

SALIGAN Batas

Strengthening the Voices of the Children

They were in their tweens when they started taking part in children's activities, consultations, workshops, and seminars conducted by various non-government organizations (NGOs). Siblings Mellisa and Mark Ronnel Alvarez of Malabon City share their journey of participating in different spaces of engagement in promoting and upholding children's rights.

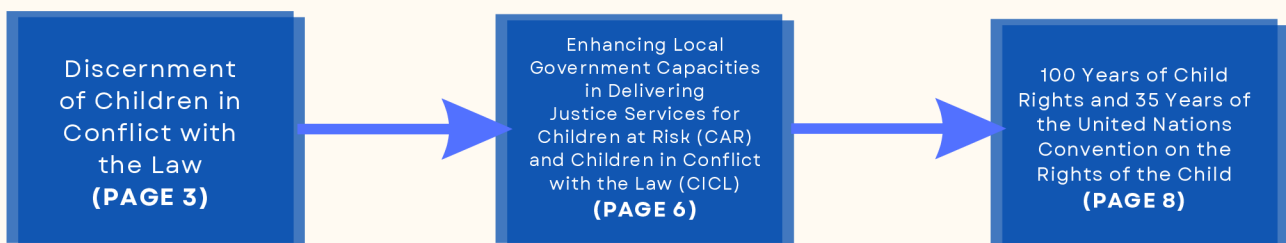
Mellisa and Ronnel started joining groups formed by NGOs and the Barangay Children Association in their barangay. When they became actively involved in the activities of Samahan ng Mamamayan Zone One Tondo, Inc. (SM ZOTO), together with other children in the cities of Malabon and Navotas, they established the Malabon Navotas Child Rights Advocates (MaNa-CRAAs). Through this group, they were able to participate in a series of consultations and training sessions. It paved the way for the children to express their views, look into the problems that confront the children, analyze the children's situation, and come up with plans to address the identified gaps. Moreso when the Sentro ng Alternatibong Lingap Panlegal (SALIGAN) and Save the Children Philippines office (SCP) partnered with SM ZOTO in several of their projects over the past decade. In particular, they provided inputs in the development of a child-centered risk assessment of identified communities subject to relocation and the bill calling for a just and humane resettlement.

For Ronnel, his participation in the local governance processes started by being invited to meetings, coordination with the Punong Barangay and the Barangay Council for the Protection of Children (BCPC) on the conduct of activities, courtesy calls with the local government officials, presentation of their group's plan of activities, and eventually being a child representative in the BCPC. The recent project of SALIGAN on Strengthening Children's Participation made an impact on both of them as it exposed them to the process of reviewing an existing



Siblings Mark Ronnel (left) and Mellisa (right) Alvarez.

WHAT'S INSIDE?



policy and how it can be further improved to address the needs of the children. It entailed not only reviewing the existing Children's Code of Malabon but also working with other children's groups in the city by discussing the current problems and issues faced by the children, soliciting inputs on the mechanisms by which they can fully participate in the governance processes, and the exercise of writing and validating the proposed policy. It gave them a platform not only to address their issues and concerns but also to truly engage in the decision-making process, and build and enhance their capabilities and skills.



Ronnell facilitating a learning session.

But the children do not have it easy. As pointed out by Mellisa, their opinions are often disregarded by the mere fact that they are "children" and the local policymakers sometimes show disinterest when issues of the children are being raised. For Ronnel, among the challenges they face are

coordination with the local officials and explaining the importance of child participation in the governance processes. In those instances, they exercise patience and apply a diplomatic approach to ensure that they get their objectives and message across. They try to be consistent in their participation knowing the challenges that they have to face.

Giving the children the space and recognition to be part of the discussions involving children's issues are steps for them to fully exercise their right to a meaningful participation. In schools, the children can participate in various fora and student council activities. In the local government, it is important to have child-focused committees where the children's participation is not merely tokenistic but rather a part of getting them involved in the discussion and decision-making on children's concerns and creating a safe and enabling environment for the children.

It has been a decade since they started participating in activities facilitated by various NGOs. Currently, Mellisa is now a part of the SM ZOTO staff where she is involved in the implementation of their

projects and at the same time serves as adult support to the child-led activities. Ronnel remains as President of the MaNaCRAds. He is also a facilitator in various learning sessions on the rights of the child, adolescent sexual health rights, and discussions on SOGIESC. He is also the project assistant on the Comprehensive Sexuality Education project for women and transgender who are unable to finish their studies while preparing for his upcoming Civil Engineering board examination.



Mellisa facilitating the validation of the proposed policy strengthening children's participation in Malabon.

These siblings see it as their duty to continue lobbying for the promotion and protection of children's rights, advocating for meaningful child participation with their local government and their community, and empowering the children to become child rights advocates. #

Discernment of Children in Conflict with the Law: New Supreme Court Guidelines in Criminal Cases

The Supreme Court of the Philippines recently issued a significant decision in **CICL XXX vs. People of the Philippines, G.R. No. 238798 (CICL XXX vs. Pp)** that clarifies how minors are assessed for criminal liability. The ruling introduces a structured framework to determine whether children in conflict with the law (CICL) possess “discernment,” or the ability to understand the wrongfulness and consequences of their actions. This case involved a minor convicted of homicide, and the Court’s decision established guidelines that support the **Juvenile Justice and Welfare Act (RA 9344)**. By creating consistency in handling juvenile cases, the Court balances accountability with RA 9344’s rehabilitative goals for minors.

When Can Minors Be Held Criminally Responsible?

In **CICL XXX vs. Pp**, the minor CICL XXX was convicted of homicide following a confrontation that led to the death of the victim, AAA. As the incident escalated, CICL XXX allegedly struck AAA multiple times, causing severe injuries. Although AAA received medical attention, complications arose out of the injuries that led to AAA eventually succumbing to death. The prosecution argued that CICL XXX’s actions directly caused AAA’s death, making him criminally liable for homicide. However, the defense claimed that a delay in medical treatment, not CICL XXX’s actions, was the true cause of AAA’s death.

The Regional Trial Court (RTC) found CICL XXX guilty, citing the assault as the primary reason for AAA’s death. When appealed, the

Court of Appeals (CA) affirmed the conviction, with minor adjustments to the penalties. However, as CICL XXX was a minor, the crucial legal question remained whether he acted with “discernment,” which means the capacity to understand the wrongfulness and impact of his actions. This question brought the case to the Supreme Court, where the judges closely examined CICL XXX’s mental state, behavior during the assault, and general understanding of the situation. Recognizing that prior cases lacked clear standards for evaluating discernment, the Court introduced new guidelines in **CICL XXX vs. Pp** to help judges make fair, consistent decisions on a case-by-case basis when dealing with minors.

Balancing Rehabilitation and Accountability

The Supreme Court stressed the importance of balancing

rehabilitation for minors by holding them accountable when warranted. Minors are entitled to special protections, but they should also face responsibility if it is clear that they understand the wrongfulness of their actions. The new guidelines in **CICL XXX vs. Pp** support this balance, providing judges with a practical way to assess each minor’s discernment and recognize the unique aspects of each case.

Key Guidelines for Assessing Juvenile Discernment

The Court outlined key factors for determining whether a minor acted with discernment, taking into account the varying influences on a child’s understanding of their actions.



First, the Court defined discernment as the capacity of a child, at the time of the offense, to

understand the difference between right and wrong and the consequences of committing a wrongful act. This capacity is crucial in establishing whether a child can be held criminally liable under the law.

2

Second, the process of ascertaining discernment begins with an initial evaluation by a social worker and is finalized by the court. The social worker's role is to assess the child's ability to understand the moral and psychological aspects of criminal responsibility and the consequences of their actions. However, this assessment is only evidentiary and does not bind the court, which has the ultimate authority to determine discernment based on all the facts and circumstances of the case.

3

Third, there is no presumption that a minor acts with discernment. The burden is on the prosecution to specifically prove, as a separate element, that the alleged crime was committed with discernment.

4

The prosecution must establish this beyond reasonable doubt, using either direct or circumstantial evidence.

Finally, in determining discernment, courts must consider the totality of the facts and circumstances of each case. These include the *minor's demeanor, attitude, and behavior before, during, and after the crime*; the *nature of the offense*, such as whether it was particularly gruesome; the *child's cunning or shrewdness*; their *statements and actions*; the *type of weapon used*; any *efforts to silence witnesses*; and *attempts to dispose of evidence or hide the corpus delicti*.

This structured approach provides courts with a fair, thorough way to evaluate each factor and make a well-rounded judgment on whether a minor understood their actions enough to be held criminally liable.

Why the New Guidelines Were Necessary

The updated guidelines arose from the growing complexity of juvenile cases,

some of which now involve planning or evasive actions by minors. Past approaches relied on broader assumptions about a minor's mental state, often leading to inconsistent decisions. With these new criteria, judges can assess specific factors that address the complexities of a minor's background, behavior, and level of awareness.

Additionally, previous cases revealed gaps in how discernment was understood. Landmark cases like *US vs. Maralit* (1917) and *People vs. Doqueña* (1939) helped introduce the concept but did not provide detailed guidance. The decision in **CICL XXX vs. Pp** addresses these limitations by offering precise criteria that can bring consistency and fairness to the interpretation of discernment.



This decision also aligns with the rehabilitative focus of RA 9344, helping courts to better differentiate between cases where a minor should be held accountable and those where rehabilitation may be more appropriate. By following this structured approach, judges can make decisions that reflect RA 9344's emphasis on fairness and reform for minors, all while ensuring accountability.

Building on Earlier Decisions on Discernment

The Supreme Court's new framework builds on past decisions, refining the standards of discernment in juvenile cases. In *US vs. Maralit* (1917), for example, the trial court may take into consideration all the facts and circumstances presented by the record, together with the appearance of the accused to infer discernment. As was the same in *People vs. Doqueña* (1939).

The 2023 guidelines, however, specify factors that reduce subjectivity and ensure a more rigorous approach.

In *Guevarra vs. Hon. Almodovar* (1989), the Court clarified that "discernment" is distinct from "intent,"

requiring an understanding of moral consequences. The new standards reinforce this by looking at factors such as post-crime behavior and social influences.

In *Remiendo vs. People* (2009), discernment had to be proven by the prosecution, but the Court lacked specific standards for doing so. The new guidelines raise this requirement, ensuring discernment is proven beyond a reasonable doubt through both psychological and behavioral evidence. Similarly, *Dorado vs. People* (2016) highlighted a "totality of circumstances" approach, which the Court expanded by including past legal encounters and specific behavioral indicators. Finally, *People vs. ZZZ* (2019) emphasized an individualized approach to discernment. The checklist in **CICL XXX vs. Pp** builds on this, ensuring each case is evaluated with a full understanding of the minor's unique background and behavior.

Implications for Juvenile Justice

By setting these new standards, the Supreme Court strengthens the juvenile justice system in the Philippines. The guidelines ensure that minors are only held responsible when there is clear evidence they understood their actions,

which reinforces both accountability and child protection. The decision also supports RA 9344's goal of fair treatment for minors, giving judges a clear, structured way to assess each minor's circumstances, and to make balanced decisions about criminal responsibility and rehabilitation.

With these updated guidelines, Philippine courts now have a tool that not only clarifies the law but also promotes a justice system that is fair and consistent. The Supreme Court's decision ultimately lays the groundwork for a more compassionate approach, respecting each child's unique situation while upholding justice and responsibility in cases involving children in conflict with the law. #



Enhancing Local Government Capacities in Delivering Justice Services for Children at Risk (CAR) and Children in Conflict with the Law (CICL)

In 2022, SALIGAN, in partnership with the Department of Interior and Local Government (DILG) and the United Nations Office for Project Services (UNOPS) under the Governance in Justice Programme II (GOJUST II), implemented the project "Enhancing Local Government Capacities in Delivering Justice Services for Children at Risk (CAR) and Children in Conflict with the Law (CICL)" in the cities of Naga, Balanga, Baguio, and Zamboanga. The project aimed to strengthen the capacity of local government units at the city and barangay levels to protect the rights of CAR and CICL (CARCICL). It included the development of a training module for the formulation of the Comprehensive Local Juvenile Intervention Programme (CLJIP), the development of local ordinances related to CAR and CICL, and the conduct of trainings for trainers and pilot barangays.

Project Components

The module on the development of CLJIP and child rights-based local ordinances viewed the children as an essential component of national development, regardless of their status or circumstance. They are more than just recipients; they have the right to influence the development of processes and initiatives that will benefit them. Duty bearers, on the other hand, must protect and promote their rights. The module aimed to establish an informed CLJIP where children participate in the development process. The module laid down the foundation of child rights-based principles using child-appropriate and gender-sensitive approaches, which are vital to address the intersectional needs of the CARCICL. The five-part module included sessions

and workshops that can be facilitated through the activity guides.

A simplified process for creating the Comprehensive Barangay Juvenile Intervention Program (CBJIP) was included. Key enhancements that ensure a child-rights-based CBJIP, most notably the module on Child Rights Programming, were incorporated. The module equipped the Barangay Council for the Protection of Children (BCPC) with the tools to formulate the CBJIP using the Theory of Change. The handbook was guided by the principles of child participation, gender sensitivity, and the use of an assessment tool to analyze the situations of CARCICL. This analysis helped identify the issues within the child rights framework, duty-bearers' responsibilities, institutional structures, and the gender dimensions of

children's circumstances. The developed handbook is a simplified guide for barangays to develop effective CARCICL-focused programs with the goal of eliminating factors that contribute to the occurrence of risk and exposure of children to delinquency, as well as promoting the CICL's conditions towards triumphant reintegration in their respective communities.

A total of 71 members (76% are women) of the Local Council for the Protection of Children (LCPC) representing the four local government units (LGUs) were trained as facilitators on the development of CLJIP/CBJIP. Meanwhile, 114 (58% are women) members of the BCPC in the pilot 22 barangays were trained during the Pilot Training of Barangays. A significant highlight was the invitation of GOJUST to the trained LCPC

members of Balanga City to facilitate the same session in Bacolod City which the Bacolod City Justice Zone found useful and important. The latter expressed to have the same training for their LCPC to capacitate the LGU as duty bearer in protecting and upholding the rights of children.

The project also facilitated the review of the existing CLJIP of the four project areas in preparation for the next period of CLJIP. This strengthened the capacities and skills of the barangays in drafting and consolidating the intervention programs for the CARCICL for an informed CBJIP. Moreover, 26 city and barangay ordinances were drafted that focused on children's rights to development, survival, protection, and participation. The local ordinances ensured that the CARCICL are protected, addressing their issues and concerns, and will be monitored by the LCPC and BCPC as part of the sustainability of the project.

Issues and Challenges

To address the risk of low participation during the trainings, the number of participating barangays was increased, thus, decreasing the number of representatives per barangay. Any absence has to be approved by the trainers and facilitators, with the identification of a

permanent alternate who will be attending on behalf of the absent participant. This is to ensure the continuity in learning and the commitment of the barangays to the training and the program.

The low awareness and sensitivity to gender equality of the barangay and city officials surfaced during an assessment using the methodology that focused on the gender dimensions of barangay programming and policy formation. Most participants reported the lack of gender-focused programs, projects, or activities during the situational analysis workshop. As a result, all the pilot barangays of Balanga, Baguio, and Zamboanga City have now included programs and activities designed to enhance the capacity of barangay officials to identify and address gender issues, as well as to optimize the use of their GAD budget. Notably, one barangay has taken a significant step by drafting an ordinance that promoted the rights of CARCICL and addressed the planning and implementation of programs within the Sangguniang Kabataan and the BCPC.

The lack of sensitivity and negative mindset that children do not have the same rights as the adults are prevalent among the local officials. And this shows in the least prioritization of

programs and policies on children, especially the CARCICL. A training workshop was conducted not just to address the gaps in child rights and gender-responsive programming but to serve as a platform to unlearn their biases, discuss the children's issues, and learn appropriate responses using LGU mechanisms and structures while identifying support systems to advance children's rights.



Training of a pilot barangay on the formulation of CLJIP.

Successes and Lessons Learned

The proactive participation of the LGUs and the convenors of the different Justice Zones facilitated the fruitful collaboration and implementation of the project. The LGUs played a key role in the identification of and coordination with the participating barangays and in ensuring their attendance during the training. The Justice Zones also highlighted and emphasized the vital roles of the LCPCs in strengthening their CARCICL programs.

The LGU representatives were also instrumental in identifying the training needs of the participants in order to develop a training that is tailored to address their learning gaps, schedule, and logistical concerns. The social workers also contributed to the training design by providing baseline data and situational analysis of the barangay programs focused on CARCICL.

Overall, the success of the

project was a result of the collaboration of SALIGAN, GOJUST, DILG, the partici-



The members of the local government unit and the justice zone of Balanga City.

pating justice zones, and the local government units of Naga, Balanga, Baguio, and Zamboanga. As the project comes to a close, it is hoped that the same be replicated to ensure that marginalized groups like children and most especially the CARCICL are prioritized through the local policies and program interventions. #

100 Years of Child Rights and 35 Years of the United Nations Convention on the Rights of the Child

It has been a century since the League of Nations adopted the Geneva Declaration of the Rights of the Child on September 26, 1924. It was promoted by Eglantyne Jebb of Save the Children to safeguard the rights of the children in the aftermath of World War I. Primordial is the right of the child to be the first to receive relief in times of distress.

Through the years, 1924 Geneva Declaration guided the United Nations 1959 Declaration of the Rights of the Child and the widely ratified Convention on the Rights of the Child in 1989. While the Geneva Declaration remains relevant, the children of today face not just the impact and devastation of wars and conflicts but also other more pressing issues such as extreme poverty, all forms of abuse and exploitation, and the effects of climate change. Hence, the call to renew the commitment in 1924 to continue safeguarding the children's rights.

On November 20, 2024, the City of Geneva will unveil the Renewed Geneva Declaration for Children's Rights alongside the 1924 Geneva Declaration. An interactive website will be launched to disseminate information and mobilization of support for children's rights. To know more about the Renewed Geneva Declaration for Children's Rights and to show your support and reaffirmation, please the click the links below:

Link for the call to support the New Geneva Declaration:

Text: [Support the Renewed Geneva Declaration for Children's Rights](#)

Link to the Documents:

Text: [Know more about the 1924 Geneva Declaration and the Renewed Geneva Declaration for Children's Rights](#)



(+63)(2)4266001 LOC.
4858-4860



WWW.SALIGAN.ORG



SALIGAN@SALIGAN.ORG



[/SALIGAN.ALAC](https://www.facebook.com/SALIGAN.ALAC)

The views expressed in this newsletter do not reflect the views of the partners and networks of SALIGAN unless otherwise stated. The content of this newsletter does not constitute legal advice and has been published for informational purposes only.