

# Fallacy of Functionality: Assessing the Guidelines of Rating and Monitoring Local Councils for the Protection of Children

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I. INTRODUCTION.....	1419
II. HISTORICAL EVOLUTION OF LCPCS .....	1422
III. THE MEASURE OF FUNCTIONALITY.....	1426
III. CHALLENGES IN ACCURATELY RATING AND EVALUATING THE FUNCTIONALITY OF LCPCS.....	1432
A. <i>The Faulty Functionality Rating Mechanism</i>	
B. <i>The Unchanging Indicators and the Unpredictable Priorities</i>	
C. <i>The Mechanical Monitoring Mechanism</i>	
IV. FALSE SENSE OF SECURITY .....	1442
V. CONCLUSION.....	1445

## I. INTRODUCTION

“The Local Councils for the Protection of Children (LCPC) play a significant [role] in creating a protective environment for children” in the Philippines.<sup>1</sup> According to the Department of the Interior and Local Government (DILG),

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1. UNICEF Philippines, Strengthening Child Protection Systems in the Philippines: Child Protection in Emergencies, at 21, *available at* [http://www.socialserviceworkforce.org/system/files/resource/files/strengthening\\_child\\_protection\\_systems\\_in\\_the\\_philippines\\_haiyan\\_o.pdf](http://www.socialserviceworkforce.org/system/files/resource/files/strengthening_child_protection_systems_in_the_philippines_haiyan_o.pdf) (last accessed May 11, 2021) [<https://perma.cc/3K7H-AJFF>] [hereinafter UNICEF Philippines, Strengthening Child Protection Systems].

it is the “main conduit through which local stakeholders ... are consulted and their meaningful participation ensured in the planning and implementation of interventions and programs for children.”<sup>2</sup> Local governments are thus mandated to “organize, activate, strengthen[,] and sustain [LCPCs]” for the effective and efficient implementation of policies, programs, and projects in all major areas concerning children.<sup>3</sup>

In 2005, the DILG started the annual evaluation and rating of LCPCs to mainstream the National Strategic Framework for Plan Development for Children, dubbed as “Child 21,” into the local development plans of local governments.<sup>4</sup> Child 21 serves as the framework of all programs, activities, and initiatives for children until the year 2025.<sup>5</sup>

On 22 October 2009, the United Nations Committee on the Rights of the Child (Committee) lauded the Philippines’ efforts to improve the implementation of children’s rights at the local level through the establishment of LCPCs.<sup>6</sup> While concerns were raised regarding the lack of human, financial, and technical resources allocated to these LCPCs, the Committee encouraged

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2. Department of the Interior and Local Government, *Comprehensive Guidelines for the Establishment, Strengthening, and Monitoring of the Local Council for the Protection of Children (LCPC) at All Levels and for Other Purposes*, Memorandum Circular No. 2021-039 [DILG Memo. Circ. No. 2021-039], at 4 (Apr. 7, 2021).
  3. Special Committee for the Protection of Children, *Protecting Filipino Children from Abuse, Exploitation and Violence: A Comprehensive Programme on Child Protection, 2006-2010*, at 52, available at [https://www.doj.gov.ph/files/Filipino\\_Children.pdf](https://www.doj.gov.ph/files/Filipino_Children.pdf) (last accessed May 11, 2021) [<https://perma.cc/DZ7R-6N39>] & DILG Memo. Circ. No. 2021-039, at 2.
  4. Department of the Interior and Local Government, *Guidelines in Monitoring the Functionality of the Local Council for the Protection of Children (LCPC) at All Levels and for Other Purposes*, Memorandum Circular No. 2005-07 [DILG Memo. Circ. No. 2005-07], at 1 (Feb. 1, 2005).
  5. Office of the President, *Authorizing the Adoption and Implementation of the Philippine National Strategic Framework for Plan Development for Children, 2000-2025 or Child 21 and Its Accompanying Medium Term Plan and Framework*, Executive Order No. 310, Series of 2000 [E.O. No. 310, s. 2000], § 1 (Nov. 3, 2000).
  6. Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention*, ¶ 13, U.N. Doc. CRC/C/PHL/CO/3-4 (Oct. 2, 2009).

their continued establishment in “the remaining barangays, municipalities, cities[,] and provinces ... to achieve full territorial coverage.”<sup>7</sup>

By the end of 2010, LCPCs had been established in 69% of provinces, 83% of cities, 80% of municipalities, and 84% of barangays throughout the Philippines.<sup>8</sup> The DILG, however, found LCPCs to be functional in only 36% of provinces, 56% of cities, 44% of municipalities, and 34% of barangays.<sup>9</sup> This goes to show that having an established or organized LCPC does not automatically mean having an operational or functional LCPC.<sup>10</sup>

Since then, the Philippines has made significant strides towards realizing functional LCPCs in every level of local government. Based on the 2019 National Summary on the Functionality of the Local Council for the Protection of Children, 86% of provinces, 95% of cities, 87% of municipalities, and 68% of barangays now have functional LCPCs.<sup>11</sup> In fact, 1,482 or 93.98% of Local Government Units (LGUs) in the Philippines were conferred with a Seal of Child Friendly Governance in 2018.<sup>12</sup>

Notwithstanding these gains, violence against children is still very much prevalent in the country. According to UNICEF Philippines, the Philippines remains “a source, transit[,] and destination country for commercial sexual

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7. *Id.* ¶ 14.

8. Council for the Welfare of Children, Towards More Effective Local Councils for the Protection of Children in Child Rights Responsive Governance in the Philippines, ¶ 3, *available at* <https://studylib.net/doc/25437098/towards-more-effective-lcpc-in-crrg> (last accessed May 11, 2021) [<https://perma.cc/5TBC-SSC2>] [hereinafter Council for the Welfare of Children, Towards More Effective Local Councils].

9. *Id.* ¶ 4.

10. Janet S. Cuenca, Localizing Child Protection: Does the Local Council for the Protection of Children Matter?, at 1, *available at* <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsbrief07.pdf> (last accessed May 11, 2021) [<https://perma.cc/T6T8-JS8B>] & Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶¶ 3-4.

11. Department of the Interior and Local Government, 2019 National Summary on the Functionality of the Local Council for the Protection of Children.

12. Council for the Welfare of Children, Quick Facts on Children 2018, at 52, *available at* <https://drive.google.com/file/d/1UGXthmVNLmZbWtKtNMfFpjPux2EWmSYcs/view> (last accessed May 11, 2021) [<https://perma.cc/D8PD-UZT4>] [hereinafter Council for the Welfare of Children, Quick Facts on Children 2018].

exploitation and trafficking, and one of the top ten [global] producers [ ] of sexual content using children.”<sup>13</sup> Moreover, the National Baseline Study on Violence Against Children conducted by the United Nations Children’s Fund (UNICEF) and the Council for the Welfare of Children (CWC) found that three in every five children in the Philippines experienced physical violence,<sup>14</sup> three in every five experienced psychological violence,<sup>15</sup> and one in every five experienced some form of sexual violence.<sup>16</sup>

This Article seeks to examine why having a functional LCPC, as determined by the DILG, does not necessarily translate to effective local protection of children’s rights and welfare. The scope of this Article will focus on the establishment of LCPCs and the issuances relating to the rating and evaluation of their functionality.

## II. HISTORICAL EVOLUTION OF LCPCS

The Civil Code of the Philippines, which was enacted in 1950, provided for the earliest iteration of an LCPC.<sup>17</sup> It directed the government to establish Councils for the Protection of Children<sup>18</sup> in municipalities to promote “the full growth of the faculties of every child.”<sup>19</sup> Tasked to look after the welfare of children in the municipality, these Councils were given, among others, the following functions:

- (1) Foster the education of every child in the municipality;

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13. National Economic Development Authority & UNICEF Philippines, Situation Analysis of Children in the Philippines: A Summary Report, at 25, *available at* <https://www.unicef.org/philippines/media/556/file> (last accessed May 11, 2021) [<https://perma.cc/N2F2-E4TD>].

14. Council for the Welfare of Children & UNICEF, National Baseline Study on Violence Against Children: Philippines (Executive Summary), at 4, *available at* [https://resourcecentre.savethechildren.net/node/10264/pdf/philippine\\_nbs\\_vac\\_results\\_discussion.pdf](https://resourcecentre.savethechildren.net/node/10264/pdf/philippine_nbs_vac_results_discussion.pdf) (last accessed May 11, 2021) [<https://perma.cc/2CMS-GZYH>] [hereinafter Council for the Welfare of Children & UNICEF, National Baseline Study on Violence Against Children].

15. *Id.* at 5.

16. *Id.* at 17.

17. An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE], Republic Act No. 386, art. 359 (3) (1949).

18. *Id.*

19. *Id.* art. 359.

- (2) Encourage the cultivation of the duties of parents;
- (3) Protect and assist abandoned or mistreated children, and orphans;
- (4) Take steps to prevent juvenile delinquency;
- (5) Adopt measures for the health of children;
- (6) Promote the opening and maintenance of playgrounds; [and]
- (7) Coordinate the activities of organizations devoted to the welfare of children, and secure their cooperation.<sup>20</sup>

In 1967, Republic Act No. 4881 expanded the creation of LCPCs to include cities and municipal districts as an assurance of help to families in raising their children, and to ensure that children are provided “proper direction, supervision[,] and guardianship in [ ] training, education, and [in their] other interests[.]”<sup>21</sup> The LCPC was also decreed to “supervise and act as [a] guardian for the health, education[,] and well-being” of children within its jurisdiction, in addition to its functions set forth under the Civil Code.<sup>22</sup>

The enactment of the Child and Youth Welfare Code in 1974 took it a step further and encouraged the organization of an LCPC in every barangay, which is the basic political unit in the country.<sup>23</sup> Moreover, it added the promotion of “wholesome entertainment in the community,”<sup>24</sup> and the provision of assistance to parents “in securing expert guidance counseling from the proper governmental or private welfare agenc[ies]” as among its functions.<sup>25</sup>

In recognition of the importance of the family, the 1986 Constitutional Commission, through the efforts of Commissioner Ma. Teresa F. Nieva, decided that an entire Article under the 1987 Constitution be devoted to family.<sup>26</sup> The right of children to assistance and special protection, which was

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20. *Id.* art. 360.

21. An Act Creating a Council for the Protection of Children in Every City and Municipality of the Philippines and for Other Purposes, Republic Act No. 4881, §§ 1-2 (1967).

22. *Id.* § 5.

23. The Child and Youth Welfare Code [CHILD & YOUTH WELFARE CODE], Presidential Decree No. 603, art. 87 (1974).

24. *Id.* art. 87 (8).

25. *Id.* art. 87 (9).

26. 5 RECORD OF THE CONSTITUTIONAL COMMISSION, NO. 91, at 37 (1986).

“approved against a background of rampant child prostitution, child labor, child abuse, and child neglect[,]” was specified under the said Article.<sup>27</sup>

On 19 January 1990, the Department of the Interior and Local Government (DILG) reiterated the organization of an LCPC in every barangay.<sup>28</sup> Barangay captains were enjoined to establish an LCPC within the structure of their barangay development councils.<sup>29</sup>

On 26 January 1990, the Philippines signed the Convention on the Rights of the Child (Convention), an international treaty adopted by the United Nations General Assembly that protects, in the most comprehensive way, all rights of children, whether political, civil, social, economic, or cultural.<sup>30</sup> On 21 August 1990, the Convention became valid and binding on the country upon concurrence of the Senate.<sup>31</sup>

Under the Convention, State Parties, such as the Philippines, recognize that a family environment with “an atmosphere of happiness, love[,] and understanding” is necessary for the full and harmonious development of a child’s personality.<sup>32</sup> Furthermore, State Parties guarantee that children and their corresponding rights are respected and protected within their jurisdiction, to wit —

- (1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, [color], sex, language, religion, political

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27. PHIL. CONST. art XV, § 3 (2) & JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 1315 (2009) (citing 5 RECORD, PHIL. CONST., NO. 92, at 59).

28. Department of Local Government, *Organization of Local Councils for the Protection of Children (LCPC) in the Barangays*, Memorandum Circular No. 90-04 [DILG Memo. Circ. No. 90-04], para. 1 (Jan. 19, 1990).

29. *Id.* para. 3.

30. Convention on the Rights of the Child art. 4, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3.

31. *Tecson v. Commission on Elections*, G.R. No. 161434, 424 SCRA 277, 399 (2004) (J. Puno, separate opinion) & Philippine NGO Coalition on the UN CRC, *Guide for Monitoring the UN CRC in the Philippines*, at 1, *available at* <https://www.csc-crc.org/wp-content/uploads/2020/10/Guide-for-Monitoring-the-UN-CRC-in-the-Philippines.pdf> (last accessed May 11, 2021) [<https://perma.cc/79VZ-Q5N2>].

32. Convention on the Rights of the Child, *supra* note 30, pmb1.

or other opinion, national, ethnic or social origin, property, disability, birth or other status.

- (2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.<sup>33</sup>

Corollary, the Local Government Code of 1991 entrusted to local government units the effective and efficient delivery of basic services and facilities, including programs and projects for the development, welfare, and protection of children, and the provision of care to needy and disadvantaged persons (i.e., children and youth below 18 years of age, paupers, the aged, the sick, the disabled, persons of unsound mind, abandoned minors, juvenile delinquents, drug dependents, and abused children).<sup>34</sup> It also introduced the compulsory appointment of a local social welfare and development officer for provinces and cities, but only an optional appointment for municipalities.<sup>35</sup>

On 5 December 2000, the Early Childhood Care and Development Act was enacted to “institutionalize a National System for Early Childhood Care and Development (ECCD)”<sup>36</sup> and to require the creation of ECCD coordinating committees in all levels of local government (except for barangays).<sup>37</sup> In lieu of a coordinating committee, barangays were obligated to establish an LCPC that additionally functioned as an ECCD coordinating committee.<sup>38</sup> From being merely “encouraged” under the Child Youth and Welfare Code,<sup>39</sup> LCPCs were eventually formalized by law and mandated to be organized in the barangay under the Early Childhood Care and Development Act.<sup>40</sup>

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33. *Id.* art. 2.

34. An Act Providing for a Local Government Code of 1991 [LOCAL GOV'T CODE], Republic Act No. 7160, §§ 17; 391 (a) (19); 447 (a) (5) (xiv); 458 (a) (5) (xiv); 468 (a) (4) (vi); & 483 (b) (3) (iii) (1991).

35. *Id.* § 483 (a).

36. An Act Promulgating a Comprehensive Policy and a National System for Early Childhood Care and Development (ECCD), Providing Funds Therefor and for Other Purposes [ECCD Act], Republic Act No. 8980, § 2 (2000).

37. *Id.* §§ 8 (b) & 8 (c).

38. *Id.* § 8 (d).

39. CHILD & YOUTH WELFARE CODE, art. 87.

40. ECCD Act, § 8 (d).

In 2006, the Juvenile Justice and Welfare Act tagged Councils for the Protection of Children as the “primary agency to coordinate with and assist [local governments in adopting a local] comprehensive plan on delinquency prevention, and to oversee its proper implementation.”<sup>41</sup> It likewise earmarked 1% of the internal revenue allotment (IRA) of barangays, municipalities, and cities for the strengthening and implementation of the LCPC’s programs.<sup>42</sup> The appointment of a local social welfare and development officer was also made obligatory in all levels of local government.<sup>43</sup>

### III. THE MEASURE OF FUNCTIONALITY

Since 1990, the DILG has constantly amended the guidelines on the organization, reorganization, and strengthening of LCPCs to incorporate changes brought about by various laws and issuances on child development and protection.<sup>44</sup> Notable amendments include consolidating the functions of

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41. An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council Under the Department of Justice, Appropriating Funds Therefor and for Other Purposes [Juvenile Justice and Welfare Act of 2006], Republic Act No. 9344, § 15 (2006).

42. *Id.* § 15, para. 3.

43. *Id.* § 16.

44. *See, e.g.*, DILG Memo. Circ. No. 90-04; Department of the Interior and Local Government, Additional Policies and Guidelines Implementing Pertinent Provisions of the Child and Youth Welfare Code (P.D. 603 as Amended), Memorandum Circular No. 91-56 [DILG Memo. Circ. No. 91-56] (Sept. 24, 1991); Department of the Interior and Local Government, Memorandum Circular No. 91-57 [DILG Memo. Circ. No. 91-57]; Department of the Interior and Local Government, Support to the Philippine Plan of Action for Children (PPAC) of the Council for the Welfare of Children (CWD), Memorandum Circular No. 92-70 [DILG Memo. Circ. No. 92-70] (Sept. 9, 1992); Department of the Interior and Local Government, Adoption of the Implementing Guidelines of Memorandum Order 39 and the Revised Guidelines on the Reorganization/Organization of Local Sub-Committees for the Welfare of Children, Memorandum Circular No. 94-14 [DILG Memo. Circ. No. 94-14] (Jan. 24, 1994); Department of the Interior and Local Government, Trainings on the Activation of the Local Councils for the Protection of Children, Memorandum Circular No. 96-139 [DILG Memo. Circ. No. 96-139] (July 22, 1996); Department of the Interior and Local Government, Revised Guidelines on the Organization and Strengthening of the Local Councils for the Protection of Children (LCPC) Incorporating Thereat Early Childhood Care and



ECCD coordinating committees into LCPCs “to avoid confusion and duplication of similar councils/committees” in local governments.<sup>45</sup>

It was only in 2005, however, that the government began rating the functionality of LCPCs in view of sustaining national efforts to localize Child 21.<sup>46</sup> The DILG issued the Guidelines in Monitoring the Functionality of the Local Council for the Protection of Children (LCPC) at All Levels and for Other Purposes (Initial Guidelines), which classified indicators and sub-indicators to determine the functionality of LCPCs.<sup>47</sup>

A few years after the enactment of the Juvenile Justice and Welfare Act, the DILG issued the Revised Guidelines in Monitoring the Functionality of the Local Council for the Protection of Children (LCPC) at All Levels and For Other Purposes (Revised Guidelines) to give more emphasis to the LCPCs’ crucial role in the formulation and implementation of a comprehensive plan for juvenile delinquency prevention.<sup>48</sup> The Revised Guidelines provided for a different set of functionality indicators and rating system in evaluating LCPCs.<sup>49</sup>

Under the Revised Guidelines, an LCPC is graded on a 100-point system<sup>50</sup> with a corresponding descriptor scale identifying its level of functionality, whether basic, progressive, mature, or ideal.<sup>51</sup> To illustrate, LCPCs recording 20% and below are deemed to have a basic level of functionality.<sup>52</sup> LCPCs scoring between 21% to 50% are considered to have a

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Development (ECCD) Coordinating Committees at the Provincial, City, Municipal and Barangay Levels, Memorandum Circular No. 2002-121 [DILG Memo. Circ. No. 2002-121] (Aug. 5, 2002); & Department of the Interior and Local Government, Revised Guidelines in Monitoring the Functionality of the Local Council for the Protection of Children (LCPC) at All Levels and for Other Purposes, Memorandum Circular No. 2008-126 [DILG Memo. Circ. No. 2008-126] (Aug. 21, 2008).

45. DILG Memo. Circ. No. 2002-121, at 1.

46. DILG Memo. Circ. No. 2005-07, at 1.

47. *Id.* at 4.

48. DILG Memo. Circ. No. 2008-126, at 1.

49. *Id.*

50. *Id.* at 6-7.

51. *Id.* at 7-8.

52. *Id.* at 7.

progressive functionality level.<sup>53</sup> Those obtaining scores between 51% to 79% are LCPCs with a mature level of functionality,<sup>54</sup> and those attaining a rating of at least 80% are regarded as ideal LCPCs.<sup>55</sup>

To determine the level of functionality, an LCPC is assessed based on four functionality indicators, namely:

- (1) Organization, which comprises 10%;
- (2) Meetings, which is also 10%;
- (3) Policies, Plans and Budget, which constitutes 30%; and
- (4) Accomplishments, which is equivalent to 50%.<sup>56</sup>

It should be noted, however, that an LCPC is only said to be operational or functional when it attains either a mature or an ideal level of functionality, which means a score of at least 51%.<sup>57</sup> Clearly, an established or organized LCPC does not necessarily mean an operational or functional LCPC.<sup>58</sup>

Under *Organization*, 5% is automatically given to an LCPC when its establishment is through a *Sanggunian* Ordinance/Resolution or an Executive/Administrative Order by the local chief executive.<sup>59</sup> The other 5% is granted when the composition of the LCPC, which is headed by the local chief executive, follows Memorandum Circular No. 2002-121.<sup>60</sup> Bonus points may even be obtained when the LCPC expands its membership.<sup>61</sup>

Anent *Meetings*, LCPCs are directed to conduct regular quarterly meetings and special meetings, whenever necessary.<sup>62</sup> The agenda of these meetings must cover recommendations of policies, plans, activities, and projects (PPAs) for the promotion of children's rights and their welfare to be included in the

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53. *Id.*

54. DILG Memo. Circ. No. 2008-126, at 8.

55. *Id.*

56. *Id.* at 6-7.

57. *See* DILG Memo. Circ. No. 2021-039, at 19.

58. Cuenca, *supra* note 10, at 1.

59. DILG Memo. Circ. No. 2008-126, at 6.

60. *Id.*

61. *Id.*

62. *Id.* at 2.

“comprehensive and annual development plan” of the local government.<sup>63</sup> These meetings are to be supported by minutes of the meeting “duly signed by the Secretariat Head and the attendees[,]” with the corresponding attendance sheet appended.<sup>64</sup> An LCPC obtains 2.5% for every quarterly meeting conducted.<sup>65</sup> A bonus of 1% is given for having conducted a special meeting, and an additional 2% for LCPCs with two or more special meetings.<sup>66</sup>

As for *Policies, Plans and Budget*, LCPCs are to issue resolutions recommending policies relating to “child survival, development, protection[,] and participation” for “executive or legislative action” of the local government.<sup>67</sup> LCPCs must also develop an annual work and financial plan (AWFP) providing for the PPAs to ensure funding.<sup>68</sup> PPAs on children shall include activities such as, but not limited to the following:

- (1) updating of database on children;
- (2) preparation of the Council’s AAFP for inclusion in the local development plan and annual budget;
- (3) advocacy on the promotion of the rights and welfare of children;
- (4) conduct of capability building programs for all stakeholders on children;
- (5) formulation of a) Local Development Plan for Children (LDPC)[,] b) Local Investment Plan for Children (LIPC)[,] c) Local Code for Children (LCC)[,] and d) Local State of Children Report (LSCR);
- (6) assistance to Children in Need of Special Protection (CNSP) and referral of cases filed against child abusers to concerned agencies/institutions;
- (7) monitoring of the enforcement of national and local laws for the survival, development, protection[,] and participation of children;
- (8) monitoring and assessment of PPAs on children being undertaken by the LGUs in their respective localities which shall include among others the following:

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63. *Id.*

64. *Id.* (emphasis omitted).

65. DILG Memo. Circ. No. 2008-126, at 6.

66. *Id.*

67. *Id.* at 2.

68. *Id.*

- (a) establishment or improvement of the standard day care centers, recruitment of trained/capacitated day care workers, etc.[,];
- (b) elimination of all forms of child abuse (i.e.[,] worst forms of child labor, child trafficking, child prostitution[,], and pornography);
- (c) HIV/AIDS prevention;
- (d) implementation of intervention and diversion programs for [children in conflict with the law] as provided for in Section 18 of RA 9344;
- (e) health and nutrition programs (i.e.[,] immunization, salt iodization, feeding programs, micronutrient supplementation, etc.);
- (f) maternal and post[-]natal care;
- (g) construction/maintenance of community infrastructures like children's playground and library, youth centers, etc.;
- (h) strengthening the family through parental care and guidance, family week celebration, parent education;
- (i) provision of potable water supply;
- (j) services and programs that respond to the special needs, interests[,], and concerns of children and offer appropriate counseling and guidance to these children and their families; and
- (k) training/capability building of service providers for children.<sup>69</sup>

Under the foregoing indicator, an LCPC is given a total of 10% when its PPAs are provided funding in the local government's annual budget,<sup>70</sup> and another 2% for evidence that these PPAs are needs-based or demand-driven.<sup>71</sup> Further, the mere development of an AAFP garners the LCPC 5%,<sup>72</sup> and the AAFP's inclusion in the Local Development Investment Plan and Annual Investment Program of the local government unit merits another 5%.<sup>73</sup> The LCPC is also granted a total of 4% for recommending at least two policies each

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69. *Id.* at 2-3.

70. *Id.* at 6.

71. DILG Memo. Circ. No. 2008-126, at 7.

72. *Id.* at 6.

73. *Id.*

on child survival, child development, child protection, and child participation.<sup>74</sup> The consequent approval by the *Sanggunian* of at least two recommendations on each of the four types of child rights adds another 4% total for the LCPC.<sup>75</sup>

With respect to *Accomplishments*, such must be documented and must include the end results of the PPAs undertaken.<sup>76</sup> Of the 50%, 20% accounts for the PPAs undertaken by the local government based on the AAFP.<sup>77</sup> The delivery of a State of the Children Report by the local chief executive during Children's Month in October earns the LCPC 10%.<sup>78</sup> The documentation of these accomplishments alone is 7%,<sup>79</sup> and their inclusion in the local government's annual report and in the State of the Local Address merits 8% and 5%, respectively.<sup>80</sup>

On 7 April 2021, or more than 12 years after the issuance of the Revised Guidelines, the DILG issued the Comprehensive Guidelines for the Establishment, Strengthening, and Monitoring of the Local Council for the Protection of Children (LCPC) at All Levels and for Other Purposes (Comprehensive Guidelines) to consolidate the guidelines for the establishment and operation of LCPCs, as well as for "monitoring and evaluation, with the objective of ensuring that [LCPCs] are functional, relevant, and effective."<sup>81</sup>

Verily, the Comprehensive Guidelines clearly set forth the composition and functions of LCPCs in all levels of local government.<sup>82</sup> However, they fail to provide sufficient information in terms of evaluating LCPC functionality, except for the mention of a new set of functionality indicators and a different rating system.<sup>83</sup> Certain references were made to annexes containing a detailed list of functionality indicators and technical notes for rating computation, but

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74. *Id.* at 7.

75. *Id.*

76. *Id.* at 3.

77. DILG Memo. Circ. No. 2008-126, at 7.

78. *Id.*

79. *Id.*

80. *Id.*

81. DILG Memo. Circ. No. 2021-039, at 2.

82. *Id.* at 5.

83. *See id.* at 18.

these were not appended to the issuance.<sup>84</sup> It is also worthy to note that the “LCPC Functionality” portion of the Comprehensive Guidelines identified the appendices in numerals (i.e., “1” and “2”),<sup>85</sup> while the enumeration in the “Annexes” used uppercase letters (i.e., “A” and “B”).<sup>86</sup> Unlike the Initial Guidelines and the Revised Guidelines, the DILG’s latest issuance also did not contain templates of the assessment forms to be used by LCPCs.<sup>87</sup>

Further, the implementation date of the Comprehensive Guidelines in terms of determining LCPC functionality remains unclear. The annual monitoring of LCPC functionality is conducted during the first quarter of the year, and the period to be assessed is the preceding year.<sup>88</sup> Though the Comprehensive Guidelines provided for immediate effectivity, they were issued beyond the period of monitoring LCPC functionality.<sup>89</sup> In all likelihood, LCPCs would have already submitted their respective assessment reports prior to the issuance of the Comprehensive Guidelines. Hence, it can be inferred that the submissions made by LCPCs this year will still be assessed in light of the Revised Guidelines.

### III. CHALLENGES IN ACCURATELY RATING AND EVALUATING THE FUNCTIONALITY OF LCPCs

#### *A. The Faulty Functionality Rating Mechanism*

According to the DILG, almost 21% of all local government units have LCPCs with an ideal level of functionality, and approximately 48% of all local governments have mature LCPCs.<sup>90</sup> This simply means that around 69% of all local government units throughout the Philippines had possessed an operational or functional LCPC by the end of 2018.<sup>91</sup> Despite having

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84. *Id.* at 20.

85. *Id.* at 18-19.

86. *Id.* at 20.

87. Compare DILG Memo. Circ. No. 2021-039, with DILG Memo. Circ. No. 2005-07, annex, and DILG Memo. Circ. No. 2008-126, at 9-14.

88. DILG Memo. Circ. No. 2005-07, at 5; DILG Memo. Circ. No. 2008-126, at 8; & DILG Memo. Circ. No. 2021-039, at 19.

89. DILG Memo. Circ. No. 2021-039, at 20.

90. Department of Interior and Local Government, 2019 National Summary on the Functionality of the Local Council for the Protection of Children, *supra* note 11.

91. *Id.*

functional LCPCs, the country continues to experience high overall prevalence of violence against children.<sup>92</sup>

It is posited that the disconnect is brought about by the failure to properly quantify the output, effect, and impact of these LCPCs. While efforts to ensure the presence of functional LCPCs in every unit of local government are commendable, the indicators and sub-indicators under the Revised Guidelines do not accurately present the progress they ought to measure — the effectiveness of an LCPC in performing its mandate.

According to New York University Silver Professor of Anthropology, Sally Engle Merry, “[i]ndicators are statistical measures that are used to consolidate complex data into a simple number or rank that is meaningful to policy makers and the public.”<sup>93</sup> “By creating standards that benchmark performance, quantitative indicators have the potential to influence behavior, even absent legal penalties.”<sup>94</sup> Suffolk University Associate Professor Sharmila L. Murthy states that, “[w]ith seeming objectivity, numbers provide a basis for accountability and comparability.”<sup>95</sup> According to Merry, these measurements, however, “tend to ignore individual specificity and context in

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92. Council for the Welfare of Children, Quick Data of Children’s Situation During the COVID-19 Pandemic, at 11-14, *available at* <https://drive.google.com/file/d/1ciCGDzoJCu-hATiF9ozEQvjTLdovNdtF/view> (last accessed May 11, 2021) [<https://perma.cc/VZ6K-SUEE>]; Council for the Welfare of Children, Quick Facts on Children 2018, *supra* note 12, at 31-32; & Council for the Welfare of Children & UNICEF, National Baseline Study on Violence Against Children, *supra* note 14, at 17.
93. Sally Engle Merry, *Measuring the World: Indicators, Human Rights, and Global Governance*, 52 CURRENT ANTHROPOLOGY S83, S86 (2011).
94. Sharmila L. Murthy, *Translating Legal Norms Into Quantitative Indicators: Lessons from the Global Water, Sanitation, and Hygiene Sector*, 42 WM. & MARY ENVTL. L. & POL’Y REV. 385, 396 (2018) (citing Sakiko Fukuda-Parr, et al., *The Power of Numbers: A Critical Review of Millennium Development Goal Targets for Human Development and Human Rights*, in THE MDGS, CAPABILITIES AND HUMAN RIGHTS: THE POWER OF NUMBERS TO SHAPE AGENDAS 2 (Sakiko Fukuda-Parr & Alicia Ely Yamin eds., 2015) & SALLY ENGLE MERRY, THE SEDUCTIONS OF QUANTIFICATION: MEASURING HUMAN RIGHTS, GENDER VIOLENCE, AND SEX TRAFFICKING 11 (2016)).
95. Murthy, *supra* note 94, at 396 (citing SAKIKO FUKUDA-PARR & ALICIA ELY YAMIN, THE MDGS, CAPABILITIES AND HUMAN RIGHTS: THE POWER OF NUMBERS TO SHAPE AGENDAS (2015)).

favor of superficial but standardized knowledge.”<sup>96</sup> More often than not, they “cannot capture the true complexity of a problem.”<sup>97</sup> Furthermore, Murthy raises the concern that “reliance on [these numbers] can turn an exercise of judgment and subjectivity into a technical exercise, devoid of political context.”<sup>98</sup>

To best illustrate the foregoing, the *Accomplishments* indicator, which constitutes half of the test in determining an LCPC’s functionality level, essentially concerns itself with documentation and reportorial requirements instead of the actual accomplishments of the LCPC.<sup>99</sup> Regardless of the accomplishment’s mediocrity or lack of significance and quality, the mere documentation and mention of the same in annual reports of the local government unit and in public addresses of the local chief executive grant the LCPC more than half of the 50% allocated under the *Accomplishments* indicator.<sup>100</sup>

The same thing can be said for the *Policies, Plans and Budget* indicator. The mere development of an AWWP and the consequential funding of PPAs by the local government nets the LCPC half of the total points allotted under the said indicator.<sup>101</sup> Although the Revised Guidelines “anchored the functionality of the LCPC on performing responsibilities of planning ... and investment programming,” local governments have not been able to prepare a comprehensive plan that will be the basis of LCPCs in preparing their AWWPs.<sup>102</sup> This will lead to the possibility of LCPCs basing their AWWPs on “individual submissions of sectoral departments” that reflect traditional programs (i.e., health and supplementary feeding with minimal cross-sectoral issues in terms of policy advocacy, research, and in new problem areas).<sup>103</sup> Add to these the submission of policy recommendations relating to child rights, an LCPC can easily obtain more than half of the 30% allotted under the *Policies,*

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96. Merry, *supra* note 93, at S86.

97. Murthy, *supra* note 94, at 387.

98. *Id.* at 404 (citing AnnJanette Rosga & Margaret L. Satterthwaite, *The Trust in Indicators: Measuring Human Rights*, 27 BERKELEY J. INT’L L. 253, 258 (2009)).

99. DILG Memo. Circ. No. 2008-126, at 3 & 7.

100. *See id.* at 7.

101. *Id.* at 6.

102. Council for the Welfare of Children, *Towards More Effective Local Councils*, *supra* note 8, ¶ 72, para. 1.

103. *Id.*



*Plans and Budget* indicator, notwithstanding the lack of substance or the disjointedness of the PPAs on children.<sup>104</sup>

It can be gleaned from the foregoing that the criteria under the Revised Guidelines fosters mere perfunctory compliance on the part of LCPCs. As observed by UNICEF, the present criteria do not reflect “what is actually [being] done, what is effective, and how [local] and community-based processes work[.]” as they simply measure technical and compliance-based factors.<sup>105</sup> This flaw is magnified even more by the *Meetings* indicator, where an LCPC is given a perfect score of 10% for the conduct of four quarterly meetings, irrespective of the quality of output during the said meetings, provided that every meeting is supported by reportorial requirements.<sup>106</sup> In fact, the very inclusion of *Meetings* as among the main indicators in determining LCPC functionality is perplexing, given its lack of direct correlation with the effectiveness of an LCPC in performing its mandate. This baffling inclusion may only be understood through the lens of developing statistical indicators, where factors that can easily be quantified are prioritized, while more complicated and harder-to-quantify aspects are demoted.<sup>107</sup>

The superficial functionality rating mechanism under the Revised Guidelines muddles the objective of having relevant and effective LCPCs that produce results for the benefit of children.<sup>108</sup> In fact, the convenient understanding of local governments from the DILG issuances is that they are merely tasked with organizing LCPCs, convening meetings, formulating and showing plans, and accomplishment reports, “with little mention of results for children.”<sup>109</sup> By virtue of a perfunctory compliance process, obtaining a functional rating is very much doable for LCPCs, even if they fail to produce results that truly advance children’s rights and child welfare.

The need to revisit the present criteria of LCPC functionality was recently addressed by the DILG through the issuance of the Comprehensive

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104. DILG Memo. Circ. No. 2008-126, at 7.

105. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 33.

106. DILG Memo. Circ. No. 2008-126, at 6.

107. Murthy, *supra* note 94, at 404 (citing Jamie Bartram, et al., *Global Monitoring of Water Supply and Sanitation: History, Methods and Future Challenges*, 11 INT’L J. ENVTL. RES. & PUB. HEALTH 8137, 8157 (2014)).

108. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 68.

109. *Id.*

Guidelines, which introduced a new set of indicators in determining LCPC functionality.<sup>110</sup> Though the descriptor scale under the Revised Guidelines was retained, the Comprehensive Guidelines provided for a different rating system for LCPCs in barangays than that of LCPCs in cities, municipalities, and provinces,<sup>111</sup> to wit —

The BCPC shall be rated based on the following:

Area of Concern	Rating
Organizational Sustainability	15%
Policies and Plans for Children	30%
Budget	25%
Service Delivery Monitoring and Management for Children	30%
Total	100%

The P/C/MCPC shall be rated based on the following:

Area of Concern	Rating
Organizational Sustainability	20%
Policies and Plans for Children	30%
Budget	20%
Service Delivery Monitoring and Management for Children	30%
Total	100%

To date, the DILG has yet to release the template LCPC functionality assessment forms which should detail the sub-indicators and the corresponding points allocated to them. Until then, it cannot be determined whether the Comprehensive Guidelines are a total departure from their precursor.

#### *B. The Unchanging Indicators and the Unpredictable Priorities*

Merry stressed that “indicators have a relatively short life before those ... governed by them ... change their behavior in order to enhance their

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<sup>110</sup> DILG Memo. Circ. No. 2021-039, at 18.

<sup>111</sup> *Id.*

score.”<sup>112</sup> “While this may be the desired outcome, it may also produce strategies to ‘game’ the indicator.”<sup>113</sup> In sum, the longer the indicator is in place, the easier it is to find a workaround. Ostensibly, this enabled LCPCs to perfunctorily comply with the functionality rating mechanism under the Revised Guidelines.<sup>114</sup> To note, it took the DILG more than 12 years to provide a revision of the said mechanism.<sup>115</sup> This may explain the previous findings of the CWC that “a number of LCPC[s] showed lower levels of functionality than what was [actually] reported[.]”<sup>116</sup>

The main responsibility for a child-protective environment rests with local governments and LCPCs.<sup>117</sup> In light of the devolution of social services, and in view of their proximity to citizens at the grassroots, local governments are thrust into critical roles under the national child protection system.<sup>118</sup> The system’s strength and effectiveness, however, lie with its foundational structure, which is the LCPCs.<sup>119</sup>

Local chief executives are the key drivers of LCPCs and local child rights programming.<sup>120</sup> They “[e]xercise general supervision and control over all programs, projects, services, and activities” within their local government unit,<sup>121</sup> and enforce laws and ordinances relative to the governance of their jurisdiction.<sup>122</sup> They thus occupy a strategic position to become defenders of children in their respective localities.<sup>123</sup> Hence, the CWC notes that when

112. Merry, *supra* note 93, at S90 (citing Rosga & Satterthwaite, *supra* note 98, at 296).

113. Merry, *supra* note 93, at S90.

114. See Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 68.

115. See DILG Memo. Circ. No. 2021-039, at 1.

116. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ G.

117. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 53 & Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 24.

118. Special Committee for the Protection of Children, *supra* note 3, at 7.

119. See *id.* at 52.

120. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 32 (D).

121. LOCAL GOV’T CODE, §§ 444 (b) (1); 455 (b) (1); & 465 (b) (1).

122. *Id.* §§ 389 (b) (1); 444 (b) (2); & 465 (b) (2).

123. Special Committee for the Protection of Children, *supra* note 3, at 52.

local chief executives are unsupportive of LCPCs, the “initiatives backslide and even LCPC champions from other government agencies or [non-government organizations] are unable to keep the [LCPC] from crumbling, let alone deliver sustained results for children.”<sup>124</sup>

Local chief executives, however, are elective local officials subject to a three-year term of office.<sup>125</sup> According to the CWC, electoral changes of local chief executives resulted in “decreased support for LCPC[s], in disruptions of operations [in] children’s programs[,] ... or worse, in abandonment of initiatives undertaken under the previous incumbent’s administration.”<sup>126</sup> UNICEF echoed that the three-year electoral cycle for local officials causes “distraction and discontinuity that [seriously impedes] meaningful progress on [child development and protection].”<sup>127</sup> “The effects [of the electoral change] are [even] more markedly felt when the new [local chief executive] belongs to a political affiliation opposed to the incumbent LCPC members[.]”<sup>128</sup> Logically, a newly-elected local chief executive will tend to prioritize campaign promises in the hopes of maintaining popularity and bettering the chances of reelection. By ushering in a different priority agenda, and without considering the initiatives of the previous administration, the new local official chief executive may unavoidably thwart the progress of PPAs that require sustained efforts from the local government and LCPCs.

It is also noted that the recurring electoral cycle for elective local officials foments the membership composition of LCPCs every three years.<sup>129</sup> LCPCs in cities, municipalities, and provinces are composed of at least 20 members, four of whom are elective local officials.<sup>130</sup> On the other hand, LCPCs in barangays are composed of at least 13 members, with three being elected

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124. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 32 (D).

125. PHIL. CONST. art. X, § 8 & LOCAL GOV’T CODE, § 43 (a).

126. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 32 (E).

127. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 55.

128. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 58.

129. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 21.

130. DILG Memo. Circ. No. 2021-039, at 6-8.

officials.<sup>131</sup> Though seemingly small in number, the LCPC is concurrently headed by the local chief executive as the Chairperson.<sup>132</sup> The local chief executive, as the key driver of the LCPC, “plays a singular role in catalyzing” the local government programming of children’s rights.<sup>133</sup> Furthermore, several LCPC members are local officials subject to the appointing authority of the local chief executive.<sup>134</sup> Indeed, the three-year electoral cycle at the local government level cultivates unpredictability in priority accorded to LCPCs.<sup>135</sup>

Given the unchanging functionality rating system and the unpredictable prioritization of LCPCs, the perfunctory practice of going through the motions to simply comply with the requirements under the Revised Guidelines is not unimaginable. LCPCs may attain a functional rating yet fail to make a dent in creating an actual protective environment for children.

### C. *The Mechanical Monitoring Mechanism*

Similar to the LCPC functionality rating mechanism, the process of monitoring and evaluating LCPC functionality has already been in place for quite a long time. In fact, the recent Comprehensive Guidelines practically adopted the LCPC monitoring mechanism introduced under the Initial Guidelines.<sup>136</sup> While a revised functionality rating mechanism will be utilized in the near future, there is no forthcoming change seen in the monitoring and evaluation of LCPC functionality.<sup>137</sup>

The DILG mandated the creation of an Inter-Agency Monitoring Task Force (IMTF) on the municipal, city, provincial, and regional levels to monitor and evaluate the functionality of LCPCs.<sup>138</sup> The Municipal or City IMTF is generally tasked to evaluate submissions of LCPCs within their

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131. *Id.* at 5-6.

132. *Id.* at 5-8.

133. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ F.

134. See DILG Memo. Circ. No. 2021-039, at 5-8. See also LOCAL GOV'T CODE, §§ 389 (b) (5); 443 (b); 443 (c) (1); 443 (d); 454 (d); & 463 (d).

135. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 55.

136. Compare DILG Memo. Circ. No. 2021-039, at 14-18, with DILG Memo. Circ. No. 2005-07, at 2-5.

137. DILG Memo. Circ. No. 2021-039, at 14-18.

138. DILG Memo. Circ. No. 2005-07, at 2.

localities by accomplishing template LCPC assessment forms based on the functionality rating mechanism.<sup>139</sup> These assessment forms are then forwarded to the Provincial IMTF, along with the submissions from LCPCs in municipalities and cities, for review and validation.<sup>140</sup> The Provincial IMTF, in turn, evaluates the submissions of the lower level IMTF using another set of template assessments forms.<sup>141</sup> These will be submitted to the Regional IMTF together with the submissions of LCPCs in provinces for another round of validation and evaluation prior to submission to the DILG Regional Office.<sup>142</sup> For IMTFs in highly urbanized cities, the submissions are directly tendered to the Regional IMTF.<sup>143</sup>

The CWC views the long-standing monitoring mechanism for LCPC functionality as “generally weak and problematic.”<sup>144</sup> The most notable concern is the failure of IMTFs to provide feedback to LCPCs.<sup>145</sup> Apart from evaluating LCPCs, IMTFs must confer with the local chief executives regarding their rating and to offer recommended action points.<sup>146</sup> Past findings of the CWC reveal, however, that a number of local governments only feel the LCPC monitoring mechanism when they are asked to comply with the requirements, but hear no feedback on their rating thereafter.<sup>147</sup> As a result, the functionality of IMTFs are also put into question.<sup>148</sup>

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139. *Id.* at 3 & DILG Memo. Circ. No. 2021-039, at 14.

140. DILG Memo. Circ. No. 2021-039, at 14.

141. *Id.* at 15.

142. *Id.*

143. *Id.*

144. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 82.

145. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 68.

146. DILG Memo. Circ. No. 2021-039, at 15-16.

147. See Committee for the Special Protection of Children, Protecting Filipino Children from Abuse Exploitation and Violence: A Comprehensive Program on Child Protection, 2012-2016, ¶¶ 57 & 117, available at <https://www.doj.gov.ph/files/2016/CPCP%202012-2016.pdf> (last accessed May 11, 2021) [<https://perma.cc/D3W3-3386>].

148. *Id.*

The Comprehensive Guidelines categorically stated that an LCPC is to be “[evaluated] ... based on the submitted documents[.]”<sup>149</sup> An examination of the submissions required of LCPCs shows that the requirements are merely documentary and reportorial in character as shown below:

- (1) Executive Order or *Sanggunian* Ordinance organizing/reconstituting the LCPC;
- (2) Minutes of meetings duly signed by the secretariat head, notices of meetings with agenda and attendance sheets attached;
- (3) Resolutions recommending proposed policies, plans and programs for adoption by the *Sanggunian*;
- (4) Approved Annual Work and Financial Plan and Local Ordinance or LGU Budget providing or appropriating funds for the LCPC;
- (5) Copies of the (i) Annual Report of the Local Government, (ii) State of the Local Government Address reflecting accomplishments on children, and (iii) State of Children Report.<sup>150</sup>

As earlier discussed, measuring technical and compliance-based factors instead of results for children has led to perfunctory compliance under the Revised Guidelines.<sup>151</sup> It cannot be gainsaid that the current rating and monitoring of LCPC functionality is largely based on evaluation of self-serving documentary submissions. Undeniably, the faulty functionality rating mechanism, made worse by the mechanical monitoring mechanism, creates a serious gap in measuring the *true* functionality of LCPCs. Hopefully, the functionality rating mechanism introduced under the Comprehensive Guidelines will be able to abridge the same. Nonetheless, as Murthy suggests, it is imperative that other complementary forms of research and knowledge are generated, as reliance on statistical measurements alone can never render a complete picture of the issue.<sup>152</sup>

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149. DILG Memo. Circ. No. 2021-039, at 15-16.

150. *Id.* at 16-18.

151. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 54 & Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 68.

152. Murthy, *supra* note 94, at 408.

## IV. FALSE SENSE OF SECURITY

Through the years, the Philippines has consistently enacted legislative measures to implement children's rights.<sup>153</sup> The United Nations, in 2009, even

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153. *See, e.g.*, An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for Its Violation, and for Other Purposes [Special Protection of Children Against Abuse, Exploitation and Discrimination Act], Republic Act No. 7610 (1992); An Act Establishing the Rules to Govern Inter-Country Adoption of Filipino Children, and for Other Purposes [Inter-Country Adoption Act of 1995], Republic Act No. 8043 (1995); An Act Establishing Family Courts, Granting Them Exclusive Original Jurisdiction over Child and Family Cases, Amending Batas Pambansa Bilang 129, as Amended, Otherwise Known as the Judiciary Reorganization Act of 1980, Appropriating Funds Therefor and for Other Purposes [Family Courts Act of 1997], Republic Act No. 8369 (1997); ECCD Act; An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for Its Violations, and for Other Purposes [Anti-Trafficking in Persons Act of 2003], Republic Act No. 9208 (2003); An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for This Purpose Republic Act No. 7610, as Amended, Otherwise Known as the "Special Protection Of Children Against Child Abuse, Exploitation And Discrimination Act", Republic Act No. 9231 (2003); An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and for Other Purposes [Anti-Violence Against Women and Their Children Act of 2004], Republic Act No. 9262 (2004); Juvenile Justice and Welfare Act of 2006; An Act Requiring the Certification of the Department of Social Welfare and Development (DSWD) to Declare a "Child Legally Available For Adoption" as a Prerequisite for Adoption Proceedings, Amending for This Purpose Certain Provisions of Republic Act No. 8552, Otherwise Known as the Domestic Adoption Act of 1998, Republic Act No. 8043, Otherwise Known as the Inter-Country Adoption Act of 1995, Presidential Decree No. 603, Otherwise Known as the Child and Youth Welfare Code, and for Other Purposes, Republic Act No. 9523 (2009); An Act Defining and Penalizing the Crime of Child Pornography, Prescribing Penalties Therefor and for Other Purposes [Anti-Child Pornography Act of 2009], Republic Act No. 9775 (2009); An Act Institutionalizing the Kindergarten Education into the Basic Education System and Appropriating Funds Therefor [Kindergarten Education Act], Republic Act No. 10157 (2012); An Act Defining Cybercrime, Providing for the Prevention, Investigation, Suppression and the Imposition of Penalties Therefor and for Other Purposes [Cybercrime Prevention Act of 2012], Republic Act No. 10175 (2012); An Act Providing for a National Policy on



referred to the country's domestic legal framework on child care and protection as "fairly advanced" but raised concerns as to the lack of implementation and enforcement.<sup>154</sup> The observation resonates to this day. While the Philippines has been steadfast in its legislative obligations under the Convention on the Rights of the Child, the same cannot be said with respect to its obligation to ensure the full and effective implementation of these laws to better protect children.

Despite a robust legal framework imbibing the principles of the Convention, the Philippines continues to experience an unabated surge in the

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Responsible Parenthood and Reproductive Health [The Responsible Parenthood and Reproductive Health Act of 2012], Republic Act No. 10354 (2012); An Act Expanding Republic Act No. 9208, Entitled "An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for Its Violations and for Other Purposes" [Expanded Anti-Trafficking in Persons Act of 2012], Republic Act No. 10364 (2013); An Act Recognizing the Age from Zero (0) to Eight (8) Years as the First Crucial Stage of Educational Development and Strengthening the Early Childhood Care and Development System, Appropriating Funds Therefor and for Other Purposes [Early Years Act (EYA) of 2013], Republic Act No. 10410 (2013); An Act Enhancing the Philippine Basic Education System by Strengthening Its Curriculum and Increasing the Number of Years for Basic Education, Appropriating Funds Therefor and for Other Purposes [Enhanced Basic Education Act of 2013], Republic Act No. 10533 (2013); An Act Requiring All Elementary and Secondary Schools to Adopt Policies to Prevent and Address the Acts of Bullying in Their Institutions [Anti-Bullying Act of 2013], Republic Act No. 10627 (2013); An Act Strengthening the Juvenile Justice System in the Philippines, Amending for the Purpose Republic Act No. 9344, Otherwise Known as the "Juvenile Justice And Welfare Act Of 2006" and Appropriating Funds Therefor, Republic Act No. 10630 (2013); An Act Establishing Reforms in the Sangguniang Kabataan Creating Enabling Mechanisms for Meaningful Youth Participation in Nation-Building, and for Other Purposes [Sangguniang Kabataan Reform Act of 2015], Republic Act No. 10742 (2016); An Act Providing for the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof [Special Protection of Children in Situations of Armed Conflict Act], Republic Act No. 11188 (2019); & An Act Allowing the Rectification of Simulated Birth Records and Prescribing Administrative Adoption Proceedings for the Purpose [Simulated Birth Rectification Act], Republic Act No. 11222 (2019).

154. Committee on the Rights of the Child, *supra* note 6, at ¶ 11.

occurrence of child abuse and exploitation especially through online modes.<sup>155</sup> According to a study conducted by the International Justice Mission (IJM),<sup>156</sup> online sexual exploitation of children is usually a family-based crime perpetrated by either a biological parent or relative.<sup>157</sup> Based on the 92 cases reviewed, the IJM found 84% of the victims to be minors and that each case had around four victims.<sup>158</sup> Apart from the young age of the victims and the high percentage of perpetrating family members, the IJM also noted the complicity of community members.<sup>159</sup>

As local and community-based institutions, LCPCs serve at the forefront of the country's child protection system.<sup>160</sup> The strength and effectiveness of the national child protection system thus lie in the presence of functional LCPCs in every level of local government, particularly in barangays.<sup>161</sup> LCPCs in barangays are the primary bodies at the grassroots level that can address the core issues of abuse, violence, and exploitation committed against children.<sup>162</sup> In fact, barangay officials were regarded by the DILG as custodians of children's rights, and were encouraged to be champions and defenders thereof.<sup>163</sup> The Special Committee for Children opined that the presence of committed champions for children and functional LCPCs nationwide will spell a big difference in the promotion of child rights and child protection

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155. International Justice Mission, et al., *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society*, at 5, available at [https://ijmstorage.live.blob.core.windows.net/ijmna/documents/studies/Final\\_OSEC-Public-Summary\\_05\\_20\\_2020\\_2021-02-05-055202.pdf?mtime=20210204215202&focal=none](https://ijmstorage.live.blob.core.windows.net/ijmna/documents/studies/Final_OSEC-Public-Summary_05_20_2020_2021-02-05-055202.pdf?mtime=20210204215202&focal=none) (last accessed May 11, 2021) [<https://perma.cc/RCA5-73M9>].

156. *Id.*

157. *Id.* at 11.

158. *Id.*

159. *Id.* at 21.

160. DILG Memo. Circ. No. 2021-039, at 1-2 & Committee for the Special Protection of Children, *supra* note 147, at 2.

161. Committee for the Special Protection of Children, *supra* note 147, at 2.

162. *Id.* at ¶ 103.

163. Department of the Interior and Local Government, *Role of Barangay Officials as Custodian of Children's Rights*, Memorandum Circular No. 2016-115 [DILG Memo. Circ. No. 2016-115], at 2 (Sept. 1, 2016).

efforts.<sup>164</sup> Lamentably, however, the Philippines has yet to put in place an operational multi-level child protection system that addresses cases of child abuse, exploitation, and violence.<sup>165</sup> Further, the Revised Guidelines trusted the determination of LCPC functionality to perfunctory acts of compliance and self-serving documentary submissions.

One can say that the lack of implementation and superficial determination of LCPC functionality fosters a false sense of security that endangers the well-being of children. The resultant environment runs counter to the tenets espoused by the Convention<sup>166</sup> and the constitutional mandate of affording special protection to children.<sup>167</sup> The persistent failure to improve the functionality rating and monitoring mechanism betrays the very essence of LCPCs, which is to look after the welfare of children. Ultimately, statistical measures must be meaningful for the community, not just for the officials.<sup>168</sup>

## V. CONCLUSION

The Revised Guidelines overemphasizes the superficial process of the functionality rating mechanism and obscures the essence of establishing LCPCs, which is “to generate results for the [ ] well-being [of children].”<sup>169</sup> By formally complying with the requirements under the Revised Guidelines, obtaining at least a mature level of functionality is elementary for LCPCs. While efforts to determine the functionality of LCPCs helped generate compliance on the part of local governments, they provided a somewhat misleading picture of progress.

Other than consolidating all issuances relating to LCPCs, the Comprehensive Guidelines seem to have rectified certain flaws under the Revised Guidelines through the introduction of a new set of functionality indicators. Hopefully, these new indicators will take into consideration the quality or complexity of an accomplishment, and will do away with measuring

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164. Committee for the Special Protection of Children, *supra* note 147, ¶ 104.

165. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 7.

166. Convention on the Rights of the Child, *supra* note 30, arts. 3 & 19.

167. PHIL. CONST. art. XV, § 3 (2).

168. UNICEF Philippines, Strengthening Child Protection Systems, *supra* note 1, at 33.

169. Council for the Welfare of Children, Towards More Effective Local Councils, *supra* note 8, ¶ 68.

technical factors and granting brownie points for perfunctory acts of compliance (i.e., documentation, formulation and submission of reports).

It would be best if the scoring system under the Comprehensive Guidelines will foster more accountability on the part of local government units, with points given in increments depending on the quality of the accomplishment or the rate of progress or completion. Say, for a five percent indicator or sub-indicator, an LCPC will be granted zero percent for less than 60% progress or completion rate, one percent will be granted for at least a 60% rate, two percent for at least a 70% rate, and so on, with a perfect five percent for 100% rate of completion.

Though much is yet to be known about the determination of LCPC functionality under the Comprehensive Guidelines, the enactment alone is already a step in the right direction. On whether this issuance is a single step, a stride, or a leap, we have yet to ascertain. It can only be determined upon the complete release of the corresponding template assessment forms coupled with proper monitoring in the succeeding years. It is with fervent hope, however, that the functionality indicators under the Comprehensive Guidelines will now be able to gauge the actual results produced by LCPCs.

Murthy states that “[statistical] indicators are like double-edged swords: the very simplicity that enables them to have strong communicative power can come at the cost of a complete and accurate understanding of the problem.”<sup>170</sup> The constant improvement of these indicators, along with other “complementary forms of research and knowledge[,]” is necessary so that a complete picture of the situation can emerge.<sup>171</sup>

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170. Murthy, *supra* note 94, at 388.

171. *Id.* at 408.