

Chapter V

Beyond the SRA: Cases of Intervention of Disadvantaged Groups in the Tenth Congress and After

Two cases are discussed in this Chapter. The first is chronologically the later one but it is presented first because it has more similarities with the cases discussed in Chapters III and IV. As in the earlier cases, the participation of the disadvantaged groups in the Anti-Child Labor Law case is primarily to get the bill passed. On the other hand, the preoccupation of those groups in the Anti-Terrorism Bills is to stop their passage. It may be instructive to compare their strategies in a negative advocacy as opposed to positive ones.

As in the previous case chapters, each case will introduce the issue, discuss the main thrusts of the bills, describe the strategies of the disadvantaged groups and the opposing forces, and lay out the results of their efforts.

The Anti-Child Labor Law (Rep. Act No. 9231)¹

Around six million Filipino children are employed in almost all sectors of the economy. The terms and conditions of much of their employment are deemed questionable and undesirable. In the agriculture sector, many child workers work for long hours and are exposed to toxic pesticides and other harmful chemicals. Some children are also employed in dangerous forms of coral reef fishing, which exposes them to sharks and needlefish attacks. In factories, many child workers are exposed to hazards. In the streets, their health and safety are at stake. In addition, street children in the country darting between vehicles to beg or sell small items have been estimated to be from over 100,000 (DSWD) to over a million (Visayan Forum Foundation, Inc.).

Every child has the right not only to the most basic necessities in life but also to be a child. Yet poverty forces many children to engage in economic activities even at very young ages.

To rectify the situation, the State has adopted national and international legal instruments aimed at protecting children from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. The International Labor Organization (ILO) Convention 182 (1998) calls for the elimination of the worst forms of child labor. In addition, there are the 1987 Constitution, the UN Convention on the Rights of the Child, the Labor Code of the Philippines, the Child and Youth Welfare Code, the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, the Act Prohibiting the Employment of Children Below 15 years of Age in Public and Private Undertakings. Although perceived as indispensable tools to achieve the desired goal of full protection of children, they have not sufficiently addressed the issue of hazardous work among children.

¹ This is based on the case study of Dolores de Leon-Gaffud made specifically for this project.

Main Thrusts. The bill was intended to be the Magna Carta for Child Workers and to have all of the following features:

- 1) A listing of the specific commitments of the Philippines as a State Party to the Convention on the Rights of Children and the ILO Convention 182 in the Declaration of State Policy provision;
- 2) The incorporation of the definition of hazardous work as stipulated in DOLE Department Order No. 4 (1999) and the ILO Convention 182;
- 3) Provisions that are specific on terms and conditions of employment of children which will include their normal hours of work, prohibition on overtime work and night work, their wages, parental authority and the right of the child to his wage, employment records, health and proof of age requirement, and their social security benefits;
- 4) Provisions specific on the special rights of working children that include their access to education, training and apprenticeships, parental effectiveness services for their parents, specific study, rest and recreation areas, their right to self organizations, and provisions of immediate emergency services;
- 5) Penalties for subcontractors, not just the main employer, for the violations of not promoting and protecting the special rights of children under their employment;
- 6) Provisions for the administration of the law and corresponding funds for that purpose; and
- 7) Partnership and consultation with NGOs and support groups for children in issues affecting their programs and beneficiaries.

Strategies. The team that produced the bill was originally brought together to work for the Philippine government's ratification of ILO Convention 192. That ratification was accomplished in 2000. Next came the preparation of a legislative agenda in consonance with the international agreement and its program, the ILO-International Program on the Elimination of Child Labor (ILO-IPEC). From the outset, the work was a GO-NGO collaboration with international support. On the government's side was the Department of Labor of Employment's Bureau of Women and Young Workers (DOLE-BWYW) and the Council for the Welfare of Children (CWC). Close to 30 civil society organizations (CSOs) led by the Visayan Forum Foundation, Inc. and the Ateneo Center for Human Rights' Adhikain Para sa Karapatang Pambata (ACHR-AKAP) worked closely with BWYW and CWC for the ratification of ILO Convention 182. The legislative proposal, called a Magna Carta for Child Workers, was crafted by ten NGOs, also led by Visayan Forum and ACHR-AKAP in close coordination with DOLE, BWYW, DOLE-Institute of Labor Studies, CWC and the National Economic Development Authority (NEDA) Social Development Division.

The Visayan Forum Foundation, Inc. (VF) is a non-government organization established in 1991 that works for the welfare of marginalized migrants, especially those working in the invisible and informal sector like domestic workers, trafficked persons, and children. VF has a staff complement of 82 and operates nationwide with offices and Halfway Houses in Manila, Bacolod, Batangas, Davao, Iloilo, Cebu, Matnog and Sorsogon. VF has served in international and national programs in various capacities –

Philippine and Southeast Asian Secretariat, Global March Against Child Labor; Convenor, Task Force on Child Domestic Workers in Asia; Convenor, Multisectoral Network Against Trafficking in Persons; Convenor, Anti-Trafficking Task Force at the Ports; Member, ILO Convention 182 National Monitoring Team; Vice-Chair, Philippine NGO Coalition on the United Nations Convention on the Rights of the Child; and, Member, Cluster on Labor and Employment of the Bishops-Businessmen's Conference for Human Development.

The Visayan Forum worked closely with an academic institution, the Ateneo Center for Human Rights (ACHR) through its *Adhikain Para sa Karapatang Pambata* (AKAP), the Center's Children's Rights Desk. Established in 1986, ACHR is one of the first university-based institutions engaged in the promotion and protection of human rights in the Philippines. It is attached to the law school of the Ateneo de Manila University. AKAP specializes in cases involving children. Aside from litigating cases, AKAP is engaged in research and advocacy on various issues like child labor, child rights, the juvenile justice system, child abuse and inter-country adoption.

Other organizations involved in crafting the legislative proposal included the Educational Research and Development Assistance (ERDA, an NGO), the Trade Union Congress of the Philippines (TUCP), Federation of Free Workers (FFW), and the Employers Confederation of the Philippines. Except for ECOP which represents the biggest corporations in the country, the civil society component of the Anti-Child Labor team consists of NGOs and labor groups representing the disadvantaged.

The proposed Magna Carta for Child workers is thus a product of an international agreement and program, inter-agency (government and NGOs) collaboration, and existing policies of the government. It is guided by international and national conferences, meetings and workshops, studies, surveys and documentation. It was lobbied along with two other important pieces of legislation, the Anti-Trafficking Law (RA 9208) and the Domestic Workers Bill (SB No. 1772 and HB No. 1606), both of which also originated from the CSOs.

Visayan Forum has been working not only with disadvantaged groups for the past 15 years, having as its advocacies not only the rights of children but also those of the informal sector, domestic workers and trafficked persons. It started as an advocacy group for women, and moving into the rights of children was a natural progression. It has full-time staff, generous funding and support from several international donors and has some funds allotted to legislative agenda and lobbying. It claims that it can count on the support of more than a hundred CSOs when the situation calls for it and is in good standing with international organizations and programs.

Visayan Forum has experience in parliamentary processes, having been in and out of Congress on behalf of the bills on trafficking and domestic workers for over ten years now. One of its first major strategies was to partner with DOLE and BWYW and other national line agencies. Thus, the bill they espoused profited from government support and technical expertise, while ensuring its acceptability to its purported beneficiaries.

In the parliamentary campaign, the strategy was to put DOLE as the lead agency, ACHR as the legal and legislative arm, and the Visayan Forum leading the NGO sector. They decided to file their draft Magna Carta only in the Senate as there were already existing bills in Congress. They chose a sponsor who was perceived to be pro-children, articulate and convincing. As it turned out, however, it was the committee chair, Senator Ramon Magsaysay, Jr. who fought up to the bicameral conference for the passage of the bill. Visayan Forum and ACHR-AKAP worked closely with Senator Magsaysay and his staff when it became clear to them that the bill was not among the original sponsor's priorities. Briefings on the issue of child labor and on the proposed legislation were also held with the other members of the Senate Committee on Labor (i.e., Senators Jaworski, Pangilinan, Pimentel and Estrada) and their respective staff to prepare the legislators for the hearings. CSO lobbying entailed many other tasks: making sure that the bill was put in the calendar of hearings, anticipating questions that may be asked, preparing answers and supporting documents, holding exhibits on child labor and child workers to call the attention of the legislators on the magnitude of the problem and the urgency of passing a law eliminating child labor. Eventually, the team brought over a hundred child workers to the Senate to give their testimonies.

In the Lower House, four bills have been filed, all addressing the issue of hazardous occupation among children: House Bill Nos. 41 (by Rep. Julio Ledesma IV, former Chair, House Committee on Labor), 762 (by Rep. Cynthia Villar), 2250 (by Rep. Bellaflor Angara-Castillo) and 2240 (by Rep. Roseller Barinaga, Chair, House Committee on Labor). They were consolidated into H.B. 4235 in January 2002, with the title, "An Act Prohibiting and Penalizing the Employment of Children in any Public or Private Undertaking or Occupation which is Considered Hazardous to their Life, Safety, Health and Morals, or which Unduly Interferes with their Normal Development." This bill lacked many of the provisions in the GO-NGO's proposed bill, but the proponents anticipated some difficulties in penetrating the Lower House and in getting the nod of congressmen on a legislation that calls for the creation of a program and budgetary appropriations. It was also out of respect for the author of the mother bill in Congress, Congressman Ledesma, who attended the ILO Convention, that the inter-agency committee decided to work with Senate. It was assumed that the congressman will revise his bill in accordance with ILO 182. Still, the CSOs managed to be in the last committee hearing and plenary at the lower house.

While the Committee Chair (author of the consolidated bill) assured the resource persons that their suggestions will be taken into consideration, the consolidated bill and the committee report did not include any of the suggestions made by the department agencies and CSOs. The committee argued that some of the recommendations were already covered by existing laws while the others appeared more like blindly abiding by international standards or standards in advanced countries without understanding the situation in the Philippines.

At the bicameral conference (usually, a closed-door conference), the Lower House representatives were caught off guard when they were presented with the Senate's

Magna Carta for Child Workers and the presence of CSOs. The most contentious issue was the title of the Senate bill, which, according to the Lower House committee, gives the impression that the country is encouraging child labor when the intention is to eliminate it. It also suggests that it is the first time the Philippines is passing a law protecting the rights of children and discouraging child labor when several laws have already been enacted. The Lower House committee also found many provisions in the Senate version already covered by existing laws, giving them the suspicion that it was but a compilation of provisions in existing laws to make it appear comprehensive, thus, a magna carta. The more controversial source of disagreement dealt with the budgetary requirements called for by the Senate bill. Congressmen, according to some sources were not keen in passing laws that require budgetary appropriations.

In the final conference committee meeting, the conferees agreed to use the Senate version as the working draft for its extent and scope. However, “Magna Carta for Child Workers” was changed to a more specific title and provisions that are already covered by existing laws and those that can be outlined in the implementing rules and regulations were deleted.

Opposing Forces. Opposition to the bill is unlikely to be strong, with the main government regulator working in tandem with civil society, and the Employers Confederation endorsing it along with trade unions. There was support in both Houses. For some, this because of earlier predispositions towards women’s and children’s rights; House authors like Angara-Castillo and Villar are prominent advocates of women’s rights; Ledesma’s stint as Chair of the House Committee on Labor and participation in the ILO conference. The others showed willingness to listen to the proponents (e.g. Magsaysay and the other senators). What can be perceived instead is a House-to-House rivalry, with the Lower House uninterested in bills with budgetary implications; it could have correctly insisted in fact that an appropriations measure should emanate from it. In the end, an appropriate compromise in the form of the Trust Fund and a more descriptive title and coverage of the law was arrived at.

The absence of opposing forces in Congress may show that there would hardly be a constituency against children’s rights. Thus the legislative strategy did not involve media, and many who were legitimately or illegally hiring child workers might not have been aware of the bill until its passage. Opposition emerged only when the Act was waiting for the signature of the President. At the Office of the President, some groups from the entertainment industry complained that they were not consulted on the bill and lobbied for the President to veto it. They were alarmed by the provisions on the working time and hours of work for child workers. To thwart any attempt to veto the passage of their law, the CSO initiators used the media by issuing a press release on the law and appearing on a TV talk show. They also posted an appeal, which was signed by about a hundred CSOs, that the President not veto the law. They succeeded, and President Arroyo signed the bill into law on December 19, 2003.

Results. Republic Act No. 9231, more popularly called the Anti-Child Labor Law became law at the end of 2003. Instead of a free-standing magna carta, what was

passed had the following title: "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." The salient provisions of the law include the following:

1. A "Declaration of State Policy and Principles" that reflects the spirit and intent of the provisions of ILO Convention 182;
2. Provisions for the working hours of a working child aged below 15 and those aged 15 but below 18;
3. Determination of the ownership, usage and administration of the working child's income;
4. Provisions for the setting up of a trust fund to preserve part of the working child's income;
5. Prohibition in the engagement of a child in the worst forms of child labor;
6. Requirement for employers to provide a working child with access to at least primary and secondary education;
7. Provisions of working children for access to immediate legal, medical and psycho-social services;
8. Provisions for stiffer penalties against acts of child labor, particularly its worst forms, and penalties for parents and legal guardians who violate the provisions of the Act with a fine or community service;
9. Authority for the Department of Labor and Employment (DOLE) to administer and disburse the fine imposed by the court as a Trust Fund for the needs of the working children who are victims of the violations of the Act, and for programs and projects that will prevent acts of child labor;
10. Provisions for the speedy prosecution of child labor cases; and
11. Exemption of child labor victims from paying filing fees for recovering civil damages.

It is evident that the law incorporated most of the demands of the non-governmental organizations, and what they lost they could live with. Although they did not get a full magna carta, they were able to prohibit the worst forms of child labor and set provisions for the employment and working conditions of children. Although they did not get a consultative and funded program, they had the Trust Fund from the fines. Besides, since DOLE has been their partner from the start, they could count on not being left out of the loop as regards possible problems in the implementation of the law. At BWYW, a mechanism is in place for the participation of civil society partners in issues that affect their programs and beneficiaries. All in all, the law was a victory for the NGOs and the children they represent.

The Anti-Terrorism Bills²

In his State of the Nation Address in 1995, President Fidel V. Ramos decried terrorism as a heinous crime and asked Congress to pass a law penalizing it with life imprisonment or death. This was in the wake of several bombing incidents in Mindanao, the bombing of a Philippine Air Lines plane, the discovery of a planned assassination of Pope John Paul II and the arrest of foreign terrorists in Philippine soil. The State believed it needed an anti-terrorism bill in order to protect the people.

Main Thrusts. Three versions of the anti-terrorism bill were subsequently filed in the Tenth Congress³. In the House, Congressman Roilo Golez filed HB No. 206, adopting, almost in toto a draft submitted to Congress by the Department of the Interior and Local Government (DILG). Sen. Juan Ponce Enrile's proposal (SB no. 1353), like HB No. 206, encompassed both domestic and international terrorism. Senate Bill (No. 264) was filed by Senator Orlando S. Mercado, with the title "An Act to protect the State against Aliens and Organizations engaged in international terrorism (Amending the Philippine Immigration Act of 1940)." HB 206 defines terrorism as a violent attack to advance a political cause; SB 1353 expands the causes to "ideological, political, religious, cultist and/or personal cause or purpose." All provide a long list of prohibited acts constituting terrorism with SB 1353 going so far as to include "providing training, soliciting funds, food, medicine or other material."

The powers granted law enforcement officers probably had the most chilling effect on civil society. The mildest of these was in SB 264 which included:

- Conduct of ex-parte hearing whenever evidence to be submitted by government... tends to prejudice national security
- Barring petitions for certiorari or other extraordinary relief placing burden of proof on accused alien.

HB 206 and SB 1353 would both give the following powers:

- Authority to intercept communications
- Authority to inquire into bank accounts
- Authority to keep persons arrested without warrant for a certain number of days or hours before presenting them before the proper Court.

The limit for a warrantless arrest in Golez's house bill is 72 hours while the Enrile Senate bill is for as long as thirty days.

² This case is based primarily on Diokno (1997).

³ A fourth bill came from the Department of Justice entitled "An Act punishing the crime of terrorism by amending Article 123 of Section Three, Chapter One, Title One, Book Two of Act numbered Thirty Eight Hundred and Fifteen, otherwise known as the Revised Penal Code, and for other purposes. It was submitted to the Joint Legislative-Executive Development Advisory Council (LEDAC) but was not sponsored by any legislator.

The stance of civil society against all the bills in general was angry opposition, on four counts:

- They feared that it signaled the return of authoritarian rule
- The bills contained provisions incompatible with human rights
- The bills were severely flared and subject to abuse;
- The bills could not and did not address the real problem of terrorism in the country (Diokno 1997: 153)

Civil society here includes the churches,⁴ labor federations,⁵ peoples' organizations⁶, human rights groups⁷, lawyers' associations⁸, even organizations of the business sector.⁹ Two coalitions were formed within a week of each other in January 1996 – the Coalition against State Terrorism (CAST) and the Network opposed to Martial Rule. CAST was initiated by PAHRA and included 24 organizations, identified as coming from “the human rights community, church, peasants, women, health, urban poor, internal refugees, indigenous peoples, professionals and small businessmen.” Its major objectives were to stop the passage of anti-terrorism bills, to rally the people against threats to civil liberties and develop capacities in defense of civil liberties, human rights and democracy. The Network opposed to Martial Rule was an initiative of *Bagong Alyansang Makabayan* (New Nationalist Alliance, BAYAN) and was composed of over one hundred citizens who have been victims of the Marcos dictatorship and/or identify themselves as civil libertarians. BAYAN itself would later join the party list system as a political party.

Mass actions were held nationwide. The groups affiliated with BAYAN packaged their protests as a three-pronged cause, with the oil price increase and the imposition of the expanded value-added tax joining the objection to the anti-terrorism bills. They had three nationally coordinated march-rallies and transport strikes between January 20 and February 27, 1996. Some cities in the Visayas and Mindanao were paralyzed.

⁴ The Roman Catholic Church, charismatic groups, the Association of Major Religious Superiors, the National Council of Churches in the Philippines and the United Church of Christ in the Philippines, among others.

⁵ Trade Union Congress of the Philippines, *Bukluran ng Manggagawa para sa Pagbabago* (Organization of Laborers for Change), Alliance of Progressive Labor, Labor Advisory Consultative Council, *Lakas Manggagawa* (Labor Force) Labor Center, National Federation of Labor, National Federation of Labor Unions.

⁶ For example, the *Kilusang Magbubukid ng Pilipinas* (The Peasant Movement of the Philippines), PAMAMALAKAYA (a fisherman's group)

⁷ *Karapatan* (Rights, or the Alliance for the Advancement of People's Rights), Task Force Detainees of the Philippines, and Families of Victims of Involuntary Disappearances (FIND), Philippine Alliance of Human Rights Advocates (PAHRA).

⁸ Free Legal Assistance Group, the Public Interest Law Center, the Movement of Attorneys for Brotherhood, Integrity and Nationalism, Inc. (MABINI)

⁹ The Philippine Chamber of Commerce and Industry, the Makati Business Club and the Federation of Philippine Industries.

For their part, CAST with the AMRSP, the Catholic Bishops Conference of the Philippines and Protestant churches, held marches, pickets¹⁰, strikes and rallies in the same period to show their opposition to the bills. CBCP issued a pastoral letter on the issue, read nationwide on January 28, 1996. Cardinal Sin also issued a pastoral letter that was read in all the parishes of Metro Manila.

Street demonstrations were accompanied by more quiet, education and information programs. This included seminars and small group meetings, distribution of posters, statements, and primers, guest-speaking at other groups' fora, CAST conducted what it called "*pulong bahay*" (meetings in private homes) throughout early 1996. It also had a signature campaign to solicit support for its Statement of Unity against the bills. As it undertook its campaign, CAST also widened its membership base, organizing chapters in many parts of the country and its membership to over 30 organizations. It also linked up with international bodies to explain to them the Philippine situation and to solicit their support against the measures.

BAYAN and its Network also had its own information and education activities. They went down to the community level and had cultural presentations to bring the issues to the people.

The legislative track was not forgotten. Both formations attended hearings where they expressed their belief that the anti-terrorism bills would lead to a martial law in disguise. They also sought out senators and congresspersons, both those already sympathetic and those who could be won over to their cause. Diokno (1997: 163) says that "as a result of the lobbying by CAST and AMRSP, 14 senators and 35 congressmen signified their opposition to the anti-terrorism bills."

The organizations traced their success to their militance, their ability to mobilize and lobby, the combined packaging of the issues, very broad opposition to the bill, and media support. They also identified their weaknesses, recognizing their "lack of institutional development, lack of financial resources, inability to maintain regular contacts with policy makers, and fragmentation" (Diokno 1997: 166). A specific problem of CAST was its double-loading over the PAHRA secretariat, with both organizations suffering in efficiency. There was also the conflict of interest engendered by the coalition and the parent organization requiring presence and activeness at the same time. Finances were a perennial problem.

Although these political formations had the same stance vis-à-vis the anti-terrorism bills, they did not support each other and held different mobilizations and lobbies. There were internal tensions within civil society. Nevertheless, their opposition reached the common objective of stopping the bills from being enacted.

Opposing Forces. The principal advocates of the anti-terrorism bills were the State – both the President and his cabinet, and the legislative branch. Both thought that an Anti-

¹⁰ One picket was held at the Senate, attended by more than a hundred members; it was simultaneous with the CAST leadership attending the hearing and soliciting the support of senators on January 25, 1996.

Terrorism Law is needed to fight terrorism. Extraordinary powers were needed to combat a national and global threat.

Nevertheless, civil society did not face a monolith. Although LEDAC stood firmly behind the bills, cracks were discerned in the Department of Justice, the Department of the Interior and Local Government and even the Department of National Defense and the Armed Forces of the Philippines. Internal memos showed officials agreeing to some elements of the criticisms. Moreover, there was some recognition – in the DND, of all places -- that pushing the bill would be “premature.” In a January 19, 1996 brief, the Undersecretary for Civil Relations stated:

Only on one condition, however, may the administration consider it, and that is, if there is a mass-based political movement to support the administration’s move. (Quoted in Diokno 1997: 159).

There were cracks, too, in Congress. Members of the President’s own party were among those who opposed the bill, including, ironically, his own sister and nephew. The House Speaker later withdrew his earlier support of the bill as he could not endorse a bill that would endanger human rights and liberties.

All the accusations that the bills were a means of reviving martial law put the State on the defensive. The sponsors of the bills showed willingness to accommodate adverse public reaction. Representative Golez proposed to limit his bill to international terrorism only. The President then asked the Department of Justice to submit a milder version than Enrile’s but even that was opposed by the people. In the end, the President announced that the bills would not be part of the urgent legislative agenda, thereby constraining it to the back burner.

Results. The anti-terrorism bills in the Tenth Congress were shelved, but anti-terrorism bills still reappear, right up to the Thirteenth Congress. But the struggle against the bills leaves legacies to civil society. The massive opposition showed a strong civil society able to stand up against the State. Fear of the return of martial law made the people close ranks against potential perpetrators, got the Catholics and the Protestants working closely together, awakened even the business sector. Nevertheless, opposition to the bills did not unite the political formations within civil society itself.