

The David G. Bradley Leadership Lecture on Philippine Judicial Incentives in Addressing the Needs of Children*

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Good morning!

I am happy to be invited to this gathering to deliver the David G. Bradley Leadership Lecture this year and talk about the Philippine experience in judicial reforms involving children.

Let me start by saying: "Humankind owes to the child the best that it has to give."¹ This mighty trumpet call for the child was first sounded by the Geneva Declaration of the Rights of the Child² eighty-three years ago. Today, it echoes with greater resonance as nations and individuals assemble in this 7th International Society for the Prevention of Child Abuse and Neglect (ISPCAN) Asian Regional Conference to reaffirm in no uncertain terms the commitment "*Ako Para Sa Bata* - I am for the Child."

It is about time that we renewed collectively our sacred covenant to the child, because at no time in the short history of the rights of children has the world been faced with seemingly insurmountable challenges to children's rights as now, as the children are faced with escalating violations of their human rights. As you all know, these violations, done with impunity, come in odious and unspeakable forms — torture, extrajudicial executions by "death squads," enforced disappearances, arbitrary detentions, sexual violence

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1. United Nations Declaration of the Rights of the Child of 1959, G.A. Res. 1386 (XIV), U.N. Doc. A/4139, Preamble (1959) [hereinafter U.N. Declaration].
2. Geneva Declaration of the Rights of the Child, League of Nations O.J. Spec. Supp. 21 (1924).

and exploitation, trafficking and kidnapping, abandonment and neglect. There simply is no adequate way to summarize these flagrant violations but to say that children continue to be — as they have always been from the earliest times — physically maltreated, economically exploited and spiritually degraded. Consider these facts:

- (1) Children make up over half of the world's refugees or displaced persons.³
- (2) An estimated 250 million of the world's children aged from five to 14 years old are laborers; two million are exploited in prostitution, one million of whom are in Asia.⁴
- (3) Close to two million children have been killed in armed conflicts in the past decade; 11 million more die each year from largely preventable causes.⁵
- (4) More than 110 million primary school age children worldwide are not enrolled in school, and most of them are girls.⁶
- (5) 130 million girls in Asia, Africa and the Middle East have undergone clitoridectomy or female genital mutilation.⁷
- (6) Over half a billion children in developing countries are struggling to survive on less than one dollar a day.⁸

3. Report on Refugees and Internally Displaced Persons – The President's Emergency Plan for AIDS Relief, a Report to Congress Mandated by House Report 109-152, accompanying House Report 305, submitted by the Office of the United States Global AIDS Coordinator, United States Department of State (Feb. 2006), available at <http://www.pepfar.gov/progress/76860.htm> (last accessed Feb. 22, 2008).
4. M. Shamsur Rabb Khan, *The Plight of Domestic Child Workers*, July 29, 2006 issue, Youth Network for Children's Rights Newsletter, International Center on Child Labor and Education (ICCLE), available at http://www.iccle.org/newsletter_children/0607/index.php3 (last accessed Feb. 22, 2008).
5. Child Protection from Violence, Exploitation and Abuse: Children in Conflict and Emergencies, United Nations Children's Fund (UNICEF), http://www.unicef.org/protection/index_armedconflict.html (last accessed Feb. 22, 2008).
6. Vital Statistics from the Millennium Report, <http://www.un.org/cyberschoolbus/briefing/girl/girlchild.pdf> (last accessed Feb. 22, 2008).

This bleak picture of the world's children confirms what we have known all along, and what then United Nations (UN) Secretary General Kofi Annan has aptly articulated: "The principle of 'all children, all rights' is still much too far from being a reality," because the call for all humanity to give to the child the best it has to give continues to fall on deaf ears.⁹ Indeed, the right of the child to protection has become an emergent 21st century human crisis. The child's lack of access to social or humanitarian services, the breakdown in the child's family and social structures, the erosion of traditional value systems, the culture of violence, weak governance, and the absence of effective accountability mechanisms have all conspired to deny the child full enjoyment of human rights.

Given this situation, the question that is invariably asked is what exactly are children's rights? And how are these rights to be exercised when juxtaposed against the rights of adults?

Conceptually, children's rights are human rights. These rights are not granted by the State; rather, these are to be recognized by the State as inherent in the child as a human being. Subjectively, therefore, a right is an inviolable moral power residing in a *person* — and this includes the child — the power of doing, possessing, or requiring something, which all others are bound to respect. Thus, the State has the obligation not only to respect but also to promote and protect these rights. This is an abstract concept which, when applied to children, can best be further elucidated through the historic-philosophical approach.

The recognition of children's rights as human rights did not have auspicious beginnings. Ancient as well as early medieval societies considered children as non-persons, sacrificial objects or economic assets. It was during the Middle Ages, that children, particularly the abandoned and neglected, slowly became the object of public attention. While initially, they were not recognized as holders of rights, but as recipients of ameliorative programs by the State, social welfare strategies such as those carried out by charitable private organizations and by the Church nevertheless extended protection

7. *AFRICA: Female Genital Mutilation: A review of legislation*, In-Depth: Razor's Edge - The Controversy of Female Genital Mutilation, UN Office for the Coordination of Humanitarian Affairs, <http://www.irinnews.org/InDepthMain.aspx?InDepthId=15&ReportId=62463> (last accessed Feb. 22, 2008).
8. *Did You Know?* Global Call to Action against Poverty (GCAP), <http://www.whiteband.org/resources/issues/did-you-know> (last accessed Feb. 22, 2008).
9. Kofi Annan, *Children's Rights in The Progress of Nations 2000*, available at <http://www.un.org/cyberschoolbus/briefing/children/children> (last accessed Feb. 22, 2008).

and care for them in the form of the establishment of orphanages that provided work skills for boys and homemaker skills for girls.

In some instances, an abandoned and neglected child, or one born outside of marriage, was considered as *filius nullius*¹⁰ — or "nobody's child" — and, thus, an appropriate candidate for the poorhouse or almshouse. In the United States in 1854, orphaned and abandoned children in Massachusetts were placed on what was called the "Orphan Train" headed for the West, where the children were adopted and often given work.¹¹ By the early 20th century, the Orphan Train stopped running, but its basic principles have continued up to this day.

The traditional concept of children's rights popularly known as the "caretaker view" was rooted in the philosophy of John Locke.¹² In 1691, he advanced the proposition that all humans were born infants — weak and helpless, without knowledge or understanding.¹³ Therefore, by law of nature, parents were under an obligation to preserve, nourish and educate the children they had begotten.¹⁴ This Lockean view implied that parents had the right to make all choices for their children. Locke proposed that children in this situation had no understanding of their own to direct their will; therefore, they had no will to follow except that of their parents. And thus, children had only dependency rights — the right to reasonably expect that as dependents, they would be provided with whatever they required to grow into healthy and functioning adults. Locke's view was supported by the 1959 UN Declaration of the Rights of the Child,¹⁵ which espoused that while children have rights, they do not possess all the rights that adults have, such as the right to privacy and confidentiality.

An entirely opposite view, however, has been forwarded in the later part of the 20th century. This is the "children's liberation" theory that eschews the child-dependency proposition and instead advocates the belief that children have exactly the same rights as adults, including the right to choose

10. Peter Snow, LL.B., *The Child Support Act and the Filius Nullius: The Illegitimate Child*, available at http://www.childsupportanalysis.co.uk/guest_contributions/snow_illegitimate/first_page.htm (last accessed Feb. 22, 2008).
11. Mary Ellen Johnson, *Orphan Train Movement*, A history of the Orphan Trains Era in American History, <http://www.orphantrainriders.com/otm11.html> (last accessed Feb. 22, 2008).
12. David Archard, *Philosophical Perspectives on Childhood*, in *LEGAL CONCEPTS OF CHILDHOOD* 52 (Julia Fionda, ed. 2001).
13. *Id.*
14. *Id.* at 53.
15. U.N. Declaration, *supra* note 1.

for oneself—the right to decide on matters directly affecting them, without parental intervention.¹⁶

Currently, while both theories have their own peculiar strengths and weaknesses, still, the challenge that faces the modern world is to develop and adopt strategies that are genuinely sensitive and responsive to the best interest of the child.

It is this doctrine of “Best Interest of the Child,”¹⁷ enshrined in Philippine jurisprudence long before the Convention on the Rights of the Child¹⁸ came to pass, that became the linchpin of the Philippine judicial system in its reform initiatives for children.

Before the passage of the newest Philippine legislation on children, Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006,¹⁹ our country had no formal juvenile justice system to speak of. The juvenile justice structure was subsumed into the larger structure called the criminal justice system that operated under laws and procedural rules that were less than child-sensitive. Except for the mitigating factor of minority in sentencing under penal laws, our laws and rules of procedure that were applicable to adults generally applied to children as well, as soon as they entered the justice system. It was only in the 1970’s and the years that followed that child-protective legislation came into being, such as Presidential Decree No. 603 or the Child and Youth Welfare Code,²⁰ the Family Code of 1988,²¹ and Republic Act No. 7610 or the Anti-Child-

16. Cynthia Price Cohen, *The Relevance of Theories of Natural Law and Legal Positivism*, in *THE IDEOLOGIES OF CHILDREN’S RIGHTS* 59-60 (Michael Freeman & Philip Veerman, eds. 1992).

17. See, RULE ON EXAMINATION OF A CHILD WITNESS, A.M. No. 00-4-07-SC, § 4 (g), Dec. 15, 2000. The term “best interest of the child” is defined therein as: “... the totality of the circumstances and conditions as are most congenial to the survival, protection, and feelings of security of the child and most encouraging to his physical, psychological, and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.”

18. Convention on the Rights of the Child, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sep. 2, 1990 [hereinafter U.N. CRC].

19. 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], Republic Act No. 9344 (2006).

20. The Child and Youth Welfare Code [CHILD AND YOUTH WELFARE CODE], Presidential Decree No. 603 (1974).

21. The Family Code of the Philippines [FAMILY CODE], Executive Order No. 209 (1988).

Abuse Act.²² These laws paved the way for our Supreme Court to promulgate rules of procedure that were sensitive to the needs of children, such as the Rule on the Examination of a Child Witness, the Rule on Juveniles in Conflict with the Law²³ and the Rule on Anti-Violence against Women and their Children.²⁴ With the passage of the Juvenile Justice and Welfare Act, the child justice system slowly evolving in our country was finally given a distinct face and name.

The enactment by the Philippine legislature of the Family Courts Act²⁵ in 1997 was salutary. This law categorically mandated the Supreme Court to formally organize family courts all over the country and to provide a system of adjudication for youthful offenders that takes into account their peculiar circumstances, such as developmental age, education, and family and community environment. Thus, consistent with this law and the policy of the Convention on the Rights of the Child²⁶ to which the Philippines is a signatory, some 100 regional trial courts all over the country have been designated to hear family and youth cases and to articulate the vision of the Philippine Judiciary of a child justice system. Our child justice system recognizes, upholds, and guarantees the human dignity and worth of every child, in whom it instills a respect for the fundamental rights and freedoms of others. This system affirms as well the role of a juvenile justice system in promoting the child’s reintegration into and assumption of a constructive role in society in accordance with the principles of restorative justice.

It is in this light that initiatives have been undertaken by our Supreme Court to strengthen the child justice system in the country. I am proud to describe here the following judicial reform initiatives involving children that have been considered as activist, revolutionary even:

- (1) Insofar as procedural rules before the courts are concerned, the Supreme Court has assumed an activist role by promulgating child-sensitive rules of procedure, such as:

22. An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes [SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION AND DISCRIMINATION ACT], Republic Act No. 7610 (1992).

23. RULE ON JUVENILES IN CONFLICT WITH THE LAW, A.M. No. 02-1-18-SC, Apr. 15, 2002.

24. RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, A.M. No. 04-10-11-SC, Nov. 15, 2004.

25. An Act Establishing Family Courts, Granting Them Exclusive Original Jurisdiction Over Child and Family Cases, Amending Batas Pambansa Blg. 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).

26. U.N. CRC, *supra* note 18.

- (a) The Rule on the Examination of a Child Witness – the Rule that allows the use of “live-link” television testimony of child witnesses;²⁷

27. RULE ON EXAMINATION OF A CHILD WITNESS, § 25 provides:

Sec. 25. *Live-link television testimony in criminal cases where the child is a victim or a witness.* –

(a) The prosecutor, counsel or the guardian *ad litem* may apply for an order that the testimony of the child be taken in a room outside the courtroom and be televised to the courtroom by live-link television.

Before the guardian *ad litem* applies for an order under this section, he shall consult the prosecutor or counsel and shall defer to the judgment of the prosecutor or counsel regarding the necessity of applying for an order. In case the guardian *ad litem* is convinced that the decision of the prosecutor or counsel not to apply will cause the child serious emotional trauma, he himself may apply for the order.

The person seeking such an order shall apply at least five (5) days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

(b) The court may *motu proprio* hear and determine, with notice to the parties, the need for taking the testimony of the child through live-link television.

(c) The judge may question the child in chambers, or in some comfortable place other than the courtroom, in the presence of the support person, guardian *ad litem*, prosecutor, and counsel for the parties. The questions of the judge shall not be related to the issues at trial but to the feelings of the child about testifying in the courtroom.

(d) The judge may exclude any person, including the accused, whose presence or conduct causes fear to the child.

(e) The court shall issue an order granting or denying the use of live-link television and stating the reasons therefor. It shall consider the following factors:

- (1) The age and level of development of the child;
- (2) His physical and mental health, including any mental or physical disability;
- (3) Any physical, emotional, or psychological injury experienced by him;
- (4) The nature of the alleged abuse;
- (5) Any threats against the child;
- (6) His relationship with the accused or adverse party;
- (7) His reaction to any prior encounters with the accused in court or elsewhere;
- (8) His reaction prior to trial when the topic of testifying was discussed with him by parents or professionals;

- (b) The Rule on Juveniles in Conflict with the Law – the Rule that specifically enumerates all the rights of children in conflict with the law;²⁸

- (9) Specific symptoms of stress exhibited by the child in the days prior to testifying;
- (10) Testimony of expert or lay witnesses;
- (11) The custodial situation of the child and the attitude of the members of his family regarding the events about which he will testify; and
- (12) Other relevant factors, such as court atmosphere and formalities of court procedure.

(f) The court may order that the testimony of the child be taken by live-link television if there is a substantial likelihood that the child would suffer trauma from testifying in the presence of the accused, his counsel or the prosecutor as the case may be. The trauma must be of a kind which would impair the completeness or truthfulness of the testimony of the child.

(g) If the court orders the taking of testimony by live-link television:

- (1) The child shall testify in a room separate from the courtroom in the presence of the guardian *ad litem*; one or both of his support persons; the facilitator and interpreter, if any; a court officer appointed by the court; persons necessary to operate the closed-circuit television equipment; and other persons whose presence are determined by the court to be necessary to the welfare and well-being of the child;
- (2) The judge, prosecutor, accused, and counsel for the parties shall be in the courtroom. The testimony of the child shall be transmitted by live-link television into the courtroom for viewing and hearing by the judge, prosecutor, counsel for the parties, accused, victim, and the public unless excluded.
- (3) If it is necessary for the child to identify the accused at trial, the court may allow the child to enter the courtroom for the limited purpose of identifying the accused, or the court may allow the child to identify the accused by observing the image of the latter on a television monitor.
- (4) The court may set other conditions and limitations on the taking of the testimony that it finds just and appropriate, taking into consideration the best interests of the child.

(h) The testimony of the child shall be preserved on videotape, digital disc, or other similar devices which shall be made part of the court record and shall be subject to a protective order as provided in Section 31(b).

28. RULE ON JUVENILES IN CONFLICT WITH THE LAW, § 26 provides:

Sec. 26. *Duty of the Family Court to Protect the Rights of the Juvenile.* – In all criminal proceedings in the Family Court, the judge shall ensure the

- (c) The Rule on Voluntary and Involuntary Commitment of Children;²⁹
- (d) The Rule on Adoption;³⁰
- (e) The Rule on Custody and Habeas Corpus;³¹

protection of the following rights of the juvenile in conflict with the law:

- a) To be presumed innocent until the contrary is proved beyond reasonable doubt;
- b) To be informed promptly and directly of the nature and cause of the charge against him, and if appropriate, through his parents or legal guardian;
- c) To be present at every stage of the proceedings, from arraignment to promulgation of judgment. The juvenile may, however, waive his presence at the trial pursuant to the stipulations set forth in his bail, unless his presence at the trial is specifically ordered by the court for purposes of identification. The absence of the juvenile without justifiable cause at the trial of which he had notice shall be considered a waiver of his right to be present thereat. When the juvenile under custody escapes, he shall be deemed to have waived his right to be present in all subsequent hearings until custody over him is regained;
- d) To have legal and other appropriate assistance in the preparation and presentation of his defense;
- e) To testify as a witness in his own behalf and subject to cross-examination only on matters covered by direct examination, provided that the Rule on the Examination of a Child Witness shall be observed whenever convenient and practicable;
The juvenile shall not be compelled to be a witness against himself and his silence shall not in any manner prejudice him;
- f) To confront and cross-examine the witnesses against him;
- g) To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf;
- h) To have speedy and impartial trial, with legal or other appropriate assistance and preferably in the presence of his parents or legal guardian, unless such presence is considered not to be in the best interests of the juvenile taking into account his age or other peculiar circumstances;
- i) To appeal in all cases allowed and in the manner prescribed by law;
- j) To be accorded all the rights under the Rule on Examination of a Child Witness; and
- k) To have his privacy fully respected in all stages of the proceedings.

29. RULE ON COMMITMENT OF CHILDREN, A.M. No. 02-1-19-SC, Apr. 15, 2002.

30. RULE ON ADOPTION, A.M. No. 02-6-02-SC, Aug. 22, 2002.

- (f) The Rule on Anti-Violence Against Women and Their Children, which has provided the remedy of *protection orders*;³²
- (g) Provisional orders in cases of nullity or annulment of marriage and legal separation;³³ and
- (h) The Rule on Children Charged under the Comprehensive Dangerous Drugs Law.³⁴

Parenthetically, I would like to mention here that many of the provisions of these rules of procedure for children have been incorporated into subsequent child laws of our country, such as the Anti-Violence Against Women and Children Act (Anti-VAWC Act) and the Juvenile Justice and Welfare Act. Currently on deck for deliberation by our Rules Committee is revision of the Rule on Juveniles in Conflict with the Law to conform to the provisions of the new Juvenile Justice and Welfare Act of 2006.

(2) In our rules of procedure for Family Courts, the Court has introduced and implemented childless-sensitive concepts such as:

- (a) *Diversion*³⁵ – an alternative child-appropriate process of diverting a juvenile in conflict with the law from formal litigation into a community-based program for treatment and rehabilitation (a strategy formulated by the Supreme Court in its Rule on Juveniles in Conflict with the Law);
- (b) *Proportionality Principle* – in which the sentencing of a juvenile in conflict with the law is in proportion to the gravity of the offense, the circumstances of commission and the developmental age of the child;³⁶
- (c) *“Best Interest of the Child” Doctrine* – which has expanded the concept to include the least detrimental available

31. RULE ON CUSTODY OF MINORS AND WRIT OF HABEAS CORPUS IN RELATION TO CUSTODY OF MINORS, A.M. No. 03-04-04-SC, May 15, 2003.

32. RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, § 11.

33. RULE ON DECLARATION OF ABSOLUTE NULLITY OF VOID MARRIAGES AND ANNULMENT OF VOIDABLE MARRIAGES, A.M. No. 02-11-10-SC, § 5 (2), Mar. 15, 2003.

34. An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as The Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor, and for Other Purposes [Comprehensive Dangerous Drugs of 1972], Republic Act No. 9165 (2002).

35. See, RULE ON JUVENILES IN CONFLICT WITH THE LAW, § 20;

36. *Id.* § 30 (1).

alternative for safeguarding the growth and development of the child;³⁷ and

(d) *Restorative Justice* (now termed BARJ or Balanced and Restorative Justice in juvenile justice systems) – which requires the resolution of conflicts with the maximum involvement of the victim, offender and the community.³⁸

(3) The Supreme Court, through various circulars and orders, has also done the following:

(a) Ordered the use of child sensitive terminology in court proceedings;³⁹

(b) Pioneered the use of child-sensitive measures in and out of the courtroom, such as the use live-link television by child witnesses,⁴⁰ as mentioned earlier (eight components of this technology are operational in our Family Courts right now, courtesy of the UNICEF);

(c) Ordered strict confidentiality of proceedings and case records, and adopted the process of sealing court records upon termination of a case, unless otherwise ordered opened by the court.⁴¹ In a landmark case, *People v. Cabalquinto*,⁴² the Court has ordered the withholding of the real names of children as party-litigants in cases brought to the Court for review and the use, instead, of fictitious initials; and the non-disclosure of personal circumstances of the child or any information tending to establish or compromise the child's identity, as well as the identities of the child's immediate family or household members;⁴³

(d) Ordered the issuance by the courts of *protection orders*⁴⁴ for children who are primary or secondary victims of

37. See, RULE ON EXAMINATION OF A CHILD WITNESS, § 4 (g).

38. RULE ON JUVENILES IN CONFLICT WITH THE LAW, § 4 (c).

39. *Id.* § 39.

40. RULE ON EXAMINATION OF A CHILD WITNESS, § 25.

41. RULE ON JUVENILES IN CONFLICT WITH THE LAW, § 36.

42. *People v. Cabalquinto*, 502 SCRA 419 (2006).

43. *Id.* at 433-35.

44. RULE ON CUSTODY OF MINORS AND WRIT OF HABEAS CORPUS IN RELATION TO CUSTODY OF MINORS, § 17.

family violence and *hold departure orders*⁴⁵ for children subject of custody cases; and

(e) Implemented effective case flow management techniques and technology to hasten — from filing to disposition — the case life of cases involving children and to effect the early exit of the cases from the court system;

(4) The Court, through the Research Group of Philippine Judicial Academy (PhilJA), has been actively involved in drafting legislative measures protective of children's rights, such as the Anti-VAWC Act and the Juvenile Justice and Welfare Act of 2006. Court officials and family court judges were active members of the Technical Working Groups in both the Senate and the House, drafting their respective versions of the Comprehensive Juvenile Justice Bill, now Republic Act. No 9344.

(5) Intensive specialized training programs for judges and court personnel on the intricacies of family and child laws is continuously conducted by the PhilJA, which is the education arm of the Supreme Court. These programs include preparation of training modules and teaching tools, such video clips and other visual aids on the handling of child witnesses in court. PhilJA has in fact developed a video module on the use of live-link television by a child witness. Several of these training programs are multi-sectoral, involving the other pillars of the justice system. We have been fortunate to receive technology and other forms of assistance in these programs from our development partners, such as United States Agency for International Development (USAID), UNICEF, the British Embassy, the European Union, the World Bank, and the Asian Development Bank.

(6) In 2004, the Court deployed its first Mobile Court in the Philippines to youth reception centers and city jails in Metropolitan Manila to fast-track the hearing of cases involving children in conflict with the law and to effect their immediate or early release. Our Mobile Court operating as an extension Family Court has heard 379 youth cases and secured the release of 232 juveniles in the courts of law from youth reception centers and city jails in Metro Manila, Antipolo City, and the National Training School for Boys at Tanay, Rizal; and a youth reception center called Center for Restorative Activities,

45. *Id.* § 16.

Development and Learning Experience (CRADLE) located south of metropolis.

- (7) As a result of the extensive deliberations at the National Summit on Extra-legal Killings and Enforced Disappearances⁴⁶ convened by the Supreme Court in July of this year, the Committee on Revision of the Rules of Court submitted to the Court *En Banc* the rule of procedure to govern petitions for a writ of *amparo*.⁴⁷ This writ will provide legal remedies for families of victims of extralegal killings and enforced disappearances, such as temporary protection orders, inspection and production orders and witness protection orders. Insofar as children are concerned, the writ of *amparo* may be resorted to as a judicial device for families and organizations searching for missing children — *hijos desaparecidos* — who are suspected of being victims of police or military brutality, summary executions, kidnapping and armed conflicts. Yesterday, the Rule on the Writ of *Amparo*⁴⁸ was unanimously approved by the Court *En Banc*. The Rule will cover pending cases involving extralegal killings and enforced disappearances. The rule is a milestone in the more than 100 years of existence of the Supreme Court. It is the first in Asia.

Our Supreme Court is seriously considering more innovative reforms in the handling of children before the courts, including a comparative study of the best practices of juvenile justice systems in foreign jurisdictions, such the United States, Canada, and Sweden — particularly new modes of diversion programs, the concept of teen courts, fostering, and graduated sentencing — to see if these can be incorporated into our court system through the rule-making power of the Supreme Court, without need of legislation. In this respect, the Court is now preparing for the regularization of our transition family courts to effectively strengthen its juvenile justice component.

At this point, let me tell you a story about two fishermen sitting on the bank of a river, catching fish. One of them spots a child floating in the river, and he excitedly jumps to the rescue. As he hands the child over to his friend on the bank, he sees another child floating by, and again he jumps to rescue the little one. Soon after, several children are floating by and are in danger of drowning, and the two fishermen desperately continue their efforts to save the children. After a while, the fisherman on the bank begins to walk away. The fisherman in the water calls out to his friend, begging him not to give up on the children. His friend shouts back, saying that he was not giving up;

46. National Consultative Summit on Extrajudicial Killings and Enforced Disappearances (July 17-18, 2007). The Summit was held in Manila, Philippines.

47. THE RULE ON THE WRIT OF AMPARO, A.M. No. 07-9-12-SC, Oct. 24, 2007.

48. *Id.*

he was in fact walking upstream to see what was causing the children to fall into the river, and that he was going to stop it!

I need not stress that this is what all reform programs for the child should aspire for. Curative measures and stopgap practices are not sufficient if we are to fully and effectively protect and promote the rights of children. Parallel preventive measures are equally imperative. It is my hope that these measures have found their way into your discussions the past two days.

Finally, much has been said about how we have been immunized, desensitized even, to the plight of children. Let us not weep and twist our fingers in dismay and hopelessness over this situation. Let us, instead — adults and children alike — link arms in the fight against child abuse, neglect and exploitation. We owe it to the children, our children. They are not only our future; they are our present as well. Incremental efforts by each one of us, not monumental productions, are needed. Let us start with ourselves, with our own little ways of giving the child the best that each of us can give. Let us expand this effort to include our respective communities, then our respective countries, and finally, the whole world! My hope is that, in the not so distant future, we can at last fully pay our debt to the children!

Thank you for your attention and good day!