



The Creation of Child-Friendly Local Communities Through Local Codes on Children: An Analysis of LCCs in Selected Provinces and Cities in the Philippines

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Abstract

This paper examines the creation and implementation of local legislation on children's rights and welfare. The legislative framework for upholding children's rights in the Philippines has always been strong on the national level. The passage of the Local Government Code devolved significant legislative and policy-making functions to the local level, and many local government units have since come up with their local codes on children. This paper analyzes the structure, content, enforceability, and contribution of local ordinances on children. It also identifies areas of improvement in terms of content, conformance with legislative standards, and consistency with national policies.

Keywords: children's rights - Philippines, Local Codes on Children (LCC).

Introduction

The Philippine Government, through the concurrence of the Senate in Senate Resolution No. 109, ratified the United Nations Convention on the Rights of the Child on July 26, 1990, making the Philippines the 32nd country in the world to signify its commitment to realizing children's rights to survive, develop, participate, and receive protection.

The legislative framework for upholding children's rights in the Philippines has always been strong at the national level. The 1987 Constitution, Civil Code, Labor Code, Family Code, and the Local Government Code all contain provisions of general application supportive of child rights and welfare. The Child and Youth Welfare Code, on the other hand, served as the major legislative instrument on Filipino children.

The enactment of the Local Government Code (RA 7160) in 1991 ended the historically centralized system of governance in the Philippines and ushered in new central-local government relations. By transferring responsibility for the provision and delivery of basic services and regulatory functions in health, social welfare, environment and agriculture to local government units, and by expanding their taxing powers, the LGC made local executives and legislators the real area managers of local communities.

RA 7160 also devolved significant policy making and planning functions to the local level through the *sangguniang panlalawigan*, *sangguniang bayan*, *sangguniang panglungsod*, *sangguniang barangay*, the local development councils, and other special bodies. Moreover, under the "general welfare" (Section 16) clause of the Code, local governments can exercise responsibilities over the whole range of human activities.

The Philippine Congress since the CRC ratification has enacted more than twenty (20) major child-related laws since the 8th Congress. A significant number of these laws, such as RA 6972, RA 7277, RA 8172, RA 8425, and RA 8980 contain specific mandates for local governments. Other laws such as RA 7600, RA 7610, RA 7658, entrusts additional responsibilities to local governments due to the transfer of health and social welfare functions to local governments.

**LAWS ON CHILDREN PASSED
BY CONGRESS**

1. Barangay-level Total Development and Protection of Children Act (RA 6972) – November 1990;
2. Magna Carta for Disabled Persons (RA 7277) – March 1992;
3. Rooming-in and Breastfeeding Act (RA 7600) – June 1992;
4. Special Protection of Children Against Child Abuse, Exploitation and Discrimination Law (RA 7610) – June 1992;
5. An Act Integrating Drug Prevention and Control in the Intermediate and Secondary Curriculum as Well as in the Non-Formal, Informal, and Indigenous Learning Systems (RA 7624) – July 1992;
6. Anti-Child Labor Law (RA 7658) – November 1993;
7. National Health Insurance Law (RA 7875) – February 1995;
8. Anti-Sexual Harassment Law (RA 7877) – February 1995;
9. Inter-Country Adoption Law (RA 8043) – June 1995;
10. Youth in Nation Building Law (RA 8044) – June 1995;
11. An Act Promoting Salt Iodization Nationwide (RA 8172) – December 1995;
12. National Children's Day of Broadcast (RA 8296) – June 1997;
13. Anti-Rape Law (RA 8353) – September 1997;
14. Family Courts Law (RA 8369) – October 1997;
15. Children's Television Law (RA 8370) – October 1997;
16. Indigenous People's Rights Act (RA 8425) – December 1997;
17. Social Reform and Anti-Poverty Law (RA 8425) – December 1997; and
18. Domestic Adoption Law (RA 8552) – February 1998
19. Seatbelt Law (RA 8750) – May 2000
20. ECCD law (RA 8980) – December 2000

The Philippines in 2000 renewed its commitment to the CRC through the formulation of the Philippine National Strategic Framework for Plan Development for Children or "Child 21". The Child 21 outlines the goals and strategies needed to realize the vision of a Filipino child as "healthy, happy, curious, confident, cooperative and able to develop his or her full potential and faculties".

Child 21 likewise enumerates a total of twenty five goals that have to be fulfilled in order to create a "child-friendly" local government unit. A local government is "child-friendly" when it is able to assure that all children in the locality possess their survival, development, protection and participation rights and when their needs are realized (UNICEF, 2002). Among the key actions of local authorities to promote and fulfill these child-friendly commitments is the promulgation of a Code for Children that will codify all international, national and local laws on children, set-up effective and responsive local institutions, and deliver basic services that respond to the need and rights of children.

RESEARCH OBJECTIVES

The general objective of this study is to analyze the structure, content, enforceability, and contribution of local ordinances to the localization of national laws supportive of the UN Convention on the Rights of the Child (UNCRC). In particular, the study was designed to:

1. Assess the format and style of Local Codes on Children (LCC) in terms of conformity with legislative standards;
2. Assess the extent by which LCCs enhance the content and enforceability of national laws, policies, and programs on children;
3. Identify “innovative practices” that can be replicated in other areas; and
4. Identify areas for improvement in terms of content, and conformance with legislative standards and national policies.

METHODOLOGY

Two interrelated methodologies were used for this study. These are (1) analysis of government documents and specialized studies; and (2) interview of key informants.

ANALYSIS OF GOVERNMENT : **DOCUMENTS AND REPORTS**

The analysis of government documents focused on the Local Government Code, child-related laws, approved ordinances, specialized studies coming from the academe and interest groups, and data from the local government units covered by the study. Legislative documents from the Philippine Congress and legislative bodies in the United States, such as manuals for bill drafting, technical writing, and internal rules and procedures were also used in this study.

The analysis of national laws identified mandates of local governments that deal with children, child rights, and the UNCRC, in relations to the devolution of national government functions to local government units through the Local

Government Code, laws that were passed prior to the enactment of the Code that transferred responsibilities to local governments, and laws passed after 1991 that increased responsibilities for local governments.

In addition to the Local Government Code, two pre-devolution child-related laws, namely RA 6972 (Barangay-level Total Development and Protection of Children Act), and RA 7277 (Magna Carta for Disabled Persons) and seventeen post-devolution child-related laws – Republic Acts Number 7600, 7610, 7624, 7658, 7875, 7877, 8043, 8044, 8172, 8296, 8353, 8369, 8370, 8425, 8552, 8750, and 8980 – were analyzed to identify specific mandates for local government that can be localized either through subject-specific ordinances or codes.

The study also relied heavily on the implementation study by de Vera (2001) done on the Day Care Center Law (RA 6972) and ASIN law (RA 8172) that analyzed executive and legislative support for the localization of the two statutes, identified problems encountered in implementation, and recommended specific actions that can be done by local governments to address these problems. The analysis of national resource allocation decisions by de Vera and Cruz (2001) and Senate Policy Studies Group (2001) provided valuable insights on issues affecting local resource allocation.

Bill drafting manuals, model legislation and other legislative documents provided internationally accepted guidelines in format, style, and contents in the drafting laws of national and local application in the Philippines and the federal and state levels in the United States. These documents also identified constitutional or legal conflicts that can arise in the exercise of legislative powers by local or state governments and ways of avoiding these through the use of appropriate legal language.

INTERVIEW OF KEY INFORMANTS

Key informant interviews were conducted to construct the policy environment under which the local codes were enacted, clarify the contents of the Codes that were difficult to understand or significantly differ from acceptable legislative language, and get insights on how local children's issues were discussed through the local policy process. The key informants included legal experts, local legislators who were responsible for the enactment of the LCCs, provincial and city *sanggunian*

Table 1
Legal Basis and Date of Approval of LCCs

LGU	Legal Basis	Approval Date	Principal Author	Title
Provinces				
Luzon				
Aurora	Ordinance No. 88-Series of 2002	04-16-2002		Children's Code of Aurora
Isabela	Ordinance No. 014-Series of 2002	05-07-2002	SPM Rosa Alindada and Manuel Binag	An Ordinance Providing for Child Survival, Development, Protection, Security, and Participation and Establishing a Comprehensive Children Support System in Isabela and for Other Purposes
Zambales	Ordinance No. 54-Series of 2001	06-25-2001	Vice Gov. Cheryl Veloso	An Ordinance Providing for a Comprehensive Children and Family Support System in Zambales and for Other Purposes
Visayas				
Bohol*	Ordinance No. 016-Series of 2000		SPM Godofreda Tirol, et al.	Bohol Children's Code
Guimaras	Res. No. 136 on Ordinance No. 03-Series of 2002	10-23-2002		An Ordinance Known and Cited as the Guimaras Children's Code
Negros Oriental	Res. No. 26 on Ordinance No. 4 - Series of 2002	01-17-2002	SPM Antonia Villegas	The Negros Oriental Children's Code
Mindanao				
Agusan del Sur	Ordinance No. 16-Series of 2002	6-24-2002	SPM Santiago Cane, Jr.	An Act Enacting a Children's Code of Agusan del Sur
Bukidnon	Res. No. 2002-538 on Ordinance No. 2002-011R	12-3-2002	SPM Leo Labial	An Act Providing for Child Survival, Development, Protection, Security, Participation and Establishing a Comprehensive Children Support Service in the Province of Bukidnon and for other Purposes
South Cotabato*	Res. No. 2001-181 on Ordinance No. 05-Series of 2001	11-16-2001	SPM Rodolfo Aguilar, et al.	An Ordinance Providing for a Comprehensive Children and Family Support System in South Cotabato Otherwise Known as the "South Cotabato Children's Welfare Code"
Zamboanga del Sur*	Ordinance No. 011-Series of 2002	12-10-2002	Vice-Gov. Roseller Ariosa and SPM Felicidad Funtanilla	Comprehensive Children's Welfare Code of Zamboanga del Sur
Cities				
Luzon				
Cabanatuan City*	Res. No. 284-2002 on Ordinance No. 077-Series of 2002	07-10-2002	Councilor Raqueliza Agapito	An Ordinance Establishing a Comprehensive Support System in Providing for the Survival, Development, Protection, and Participation of the Child, in the City of Cabanatuan and for Other Purposes
Pasay City	Ordinance No. 2001-Series of 2001	02-13-2001	Councilor Allan Panaligan	An Act Providing for Child Survival, Development, Protection, Security, and Participation and Establishing a Comprehensive Children Support System in Pasay City and for Other Purposes

**The Creation of Child-Friendly Local Communities Through Local Codes on Children: An Analysis of LCCs
in Selected Provinces and Cities in the Philippines**

Quezon City	Ordinance No. 572- Series of 1997	10-21-1997	Councilor Joseph Sison and Moises Samson	The Quezon City Child and Youth Welfare Code
Visayas				
Cebu City	Res. No. 2437 on Ordinance No. 1874	12-20-2000	Councilor Manuel Legaspi	An Ordinance Establishing the Cebu City Children's Code and for Other Purposes
Kabankalan City*	Ordinance No. 11- Series of 2002	11-06-2002	Councilor Jeanna Cordova	An Ordinance Providing for a Comprehensive Children and Family Support Systems in Kabankalan City and for Other Purposes
Mindanao				
Gen. Santos City	Ordinance No. 11- Series of 1997	11-20-1997	Councilor Elizabeth Bagonoc	The Child Survival, Development, Protection, Security and Participation Ordinance and Establishing a Comprehensive Child Support System in General Santos City and for Other Purposes
Cotabato City*	Ordinance No. 2092- Series of 2002	11-05-2002		The Children's Code of Cotabato City
Davao City	Res. No. 7725 on Ordinance No. 2491- Series of 1994	02-14-1996	Councilor Leonardo Avila	An Ordinance Providing for a Comprehensive Children and Family Support System in Davao City and for Other Purposes

secretaries, and experts in local government or legislative studies at the national level.

The interviews used non-structured guide questions to construct the policy environment and context under which the LCCs were proposed and approved, and to clarify issues and contents of the Codes based on the office or function of the officials interviewed. The conduct of the interviews depended to a large extent on the breadth of issues to be clarified and the personal requirement of the interviewee. Some of the interviews were conducted during office hours with the use of a tape recorder and the submission of questions to the interviewee several days before the scheduled meeting. Other interviews were conducted in a less formal manner through exchanges over coffee in the office or residence of the key informant.

THE STUDY SITES

The study focused on Local Codes on Children that were adopted in eighteen local government units all over the country. Of this number six were located in Luzon (provinces of Isabela, Aurora, Zambales, and cities of Cabanatuan, Pasay and Quezon), five in the Visayas (provinces of Guimaras, Negros Oriental, and Bohol and the cities of Kabankalan and Cebu), and seven in Mindanao (Agusan del Sur, Bukidnon, Zamboanga del Sur, South Cotabato, Cotabato City, Davao City and General Santos City).

The study areas were pre-selected by the UNICEF from among those that are assisted through the CPC V and those that have shown the initiative to codify policies on children in their respective areas.

ANALYSIS OF FINDINGS LEGAL BASIS

As indicated in Table 1, the ordinances analyzed in this study were passed during the period 1996-2002. The earliest LCC was passed by the Davao City Council on February 14, 1996 while the provincial board of Zamboanga del Sur approved its children's code only on December 10, 2002. Most of the LCCs (11 of 18) were passed during the current legislative term.

The recent passage of these LCCs would mean that these ordinances should codify provisions of child-related laws passed from the 8th to the 10th Congress that contain specific mandates for local governments such as RA 6972 (Day Care Law), RA 7277 (Magna Carta for Disabled Persons), RA 7610 (Child Protection), RA 8172 (ASIN law), and RA 8505 (Crisis Centers), and include lessons learned in implementation. The laws passed during the 11th and 12th Congress such as RA 8980 could not be codified in ten of the LCCs since the Implementing Rules and Regulations (IRR) for these laws was approved only on April 4, 2002.

FORMAT AND STYLE

In general, the format and style of all the LCCs conform to acceptable legislative standards. Legislative proposals are generally composed of two parts, namely, the *title*, specifying the codification of the proposed measure which has a summary of the content and legal effect of the proposal; and the *body* which contains the substance of the enactment (Maryland State Legislature, 1990; Ayson, 2001; Montana State Legislature, 2004).

The general parts of a legislative measure are, in this order:

1. Bill identification
2. Title
3. Preamble
4. Enacting Clause
5. Body
 - (a) Short title
 - (b) Purpose section
 - (c) Definitions
 - (d) Basic provisions
 - (e) Penalty clause
 - (f) Repealing clause
 - (g) Appropriation clause
 - (h) Severability or separability clause

(i) Effective date of implementation

All of the LCCs were written in the proper form and contain the necessary parts of a legislative measure.

LANGUAGE

General Language

Legislative proposals should be written in simple, clear and direct style using complete sentences, and phrased in such a way that it can be understood by the common reader, the legislator, and the legal expert. Legislative language is critical, according to the Bill Drafting Manual of the Montana State Legislature since: (Montana State Legislature, 2004: 11)

...a bill must be both precise and clear. While striving for unstilted, clear, natural expression, the drafter must avoid being conversational. In conversation, the speaker reserves the right to explain about what is meant. The drafter is not granted that right. The entire meaning of a bill can be determined by the choice of one key word, so words must be chosen carefully.

A poorly drafted and ambiguous legislative proposal wastes the time of the reader, confuses executive officials who are charged with its implementation, lead

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to legal challenges and litigation, and will fail to achieve its policy objectives. Good legislative drafting requires specific and concise wording that can be understood by a layman who has no special training in legislation.

In terms of language, all the LCCs were written in simple, clear and direct style that can be understood by both a layman and a

legislator. However, the choice of words and sentence construction in some ordinances need improvement. An example would be Sec. 50 of Bukidnon Provincial Ordinance No. 2002-011R which reads as follows:

..the Provincial Government shall appropriate funds no less than five percent (5%) of the appropriated budget, which exclusive of the appropriation intended for the PHO and the Special Education Fund and without limitation to an additional appropriation in the Supplemental Budget and an additional 1.5% from each fund from other sources.

The section is ambiguously written and its legislative intent is vague and confusing. There appears to be four policy objectives of this section. The first part of the appropriation section indicates an intention to appropriate at least 5% of the annual budget for the implementation of the LCC. The addition of the phrase – “which exclusive of the appropriation intended for the PHO and SEF” – in the same sentence, however, confuses the reader on how the five percent threshold would be computed.

The phrase “without limitation to an appropriation in the Supplemental Budget” represents the third intent of the section which is to source additional funds from any supplemental budget passed by the provincial board or city council. Finally, the phrase “and an additional 1.5% from each fund from other sources” while ambiguous, seems to indicate an intention to require that at least 1.5% of funds earmarked for local projects must be for children’s programs.

This appropriation section could be revised as follows:

..the Provincial Government shall appropriate at least five percent (5%) of its annual budget for the implementation of the provisions of this Code. This amount shall be exclusive of the appropriation intended for the PHO and the SEF. Additional funds for the implementation of this Code shall be sourced from any supplemental budget approved by the Sannguniang Panlalawigan and from other funds

The phrase “and an additional 1.5% from each fund from other sources” is ambiguous and difficult to implement. As Davao City Council Secretary Lolit Garcia

stated, a supplemental budget intended for an infrastructure project, for example cannot include a provision allocating 1.5% of the project cost for children's programs. In the same manner, it would be difficult to impose a 1.5% allocation in national projects or development assistance implemented at the local level (Garcia, 2003).

Legislative bodies in the United States and Europe have adopted policies that require bills be drafted using gender-neutral terms such as "police officer" instead of "policeman", "step parent" instead of "step father" or "step mother", and "presiding officer" instead of "chairman" or "chair". The same approach can be adopted in the formulation or amendment of Children's Codes to ensure the use of child-sensitive terms such as "children in conflict with the law" instead of "youth offenders" or "children in antisocial activities", or "take into custody" instead of "apprehend".

Several of the LCCs likewise need to be amended to correct the names of offices and officers, such as replacing the Child and Youth Relations Section under the PNP which no longer exists, with Women's and Children's Desk (WCD) Officers.

Definitions

A definition section is indispensable for legislation that codifies existing laws or put together various policies affecting a sector. A definition may be used to: (a) maintain clarity and consistency when the draft contains terms that may be interpreted differently from their common meanings; (b) define words that are difficult or technical; or (c) define terms that may be substituted for longer terms or phrases used repeatedly in the proposed measure.

By rule of statutory construction, words and terms that are not specifically defined are defined by their common accepted usage (Arizona, 2002; Dascil, 2003). Thus, a word that has a common meaning and is clearly understood without a special explanation should not be included in the definition section. A definition section should never include substantive provisions of law.

All the LCCs studied included a definition section that adequately covers all the terms or words found in the body of the Code. Among the terms defined are “children”, “child abuse” and “child labor”; the rights of the child (survival, development, protection and participation), circumstances that threaten or endanger the survival and development of children, “day care centers”, “street children”, “diversion programs”, and “benefit dance”. The most comprehensive definition section can be found in the Child Welfare Code, of Davao City (Ordinance 118-03) which includes definitions of “juvenile justice system”, “internet café’s”, and institutions created to ensure implementation of the Code.

Use of “Shall”, “Must”, and “May”

The word “shall” is generally used when imposing a duty on a person or entity. It is also used to mean that something is mandatory (Arizona Legislative Council, 2002; Dascil, 2003). The word “may” is used to confer a discretionary right, privilege or power. Normally the use of “may” implies discretion or permission (Arizona Legislative Council, 2002; Dascil, 2003). An example would be the process of recall which states that “recall may be initiated by a preparatory recall assembly or by the registered voters of the local government unit to which the local elective official subject to such as recall belongs” (RA 7160, Sec. 70). The word “must” is used when the subject is a thing rather than a person or entity such as the phrase “the application must contain the applicant’s name”.

There is a tendency in most of the LCCs to loosely use the terms “may” and “shall” in referring to mandates to be exercised by local government units, their local agencies, and activities to be conducted for child protection, survival and development, and participation. This was particularly evident in the provisions requiring the mandatory teaching of child rights in schools, training of teachers and police officers, and in implementing a diversion program. While the desire to promote child rights may be laudable, the use of “shall” on mandates that are outside of the

powers of local government units raises can be legally questioned or worse, will result in a code that cannot be implemented.

POLICY FRAMEWORK: THE UNCRC

In terms of its policy framework, there is a strong recognition of the UN Convention on the Rights of the Child as a document on survival, development, protection, and participation rights of children in all the LCCs studied. The UNCRC

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is mentioned in the Declaration of Policy or in the accompanying resolution approving the LCC in eight (8) of the eighteen (18) ordinances. These include the provinces of Aurora, Bohol, Guimaras, Negros Oriental, Agusan del Sur, Cebu City, Kabankalan City, and Cotabato City.

As indicated in Table 2, survival, protection, participation, and development rights of children are extensively defined in twelve (12) of the eighteen (18) LCCs. Included in this grouping are the LCCs of Isabela, Zambales, Bohol, Bukidnon, South Cotabato, Zamboanga del Sur, and in the cities of Cabanatuan, Pasay, Quezon, Kabankalan, General Santos and Davao. The Rights of the Child appear in the text of all the eighteen LCCs. The rights of the child are used to group sections of the ordinance, justify specific mandates of local institutions, or create programs.

POLICY CONTEXT: THE SITUATION OF FILIPINO CHILDREN

Legislative measures filed at the national level contain an explanatory note that serves as a preliminary statement on the rationale for the proposed measure. While

The Creation of Child-Friendly Local Communities Through Local Codes on Children: An Analysis of LCCs
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Table 2
Policy Framework: The Rights of the Child

Local Government Unit	Rights of the Child			
	Survival	Protection	Participation	Development
Provinces				
Luzon				
Aurora	1, 3,4(b)	1,3,4(b)	1,3,4(b)	1,3,4(b)
Isabela	1,2,3	1,2,3	1,2,3	1,2,3
Zambales	1,2,3	1,2,3	1,2,3	1,2,3
Visayas				
Bohol*	2,3,4	2,3,4	2,3,4	2,3,4
Guimaras	1,3,4(a),4(b)	1,3,4(a),4(b)	1,3,4(a),4(b)	1,3,4(a),4(b)
Negros Oriental	1,3,4(a),4(b)	1,3,4(a),4(b)	1,3,4(a),4(b)	1,3,4(a),4(b)
Mindanao				
Agusan del Sur	3,4-b	3,4-b	3,4-b	3,4-b
Bukidnon	1,2, 3	1,2,3	1,2,3	1,2,3
South Cotabato*	2,3,	2,3	2,3,	2,3
Zamboanga del Sur*	1,2,3	1,2,3	1,2,	1,2,
Cities				
Luzon				
Cabanatuan City*	1,2,3,	1,2,3,	1,2,3,	1,2,3
Pasay City	1,2,3	1,2,3	1,2,3	1,2,3
Quezon City	1, 2,3	1,2,3	1,2,3	1,2,3
Visayas				
Cebu City	1,3,4(a)	1,3,4(a)	1,3,4(a)	1,3,4(a)
Kabankalan City*	1,2,3,4(b)	1,2,3,4(b)	1,2,3,4(b)	1,2,3,4(b)
Mindanao				
Gen. Santos City	1,2,3,	1,2,3,	1,2,3,	1,2,3,
Cotabato City*	1,3,4(b),	1,3,4(b)	1,3,4(b)	1,3,4(b)
Davao City	1,2,3,	1,2,3,	1,2,3,	1,2,3,

1-Mentioned in Declaration of Principles and Policies; 2-Defined; 3-Defined/Contained in Specific Sections/Provisions,
4(a) -Makes Reference to CRC in Accompanying Resolution, 4(b) - Makes Reference to CRC in Declaration of Policy

an explanatory note is not part of the text of a bill and does not become part of the law, it is useful in citing the legal bases for the proposed measure, explaining the policy context under which it is being proposed, and providing data and justifications to support its immediate enactment.

At the local level, a “preamble” serves as the preliminary statement of the reasons for the enactment of the law. It begins with a “whereas” and it usually follows the title and precedes the enacting clause. A “preamble” can likewise be part of the “whereas” in the accompanying resolution that approves or enacts an ordinance.

The analysis of the LCCs show that majority of these Codes contain a preamble that includes policy justifications for the enactment of a Code. These policy justifications, however, tend to be general statements of intent and do not contain references to provisions of the 1987 Constitution, Local Government Code, the Medium Term Philippine Development Plan, Child 21, or national laws relating to children. There are no national or local situationers, statistics or data on children, statements on the girl child, or on disadvantaged children such as those of indigenous Filipinos in any of the eighteen Codes analyzed.

The lack of a preamble containing a situation analysis on children may be a result of the general problems in local policy making, the general quality of local legislation, weak local legislatures, or lack of technical skills of the sanggunian secretariat. De Vera (1999) noted that the poor quality of local legislation can be traced to weak local institutions and staff. It is also a fact that decision makers in developing countries lack access to, receive poor or unreliable information, and tend to rely on the media rather than government agencies or specialized institutions in their decision making (De Vera, 1999; Grindle and Thomas, 1991; Horowitz, 1989).

It is also possible that many of the local governments used an existing Code as a reference in writing their own ordinance rather than conducting a study of the problem prior to policy formulation. While it is acceptable as a legislative practice for local governments to utilize standards from an existing Code in drafting their own ordinance, these standards must be clearly understood by the local legislators so that they can properly monitor its enforcement, tailor these according to local needs or context, and improve implementation.

Avila (2002) asserted that local authorities in Davao City interviewed key informants, conducted focused group discussions, and organized workshops to produce a research study that became the basis for drafting their LCC. This may be the reason for the quality of the Davao City LCC and the ability of the local government to immediately incorporate amendments thereafter

CHILD SURVIVAL AND DEVELOPMENT

The promotion of child survival and development was the most emphasized among the child rights in the LCCs studied. In general, the provisions of the LCCs reflect the tendency of local governments to exercise their regulatory functions, develop programs, construct facilities, and undertake training and education programs to promote child survival and development. The intervention programs include nutrition, maternal and child health, ECCD, provision of day care services, immunization, child minding services, and birth registration and monitoring (Table 3-A).

In general, the provisions of the LCCs reflect the tendency of local governments to exercise their regulatory functions, develop programs, construct facilities, and undertake training and education programs to promote child survival and development.

All of the local governments studied were aware of their responsibility to construct day care center and provide day care programs for their constituents. Fifteen (15) of the eighteen (18) LCCs provided for nutrition and immunization programs while birth registration and growth monitoring was present in eleven (11) and six (6) of the Codes, respectively. The LCCs also had programs on ECCD (7 LCCs), maternal and child health (5 LCCs), and child minding (5 LCCs).

Local authorities promoted child survival and development through the exercise of their regulatory powers over business establishments and construction of facilities in their areas of jurisdiction. Local authorities in Isabela, Zambales, Bukidnon, Cabanatuan City, Pasay City and General Santos City sought to create child-friendly

Table 3-A
Coverage of Children's Code: Child Survival and Development

LGU	Birth Registration	Immunization	Growth Monitoring	Day Care	Child Minding Program	Repro Health Center	Nutrition	ECCD Program	MCH Program	M & C Friendly Hospital
Provinces										
Luzon										
Aurora	•			•		•	•			•
Isabela		•		•	•	•	•			•
Zambales	•	•	•	•		•	•	•	•	•
Visayas										
Bohol	•	•		•		•	•			•
Guimaras	•	•		•	•	•	•			•
Negros Oriental	•	•		•		•	•			•
Mindanao										
Agusan del Sur	•	•		•		•	•			•
Bukidnon		•		•	•		•		•	•
South Cotabato	•	•	•	•		•	•		•	•
Zamboanga del Sur	•	•	•	•			•	•		•
Cities										
Luzon										
Cabanatuan		•		•	•		•			•
Pasay City		•		•	•		•		•	•
Quezon City							•	•		•
Visayas										
Cebu City	•	•	•	•		•		•	•	•
Kabankalan City				•				•		•
Mindanao										
General Santos		•		•		•		•		•
Cotabato City	•	•		•		•	•			•
Davao City	•		•	•		•	•	•		•

De Vera

Table 3-B
Coverage of Children's Code: Child Survival and Development

LGU	Creation of Children's Hospital	Training of Educators and Health Professionals for DAC	Survey & Handling of DA Children	Parenting Orientation or Education	Foster Homes	Child Friendly Building	Paging Booth in Malls	Support for Local Children's Literature	Inclusion of CRC in Curriculum	Training of Teachers on CRC
Provinces										
Luzon										
Aurora		X	X	X						
Isabela		X	X	X	X	X	X	X	X	X
Zambales	X	X	X	X	X	X		X	X	X
Visayas										
Bohol*		X		X						
Guimaras		X		X				X		
Negros Or.		X		X				X		
Mindanao										
Agusan del Sur		X		X				X		
Bukidnon		X	X	X	X	X	X	X	X	X
Cotabato										
South Cot.*		X	X	X				X		
Zamboanga del Sur*	X	X	X	X				X		
Cities										
Luzon										
Cabanatuan City*		X	X		X	X	X	X	X	X
Pasay City		X	X	X	X	X	X	X	X	X
Quezon City				X				X		
Visayas										
Cebu City	X	X	X	X				X		
Kabankalan City*	X			X				X		
Mindanao										
Gen. Santos		X	X	X	X	X	X	X	X	
Cotabato City*		X	X	X						
Davao City	X	X	X	X				X		

buildings by requiring the provincial and city engineers to approve plans of commercial buildings that have the following specifications:

- 1) Balusters in staircases must be placed in a manner that their distance from each other would not exceed six (6) inches to avoid children from accidentally falling through;
- 2) In case of buildings having more than one story, railings or balusters acting as horizontal or vertical barriers must be spaced in such a manner that their distance from each other must not exceed six (6) inches and have a height of not less than five (5) feet; and
- 3) Installation of lavatories exclusively for children's use.

Five other local governments (Isabela, Bukidnon, Cabanatuan City, Pasay City, and General Santos City) required shopping malls to safeguard the safety of children by providing paging booths inside their stores (Table 4).

Almost all of the LCCs provided for the establishment of facilities for mothers and children, such as reproductive health centers, children's hospitals, foster homes, and monitoring the compliance of health facilities as "Mother-Baby/Child Friendly" hospitals. To support the socio-cultural development of children, all the Codes included a provision requiring local governments to "invest in the production of local literature for children" and the encouragement of barangay governments to do the same (Table 4). This policy statement, however, is rather generic and is vague on the mechanism under which this will be undertaken.

All local governments, with the exception of Quezon City, required marriage license applicants to undergo a Parenting Orientation Course or Pre-Marriage Counseling Seminar. Parents who apply for the birth certificates of their newborn were required to undergo a Parenting Orientation II seminar before being issued a certificate of live birth by the local civil registrar.

Parents who apply for the birth certificates of their newborn were required to undergo a second parenting orientation seminar before being issued a certificate of live birth by the local civil registrar.

While the intent of these programs is laudable, this requirement raises serious policy questions in terms of balancing local government intentions versus the rights of children in the UNCRC. Should the issuance of birth certificates be withheld for non-compliance of the parents? Should local authorities put a condition to the right of a child to a name given that one of the survival rights of children is to be registered at birth? And in what way does this solve or possibly exacerbate the problem of unregistered children in many communities nationwide?

While the intent of these programs is laudable, this requirement raises serious policy questions in terms of balancing local government intentions versus the rights of children in the UNCRC.

Apparently, these programs are not only questionable but difficult to implement for some local governments. In Davao City, local authorities initially shortened, then suspended the implementation of the parenting orientation course due to the large number of participants, the resulting delay in the issuance of birth certificates, and legal questions on the rights of children to have a birth certificate. The Parenting Course I, on the other hand, was made optional and integrated into the existing marriage counseling seminars (Avila, 2003).

All the LCCs instituted training programs for educators and health professionals in handling differently-abled children while a majority (12 of 18) mandated local governments to make periodic comprehensive surveys and situation analysis on the differently-abled children in their localities for use in planning children's programs in their respective jurisdictions.

Six of the Codes (Isabela, Zambales, Bukidnon, Cabanatuan City, Pasay City, General Santos City) either required or encouraged the inclusion of the UNCRC in the school curriculum while five of the Codes (Isabela, Zambales, Bukidnon, Cabanatuan City, Pasay City) required or encouraged teachers in the primary and secondary levels to undertake training programs on the rights of the child and sensitivity to children in need of special protection. The legislative language used in some of the Codes, particularly those that use the word "shall" thereby mandating

compliance, makes the implementation of these two provisions either difficult or legally questionable since education functions are not devolved to local governments.

Finally, the existing practice of celebrating a national children's month or designating a local children's day to focus attention to children's issues and provide for parades and activities promoting child rights are incorporated into the LCCs in almost all of the areas studied.

CHILD PROTECTION

In terms of child protection, local authorities in the eighteen areas imposed regulations, developed programs, created offices, and constructed facilities to protect children in their localities. The most common intervention was the imposition of regulations on establishments and individuals. More than half of the LCCs required billiard halls and video arcades to get a separate permit to operate from the Social Welfare and Development Office to ensure stricter implementation of existing ordinances that prohibit children from playing in these establishments.

<p>Several local governments increased penalties for violation of children's hours of work, prohibition of night work, and hazardous work and conditions by providing fines and imprisonment in addition to those contained in RA 7610 and the Dangerous Drugs Act.</p>	<p>Six (6) of the Codes (Isabela, Zambales, Bukidnon, Cabanatuan City, Pasay City, General Santos) require hotels, sauna baths, inns, motels, night clubs and similar establishments to post notices and information on child protection in their premises to deter child prostitution, trafficking and abuse. The posting of these notices are also used as basis in renewing or approving their business licenses. The same six local government units also regulate ambulant vendors who sell their goods near a school to ensure their compliance with safety and sanitation standards. Seven (7) of the LCCs contain provisions that impose a selective ban on benefit dances in the barangay to raise funds for whatever purpose.</p>
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Several local governments increased penalties for violation of children's hours of work, prohibition of night work, and hazardous work and conditions by providing fines and imprisonment in addition to those contained in RA 7610 and the Dangerous Drugs Act.

Half of the Codes (Isabela, Bukidnon, South Cotabato, Zamboanga del Sur, Cabanatuan City, Pasay City, Cebu City, General Santos City and Davao City) provide for the imposition of curfew on minors. Under this provision, children below 18 years of age are prohibited from loitering or sleeping in public places from 10 pm to 4 am unless they are in the company of their parents or guardians. Children who are caught violating the curfew are turned over to the social welfare office and required to attend a seminar, together with their parents, on their duties and responsibilities as parents and children.

The imposition of curfew on minors still remains a contentious issue especially in some cities in Metro Manila where its enforcement is being done through the criminal justice system. Some cities in Metro Manila impose detention in police cells for a certain number of hours for violation of curfew on minors.

One view is that the imposition of curfew on minors *per se* is not invalid when it is done as a measure to promote the safety of the minor inhabitants of a local government unit (LGU) under Sec. 16 (general welfare clause¹) of RA 7160. The exercise of the statutory grant of police power under the general welfare clause is limited only by the following:

The imposition of curfew on minors still remains a contentious issue especially in some cities in Metro Manila where its enforcement is being done through the criminal justice system.

1. It must be exercised only within the territorial limits of the LGU;
2. It must not violate the equal protection (the interests of the public in general, as distinguished from those of a particular class);
3. It must not violate due process clause (the means employed are reasonably necessary in the accomplishment of the purpose, and not unduly oppressive on individuals); and

4. It must not be contrary to the Constitution and the laws.

Moreover, proponents of curfew on minors argue that it does not violate the 1987 Constitution's equal protection clause since it allows for valid and reasonable classification and the due process clause which only requires reasonableness of means in accomplishing a valid objective. Proponents argue that minors comprise a vulnerable sector that needs special protection and the imposition of curfew is a reasonable means for promoting their safety. The imposition of curfew would prevent minors to loiter unaccompanied by adults at certain hours of night deemed most unsafe for them.

The other view is that the imposition of curfew on minors raises certain constitutional questions and run counter to the CRC provision of non-discrimination. One such constitutional issue pertains to the right to travel. The imposition of curfew

More importantly, the non-discrimination clause of the CRC only allows for positive forms of discrimination that would benefit children, e.g. providing children certain privileges because it benefits them.

hours, in so far as it curtails the freedom of movement of the youth, may be equated with the curtailment of the child's right to travel.

More importantly, the non-discrimination clause of the CRC only allows for positive forms of discrimination that would benefit children, e.g. providing children certain privileges because it benefits them. Curfew ordinances, especially when they would lead to apprehension or incarceration of minors through the criminal justice system, tend to violate instead of protect the rights of the child.

It seems that proponents of a curfew provision in the LCCs are unaware or have not considered its possible conflict with the mandates of the CRC such as the non-discrimination clause and the prohibition of status offenses (i.e. offenses which are not punishable if committed by adults but penalized if committed by minors). Moreover, the UNCRC and UN Rules also talk about proportionality of the penalties with the offense as well as the use of detention only as measure of last resort and only for serious offenses. Would the

violation of curfew ordinances, assuming their validity, amount to a serious offense that should be meted out with the penalty of detention?

Finally, there are the issues of reconciling the imposition of curfew with the presence of street children, child workers, or those studying at night, and the standards that would guarantee that the imposition of curfew will not run counter to the best interest of the child. The LCCs state the policy justification and penalties for violators but are silent on the guidelines and standards that would protect the interest of the child.

Majority of the Codes provided for sanctions for establishments that are caught promoting or facilitating child prostitution, sexual abuse, trafficking, or distributing obscene publications. The penalties include fines and cancellation of their license to operate without prejudice to penalties provided for under RA 7610.

Another type of intervention to protect children is through the creation of rehabilitation centers and child and youth reception and training centers by local governments to provide protective services to children and youth who are abandoned, victims of incest or rape, and other similar cases. Six of the Codes contained a section to require the separate detention cells exclusively for children and youth offenders. This provision localizes the requirement of PD 603 on detention facilities for minors in conflict with the law but no reference is made to this national law in the Codes analyzed.

Twelve of the LCCs create a child and youth relations section in each police station in the province/city to handle cases involving children. The creation of this section is accompanied by the development of child-friendly procedures that are contained in police handbooks and special courses for policemen to be implemented by the child welfare council and the Philippine National Police. The Child Welfare Code of Isabela further requires the establishment of a children-women protection desk in all PNP stations in the province in addition to the child and youth relations section (Table 4-B).

Seven local governments (Isabela, Zambales, South Cotabato, Zamboanga del Sur, Cebu City, General Santos, and Davao City) attempted to protect the rights of children through the creation of a Muslim and Indigenous People's Council that is tasked to "facilitate planning, decision making, implementation, and evaluation of

Table 4-A
Coverage of Children's Code: Child Protection

LGU	PROGRAMS				REGULATORY REQUIREMENTS					
	Child Abuse, Exploitation and Discrimination	Children & Family Psycho-Social Program	Bantay Bata Hotline	Victims of Incest & Rape	Posting of Notices and Info on Child Protection in Establishments	Selective Ban on Benefit Dances	Curfew on Minors	Regulation on Ambulant Vendors	Prohibition on Loitering	Billiard Halls and Video Games Permits
Provinces										
Luzon										
Aurora										
Isabela	•	•	•	•	•	•	•	•	•	•
Zambales	•	•	•	•	•					•
Visayas										
Bohol*										
Guimaras										
Negros Or.										
Mindanao										
Agusan del Sur										
Bukidnon	•	•	•	•	•	•	•	•		•
South Cot*	•	•				•	•	•		•
Zamboanga del Sur*	•	•				•	•			•
Cities										
Luzon										
Cabanatuan City*	•	•	•	•	•		•	•	•	•
Pasay City	•	•	•	•	•		•	•		•
Q. City										•
Visayas										
Cebu City	•	•				•	•			•
Kabankalan City*										
Mindanao										
Gen.Santos	•	•	•	•	•	•	•	•	•	•
Cotabato *										
Davao City	•	•				•	•			•

Table 4-B
Coverage of Children's Code: Child Protection

LGU	CREATION/ESTABLISHMENT OF OFFICES & TASK FORCES								SANCTIONS	
	Children-Women Protection Desk	C&Y Rel. Section in Police Stations	Rehab Center	Separate Detention Cells for Minors	C & Y Reception & Training Center	Educators for Muslim and IP Children	Muslim and IP Council	Sagip Mangagawa Action Team	Establishments and Enterprises	Custodial Brutality
Provinces										
Luzon										
Aurora										
Isabela	•	•	•	•	•	•	•	•	•	•
Zambales		•	•			•	•	•	•	•
Visayas										
Bohol*										
Guimaras										
Negros Or.										
Mindanao										
Agusan del Sur										
Bukidnon		•	•	•	•				•	•
South Cotabato*		•	•	•	•	•	•		•	
Zamboanga del Sur*		•				•	•		•	•
Cities										
Luzon										
Cabanatuan*		•	•	•	•			•	•	•
Pasay City		•	•	•	•			•	•	•
Quezon City		•								
Visayas										
Cebu City		•				•		•	•	•
Kabankalan City*										
Mindanao										
Gen. Santos		•	•	•	•	•	•	•	•	•
Cotabato City*										
Davao City		•				•	•		•	•

all government programs affecting children of indigenous and Muslim peoples”, and a committee to study and design training program for teachers assigned in IP and Muslim areas that are culture-specific and relevant to the needs of these communities.

This initiative is useful in the case of local governments in Mindanao, and also for Zambales which has a significant IP population. In the case of Isabela, which has an IP community but no significant Muslim community, the Children’s Code provides for the design of training programs for teachers assigned in Muslim communities (Sec. 36) rather than for IP communities (Isabela, 2002). This error could have been avoided by more thorough staff work.

The fourth type of intervention includes the formulation of local programs that will promote the implementation of the Child Welfare Code, psycho-social programs for children and families affected by armed conflict, and the establishment of a “*bantay-bata*” hotline to facilitate the reporting of child abuse incidents. A number

One of the innovative interventions on child protection contained in the LCCs is the mandate given to local governments to prohibit the employment of children in advertisements that encourage the consumption of alcoholic beverages, tobacco, junk food and products that promote violence.

of the LCCs create an inter-agency action team against child labor called the “*Sagip Batang Manggagawa*” composed of national government agencies, local government offices, NGOs, and the PNP that can immediately act on cases involving child labor.

One of the innovative interventions on child protection contained in the LCCs is the mandate given to local governments to prohibit the employment of children in advertisements that encourage the consumption of alcoholic beverages, tobacco, junk food and products that promote violence. This prohibition is contained in the Children Codes of in the cities of Cebu and Davao and the provinces of South Cotabato and Zamboanga del Sur. Local authorities in Davao City have included a ban on billboards and

other forms of advertisements that violate child rights in their Code. These actions are innovative since these go beyond national regulations and maximize the regulatory powers of local governments to protect children. According to Davao City Councilor Avila, local authorities can regulate advertisements by calling the attention of publishers, billboard companies, or cable operators to the content of their programs or advertisements (Avila, 2002).

CHILD PARTICIPATION

The participation rights of children were the least promoted by the local governments in the areas studied. There are two provisions in the LCCs dealing with child participation that enunciates: 1) the right of children to express their opinion freely and for that opinion to be taken into account in all matters of procedures affecting the child; and 2) the responsibility of adults to provide opportunities for children to express their views, organize themselves, obtain information, and make ideas or information known regardless of tribe, sex, and religious beliefs.

The participation rights of children were the least promoted by the local governments in the areas studied.

The implementation of this policy statement is limited to the once-a-year convening of 7-12 year old and 13-18 year old children in session where local authorities listen to their needs and issues. These provisions are at best, token attempts by local authorities to promote child participation.

Many local governments have passed ordinances to designate certain dates and months as “children’s week” or “children’s month” to allow schools, offices, officials and the community to hold contests, fairs, and parades with children as participants. Local authorities in the areas studied appear to have codified these ordinances into their Children’s Code. It is interesting to note that there is no mention of the Sangguniang Kabataan, or any reference to the provisions in RA 7160 on the SK in the LCCs.

LOCALIZATION OF NATIONAL LAWS TO ENHANCE IMPLEMENTATION

The enactment of local codes for children is important because it signals a stronger political commitment for child rights; integrates related international, national and local laws on children in a single document; and it facilitates implementation of national laws at the local level. Codification also puts child rights into the agenda of local governments, identifies institutional accountability among

The enactment of local codes for children is important because it signals a stronger political commitment for child rights; integrates related international, national and local laws on children in a single document; and it facilitates implementation of national laws at the local level.

local offices, defines provincial-municipal/city (and municipal/city-barangay) relations in implementation, and sets parameters for inter-LGU assistance. The integration of national laws into the LCCs, on the other hand, increases recognition of the need to localize and implement these laws, allows for the harmonization of the provisions of national and local laws, and helps define central-local government relations.

It is therefore imperative that LCCs contain specific references to international covenants, national laws, and local ordinances in its various provisions to lay the legal basis for the mandates given to the local governments, institutions, and programs. Referentially incorporating such laws or regulations as they exist at the time of

enactment allows for harmonization and better implementation. In instances where the provisions of the LCC are copied from international or national laws, there is a need to cite the source and the relevant national law.

Among the many laws passed by the Philippine Congress for children, at least ten laws — RA 6972 (Barangay-level Total Development and Protection of Children Act), RA 7277 (Magna Carta for Disabled Persons), RA 7600 (Rooming-in and Breastfeeding Act), RA 7610 (Special Protection of Children Against Child Abuse,

Exploitation and Discrimination Law), RA 7658 (Anti-Child Labor Law), RA 8172 (An Act Promoting Salt Iodization Nationwide), RA 8296 (National Children's Day of Broadcast), RA 8425 (Social Reform and Anti-Poverty Law), RA 8505 (Crisis Center Law), and RA 8980 (ECCD Law) — could be mentioned or incorporated into the various LCCs because these give local authorities additional mandates related to children.

Among these laws, one can expect local governments to be most familiar with, and therefore make reference to those passed prior to and immediately after the Local Government Code such as RA 6972, RA 7277, RA 7610, RA 7658, and RA 8172. It would be difficult to include the three other national laws in the LCCs because these were right before, or even after the date of enactment of the respective Codes.

As indicated in Table 5, most of the Codes do not codify or harmonize international, national and local laws and regulations on children because these make general references to existing laws, do not specify provisions of national laws or ordinances related to a particular subject matter, or fail to identify offices charged with implementation. Local authorities in Cebu City made the best effort to codify specific city ordinance in the various provisions of their Code. The references, however, are still written in general terms and do not harmonize national-local institutional relations and program overlaps.

Local governments seem to be most familiar with RA 7610 and reference was made to this law in seventeen of the eighteen LCCs. The lone exception, Cabanatuan City, made reference to an RA 7620 but this appears to be a product of poor staff work rather than policy intent.

With the exception of Quezon City and South Cotabato, all the LCCs mentioned the responsibility of local authorities to construct day care centers and provide day care services. However, specific reference to RA 6972 can be found in only seven of the sixteen LCCs with day care center/service provisions.

The least cited national law was RA 8980 or the ECCD law. This may be due to its recent enactment in relation to the passage of the local codes. It is clear, however, that even local authorities who approved their LCCs after the passage of RA 8980 also failed to mention this law in their respective ordinances.

The need to create crisis centers was mentioned in ten of the LCCs but only five (5) of these Codes made reference to RA 8505 or the Crisis Intervention Centers Law which mandates local authorities with this responsibility. The Code of Agusan del Sur made mention of RA 8508, and like in the case of Cabanatuan City, the wrong reference may be a product of poor staff work rather than ambiguous policy intent.

Codification for Better Implementation

RA 6972 or the Day Care Law was cited in seven of the Codes and the responsibility of local governments to construct day care centers and provide services was cited in nine other LCCs. Nine Codes reiterated LGU responsibility for day care services and facilities but made no reference to the national law. This indicates that local authorities are aware of the law and their responsibilities in implementation, particularly the need to have a day care center in every barangay. However, the provisions on day care in the Codes do not address the implementation problems already identified in existing studies (De Vera, 2001; Reyes, 1996) such as the improvement in the quality of day care services, accreditation of day care workers and centers, increasing the honoraria of day care workers, and defining the relations between the provincial and municipal social welfare officers in monitoring and implementation.

In the case of provinces, de Vera (2001) noted that while the governor played a facilitating role in implementation, the lack of administrative supervision over MSWDOs and CSWDOs limited the capability of provinces to generate data to respond to local government requests for assistance, rationalize the use of provincial resources, or initiate complementary provincial social welfare programs. Implementation was also hampered by weak monitoring, and poor vertical and horizontal coordination among local offices.

The LCCs could have addressed these problems by defining the institutional relations between the DSWD regional office and the province in improving the quality of facilities and services; identified provincial/city offices responsible for data gathering and analysis, monitoring, and implementation; provided for a system

to rationalize funding support across LGs; documented best practices in implementation; and put in place an incentive and awards system to improve implementation.

The local authorities in the provinces of Zambales and Bukidnon, and the cities of Cabanatuan, Pasay, General Santos and Cotabato saw the importance of the ASIN law (RA 8172) in improving children's well-being. The implementation of this law has been hobbled by various problems since 1995 and the objective of eliminating iodine deficiency disorders (IDDs) in the country through universal salt iodization has not been achieved until today. The promotion of salt iodization by these local governments shows an increased commitment to promote the health and nutrition of children in their areas.

As shown in Table 6, the policy response of the six governments to improve ASIN law implementation is to create local committees and increase penalties for salt producers, manufacturers, importers and traders who violate the law. There are no provisions in the six LCCs on the other components of the national law, such as creating a registry of salt producers; inventory of salt dealers, vendors, establishments, hospitals using iodized salt; and a monitoring system to check on the quality of food grade salt in the local market.

The Codes, in this regard, fail to address some of the major reasons for the poor implementation of the ASIN law such as access to affordable raw materials, equipment and technology, weak local demand, and funding support for IEC and other programs. De Vera (2001) noted that in several provinces, local authorities cited the problem of locating institutional accountability for program implementation, lack of coordination between involved agencies, and poor monitoring systems as responsible for weak implementation. In this regard, the LCCs could improve implementation by defining the roles of the various local offices involved in enforcement and monitoring, IEC campaigns, incentives and awards, and LGU-NGA partnership to hasten technology transfer, provide credit assistance, and access raw materials for local salt producers.

Two important laws that contain specific mandates for local governments related to children were not codified or mentioned in any of the LCCs. RA 7277 or the

Table 5
Inclusion of National Child Related Laws in LCCs

LGU	R.A. 6972 Day Care Law (1990)	R.A. 7277 Magna Carta for Disabled Persons (1992)	R.A. 7610 Child Protection (1992)	R.A. 8172 ASIN Law (1995)	RA 8505 Crisis Intervention Centers	R.A. 8980 ECCD (2000)	E.O. 51 Breastfeeding, Mother & Baby Friendly Hospitals	Proc. 267 Children's Month (1993) Proc. 74 Nat'l Children's Day (1992)
Provinces								
Luzon								
Aurora	•		•		•	N.A.		••
Isabela	• (no reference to RA)	• (no reference to RA)	•			N.A.	•	
Zambales	• (No reference to RA)		•	•	• (no reference to RA)	N.A.	• (No reference to EO)	
Visayas								
Bohol*	•		•		•	N.A.		••
Guimaras	•		•		•			••
Negros Oriental	•		•		•	N.A.	• (No Reference to EO)	••
Mindanao								
Agusan del Sur	•		•		• (RA 8508?)	N.A.	• (No Reference to EO)	••
Bukidnon	• (No reference to RA)	• (no reference to RA)	•	•			•	
South Cotabato*			•		• (no reference to RA)	N.A.		
Zamboanga del Sur*	• (No reference to RA)		•			N.A.	• (No reference to EO)	
Cities								
Luzon								
Cabanatuan City*	•		• (RA 7620?)	•		N.A.	•	•
Pasay City	• (No reference to RA)		•	•		N.A.	•	
Quezon City			•			N.A.	• (No reference to EO)	
Visayas								
Cebu City	• (No reference to RA)	• (No reference to RA)	•		• (no reference to RA)		• (No reference to EO)	
Kabankalan City*	• (No reference to RA)	• (No reference to RA)	• (7658) • (7610)				• (No reference to EO)	
Mindanao								
Gen. Santos City	• (no reference to RA)		•	•		N.A.	•	
Cotabato City*	•		•	•	•		• (No Reference to EO)	•
Davao City	• (no reference to RA)		•		• (no reference to RA)	N.A.	• (No reference to EO)	

De Vera

Table 6
Child Related Laws: R.A. 8172 (ASIN Law)

LGU	Monitoring System for Quality of Food Grade Salt in Markets	Creation or Strengthening of PSIP/CSIP	Registry of Salt Producers	Promotional Plan on the Use of Iodized Salt	Inventory of salt dealers, vendors, establishments, hospitals using iodized salt	Penalties or Incentives for RA 8172 Compliance	General Reference to RA 8172
Provinces							
Luzon							
Aurora				No provision on RA 8172			
Isabela				No provision on RA 8172			
Zambales						• (penalties)	•
Visayas							
Bohol*				No provision on RA 8172			
Guimaras				No provision on RA 8172			
Negros Oriental				No provision on RA 8172			
Mindanao							
Agusan del Sur				No provision on RA 8172			
Bukidnon						• (penalties)	•
South Cotabato*				No provision on RA 8172			
Zamboanga del Sur*				No provision on RA 8172			
Cities							
Luzon							
Cabanatuan City*						• (penalties)	•
Pasay City						• (penalties)	•
Quezon City				No provision on RA 8172			
Visayas							
Cebu City				No provision on RA 8172			
Kabankalan City*				No provision on RA 8172			
Mindanao							
Gen. Santos City						• (penalties)	•
Cotabato City*							•
Davao City				No provision on RA 8172			

Magna Carta for Disabled Persons requires local governments to undertake the following:

1. In cooperation with the DOLE, establish medical rehabilitation centers at the provincial level;
2. Provide rehabilitation services within the scope and capability of the center at affordable cost;
3. Allocate or construct a room within or adjacent to the provincial hospital building with a dimension of at least 100 square meters to house the medical rehabilitation center;
4. Provide adequate funding for the proper maintenance and operation of the center;
5. Allocate funds for the provision of architectural facilities or structural features for disabled persons in government buildings and facilities

Local governments can ensure the attainment of a barrier-free environment that will enable disabled children to have access in public and private buildings and establishments through the strict enforcement of Batas Pambansa Bilang 344, otherwise known as the “Accessibility Law”.

Finally, the Children’s Codes could have provided for policies and programs for disabled children consistent with the intent of RA 7277 either through the province or city, or in partnership with the DECS, DOLE and DSWD. Programs for disabled children can include financial assistance to economically marginalized but deserving disabled students through scholarship grants, subsidies, and other incentives in the regular and vocational or technical degree courses; special education programs for the visually impaired, hearing impaired, mentally retarded persons and other types of exceptional children; establishment of braille and record libraries; and training in civics, vocational efficiency, sports and physical fitness, and other skills.

The inability of local governments to localize the Magna Carta for Disabled Persons and the Accessibility Law reflects poorly on the knowledge of local officials of these laws and the low priority given to the needs of disabled persons in their

areas. The passage of a national law addressing the needs of this sector has apparently not improved their lives.

RA 8425 (Social Reform and Anti-Poverty Law), on the other hand, mandated local government units, through their respective development councils to formulate, implement, monitor, and evaluate the National Anti-Poverty Action Agenda in their jurisdictions.

The provisions of RA 8425 provide an opportunity for local authorities to focus on children-related indicators in the MBN and minimum basic needs, incorporate child rights indicators in the identification of the poor and in the formulation of their anti-poverty action agenda, or locate the child welfare councils in the context of the anti-poverty action agenda. Unfortunately, all LCCs analyzed made no mention of RA 8425 or the NAPC in their provisions.

The inability of local governments to localize the Magna Carta for Disabled Persons and the Accessibility Law reflects poorly on the knowledge of local officials of these laws and the low priority given to the needs of disabled persons in their areas.

IMPLEMENTATION MECHANISMS

All of the LCCs provide for the creation of a Council for the Protection of Children at the provincial, city/municipality, and barangay levels to take the lead in implementing the various children's programs mentioned in their Code. The Codes, in this regard, fulfill the legal requirements mandated by national laws on the creation of such councils and strengthen these bodies by enlarging their responsibilities over all existing and new mandates, programs, and institutions contained in the ordinance.

The powers and functions given to the councils are adequate in terms of implementing the basic provisions of the Codes. However, the functions of the Council do not include: 1) the monitoring of the implementation of laws, ordinances, and programs on children by the cities and municipalities under its jurisdiction; 2) a reporting system on the state of the children in the province or city; and 3) the

Under Sec. 12 of RA 8425, local government units are required to:

1. Identify the poor in their respective areas based on indicators such as the minimum basic needs approach and the human development index, their location, occupation, nature of employment, and their primary resource base and formulate a provincial/city/municipality anti-poverty action agenda;
2. Identify and source funding for specific social reform and poverty alleviation projects;
3. Coordinate, monitor and evaluate the efforts of local government units with the private sector on planning and implementation of the local action program for social reform and poverty alleviation; and
4. Coordinate and submit progress reports to the National Anti-Poverty Commission (NAPC) regarding their local action programs.

development of a system of child-based data-generation and analysis that can be used by the Council in its planning, monitoring, and reporting on the state of the children in the area.

Moreover, the LCCs are silent on the role of the provincial board or city councils in promoting child rights, particularly in the exercise of their oversight responsibilities over the various offices tasked with implementing the provisions of the Code, and in the review of ordinances that are obsolete, do not promote the UNCRC or contain provisions that conflict or affect implementation.

RESOURCE ALLOCATION

Promoting Child Rights Through Increased Resource Allocation

Resource allocation is a salient and pressing issue in the protection and promotion of the rights of the Child. The call to prioritize children in international covenants and in various national plans and policies involves the call to allocate the “maximum available resources for children.” It calls on government not only to address the needs of children but, most importantly, to put children’s issues high on the nation’s agenda. Resource allocation is seen as a necessary condition to set in motion programs and projects for children, thus the call to make children’s concerns highly visible in the budget making process.

children, thus the call to make children's concerns highly visible in the budget making process.

The UNCRC rallies all countries to support the First Call. The CRC advocates the welfare and rights of children and outlines child-friendly policies and structures. Article 4 of the Convention enjoins all State parties to do everything within their power to protect and promote the economic, social, and cultural rights of children. Said provision highlights the need to back up policies with resources to the maximum extent possible, to wit:

State parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights States shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation (underscoring supplied).

The urgency to analyze resource allocation for children's programs has become critical given the increasing number of "unfunded mandates" in recent years. These are laws passed by Congress and directives issued by the Executive that do not get implemented because of funding deficiencies. Problems arise due to, among other things, absence of a clear funding provision in the law, underestimation of funding needs, unrealistic assumptions on the availability of funds generated from various sources, non-allocation, slow utilization rate among implementing agencies, dependence on earnings of government entities, financial constraints, and the lack of fiscal discipline among executive and legislative officials (De Vera and Cruz, 2002).

De Vera and Cruz (2002) noted that in July 2001, the total budget requirement to fully implement all Executive Orders of the President and laws passed by Congress has reached a staggering total of P446B. This amount has not significantly decreased until the present period despite attempts by both legislative and executive officials to practice fiscal prudence. As early as July 23, 1999, the DBM listed thirty-one (31) laws and executive issuances passed between 1991 and 1999 that have funding deficiencies.

The analysis of resource allocation mechanisms in the LCCs becomes important to make sure that problems encountered at the national level are not repeated at the

local level and that local laws when implemented, diminish rather than exacerbate the lack of resources for children's programs.

Sources of Funding

In general, an appropriation of public money should contain an amount, source, fiscal year of applicability, a recipient, and a purpose. The contravention of this requirement has resulted in the enactment of many national laws that are under

There are several LCCs that violate this requirement because there is no amount allocated, the allocation is not office or program-specific, or the wording is vague and difficult to implement.

funded, unfunded, or can not be fully implemented because these have to compete with all other priorities and programs of line departments. There are several LCCs that violate this requirement because there is no amount allocated, the allocation is not office or program-specific, or the wording is vague and difficult to implement.

Majority of the LCCs provided for an annual appropriation to fund the offices, programs and activities contained in the ordinance. Five local governments — Aurora, Bohol, Guimaras, Negros Oriental, and Agusan de Sur — approved their ordinance without providing for any appropriation.

There were four approaches used by local authorities in allocation funds for implementation. These are:

1. An initial appropriation plus a percentage of other earmarked funds such as the 20% development plan (Isabela);
2. A percentage of, or a specific amount from the annual budget or general fund (Zambales, Cabanatuan City, General Santos City, Quezon City, Cotabato City);
3. A percentage of the gross income of the local government (South Cotabato, Zamboanga del Sur, Davao City, Kabankalan City); and

4. Appropriations for specific programs or offices created through the Code
(Cebu City, Pasay City, Quezon City, Cotabato City).

Measuring allocation for children's programs and identifying funding gaps are inherently difficult due to estimation problems such as direct and indirect beneficiaries, cross-beneficiaries and multiple sector targets, and diffusion of child related goals across several offices and programs at the local level (De Vera and Cruz, 2002).

Several observations can be made with regard to the resource allocation language of the Children's Codes. First, allocating a percentage of the "gross income" (South Cotabato, Zamboanga del Sur, Davao City), "gross revenue" (Kabankalan City), "annual budget" (Zambales, General Santos City, Cotabato City), and "economic development fund" (Isabela) will yield different levels of funding. More funds for Code implementation will be available when a percentage of the annual budget is automatically allocated compared to a percentage of the 20% development fund.

Second, the wording of the LCCs does not indicate whether the appropriation is in addition to existing levels of funding or includes current allocations. The language of the appropriation clause is crucial in determining whether laws can be fully implemented. The problem of budget attribution is best illustrated in the implementation of the Agriculture and Fisheries Modernization law (AFMA). RA 8435 or the AFMA, provided for an annual appropriation of P20 billion in addition to existing levels of funding for agriculture. When the law was implemented, however,

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Table 7
Resource Allocation for Children's Programs and Institutions in LCCs

LGU	Appropriation	Offices Receiving Appropriation
Provinces		
Luzon		
Aurora	No specific appropriation.	None
Isabela	P1M as initial appropriation, 5% of Economic Development Fund exclusive of appropriations for the PHO and SEF. Additional P1.8M annually as additional incentives/honoraria for day care workers	None
Zambales	5% of Annual Budget exclusive of appropriations for PHO and SEF, additional appropriation in the Supplemental budget and 1.5% from each additional fund from other sources	None
Visayas		
Bohol*	No specific appropriation	None
Guimaras	No specific appropriation	None
Negros Oriental	No specific appropriation	None
Mindanao		
Agusan del Sur	No specific appropriation	None
Bukidnon	P1M for SPED from GF; (language difficult to understand – not less than 5% of the budget)	
South Cotabato	5% of the gross income of the province and 1.5% from additional funds from other sources	None
Zamboanga del Sur	5% from gross income of the province and 1.5% from each additional fund from other sources	None
Cities		
Luzon		
Cabanatuan City*	P5M of its Annual Budget subject to availability of funds exclusive of appropriations for the Council and SEF.	None
Pasay	5% which is exclusive of the appropriation for the CHO and SEF. P1M for SPED from the GF.	None
Quezon City	No annual appropriation in Ord. No. 572-97. Appropriation of P6.1M for the creation of a Q.C. Center for Child and Youth Development. 1% of the General Fund for the Q.C. Council for the Protection of Children through Ordinance No. 1028-2001.	QCCCYD, QCCPC
Visayas		
Cebu City	Increase in the budget of the Cebu City Commission for the Welfare and Protection of Children (CCCWPC) from P300T to P500T.	CCCWPC
Kabankalan City*	City - 3% of the gross revenue of the city. Barangays – No less than 5% of its annual and supplemental budget for the BCPC	BCPC
Mindanao		
Gen. Santos City	No less than 5% of the Annual Budget exclusive of appropriations for the City Health Office and Special Education Fund. P1M for SPED from the General Fund	None
Cotabato City*	1% of the total annual budget of the city. P300T annually for the CCWC	CCWC
Davao City	5% of the gross income of the city. 1.5% from "each additional fund obtained by the City as provided for in the same section of the Code" shall be earmarked for the Davao City Children's Hospital	CSSDO

the computation of the P20B included current expenditures for all agriculture-related programs not only in the Department of Agriculture but also in other departments. As a result, this landmark legislation increased public expectation but failed to modernize Philippine agriculture.

Third, a well written appropriation clause that allocates a percentage of the annual appropriation or gross income of an LGU for the implementation of the Code ensures an annual increase in the funding levels on a year-to-year basis. This also allows child advocates and local authorities to increase funding levels beyond the threshold level indicated in the ordinance. This is the case in General Santos City where the Code requires that “the City Government shall regularly appropriate funds not less than five percent (5%) of its Annual Budget” (Ordinance 11-1997, Sec. 52) (underscoring supplied).

The wording of the Codes in Zambales, South Cotabato, Zamboanga del Sur and Pasay City contain an appropriation clause of “5% of the annual income” as an appropriation for Code implementation. This appropriation provision creates several problems: 1) it is not clear whether the 5% represents the minimum or maximum funding level; 2) it may not allow for appropriation higher than 5% of the annual budget/gross income; and 3) it does not facilitate measurement of funding gaps across mandates, institutions, and programs across time.

Fourth, the strategy of increasing the budget of specific offices such as children’s committees/councils (Quezon City, Cebu City, Cotabato City), construction of facilities (Quezon City), programs such as SPED (Bukidnon, Pasay City), and budget items such as honoraria for day care workers (Aurora) are laudable because it allocates funds for specific purposes. However, in the case of Cebu City and Quezon City, these appear to be one-time allocations that need to be appropriated every year. This type of allocation is difficult to sustain in an environment of frequent political changes and where resource demands are varied and escalating.

Finally, it appears that the local governments continue to rely on traditional sources of funding for Code implementation. There was no attempt to tap the special funds or “pork barrel” of local legislators and executives for the implementation of the LCCs or levying taxes that will accrue exclusively for children’s programs. De Vera (1999) noted that local legislators in most provinces and cities

have institutionalized the equivalent of the *pork barrel* at the local level and that while this practice can be defended as a mechanism to respond to constituency needs, the lack of transparency and division of funds among legislators raises questions on effectiveness to stimulate local development. In this regard, a consensus can be reached between legislators supportive of child-rights, or between executive and legislative officials to agree on a set of projects for children that can be the basis for pork barrel utilization.

Perhaps the most innovative, far-reaching, and controversial provision of the LCCs is the introduction of a system of diversion in several LGUs where children who are in conflict with the law are referred to alternative programs without undergoing court proceedings.

DIVERSION PROGRAMS

Perhaps the most innovative, far-reaching, and controversial provision of the LCCs is the introduction of a system of diversion in several LGUs where children who are in conflict with the law are referred to alternative programs without undergoing court proceedings. Local authorities in Agusan del Sur, Guimaras, Negros Oriental, Aurora, and Cotabato City passed local codes for children with extensive diversion provision in the absence of a national law enacted on this matter.

The Shift to the Restorative Justice Framework and the Concept of Diversion

In recent years, there has been a gradual shift in the character of the Philippine Criminal Justice System from mainly retributive to restorative, owing to the growing global recognition that the latter is more effective in dealing with criminality by emphasizing not only the accountability but the reintegration of the offender in the community. While it is true that the effectiveness and propriety of the restorative justice framework in dealing with grave offenses and habitual criminals

have generated heated debates in many countries, it seems that many countries are becoming receptive to the idea that it is the more effective approach in dealing with cases involving children in conflict with the law.

The Philippines is one of the countries that have been gradually adopting the restorative justice framework in dealing with minors. This evolving trend has been hastened by the Philippines' efforts to comply with international standards contained in international documents that stress "the best interest of the child" and the need for evolving

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a child-sensitive juvenile justice system. Specifically, these documents foster the adoption of child-friendly measures that include diversion alternatives to institutionalization for children who come in contact with the law.

Diversion has been considered as the most revolutionary and, in most instances, preferred manner in dealing with children in conflict with law as it covers the three-fold objective of restorative justice: 1) reparation for the victim, 2) reconciliation of the offender, the offended and the community, and 3) reintegration of the offender into the society.

Diversion is generally defined as the "act of diverting from the courts." It in its purest sense, it refers to the "measures resorted to before the entry of the child into the criminal justice system" (i.e. before any case has been filed in court) (underscoring supplied) (ALRDC: 4-5). Unfortunately, Congress has not passed a law specifically adopting diversion in all levels. However, there are a number of laws and Supreme Court Rules that expressly adopt diversion in a particular level as well as other child friendly measures.

The Philippine Legal Context in Juvenile Justice

The Revised Penal Code provides for exemption from criminal liability for children under nine years of age, or those over nine years of age but under fifteen, if

not acting without discernment. Moreover, minority is taken as a mitigating circumstance for those over nine years of age but under fifteen, if acting with discernment (the penalty is lowered by two degrees) and as an ordinary mitigating circumstance for those over fifteen years of age but below eighteen, (the penalty is lowered by one degree) if acting with discernment (Art. 12 (2, 3) and Art 13 of the Revised Penal Code)

The Child and Youth Welfare Code (PD 603), as amended, has a chapter entitled “Youthful Offenders” which specifically deals with children in conflict with the law. The Code provides for the procedure by which a “youthful offender” has to undergo as well as the duties of certain individuals or agencies in dealing with “youthful offenders” from apprehension to post-sentencing.

RA 7160 expressly mentions in its Declaration of State Policy and Principles that the best interest of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies. It provides for the rights of children arrested for reasons related only to armed conflict, such as separate detention from adults, immediate free legal assistance, immediate notice of arrest to parents or guardian of the child, and release of the child on recognizance within twenty-four (24) hours to the custody of the DSWD or any responsible member of the community as determined by the Court (Section 25 of RA 7160). The law also provides for suspension of sentence of the child in case of conviction.

The Family Courts Act (RA 8369) takes into account the peculiar circumstances of children in conflict with law by providing for the establishment of Family Courts which have exclusive original jurisdiction over criminal cases where one or more of the accused is below eighteen years old but not less than nine years of age. The law also provides for suspension of sentence of the convicted minor without need of application. More importantly, the law provides that the “judge of the Family Court shall have direct control and supervision of the youth detention home which the local government unit shall establish to separate the youth offenders from the adult criminals and that alternatives to detention and institutional care shall be made available to the accused including counseling, recognizance, bail, community

continuum, or diversions from the justice system” (See Sections 5 and 8 of RA 8369.)

The Supreme Court Rules on Juveniles in Conflict with the Law (2002) adhere to the principle of restorative justice and expressly provide for diversion for children in conflict with law under certain conditions. This can be gleaned from the following objectives included in the Rules:

- b.) To divert from the justice system juveniles who can be cared for or placed under community-based alternative programs of treatment, training and rehabilitation in conformity with the principle of restorative justice.”
- c.) To deal with the juvenile in a family environment whenever possible, separate him from his parents only when necessary for his welfare or in the interest of public safety (Section 2 of the Rules).

It defines diversion programs as those referring to “programs that the juvenile in conflict with the law is required to undergo in lieu of formal court proceedings” (Section 4(g) of the Rules).

Under the Rules, diversion is applicable where the maximum penalty imposed by law for the offense with which the minor is charged is imprisonment of not more than six months, regardless of fine or fine alone regardless of amount, and the corresponding complaint or information is filed with the Family Court. Moreover, for diversion to apply, the following conditions must concur:

1. It is resorted to before arraignment;
2. The victim agrees;
3. The child was arrested before he/she reaches the age of eighteen;
4. The Diversion Committee, which is constituted for each family court, composed of the branch clerk of court as chairperson, the prosecutor, a lawyer of the Public Attorney’s Office and the social worker assigned to the Family Court, recommends diversion for the child. (See Sections 20 and 21 of the Rules)

Given the above cited legal context, it can be argued that measures such as diversion have a very limited application that consequently prevents the full implementation of the principles of restorative justice. The objective of diversion which is to prevent the child from entering the formal criminal justice system is not

The objective of diversion which is to prevent the child from entering the formal criminal justice system is not fully achieved under the present state of law because diversion is expressly recognized only at the level of the courts where the child has already been charged, is undergoing, or has undergone the rigorous demands of a trial.

fully achieved under the present state of law because diversion is expressly recognized only at the level of the courts where the child has already been charged, is undergoing, or has undergone the rigorous demands of a trial.

The Validity of Establishing Diversion at the Community Level in the Absence of a Statute

Notwithstanding the absence of a specific law on the subject, instituting diversion in the community may be legally permissible based on various constitutional and statutory provisions.

The Philippines as a party to the UNCRC have the duty to comply with such agreements. By the doctrine of incorporation embodied in Article II, Section 2 of the Constitution, the Philippines is bound to observe or enforce

generally accepted principles of international law, whether customary or by treaty provisions, as part of the law of the land. In effect, the Constitution gives a treaty the force of a statute of Congress. The weight given to a treaty or international custom is limited only by the passage of a subsequent statute or treaty that may abrogate it or a conflict with the Constitution.

Furthermore, RA 7160 is replete with provisions that may serve as authority for institutionalizing diversion in the community. Through Section 16 of the Code, LGUs are given the so-called “delegated police power” to promote the general

welfare of their inhabitants. Local legislative bodies have the power to enact ordinances, approve resolutions and appropriate funds for the general welfare of the inhabitants pursuant to Section 16 of RA 7160.

Specifically, the provincial board or city/municipal councils have the power to “(e)nact ordinance intended to prevent, suppress and impose appropriate penalties for vagrancy, mendicancy, prostitution, establishment and maintenance of houses of ill repute, gambling and other prohibited games of chance, drug addiction, maintenance of drug dens, drug pushing, juvenile delinquency, ... and such other activities inimical to the welfare and morals of the inhabitants...” (Sections 447 (1)(v), 458 (1)(v) and 468 (1)(v)).

In the case of *Tano v. Socrates* G.R. No. 110249, Aug 21, 1997 which concerns an ordinance banning the shipment of all live fish and lobster outside the city of Puerto Princesa enacted pursuant to the general welfare clause of the RA 7160, the Supreme Court upheld the validity of the ordinance stating that the provisions of the Code should be given liberal interpretation and any doubts should be resolved in favor of devolution. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit. Section 5(a) and (c) of the Local Government Code provides:

Section 5. Rules of Interpretation – In the interpretation of the provisions of this Code, the following rules shall apply:

(a) Any provision on a power of a local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of devolution of powers and of the lower government unit. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit concerned;

(b) The general welfare provisions in this Code shall be liberally interpreted to give more powers to local government units in accelerating economic development and upgrading the quality of life for the people in the community.

It must be pointed out, however, that the power of the LGUs to enact ordinances to promote the general welfare of their inhabitants, being a delegated power, must be exercised within specific parameters.

In a long line of cases (Solicitor General v. Metropolitan Manila Authority, G.R. No. 102782 Dec, 11, 1991, *Tatel v. Municipality of Virac*, G.R. No. 40243 Mar 11, 1992, *Magtajas v. Pryce Properties* G.R. No. 111097 July 20, 1994 , among others), the Supreme Court laid down the requisites for the validity of municipal ordinances, namely, 1) they must not contravene the Constitution or any statute, 2) must not be unfair or oppressive, 3) must not be partial or discriminatory, 4) must not prohibit, but may regulate trade, 5) must not be unreasonable, and 6) must be general in application and consistent.

Thus, while diversion may be adopted at the community level through local legislation, the details of the diversion program must not be in conflict with the fundamental law as well as existing statutes or Rules related to it. For instance, diversion at the community level must take into account Rules 112, Section 7 and 113, section 5 of the Revised Rules of Criminal Procedure (2000) and Articles 91 and 125 of the Revised Penal Code.

In view of the foregoing provisions, reference to diversion programs established in the community may not be feasible where the child is validly arrested without a warrant and detained as a consequence thereof. In such case, the child must be delivered to the proper judicial authorities which means the child must be charged in court within the period prescribed in Article 125 of the Revised Penal Code. This does not mean, however, that diversion measures may no longer apply. It only means that diversion in this case will now be undertaken at the court level in accordance with existing rules.

Also, ordinances on diversion must take into account its effect on prescription of offenses. It must be noted that in the Revised Penal Code provision on the computation of prescription of offenses, it is the filing of the complaint or information which interrupts the period of prescription. This might have the effect of discouraging parties to undergo diversion in the community especially where sufficient time has already lapsed since the discovery of the crime because they might be wary of their criminal action being barred by prescription.

Another condition for the validity of an ordinance on diversion is that the ordinance must not be unreasonable. Care must be taken by local authorities in determining the cases where diversion may or may not be applied. While diversion

is the preferred manner in dealing with children in conflict with the law, there may be instances where diversion may not be appropriate or cannot be applied. For instance, it cannot be applied where one or both parties are unwilling to undergo diversion, or when grave offenses such as parricide, murder, or rape are involved or when the minor is a habitual delinquent.

In setting the parameters for the applicability of diversion, local governments may use as a guide the conditions for availability of diversion provided under the Supreme Court Rules on Juvenile in Conflict with the Law.

The Need for a National Law on Diversion

Even with the absence of a statute on the subject, diversion in the community may be adopted through local legislation. However, the existence of a national law governing community diversion programs will prove to be beneficial in the implementation of diversion for many reasons.

First, a national law on diversion will better address conflicts with existing laws. For instance, the issue on prescription of offenses may be remedied by providing in the law on diversion that while parties are undergoing diversion or while the applicability of diversion is being determined by the competent authorities, the period for prescription of offenses shall be suspended and shall begin to run again should diversion fail or found not applicable. This provision will have the effect of modifying Article 91 of the Revised Penal Code.

Second, a national law on diversion will push local governments to institutionalize a

Even with the absence of a statute on the subject, diversion in the community may be adopted through local legislation. However, the existence of a national law governing community diversion programs will prove to be beneficial in the implementation of diversion for many reasons.

system of diversion in their respective jurisdiction. Without such law, the adoption of diversion programs in the community level is left to the discretion of the local legislative bodies. Local governments may or may not include the adoption of diversion measures in drafting their respective local codes for children. This leads to the unequal treatment of children in conflict with the law across the country where some children are given the opportunity to undergo diversion while others will have to directly enter the court system.

Third, it leads to uniformity in application. Not only will all children in the country have the equal opportunity to avail of the program but there will be uniformity in its application across all levels of local government. However, it must be emphasized that the law on diversion must allow a sufficient degree of flexibility for LGUs to determine the specific diversion measure most suitable to their respective areas as well as to opt for diversion programs it can financially sustain.

Fourth, it will ensure the continuity of the diversion program since establishing diversion in the community through an ordinance subjects it to the whims and caprices of local officials who may opt to discontinue the program through a repealing ordinance. A national law, on the other hand, can only be legally discontinued through another law that involves a more rigorous process than passing an ordinance.

Finally, it will harmonize diversion as implemented in various levels leading to better coordination among the different pillars of the justice system and will put in place a more effective system of monitoring. Through a national law, diversion may be established all over the country and at different levels, and the role of each pillar of justice system can be defined. This will help define central-local government relations and identify institutional accountability across agencies at the national and local levels.

In view of the foregoing, it is favorable to adopt a national legislation, such as SBN 2625 (Pangilinan, Pimentel, et al.) to provide the policy framework that will institutionalize diversion at all levels. This law will set the national policy on diversion, the minimum standards in establishing it, the conditions for eligibility for diversion, the minimum qualifications of the implementers, and various other details that need to be addressed at the national level in order to ensure uniformity and equality in application, and continuity of the program.

While waiting for the approval of such as measure, local governments may adopt their own diversion programs based on the broad authority given to them thru the delegated police power under the general welfare clause. Upon the approval of a national law, some provisions of the LCCs on diversion that may conflict with the provisions of such law can be corrected through an amendatory ordinance passed for this purpose.

PROBLEM AREAS: GOING BEYOND THE MANDATES OF THE LOCAL GOVERNMENT CODE

There are two policy initiatives – teaching of the UNCRC, and training of teachers and policemen on child rights – pursued under the LCCs that may be legally questionable and difficult to implement. While the objectives of these provisions are laudable, questions can be raised whether local authorities in the areas studied are exercising legislative powers reserved to the Philippine Congress, executive powers of national line departments, or are providing mandates that cannot be implemented in their areas of jurisdiction.

The Mandatory Inclusion of the Convention on the Rights of the Child in the School Curriculum and Mandatory Training for Teachers on the UNCRC

As indicated in Table 8, at least six Codes contained a provision requiring educational institutions to incorporate in their curriculum a subject on the rights and responsibilities of children subject to the guidelines of the DepEd and CHED. A variation of this policy objective can be found in six other Codes where the teaching of the UNCRC is “encouraged” rather than mandated. Four of the Codes encouraged teachers to undertake continuous training on the rights of the child.

The attempt to require the inclusion of new subjects in the school curriculum as a means of focusing attention on issues is not a new phenomenon. Executive and legislative officials have done this repeatedly in the past on such matters as agrarian

Table 8
LGU Mandates on the Teaching of the CRC and Training of Police and Teachers on Child Rights

Local Government Unit	Mandates		
	Inclusion of CRC in Curriculum	Training of Teachers on UNCRC	Training of Police on UNCRC
Provinces			
Luzon			
Aurora	1		
Isabela	2	3	4
Zambales	2	3	4
Visayas			
Bohol*	1		
Guimaras	1		
Negros Oriental	1		
Mindanao			
Agusan del Sur	1		
Bukidnon	2	3	4
South Cotabato*			4
Zamboanga del Sur*			4
Cities			
Luzon			
Cabanatuan City*	2	3	4
Pasay City	2	3	4
Quezon City			4
Visayas			
Cebu City			4
Kabankalan City*			4
Mindanao			
Gen. Santos City	2	3	4
Cotabato City*	1		
Davao City			5

Legend: 1 – There is a provision that makes it mandatory for educational institutions to incorporate in their curriculum a subject on the rights and responsibilities of children (not necessarily the CRC), subject, however, to guidelines set by the DepEd and the CHED; 2 – The provision is worded – “..the Convention on the Rights of the Child shall be encouraged to include as part of the school curriculum of the schools in (province/city), both public and private at all levels; 3 – Provides that “teachers, especially those in kindergarten, elementary and high school, are encouraged to undertake continuous training on the rights of the child”; 4 – The training is not specific to the UNCRC. The provision mandates police officers to take up a special course on handling children involved in anti-social activities; 5 – The provision states that “..police officers must undergo trainings on the management of cases of children in need of special protection and gender sensitivity trainings before assuming functions of a CYRO..”.

reform, taxation, the Philippine Constitution, and drug addiction. There are also pending bills in Congress to incorporate issues on environment, ecology, sexual harassment, among others, that have been opposed by school authorities because these tend to increase the number of subjects to be taken up by students, or when incorporated into existing subjects affect the teaching of the same.

At the local level, the mandatory requirement can be questioned from a legal and policy perspective. Curriculum development, supervision and implementation are not among the functions devolved to LGUs under RA 7160. Thus, it is still the National Government, either through a law passed by Congress, or the Department of Education (not the local councils) which has the power to allow the mandatory inclusion of the CRC in the school curriculum.

The mandatory training of teachers on the CRC, on the other hand, may not be legally permissible in view of the fact that the utilization and staff development of personnel

of the Department of Education is not one of the devolved functions to local government units. Public school teachers are personnel under the DepEd and are therefore under the jurisdiction (administrative control) of the Secretary of Education.¹

On the other hand, it can also be argued that the teaching of the CRC can be justified based on existing law. Executive Order No. 27 entitled “*Education To Maximize Respect For Human Rights*” issued by President Corazon Aquino in 1986 as a reaction to the human rights violations committed during the previous regime of President Marcos directs the Ministry of Education Culture and Sports (now Department of Education) to include in the school curricula the study of human rights.²

Thus, it is still the National Government, either through a law passed by Congress, or the Department of Education (not the local councils) which has the power to allow the mandatory inclusion of the CRC in the school curriculum.

As provided in RA 6975, otherwise known as the “*Department of Interior and Local Government Act of 1990*”, it is the National Police Commission, under the Department of Interior and Local Government which exercises administrative control over the Philippine National Police.

It can therefore be argued that the rights of the child falls under human rights, thus, there is no need for another issuance by the president or the Department. By legal force of EO 27, the teaching of the CRC may already be included as part of the school curriculum. However, since the respective Codes do not make any reference to this executive order, the legal infirmity remains.

The Mandatory Training of the Police on the UNCRC

The local legislative bodies, cannot on its own, validly impose the mandatory CRC training on the police force within their territorial jurisdiction through an ordinance. As

provided in RA 6975, otherwise known as the “*Department of Interior and Local Government Act of 1990*”, it is the National Police Commission, under the Department of Interior and Local Government which exercises administrative control over the Philippine National Police. Section 2 of RA 8551, the law amending RA 6975 states:

Section 2. Declaration of Policy and Principles. — It is hereby declared the policy of the State to establish a highly efficient and competent police force which is national in scope and civilian in character administered and controlled by a national police commission (underscoring supplied).

Specifically, Section 5 of RA 8551, amending Section 14 of RA 6975 provides:

Section 5. Section 14 of Republic Act No. 6975 is hereby amended to read as follows:

Section 14. Powers and Functions of the Commission. — The Commission shall exercise the following powers and functions:“(a) Exercise administrative control and operational supervision over the Philippine National Police which shall mean the power to: xxx “5) Approve or modify plans and programs on education and training, logistical requirements, communications, records, information systems, crime laboratory, crime prevention and crime reporting;”

The above cited provisions clearly show that police education and training is a function vested in the national government. The best way to ensure that police personnel undergo CRC training is through the issuance of a memorandum or executive order from the National Police Commission or the President that directs concerned departments and agencies to implement such a program. An illustration of the latter is the issuance by former President Fidel Ramos of Memorandum Order No. 259, s. of 1995 entitled “Requiring Human Rights Education and Training of Law Enforcement, Police, Military and Prison Personnel” which provides:

1 Section 7 of R. A. 9155 (2001) states that:

“Section 7. Powers, Duties and Functions. — The Secretary of the Department of Education shall exercise overall authority and supervision over the operations of the Department.

xxx

(6) Enhancing the employment status, professional competence, welfare and working conditions of all personnel of the Department; xxx”

“1. The Ministry of Education, Culture and Sports shall include the study and understanding of human rights in the curricula of all levels of education and training in all schools in the country, adapting the scope and treatment of the subjects or courses on human rights to the respective educational levels. It shall likewise initiate and maintain regular programs and special projects to provide venues for information and discussion of

human rights including the utilization of informed education and other means to stress the importance of respect therefor.

xxx

4. If found appropriate and practicable by the Ministry of Education, Culture and Sports, after considering the needs and capabilities of the students in the different educational levels, subjects or courses dealing with international conventions, agreements, declarations or covenants on human rights which were ratified by the Philippines or to which it is a signatory, shall be included in the curricula" (underscoring supplied).

Section 1. The Department of Interior and Local Government, the Department of Justice and the Department of National Defense are hereby directed to include, as an integral part of the continuing education and training of their personnel, the study of human rights as conducted by the Commission on Human Rights. Said human rights education and training shall also include the various international treaties and conventions on human rights to which the Philippines is a party (underscoring supplied).

Again, it may be argued that the rights of the child falls under human rights, thus, there is no need for a directive from the President or the DILG. By legal force of Memorandum Order No. 259, the CRC may be included as an integral part of the continuing education and training of the police. Assuming that training programs for policemen can be legally justified in the context of this Memorandum Order, these programs will have to be undertaken through the DND, DILG, DOJ and the Commission on Human Rights.

Section 14 of RA 7160 deals with the relations of the LGU with the Philippine National Police. It states that the "extent of the operational supervision of local chief executives over the police force ... assigned in their respective jurisdictions" shall be governed by the provisions of RA 6975. The provisions of the second, third, fourth and fifth paragraphs of subparagraph (b) (1), Section 51, Chapter III-D of

Republic Act No. 6975, as amended by RA 8551, deputizes municipal and city mayors as representatives of the NAPOLCOM in their respective jurisdiction. As the deputized representative, the mayor exercises “operational supervision and control” over PNP units in their respective jurisdiction which means the power to direct, superintend, and oversee the day-to-day functions of police investigation of crime, crime prevention activities, and traffic control in accordance with the rules and regulations promulgated by the Commission (underscoring supplied).

“Operational supervision” by the local chief executive does not include the mandatory imposition of training on the CRC since it only pertains to the “day-to-day functions of police investigation of crime, crime prevention activities, and traffic control.” Moreover, RA 6975 explicitly vests administrative control of the police force as well as the power to approve or modify plans and programs on education and training of the PNP to the National Police Commission.

Thus, the inclusion of the UNCRC in the school curriculum, and mandatory training of the police and teachers on child rights may be suffer from legal infirmities attendant to all the other provisions as they are beyond the powers of the local legislative bodies to enact. Most of the Local Codes for Children providing for mandatory training programs are vague and devoid of the necessary details for implementation (e.g. the implementing organization/body is not indicated, the implementation arrangements and funding resources are not stated) that can render such provisions as “dead mandates.”

The language in several Codes that “promote” and “encourage” rather than mandate these non-devolved functions may have been drafted to avoid the above cited legal issue. However, the language of the LCCs still needs to specify activities to be undertaken by local authorities vis-à-vis national agencies, central-local institutional relations, and inter-LGU, intra-LGU, and NGA-LGU cost-sharing arrangements that will facilitate implementation.

INNOVATIVE PRACTICES

Based on the eighteen Codes analyzed, there are several innovative provisions that can promote and protect child rights through the exercise of the regulatory and

review functions of local authorities. An extensive validation of the implementation of these innovations was not possible given the human and financial constraints of this study. It is important, however, to start the documentation, validation, and sharing of these initiatives to convince local governments in other areas to replicate these in their areas.

Among these innovative practices are the ban on billboards and other forms of advertisements that violate child rights and the creation of child friendly building through building code requirements and mandatory paging booths.

Among these innovative practices are the prohibition of employment of children in advertisements that encourage the consumption of alcoholic beverages, tobacco, junk food and products that promote violence in the cities of Cebu and Davao and the provinces of South Cotabato and Zamboanga del Sur; the ban on billboards and other forms of advertisements that violate child rights in their Code in Davao City; and the creation of child friendly building through building code requirements and mandatory paging booths in Isabela, Zambales, Bukidnon, Cabanatuan

City, Pasay City and General Santos City.

Equally innovative is the use of the review power of the city council over barangay budgets to ensure resources and promote child rights in General Santos City and Pasay City.¹ The LGC empowers city/municipal councils and provincial boards to review the budget of barangays (Sec. 333) and municipalities and cities (Sec. 327), respectively. The attempt to use child rights and welfare as a basis to review the appropriation ordinances passed by lower LGUs is an innovative step that can be further be strengthened by the inclusion of detailed indicators that can be used to approve or disapprove these measures.

LESSONS LEARNED & AREAS FOR IMPROVEMENT

The experience in putting together laws, regulations, and programs for children in a single document that will highlight political support for child rights, harmonize provisions of international, national and local laws, localize national laws on children, and promote better implementation is a major undertaking that can be achieved by forward-looking and committed local governments in several areas of the country.

Successful codification, however, involves more than simply producing a document that can be used by local governments and communities, and requires a continuing effort to identify provisions of the Code that do not conform to acceptable grammatical and legal standards, are legally questionable, difficult to implement, or lacking in specificity such that it fails to produce a child-friendly province or city.

PROMOTING CHILD RIGHTS IN A DEVOLVED SETTING

The experience with devolution in the four provinces studied suggests that policies crafted within a centralized context – such as the Day Care Law – are very difficult to implement in a devolved setting due to problems in locating institutional accountability, resource scarcity, ensuring horizontal and vertical coordination among different agencies, and mobilizing support from local authorities.

Regulatory policies are particularly difficult to implement at the local level because command-and-control approaches do not work effectively in a devolved setting. These policies rely heavily upon administrative practices such as setting standards, inspections, and the imposition of sanctions to enforce compliance with the intent of a law. This command-and-control approach has been increasingly criticized because it tends to dictate behavior, stifles local initiative, and leads to wastage in resources. The use of this

Regulatory policies are particularly difficult to implement at the local level because command-and-control approaches do not work effectively in a devolved setting.

approach is particularly questionable in developing countries like the Philippines because of the limited capacity of national agencies to monitor and influence local government behavior (De Vera, 1999).

The limits of nationally-initiated command and control policies require the formulation of policies and programs that promote local participation and governance and a corollary effort by local governments to localize these policies in their respective areas. The decision of the eighteen local government units studied in enacting a Code for Children is the right step in this direction because local authorities can utilize their command and control powers – such as the issuance of business permits, approval of building codes, market inspections, mobilizing BHWs in IEC campaigns, and the imposition of fines – to extract compliance. Local governments must recognize, however, that there is a need to mix command-and-control approaches with incentive-based policies to create child-friendly communities.

THE NEW GENERATION OF “QUALITY AND INCLUSIVE” LCCs

The enactment of the eighteen LCCs is a necessary first step in promoting child rights at the local level. There is now a need to create a new generation of “quality and inclusive” LCCs that build upon the laudable provisions of the original ordinances but now contain amendments based on the findings of this study and from other sources:

Among the necessary amendments are the following:

- 1) A data-based, well analyzed, and well written preamble or “whereas” clauses that includes an analysis of the situation of children in the area, the specific problems that need local government attention, the legal basis — international commitments, national laws, planning documents, local laws — for action, and the policy objectives of the Code. The experience of Davao City in completing its “Research Study Report Towards Policy Formulation on Children and Families in Davao City” which became the basis of its LCC can be replicated in this regard;

- 2) The mention of, and specific citation of provisions in the UNCRC and other international commitments, the 1987 Constitution, the Local Government Code, national laws, and local ordinances that provide for mandates, programs, and resources for children in the text of the LCC in order to codify and harmonize all laws on children in one document. The same effort must be made in terms of the MTPDP, Child 21, and executive issuances on children that are being consolidated in each LCC;
- 3) For national laws that are being implemented through the LCC, amendments must be done to identify specific national offices, their regional offices, and counterpart offices at the local level (provincial, city, municipal, barangay) their respective responsibilities in implementation, coordination mechanisms, and procedures that will govern NGA-LGU and intra-LGU actions;
- 4) Specific attention to define NGA-LGU and intra-LGU powers and responsibilities within the parameters of RA 7160 and existing laws and the prudent and correct use of “shall” and “may” in the various sections of the LCC to correct legal infirmities and ensure implementation;
- 5) Strengthening the implementation of national laws by incorporating specific provision based on the analysis of available studies on the day care law, salt iodization, child labor laws, SK law, and proposed amendment to R.A. 7160, among others;
- 6) Re-examination and possible amendments on the provisions on curfew, requiring the attendance of parents in orientation seminars as a requirements on the issuance of birth certificates, and diversion and the use of child-sensitive and gender-neutral terms in the various provisions of the Code;

- 7) Adoption of the innovative practices of other local governments that maximize the exercise of their regulatory powers to promote child rights such as putting child-friendly provisions in their building codes, regulation of local advertisements, and review over local budgets to generate funds for children;
- 8) Ensuring that resources are allocated for children through appropriation provisions that:
 - 8.1. Provide significant levels of funding, are sustainable over the long term, and easy to monitor, such as allocating a percentage of the annual budget or a percentage of the 20% development fund;
 - 8.2. Are within the control of local governments such as the ESF, SK, and pork barrel funds;
 - 8.3. Use the review powers over the budgets of lower LGUs;
 - 8.4. Use incentive-based approaches such as tax credits or reduction of business taxes/fees for companies that provide facilities or programs for children; or
 - 8.5. Tap additional funds from legislators such as their Priority Development Assistance Fund (PDAF) and its counterpart in the executive branch such as the Presidents Social Fund; and
- 9) Incorporation of provisions to improve data generation, analysis and utilization for planning, monitoring, implementation, policy formulation, and reporting on the situation of children and promotion of child rights.

INCORPORATING GOOD GOVERNANCE ISSUES IN THE LCCS

The amendments on the existing LCCs must also incorporate good governance principles such as the following:

- 1) Strengthening accountability through the stronger exercise of the review and oversight powers of local legislative bodies on the activities of local executive

offices, existing ordinances that need amendments or codification, and budget review;

- 2) Promotion of accountability and citizens participation through the mandatory publication and public dissemination of an Annual State of the Children Report that is produced by the local government concerned with citizens participation through mandatory public consultations, and will serve as the basis for the legislative agenda of the sanggunian; planning, implementation and monitoring of children's program by the LCE; and budget allocation by the LCE and sanggunian;
- 3) Promotion of transparency through mandatory reportorial requirements, as provided for under existing law, for all offices dealing with children's concerns by posting in public places or making available upon demand the following:
 - 3.1. State of the Children Report;
 - 3.2. UNCRC and other international commitments;
 - 3.3. National laws and local ordinances on children;
 - 3.4. Approved budget for children;
 - 3.5. Description, time table and funding of on-going child-related projects;
 - 3.6. Results of bidding and COA audit reports for projects for children;
 - 3.7. List of violators of children's laws that are arrested and convicted.
- 4) Promoting administrative transparency in local officers through the adoption of the intent of Executive Order No. 89 (May 18, 1993) which requires offices to post in conspicuous places the "procedures for all public transactions ... including the procedure by which an aggrieved party may seek administrative redress for any violation ... in the form of flow-charts, using clear and understandable language in Pilipino and the dialect predominantly spoken in the locality";

- 5) Promotion of transparency and citizen participation through the adoption of “freedom of information” practices that allow citizen’s to see public records, and “sunshine” laws that require public officials, when they conduct government business, to announce their meetings (time, place, agenda) in advance and to hold these in forums that are open to the public;
- 6) Promotion of substantive transparency through digital governance by using information and communication technology to:
 - 6.1. Put government information, particularly those on children on a website, such as laws, legislation, executive orders, administrative orders; names, contact addresses, emails, fax numbers of officials; key information on government plans, budget, expenditures, and performance; and court decisions, judicial statistics which are of value to citizens to create a procedure for future actions
 - 6.2. Open avenues for people to communicate with local officials online;
 - 6.3. Initiate new services and new mechanisms to improve governance such as the filing of grievances, feedback, and reports by citizens with concerned local offices; conducting public debates and opinion polls on issues of wide concern before policy formulation and legislative decision making; and establishing an interactive communication channel with policy makers such as video conferencing and online dialoguing.
- 7) Increasing citizen’s participation through functioning and accountable children’s council and boards.

MOVING FORWARD

The creation of child-friendly local governments requires a continuing information, education and communication (IEC) and capability building program to increase the number and quality of child-friendly local executives, legislators and LCCs. The key activities in this regard consist of the following:

- 1) IEC programs for the newly elected local executives and legislators on the UNCRC and other international commitments, the LGC, and other laws that provides additional mandates on children on local governments;
- 2) Conduct of training programs for *sanggunian* staff in data generation, analysis, and utilization; increasing technical capability in Code-drafting; and maximizing the use of information technology (*internet, intranet, database development, website development*) in legislative work;
- 3) Conduct of training programs for local bureaucrats in data generation, analysis, and utilization to improve monitoring and reporting on the LCC. There is an urgent need to use geographic information systems (GIS) to promote LCC implementation, such as in mapping the location, distribution, clientele coverage, and quality of day care facilities and services to rationalize the response of provincial officials to the competing LGU requests for funding assistance;
- 4) Conduct of follow-through research studies to document the implementation of the LCCs, the identification of innovative practices and the inclusion of these studies in the training programs for local executives and legislators such as the LADP.

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Notes

¹ Sec. 16. *General Welfare*. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, **local government units shall xxx promote health and safety, xxx improve public morals, xxx maintain peace and order, and preserve the comfort and convenience of their inhabitants.** [emphasis supplied]

² Section 7 of R. A. 9155 (2001) states that:

“Section 7. Powers, Duties and Functions. — The Secretary of the Department of Education shall exercise overall authority and supervision over the operations of the Department.

xxx

(6) Enhancing the employment status, professional competence, welfare and working conditions of all personnel of the Department; xxx”

³ Item 1 of E.O. 27 provides:

“1. The Ministry of Education, Culture and Sports shall include the study and understanding of human rights in the curricula of all levels of education and training in all schools in the country, adapting the scope and treatment of the subjects or courses on human rights to the respective educational levels. It shall likewise initiate and maintain regular programs and special projects to provide venues for information and discussion of human rights including the utilization of informed education and other means to stress the importance of respect therefor.

xxx

4. If found appropriate and practicable by the Ministry of Education, Culture and Sports, after considering the needs and capabilities of the students in the different educational levels, subjects or courses dealing with international conventions, agreements, declarations or covenants on human rights which were ratified by the Philippines or to which it is a signatory, shall be included in the curricula” (underscoring supplied).

⁴ The Bukidnon and Isabela Children’s Code contain a provision that states “*to ensure that barangays shall give priority to the welfare of children in their respective barangays, the province shall review the barangay budget and give strict attention to the allocation of funds for programs, projects, and services for the welfare of children*”. This provision can not be implemented because the provincial board can only review the appropriation ordinances of municipalities and component cities and not barangays.

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