Violations of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1370;

<sup>35</sup> Rep. Act No. 6591 (1972).

<sup>36</sup> Pres. Decree Nos. 411, 411-A (1974).

<sup>37</sup> Rep. Act No. 5797 (1969).



(j) Violations of Sections 3601 to 3604 of the Tariff and Customs Code, and Sections 174, 175, and 145 of the National Internal Revenue Code.

This provision of the Charter of the city of Dumaguete manifestly confers upon a juvenile court broader jurisdiction over criminal cases including, but not limited to cases involving an accused who is under sixteen years of age. It can simply be said that the JDRC of Dumaguete is not a juvenile court in the ordinary sense but more of an ordinary court of first instance.

In all of the charters creating the JDRCs, the grant of exclusive original jurisdiction over cases embodied therein, especially with respect to the JDRCs' jurisdiction over criminal cases involving minors, has been given, notwithstanding the provisions of the Judiciary Act (R.A. No. 296). It must be emphasized, however, that these special laws do not take away from the ordinary courts, the CFI and municipal or city courts, their jurisdictions over criminal cases involving minor or youthful offenders more particularly in areas where there are no JDRCs created or established, or even in areas where such courts are established but not yet operating.

The question of jurisdiction has arisen, at least in one case<sup>38</sup> recently decided by our Supreme Court. The issue of conflict of jurisdiction between a city court and a JDRC over criminal cases where the accused is above 16 but under 21 years of age has been presented.

In that case, the accused, 17 years of age was charged on February 10, 1976 by the Naga City fiscal's office with vagrancy. Respondent city court Judge dismissed the case on the ground that the court has no jurisdiction to continue to take further cognizance of the case without prejudice to the refiling thereof in the Juvenile Court. The prosecution was of the view, that jurisdiction over 16-year olds up to under 21 years remains with the regular courts, and has not been by implication transferred by Presidential Decree No. 603 to the juvenile court. The Supreme Court is resolving the issued held:

"The . . . issuance of Presidential Decree No. 603, known as the Child and Youth Welfare Code which took effect on June 11, 1975, and defines in Article 189 a youthful offender as one who is over nine years but below twenty one years of age<sup>39</sup> at the time of the commission of the offense did not by such definition transfer jurisdiction over criminal cases involving accused persons who are six-

<sup>38</sup> People v. Palma, G.R. No. L-44113, March 31, 1977; 76 SCRA 243 (1977).

<sup>39</sup> See Pres. Decree No. 1179 (1977) changing the age level from below 21 years of age to 18 years of age.

teen years and below twenty one years of age from the regular courts to the Juvenile Courts."

It reasons out that: "The Child and Youth Welfare Code Presidential Decree No. 603) concerning the welfare of the child and youth throughout the country is a general law while Republic Act No. 6591 which defines and confers jurisdiction on JDRC for—Camarines Sur is a special law, classifying expressly that it can try, in criminal cases, involving offenders *only* those accused who are under 16 years of age at the time of the filing of the case." (Underscoring supplied).

It went on further by saying that:

"A general law cannot repeal a special law by mere implication. The repeal must be express and specific. Furthermore, the JDRC of Camarines Sur is a court of special and limited jurisdiction and the enlargement of additional jurisdiction on said court accused persons who are 16 years and under 21 years of age must positively appear in express terms."

#### *C. Other Powers of Juvenile Courts and Rules of Procedure to Govern*

In the statutes creating the JDRCs, it is ordinarily provided that said courts shall have such powers as are generally possessed by the Courts of First Instance. It is also a usual provision that in the hearing and disposition of cases other than those involving a "dependent" or "neglected" child,<sup>40</sup> the court shall be governed by the Rules of Court and the law properly applicable in each particular case. In at least one of these statutes, it is provided that the Rules of Court be applied "most liberally along pre-trial philosophy."<sup>41</sup> The decisions and orders of the juvenile court are appealable in the same manner and subject to the same conditions as appeals from Courts of First Instance.

#### *D. Nature of Trials*

Before a juvenile court, the child is not strictly on trial. The entire proceedings may be said to be clinical in nature. The theory is that the child who has run afoul of the law, if under the statutory

<sup>40</sup> A dependent or neglected child shall mean any child under sixteen years of age who is dependent upon the public for support, or who is destitute, homeless or abandoned; or who has no proper parental care or guardianship, or who habitually begs or receives alms, or who is found living in any house of ill-fame or with any vicious or disreputable person, or whose home or other place of residence, by reason of neglect, cruelty or depravity on the part of its parents, guardian or other person in whose care the child may be, is an unfit place for such child.

<sup>41</sup> Rep. Act No. 6591 (1972).

age, lacks the criminal intent and should not be tried as a criminal in a criminal court and under ordinary proceedings but should have his case heard in a special court of equity.<sup>42</sup> As has been stated by the Supreme Court of Alabama quoting Justice Cardozo, "The Chancellor in exercising his jurisdiction upon petition . . . acts as a *parens patraie* to do what is best for the interest of the child . . . He is not adjudicating a controversy between adversary parties in a strict sense."<sup>43</sup>

## VI. THE YOUTHFUL OFFENDER

### A. *Presidential Decree No. 603 and Amendatory Decrees*

A reading of Presidential No. 603<sup>44</sup> shows that measures to promote and enhance the general welfare and rehabilitation of youthful offenders are therein spelled out and provided for. The Code establishes the criteria and guidelines under which all youthful offenders are to be tried and attended to. We shall here treat for a moment what the law commands the institutions involved in the administration of juvenile justice before discussing the actual practice and procedure followed by a JDRC in implementing these rules.

A youthful offender is a child, minor, or youth including one who is emancipated in accordance with law, who is over nine years but under eighteen years of age at the time of the commission of the offense.<sup>45</sup> After apprehension of a youthful offender, the law enforcement agency concerned is duty bound to take him to any available government medical or health officer in the area for a physical and mental examination. Whenever treatment for any physical or mental defect is indicated, steps are to be immediately undertaken to provide the same.<sup>46</sup>

A youthful offender held for physical and mental examination or trial or pending appeal, if he is unable to furnish bail, shall from the time of his arrest be committed to the care of the Department of Social Services and Development (DSSD), or the local rehabilitation center or a detention home in the province or city, which shall be responsible for his appearance in court whenever required.<sup>47</sup> In the absence of any such center or agency within a reasonable distance from the venue of the trial, the provincial, city or municipal

<sup>42</sup> McLaughlin and McGee, *Juvenile Court Procedure*, XVII AL. L. REV., No. 1, 228.

<sup>43</sup> *Ex Parte White*, 16 So. 2d. 500 (1944).

<sup>44</sup> Chapter III on Youthful Offenders.

<sup>45</sup> Art. 189, par. 1, Pres. Decree No. 603, as amended.

<sup>46</sup> Art. 190, Pres. Decree No. 603, as amended.

<sup>47</sup> Art. 191, Pres. Decree No. 603.

jail shall provide quarters for youthful offenders separate from other detainees.<sup>48</sup>

Upon recommendation of the DSSD or other agency or agencies authorized by the court, the latter may, in its discretion, release a youthful offender on recognizance to the custody of his parents or other suitable person who shall be responsible for his appearance whenever required.<sup>49</sup> In the case of youthful offenders whose cases fall under the exclusive jurisdiction of the military tribunals, they may be committed to any military detention or rehabilitation center.<sup>50</sup>

If the court should find that the youthful offender has committed the acts charged against him, after hearing the evidence, it shall determine the imposable penalty, including any civil liability chargeable against him. However, the court, upon application of the youthful offender and, if it finds that the best interest of the public, as well as that of the offender will be served thereby, may suspend all further proceedings and commit such minor to the custody or care of the DSSD, or to any training institution operated by the government, or any other responsible person, until he shall have reached the age of twenty-one years of age or for a shorter period as the court may deem proper, after considering the reports and recommendations of the DSSD or the government training institution or responsible person under whose care he has been committed. Upon receipt of the application of the youthful offender for suspension of his sentence, the court may require the DSSD to prepare and submit to the court a social case study report of the offender and his family.<sup>51</sup> The youthful offender shall be subject to visitation and supervision by a representative of the DSSD or government training institution as the court may designate subject to such conditions as it may prescribe.<sup>52</sup>

As is expressly provided by law, the benefits of suspension of sentence does not apply to a youthful offender who has once enjoyed suspension of sentence under its provisions, or to one who is convicted of an offense punishable by death or life imprisonment, or to any person convicted for an offense by the military tribunal.<sup>53</sup> The order of the court denying the application for suspension of sentence is not appealable.<sup>54</sup>

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<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> See Pres. Decree No. 1210.

<sup>51</sup> Art. 192, Pres. Decree No. 603.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<sup>54</sup> See Pres. Decree No. 1210, amending Art. 192 of Pres. Decree No. 603.

The agency or responsible person under whose care the youthful offender has been committed shall submit to the court every four months or oftener as may be required in special cases, a written report on the conduct of the youthful offender as well as the intellectual, moral, social and emotional progress made by him.<sup>55</sup> If it is shown to the satisfaction of the court, upon recommendation of the DSSD that the youthful offender has behaved properly and has shown his capability to be a useful member of the community, even before reaching the age of majority, the court shall dismiss the case and order his final discharge.<sup>56</sup>

If the youthful offender, however, has been found incorrigible, or has willfully failed to comply with the conditions of his rehabilitation programs, or his continued stay in the training institution be inadvisable, he shall be returned to the committing court for the pronouncement of judgment.<sup>57</sup> When the youthful offender has reached the age of twenty-one while in commitment, the court shall determine whether to dismiss the case in accordance with Article 196 or to pronounce the judgment of conviction. In the latter case, the convicted offender may apply for probation under the provisions of Presidential Decree No. 968.<sup>58</sup> In any case covered by Article 197, the youthful offender shall be credited in the service of his sentence with the full time spent in actual commitment and detention effected under the provisions of Presidential Decree No. 603 on youthful offenders. The release of the youthful offender by virtue thereof, does not, however, obliterate his civil liability for damage.<sup>59</sup> In case the minor is committed in accordance with Article 197, and he is still under 21 at the time the judgment of conviction is pronounced, he shall be committed to the proper penal institution to serve the remaining period of his sentence.

The records of proceedings against a youthful offender are considered privileged and may not be disclosed directly or indirectly to anyone for any purpose whatsoever, except in the cases provided by law.<sup>60</sup>

*B. Actual Procedure in the JDRC in the Processing of Youthful Offenders.*<sup>61</sup>

<sup>55</sup> Art. 193, Pres. Decree No. 603, as amended.

<sup>56</sup> Art. 195, Pres. Decree No. 603, as amended.

<sup>57</sup> Art. 196, Pres. Decree No. 603.

<sup>58</sup> Art. 197, Pres. Decree No. 603, as amended.

<sup>59</sup> *Ibid.*

<sup>60</sup> Art. 198, Pres. Decree No. 603.

<sup>61</sup> Based on interviews with court personnel of JDRC, Quezon City, and the Guidelines and Manual of Procedure of JDRC, Quezon City.

After the information is filed with the office of the fiscal, a copy of the information is furnished the Social Services and Counselling Division of the court. The case is immediately assigned to a social worker, entered in the Register of Cases, and indexed.

An intake interview with the minor and his parents, guardian or available collateral relatives, either in the court or in the detention home, is conducted by the social worker. The intake interview consists and other personal circumstances, the possibility of the accused's release on recognizance; and, a determination of the next of kin or friend willing and capable of undertaking custody of the minor with the responsibility of producing the latter before the court at the date, time and place set for hearing. The casework and other social services to the minor and his family start at intake, consisting of initial interviews with the family, group counselling, and referral services.

A copy of the intake sheet (Personal Data Sheet) and a social case study report is furnished the hearing officer or the presiding judge. The latter officer conducts the preliminary arraignment in open court, in the presence of the fiscal, counsel for the minor, the minor himself with his or her parents, and the social worker assigned to the case.

In cases involving minor violations (e.g. violations of municipal or city ordinances), and the minor pleads not guilty to the offense charged in the information, the case is calendared for trial and the minor is released on recognizance. If the minor pleads guilty, his case is set for dispositional hearing at which the judge may order that the minor be placed on probation,<sup>62</sup> specifying in the order the conditions therefor as well as the length of the probationary period, or that the minor be committed to a rehabilitation center.

In cases where the offense charged is a serious offense, the minor may still be released on recognizance upon the recommendation of the social worker. This is done where the social worker finds, upon investigation, that the youthful offender's interest would best be served by placing him in the custody of his parents pending the trial of the case or that the minor involved is the sole breadwinner of the family, or that the detention center is overcrowded and cannot accommodate more detainees.

It may happen that the youthful offender is accused of another offense while out on recognizance. In such a case another informa-

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<sup>62</sup> Art. 200, Pres. Decree No. 603, as amended.

tion is filed with the JDRC or other proper court, and the social worker assigned to the case files another report. The minor is not automatically institutionalized. By institutionalization, is meant, the placing or commitment of a minor in a detention center or training center. If the social worker recommends that the minor not be institutionalized, the latter is released on probation under such conditions that the court may deem necessary to impose.

The social worker assigned to the case coordinates with the hearing officer or the Judge in setting the case for hearing. In practice, the hearing is set within a week up to ten days to allow for the submission of the social case study report on the youthful offender. Under the provisions of Presidential Decree No. 603 as amended by Presidential Decree No. 1179, the sentence is suspended upon application of the youthful offender and upon compliance with other conditions mentioned therein. In practice, it is the court that usually takes the initiative in making the motion for the suspension of sentence. The requirement therefore, of a motion under the amendatory decree does not pose a procedural obstacle to the availability of the benefits of a suspended sentence under Presidential Decree No. 603. During trial, and even at the arraignment, the youthful offender is represented by counsel, except in custodial hearings which merely involve a determination by the court of the proper party to take custody of the minor pending trial of the case.

In practice, the disposition of juvenile cases may result in any of the following:

- (1) Outright dismissal
- (2) Provisional Dismissal which becomes final after six months
- (3) Suspended Sentence

(a) *Probation.* A minor under suspended sentence may be released or discharged on probation upon the recommendation of the social worker. This applies when the youthful offender pleads guilty or is found guilty of the offense charged. If the minor pleads not guilty, he is either released on recognizance or confined at the proper detention center.

(b) *Commitment.* Should the case worker find it necessary to institutionalize the minor, a recommendation to that effect is made. The court, if it finds merit in the recommendation, issues an order of commitment. The minor is then turned over to the appropriate institution to remain in their custody until the youthful offender reaches the age of twenty-one or until such time as the court may sentence him to serve. Usual-

ly the offenders are committed either to the Vicente Madrigal Rehabilitation Center in Tanay for boys, or the National Training School in Alabang, Rizal, for girls. As a rule commitment is availed of only as a last resort when there are no other persons capable and willing to undertake custody of the minor.

During the period of probation or commitment, the probation officer, or social worker assigned submits regular progress reports on the rehabilitation of the minor and/or his compliance with the conditions set forth in the order. For his part, the youthful offender is required to report to the social worker at regular intervals.

After the prescribed period of probation or commitment, the case worker submits a recommendation to the court. Upon recommendation of the case worker and upon satisfactory proof of rehabilitation of the youthful offender, the case is closed. This will be so indicated in the Index and Register Book of the Social Services and Counselling Division. Although the case of the minor is dismissed outright or provisionally, if it is found through the social case study that he needs help in improving his social functioning in the home, school, or community, he is enjoined, by an order of the court, to avail of the case work and other social services of the court.

Rehabilitation programs are provided for the youthful offenders which may take the form of vocational skills training, guidance and counselling and other post-rehabilitation programs. The detention centers such as the Molave Youth Center under the direct supervision of the Quezon City JDRC, maintain programs geared not only towards the youthful offenders themselves but to their families as well. The detainees are given specialized instructions in handicraft-making, gardening, sewing, and other vocational skills. Likewise, parents of youthful offenders who are unemployed are encouraged to participate in family self-help projects. Aside from vocational rehabilitation programs, rehabilitation also includes group and individual guidance counselling aimed at neutralizing or eliminating the negative attitudinal influences in the minor as well as those of his parents. In helping the minor to adjust to the community, aid is provided by obtaining suitable employment for the youthful offenders.

#### VII. PROBLEMS, RECOMMENDATION, AND CONCLUSION

Generally, laws are enacted in response to some felt need for regulation or social ordering. As a system in itself, law must relate



to the social framework in which it is to operate. We do not contend ourselves, however, with the laudable objectives of a given law without considering its consequent effect upon the populace that it seeks to serve and benefit.

Laws have been passed providing for the creation of juvenile courts in the Philippines. However, only a few of these courts are now existing and operating throughout the country. The juvenile courts that operate within the Metro Manila region are those that are more noticeable. But we cannot see a discernible pattern to establish more courts like this in areas where such courts are needed also, like the cities of Angeles and Olongapo where juvenile delinquency is a major problem. It is therefore suggested that in key areas of juvenile delinquency, JDRCs be established as warranted by the circumstances of the given locality, like those of the two cities mentioned.

In the course of presenting the jurisdiction of JDRCs, specifically over criminal cases, we have noted differences in phraseologies of the special laws creating these courts. Trivial though it may seem, now that we feel a strong need for an effective juvenile court system, the jurisdiction of these courts must be clearly defined and expressed unequivocally in one single piece of legislation. This measure is necessary to standardize and make uniform the jurisdiction conferred upon these courts which after all have been conceived along the line of one philosophy, plus the added fact that they are all courts of the same kind, grade and structure. With a single law defining the jurisdiction of all JDRCs and those that may still be established, we will also avoid conflicts of jurisdiction between ordinary regular courts and the juvenile courts, a situation that has already arisen at least in one case. The gap left by Presidential Decree No. 603 as regards the proper courts to take cognizance of a criminal case where the accused is between the ages of sixteen and eighteen may then be overcome. Consistency is, therefore called for here, having been absent in our juvenile justice legislation.

We may now center on Presidential Decree No. 603. One of the criticisms that has been raised, and which the author believes as not having lost its validity, is that the Decree does not take into account the fact whether the institutions to implement its provisions exist or not. For instance, the decree provides for institutionalizing or committing a youthful offender in a detention center. However, up to the present, only Manila and Quezon City have separate detention facilities for youthful offenders. Consequently, the youthful offenders are detained in local jails, and though legal-

ly ordered to be segregated from adult offenders, are in a proper setting for exchange of ideas and imitation of life-styles of the old by the young.

Presidential Decree No. 603 provides that the benefits of a suspended sentence shall not apply to a youthful offender who has been convicted of an offense punishable by death or life imprisonment. It is submitted that this provision is a clear deviation from the underlying philosophy of the Decree that penal laws with respect to youthful offenders should focus on the offender rather than on the offense. There is no cogent reason to exclude this class of youthful offenders in terms of the benefits granted by the decree. It cannot be doubted that these youthful offenders, despite their conviction for capital offenses, are also minors in need of rehabilitation, and entitled, therefore, to equal treatment by the law. The lawmaking authority, then, will have to reappraise itself of its real intention in enacting Presidential Decree No. 603, and, should make clear the purpose of the law.

There have been reports already that a big problem that hampers the proper administration of juvenile justice is the lack of funds. From this problem sprouts the problems of lack of trained personnel, poor recording and statistics, insufficiency of rehabilitation programs and, of course, the problem of lack of detention facilities.