

MARVIN L. SAN JUAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 236628. January 17, 2023

Ponente: LOPEZ, J., J.

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LOPEZ, J., J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Revised Rules of Court assailing the Decision[2] and the Resolution[3] rendered by the Court of Appeals (CA) in CA-G.R. CR. No. 38091. In the assailed rulings, the CA affirmed the Decision[4] of Branch 270, Regional Trial Court (RTC) of xxxxxxxxxxxxxxxxxxxxxxxx, finding petitioner Marvin L. San Juan (San Juan) guilty beyond reasonable doubt of grave threats, in relation to Section 10(a) of Republic Act (R.A.) No. 7610.

The Antecedents

The instant case stemmed from an Information[5] dated July 31, 2014 filed against San Juan, the accusatory portion of which reads:

That on or about March 26, 2014, in xxxxxxxxxxxx and within the jurisdiction of this Honorable Court, the above-named accused, who was drunk, without any justifiable cause, did then and there willfully, unlawfully and feloniously threaten the life of one [AAA],[6] 15 years old (DOB: May 5, 1998) (complainant) by poking a gun at him, an act amounting to a crime, thereby subjecting said minor to psychological cruelty and emotional maltreatment.

CONTRARY TO LAW.[7]

On August 26, 2014, San Juan was arraigned and entered a plea of not guilty to the offense charged.[8] Thereafter, trial on the merits ensued.[9]

As narrated by the prosecution, on March 26, 2014, at around 10:00 a.m. to 11:00 a.m., AAA, who was then 15 years old,[10] was chatting with his friends at the basketball court in xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. Moments later, an inebriated San Juan, who lived nearby, arrived and began scolding AAA. In his tirade, San Juan exclaimed "pag-uuntugin ang magulang," to which AAA laughed. At this, San Juan got mad and threatened AAA with a stone.[11]

BBB,[12] who was 11 years old at the time, testified that he and his friends, AAA and CCC,[13] were hanging out at the basketball court when San Juan arrived and began hurling invectives towards AAA. AAA walked away, which caused San Juan to pull out his gun and point it at the back of his friend.[14] With San Juan warning them not to hang out at the basketball court anymore, the three friends left. When AAA went back to get his t-shirt that he left in their rush to get away from San Juan, the latter chased him with a stone.[15] BBB believed that San Juan picked on AAA because the latter was new in their place.[16]

On the part of the defense, San Juan testified that on March 26, 2014, at around 9:00 a.m., he was on his way home when he saw AAA and his friends playing at the basketball court. After introducing himself as a police

officer, he reminded them that they were not allowed to play basketball there during weekdays, and that many people were still sleeping at that time.[17] Instead of obeying, AAA and his friends laughed at him and ignored his admonitions. He felt insulted and when the three started to run away, he chased them with a stone.[18] San Juan, however, denied pointing a gun at AAA, saying that he left it at home. He added that he was not drunk because he just came home from his duty and his store.[19]

After due proceedings, the RTC rendered a Decision[20] dated July 22, 2015, finding San Juan guilty beyond reasonable doubt of child abuse under Section 10(a) of R.A. No. 7610,[21] the dispositive portion of which states:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered finding accused [Special Police Officer 2 (SPO2)] MARVIN SAN JUAN @ ["JSIR SJ" guilty beyond reasonable doubt of Child Abuse in violation of Section 10 (a) of RA 7610 and he is hereby sentenced to suffer an indeterminate penalty of four years [and] eight months, as minimum to six years, as maximum[,] and to indemnify the minor complainant the amount of [PHP] 50,000.00.[22] (Emphasis in the original)

In so ruling, the RTC was convinced that San Juan pointed a gun at AAA, as his denial cannot be overcome by the categorical, credible and positive testimony of BBB.[23]

On appeal, the CA affirmed San Juan's conviction with modification.[24] The dispositive portion of the decision states:

WHEREFORE, premises considered, the Decision of Branch 270 of the Regional Trial Court of xxxxxxxxxxxxxxxx, dated July 22, 2015 in Criminal Case No. 958-V-14 finding accused-appellant SPO2 Marvin San Juan guilty beyond reasonable doubt of Grave Threats in relation to Republic Act No. 7610, is hereby MODIFIED as follows:

Accused-appellant SPO2 Marvin San Juan is hereby sentenced to suffer the indeterminate penalty of [four (4)] years, [nine (9)] months and [eleven (11)] days of prision correccional, as minimum, to [seven (7)] years, [four (4)] months and one (1) day of [prision mayor], as the maximum. He is ORDERED to pay the private complainant [AAA] [PHP] 20,000.00 as moral damages, [PHP] 20,000.00 as exemplary damages, and [PHP] 20,000.00 as temperate damages, plus interest at the rate of 6% per annum on each item of the civil liability reckoned from the finality of this decision until full payment.[25] (Emphasis in the original)

The CA found that there were no material contradictions and inconsistencies in the testimonies of AAA and BBB, which would have cast serious doubt on the credibility of the prosecution's witnesses. On one hand, AAA testified that San Juan was holding a stone. On the other hand, BBB testified that San Juan pointed a gun at AAA. These are not necessarily two conflicting versions. AAA only saw the holding of a stone, while it was BBB who actually saw San Juan point a gun at AAA.[26]

The CA thus held that San Juan clearly went overboard and did more than what was necessary to call AAA out. Even if AAA was insulting him, San Juan should not have threatened and chased him with a stone, or pointed a gun while the boy's back was facing him.[27]

Moreover, the CA stated that pointing a gun at the back of AAA was a highly intimidating act, which would cause fear even to a full-grown adult, and even worse when it was done by a man who is a member of the police force. The CA considered this as maltreatment that debased and caused fear to a minor, especially one who was new to the community.[28] For this reason, the CA sustained the findings of the RTC, with modification as to the nomenclature of the crime and the penalty.

Hence, the instant Petition.

Issue

Whether the CA erred in finding Marvin L. San Juan guilty of grave threats in relation to violation of Section 10(a) of Republic Act No. 7610

Our Ruling

We modify the decision of the CA.

It is a fundamental rule that only questions of law may be raised in a petition for review on certiorari under Rule 45. The factual findings of the trial court, especially when affirmed by the CA, are generally binding and conclusive on this Court. This Court is not a trier of facts. It is not duty-bound to analyze, review, and weigh the evidence all over again in the absence of any showing of arbitrariness, capriciousness, or palpable error. A departure from the general rule may only be warranted in cases where the findings of fact of the CA are contrary to the findings of the trial court or when these are unsupported by the evidence on record.[29]

In this case, we find no reason to disturb the factual findings of the RTC as affirmed by the CA. The RTC was able to observe the demeanor and, in turn, assess the testimony of the witnesses. While the act of pointing a gun was narrated by AAA only in his Sinumpaang Salaysay,[30] BBB was able to affirm this statement when he took the witness stand and testified that San Juan indeed poked a gun at AAA. Clearly, San Juan did not only threaten AAA with a stone but also with a gun. The testimony of BBB reads:

Q

While sitting down, do you recall any unusual incident that happened?

A

Yes Sir.

Q

What is that?

A

SPO2 Marvin San Juan arrived and parked his vehicle in front of the basketball court. When he alighted from the vehicle, we saw that he was drunk and he suddenly shouted invectives at [AAA]. He seemed to single out [AAA] because when [AAA] was about to walk away, Sir SJ suddenly pulled out his gun and pointed it to [AAA], Sir.

Q

Why did he pick on [AAA] instead of you or the other one?

A

I do not know, Sir.

Q

So you saw the accused SPO2 San Juan [draw] his gun and [point] it at [AAA]?

A

Yes sir.

x x x x

The Court:

What was Police Officer San Juan saying, if any?

Witness:

He was cursing, Your Honor.

The Court:

Exactly, what did you hear? Yung natatandaan mo lang, yung tumanim sa isip mo.

Witness:

"Tang-ina daw po ni [AAA] tapos huwag na daw po siyang dadaan doon."

Q

So [AAA's] back was facing SPO2 San Juan when the gun was pointed at him?

A

Yes sir.

Q

[AAA] did not see it?

A

He also saw it, Sir.

Q

How was he able to see that?

A

He looked at his back, Sir. x x x[31]

This supports the Sinumpaang Salaysay[32] of AAA narrating the incident as follows:

T

Sa ikaliliwanag ng pagsisiyasat na ito, maaari mo bang isalaysay ang buong pangyayari?

S

Ganito po yun maam nagtatambay lang po kami doon sa loob ng court tapos habang nakaupo kami kasama si [BBB] at [CCC] tapos po bigla dumating si sir SJ tapos pinagmumura niya kami sabi niya "Tang ina niya nagsigasisagaan kayo dito" tapos sabi pa niya pag uuntug-untugin ko kayo sa mga tatay niyo at natawa po ako kasi inisip ko nagbibiro lang siya tapos tinutukan niya ako ng baril tapos sabi gusto mo pusasan daw po ako.[33]

Under the circumstances, the RTC convicted San Juan of violation of Section 10(a) of R.A. No. 7610. On appeal, the CA convicted him of the crime of grave threats in relation to Republic Act No. 7610, ultimately imposing the penalty prescribed for the latter crime.

We find it proper to fix the nomenclature of the crime committed by San Juan.

In *Jumaquio v. Hon. Judge Villarosa*,^[34] the accused therein uttered the words "Putang ina mong bata ka namumuro ka na sa akin, at susunugin ko yung pamilya mo!"^[35] against a minor. He also threw a stone against the said minor, which nonetheless missed, and repeatedly punched the minor. He too, uttered the words "Putang ina ninyo, zone leader ako papatayin ko [kayong] lahat!"^[36] against the family members of the said minor. Consequently, two Informations were filed against the accused, one for grave threats in relation to Republic Act No. 7610 and another, for physical injuries in relation to Republic Act No. 7610.^[37] The accused thereafter filed a motion to quash the Informations for being duplicitous, arguing that he stood charged with several crimes – grave threats and violation of Republic Act No. 7610, and physical injuries and another violation of the aforesaid law.^[38] The trial court denied the motion, which prompted the accused to elevate the matter directly before this Court. This Court held that the accused disregarded the doctrine of hierarchy of courts and availed the wrong remedy. Nonetheless, this Court proceeded to discuss on the arguments raised by the accused, holding as follows:

As correctly argued by the City Prosecutor, the questioned [I]nformations separately charge two distinct offenses of child abuse[:] Criminal Case No. SJC-78-04 for child abuse committed through the use of threatening words, and Criminal Case No. SJC-79-04 for child abuse through the infliction of physical injuries. Thus, contrary to his contention, petitioner is not in jeopardy of being convicted of grave threats and child abuse in the first case, and slight physical injuries and child abuse in the second. Though the crimes were erroneously designated, the averments in the [I]nformations clearly make out an offense of child abuse under Section 10(a) of [Republic Act] No. 7610.^[39]

Significantly, this Court's pronouncement was based on the premise that grave threats in relation to R.A. No. 7610 is an erroneous designation. Nevertheless, this Court proceeded to examine the contents of the Information and held that the same alleged a case for child abuse and not grave threats. While the instant case does not present such a situation of an erroneous designation in the Information, the CA's pronouncement on the crime committed by San Juan deserves a re-examination.

The legal issue that needs to be tackled then, is whether San Juan should be held guilty of grave threats or for violation of R.A. No. 7610.

Article 282 of the Revised Penal Code (RPC) punishes the crime of grave threats as follows:

Art. 282. Grave threats. — Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

1. The penalty next lower in degree than that prescribed by law for the crime he threatened to commit, if the offender shall have made the threat demanding money or imposing any other condition, even though not

unlawful, and said offender shall have attained his purpose. If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed.

If the threat be made in writing or through a middleman, the penalty shall be imposed in its maximum period.

2. The penalty of *arresto mayor* and a fine not exceeding 500 pesos, if the threat shall not have been made subject to a condition.

On the other hand, Section 10(a), of R.A. No. 7610 provides:

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. -

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of [Presidential Decree] No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of [*prision mayor*] in its minimum period.

The Information^[40] filed against San Juan alleges an act of threatening the life of AAA by poking a gun at him, thereby subjecting said minor to psychological cruelty and emotional maltreatment. As worded, the Information contains an allegation of a threat amounting to a crime committed against a child, in which the provisions of grave threats and child abuse under Republic Act No. 7610 comes into play. In the resolution of whether San Juan should be convicted of the crime of grave threats or violation of Republic Act No. 7610, a query was raised during the deliberations of this case as to the interpretation of the phrase "but not covered by the Revised Penal Code, as amended" under Section 10(a) of R.A. No. 7610. While the phrase may be interpreted as a qualifier that would preclude the application of Section 10(a) of R.A. No. 7610 when the act complained of is already covered by the Revised Penal Code, as in this case, when the act of San Juan likewise falls under grave threats, the doctrine of last antecedent would provide otherwise.

The doctrine was first introduced in our jurisdiction in the Concurring Opinion of Justice Fred Ruiz Castro in *Philippine Long Distance Telephone v. Public Service Commission*,^[41] pertaining to the interpretation of Section 40 (e) of the Public Service Act, as amended, discussing the doctrine in this wise:

Section 40(e) of the Public Service Act, as amended by Republic Act 3792, reads as follows:

(e) For annual reimbursement of the expenses incurred by the Commission in the supervision of other public services and/or in the regulation or fixing of their rates, twenty centavos for each one hundred pesos or fraction thereof, of the capital stock subscribed or paid, if no shares have been issued, of the capital invested, or of the property and equipment, whichever is higher.

The basic issue is whether the added phrase, "or of the property and equipment, whichever is higher," was intended as an alternative only to the immediately antecedent phrase, "of the capital invested," or also to the previous one, namely "of the capital stock subscribed or paid."

The relevant and pertinent Congressional records do not at all provide any indication of the meaning intended by the lawmaking body.

The task may, however, be simplified by supplying the words which obviously were deliberately omitted and merely indicated by means of a comma between the phrase, "or if no shares have been issued," and the clause, "of the capital invested, or of the property and equipment, whichever is higher." The omitted words thus supplied, the provision would read as follows:

(e) For annual reimbursement of expenses incurred by the Commission in the supervision of other public

services and/or in the regulation or fixing of their rates, twenty centavos for each one hundred pesos or fraction thereof, of the capital stock subscribed or paid, or if no shares have been issued, twenty centavos for each one hundred pesos or a fraction thereof, of the capital invested, or of the property and equipment, whichever is higher.

Viewed from this perspective, the meaning of the provision, as intended by the lawmaking body, becomes unmistakable, which is, to make the alternative basis of computation (property and equipment) applicable exclusively to the case or situation to which it obviously relates, namely, "if no shares have been issued."

The rule that a qualifying or relative word or clause, such as "which," "said," and "such," is to be construed as applying to the words, phrase or clause next preceding or, as is frequently stated, to the next preceding antecedent, and not as extending to or including others more remote, unless a contrary intention appears (Crawford, Sec. 193, p 331), may be applied in the present case. This rule is known as the doctrine of last antecedent, which is both a rule of grammar and a rule of law (Wood vs. Baldwin, 10 N.Y.S. 195).[42]

The doctrine later resurfaced, albeit wrongly introduced by the San Juan in the case of Mapa v. Arroyo[43] which involved the interpretation of Section 20 of Presidential Decree (P.D.) No. 957, viz.:

The specific provisions of the Decree which are persistently relied upon read:

SEC. 20. Time of Completion. – Every owner or developer shall construct and provide the facilities, improvements, infrastructures and other forms of development, including water supply and lighting facilities, which are offered and indicated in the approved subdivision or condominium plans, brochures, prospectus, printed matters, letters or in any form of advertisements, within one year from the date of the issuance of the license for the subdivision or condominium project or such other period of time as may be fixed by the Authority.

x x x x

We further reject petitioner's strained and tenuous application of the so-called doctrine of last antecedent in the interpretation of Section 20 and, correlatively, of Section 21. He would thereby have the enumeration of "facilities, improvements, infrastructures and other forms of development" interpreted to mean that the demonstrative phrase "which are offered and indicated in the approved subdivision plans, etc." refer only to "other forms of development" and not to "facilities, improvements and infrastructures." While this subserves his purpose, such bifurcation, whereby the supposed adjectival phrase is set apart from the antecedent words, is illogical and erroneous. The complete and applicable rule is [ad proximum antecedens fiat relatio nisi impediatur sententia.] Relative words refer to the nearest antecedent, unless it be prevented by the context. In the present case, the employment of the word "and" between "facilities, improvements, infrastructures" and "other forms of development," far from supporting petitioner's theory, enervates it instead since it is basic in legal hermeneutics that "and" is not meant to separate words but is a conjunction used to denote a joinder or union.[44] (Citations omitted)

The foregoing cases illustrate that qualifying words, clauses or phrases refer only to the next preceding antecedent and not to those remote ones, unless such interpretation is prevented by the context. Applying the doctrine of last antecedent and the rule of ad proximum antecedens fiat relatio nisi impediatur sententia (relative words refer to the nearest antecedent, unless it be prevented by the context), We find that the phrase "but not covered by the Revised Penal Code, as amended" only qualifies the immediately preceding antecedent phrase "including those covered by Article 59 of Presidential Decree No. 603, as amended" under Section 10 (a) of R.A. No. 7610, and not the acts enumerating the offense under said provision. To restate, Section 10(a) of R.A. No. 7610 reads:

Section. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the

Childs Development.—

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period. (Emphasis supplied)

The interpretation means that acts punished under Sec. 10(a) of R.A. No. 7610 include those acts punishable under Article 59 of P.D. No. 603, even if not covered by the RPC. Notably, as pointed out by Associate Justice Alfredo Benjamin Caguioa, most of the criminal acts defined under Article 59 of P.D. No. 603 find counterparts in the RPC.[45] In the case of P.D. No. 603, its provisions apply in case the offenders are the child-victim's parents, where "parent" also encompasses "the guardian and the head of the institution or foster home which has custody of the child." Meanwhile, the RPC applies in case of non-parent-offenders, as its provisions did not specify the personality of the offender. Since Article 59 of P.D. No. 603 defined certain acts which found no counterparts in the RPC [i.e., subparagraphs (6), (10), and (11)], no recourse could be had if these acts were committed by a non-parent.

As such, prior to the enactment of R.A. No. 7610, an act falling under Article 59 of P.D. No. 603, when committed by a non-parent, is punishable under the appropriate counterpart provision of the RPC. With the absence of a counterpart provision under the RPC for paragraphs 6, 10 and 11 of Article 59 of P.D. No. 603, a significant gap was left in the legislation concerning the protection of children. When a non-parent commits these acts against a child the same cannot be punished under P.D. No. 603 or the RPC. With the advent of R.A. No. 7610, Section 10(a) filled this gap, and now punishes acts under Article 59 of P.D. No. 603 even if committed by a non-parent, including those covered by paragraphs 6, 10, and 11 of the latter law. This is evident from the linguistic expansion of the term "shall attach to any parent" in Article 59 of P.D. No. 603, to "any person" in Section 10(a) of R.A. No. 7610.

Significantly, the framers of R.A. No. 7610 recognized that the enumeration under Article 59 of P.D. No. 603 included acts punishable by the RPC and acts that are not punishable thereunder. The provisions of R.A. No. 7610 were intended to expand the coverage of Article 59 of P.D. No. 603 and the RPC as can be seen from R.A. No. 7610's precursor bills, up until its enactment, which suggest a framework that implicates, rather than leaves untouched, existing provisions of the RPC. The early draft of Section 10(a) was intended to carve out a distinct class of offenses that did not fall under either P.D. No. 603 or the RPC. However, as earlier mentioned, several gaps subsisted under both P.D. No. 603 and the RPC, which gaps would continue should R.A. No. 7610 not directly implicate these prior statutes:

Early iteration from the full text of Senate Bill No. 1209

With additional committee amendments

As approved, and carried over into [Republic Act] No. 7610

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. - Any person who shall commit any other act of neglect, cruelty or exploitation or shall be responsible for conditions prejudicial to the development of a child, not expressly falling under any article of the Revised Penal Code, as amended, the provisions of the Child and Youth Welfare Code, as amended, or the provisions of this Act, shall be punished by prision mayor in its minimum period.[46]

Senator Lina. On page 7, delete all the words starting with "of", on line 3 up to the word "Act" on line 8, and in lieu thereof, insert the following: OF CHILD ABUSE INCLUDING THOSE COVERED BY ARTICLE 59 OF PRESIDENTIAL DECREE 603 AS AMENDED BUT NOT COVERED BY THE REVISED PENAL

CODE AS AMENDED.[47]

a) Any person who shall commit any other act of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.[48]

Further, as pointed out by Associate Justice Caguioa, Senator Jose Lina, who sponsored Senate Bill No. 1209 which later became R.A. No. 7610, explained that the purpose of introducing Section 10(a) of R.A. No. 7610 is to increase the penalties for acts committed against children, thus:

Senator Lina. Yes, in the Child and Youth Welfare Code, Mr. President, in Article 59, there is a listing of the particulars of child abuse. May I refer the President to enumeration No. 8, "inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him."

The President Pro Tempore. That would appear to be sufficient. The Chair raised that question because child abuse is usually committed by the guardians or the parents themselves.

Senator Lina. Yes, the liability attaches to everyone, including the parent, Mr. President.

For the information and guidance of our Colleagues, the phrase "child abuse" here is more descriptive than a definition that specifies the particulars of the acts of child abuse. As can be gleaned from the bill, Mr. President, there is reference in Section 10 to the "Other Acts of Neglect, Abuse, Cruelty, or Exploitation and Other Conditions Prejudicial to the Child's Development." We refer, for example, to the Revised Penal Code.

There are already acts described and punishable under the Revised Penal Code and the Child and Youth Welfare Code. These are all enumerated already, Mr. President. There are particular acts that are already being punished. But we are providing stronger deterrence against child abuse and exploitation by increasing the penalties when the victim is a child. That is number one. We define a child as "one who is 15 years and below."

The President Pro Tempore. Would the Sponsor then say that this bill repeals, by implication or as a consequence, the law he just cited for the protection of the child as contained in that Code just mentioned, since this provides for stronger deterrence against child abuse and we have now a Code for the protection of the child? Would that Code be now amended by this Act, if passed?

Senator Lina. We specified in the bill, Mr. President, increase in penalties. That is one. But, of course, that is not everything included in the bill. There are other aspects like making it easier to prosecute these cases of pedophilia in our country. That is another aspect of the bill. The other aspects of the bill include the increase in penalties on acts committed against children: and by definition, children are those below 15 years of age. So, it is an amendment to the Child and Youth Welfare Code, Mr. President. This is not an amendment by implication. We made direct reference to the Articles in the Revised Penal Code and In the Articles in the Child and Youth Welfare Code that are amended because of the increase in the penalties.[49] (Emphases and underline supplied)

Apropos, the intention of the legislature in introducing Section 10 (a) of R.A. No. 7610 is to increase the penalties for acts committed against children as enumerated under the P.D. No. 603 and the RPC. This signifies the intention of the legislature to bring within the ambit of R.A. No. 7610, the provisions of Article 59 of P.D. No. 603 that are not covered by the RPC, as well as those falling under the RPC. Thus, an interpretation of the phrase "but not covered by the [RFC], as amended," that would render the application of R.A. No. 7610 only when the act is not covered by the RPC would be contrary to the intention of the legislature. To reiterate, said phrase qualifies the antecedent phrase "including those covered by Article 59 of [P.D.] No. 603, as amended," and taken

as a whole, means that Section 10(a), R.A. No. 7610 applies whenever acts of abuse are committed against children under Article 59 of P.D. No. 603 that are not covered by the RPC. With the word "any person" under Section 10(a) and the intention to increase the penalties of the punishable acts involving child abuse, Section 10(a) of R.A. No. 7610 encompasses a wide-ranging act by which the punishable acts under Article 59 of P.D. No. 603, whether or not these are covered by the RPC, as well as acts under the RPC, involving children may be examined. Thus, notwithstanding the allegation of threat to the life of AAA, for which grave threats may come in consideration, the act of San Juan must be examined under the auspices of R.A. No. 7610, especially that the Information alleges psychological harm and cruelty committed against a child, which clearly falls under Section 10(a) of R.A. No. 7610.

Section 10 in relation to Section 3(b): The determination of general or specific intent for prosecution of crimes falling under R.A. No. 7610

In *Araneta v. People*[50] (*Araneta*), this Court discussed that Section 10(a) of R.A. No. 7610 contemplates four distinct acts, to wit:

As gleaned from the foregoing, the provision punishes not only those enumerated under Article 59 of Presidential Decree No. 603, but also four distinct acts, i.e., (a) child abuse, (b) child cruelty, (c) child exploitation and (d) being responsible for conditions prejudicial to the child's development. The Rules and Regulations of the questioned statute distinctly and separately defined child abuse, cruelty and exploitation just to show that these three acts are different from one another and from the act prejudicial to the child's development. Contrary to petitioner's assertion, an accused can be prosecuted and be convicted under Section 10 (a), Article VI of Republic Act No. 7610 if he commits any of the four acts therein. The prosecution need not prove that the acts of child abuse, child cruelty and child exploitation have resulted in the prejudice of the child because an act prejudicial to the development of the child is different from the former acts.

Moreover, it is a rule in statutory construction that the word "or" is a disjunctive term signifying dissociation and independence of one thing from other things enumerated. It should, as a rule, be construed in the sense which it ordinarily implies. Hence, the use of "or" in Section 10(a) of Republic Act No. 7610 before the phrase "be responsible for other conditions prejudicial to the child's development" supposes that there are four punishable acts therein. First, the act of child abuse; second, child cruelty; third, child exploitation; and fourth, being responsible for conditions prejudicial to the child's development. The fourth penalized act cannot be interpreted, as petitioner suggests, as a qualifying condition for the three other acts, because an analysis of the entire context of the questioned provision does not warrant such construal.[51] (Emphasis and underline supplied; citations omitted)

With respect to the act of child abuse, Section 3(b) of R.A. No. 7610 offers an enumeration of the acts that may fall therein, thus:

x x x x

(b) "Child Abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

The aforementioned enumeration covers different acts committed against children. Section 3(b)(1) focuses on the act and the general criminal intent to commit the physical or psychological abuse, while Section 3(b)(2), which, in addition to general criminal intent, requires specific criminal intent to debase, degrade or demean the intrinsic worth of the child as a human being. The distinction primarily flows from the difference in language, wherein Section 3(b)(1) articulates specific acts falling thereunder (i.e., "neglect," "abuse," "cruelty," etc.), while Section 3(b)(2) is directed against "any act by deeds or words," which expansive language must be delimited by the qualifier "which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being."

As defined, debasement is the act of reducing the value, quality, or purity of something; degradation, on the other hand, is a lessening of a person's or thing's character or quality; while to demean means to lower in status, condition, reputation, or character.[52] For acts falling under Section 3(b)(2), both the general criminal intent and specific criminal intent must be proven.

Other acts falling under Section 3(b) include unreasonable deprivation of a child's basic needs for survival such as food and shelter, and failure to immediately give medical treatment to an injured child resulting in serious impairment of his/her growth and development or in his/her permanent incapacity or death.

In a number of cases,[53] this Court examined violations of Section 10(a) within the prism of the enumeration provided by Section 3(b) of R.A. No. 7610. Section 3(b) however, has its own nuances as Section 3(b)(2) provides an additional requirement of a specific intent when compared to Sections 3(b)(1), (3) and (4).

As distinguished, specific criminal intent must be alleged and proved by the prosecution, and must be established by the prosecution as a fact, while general criminal intent is presumed from the criminal act.[54] It is a general rule that if it is proved that the accused committed the unlawful act charged, it will be presumed that the act was done with a criminal intention, and that it is for the accused to rebut this presumption. However, there are certain crimes of which a specific intent to accomplish a particular purpose is an essential element.[55] This specific intent was taken into consideration by this Court in the analysis of crimes involving violation of Section 3(b)(2) of R.A. No. 7610.

In *Bongalon v. People*,[56] the accused was charged with violation of Section 10 (a) of R.A. No. 7610 because he slapped a minor on his face, after said child threw stones at his minor daughter. This Court convicted him of slight physical injuries, as there was no showing that slapping the minor was accompanied by intent to debase, degrade or demean the intrinsic worth and dignity of the child, thus:

Although [W]e affirm the factual findings of fact by the RTC and the CA to the effect that the petitioner struck Jayson at the back with his hand and slapped Jayson on the face, we disagree with their holding that his acts constituted child abuse within the purview of the above-quoted provisions. The records did not establish beyond reasonable doubt that his laying of hands on Jayson had been intended to debase the "intrinsic worth and dignity" of Jayson as a human being, or that he had thereby intended to humiliate or embarrass Jayson. The records showed the laying of hands on Jayson to have been done at the spur of the moment and in anger, indicative of his being then overwhelmed by his fatherly concern for the personal safety of his own minor daughters who had just suffered harm at the hands of Jayson and Roldan. With the loss of his self-control, he lacked that specific intent to debase, degrade or demean the intrinsic worth and dignity of a child as a human being that was so essential in the crime of child abuse.[57]

In *Talocod v. People*,[58] the accused therein was acquitted of the charge for violation of Section 10(a) of R.A. No. 7610 as there was no indication that when she uttered the phrase, "Huwag mong pansinin yan. At putang ina yan. Mga walang kwenta yan. Mana-mana lang yan!" she had deliberately intended to shame or humiliate AAA's dignity in front of his playmates. Rather, it was apparent that she merely voiced the alleged utterances as offhand remarks out of parental concern for her child. Thus, there was no specific intent to debase, degrade, or demean the

victim's intrinsic worth and dignity of the child. To be clear, it is not merely the presence or absence of a specific intent to debase, degrade, and demean the child which determines whether an act would fall under Republic Act No. 7610. This Court clarified in *Malcampo-Repollo v. People*[59] that not all crimes punishable under R.A. No. 7610 requires proof of such specific intent:

The act of debasing, degrading, or demeaning the child's intrinsic worth and dignity as a human being has been characterized as a specific intent in some forms of child abuse. The specific intent becomes relevant in child abuse when: (1) it is required by a specific provision in Republic Act No. 7610, as for instance, in lascivious conduct; or (2) when the act is described in the [I]nformation as one that debases, degrades, or demeans the child's intrinsic worth and dignity as a human being.[60] (Citations omitted)

Thus, it is only when the Information alleges a specific intent, or when the provision of law demands it, must the prosecution prove its existence.[61] Specific intent becomes significant for determining the specific provision—whether under the RPC, under R.A. No. 7610, or even other criminal laws—under which an act will be punished. As such, where the specific intent is not proven under a provision of law, the act may still be punished under other applicable penal laws provided that the elements of the crime has been satisfied. It is only when both general and specific intent are not proven that an accused is entitled to acquittal.

It bears reiterating that the objective of enacting R.A. No. 7610 was primarily to increase the penalty for acts committed against children. It is intended to protect children and serve as a deterrence against abuses committed against them. As such, when the act is wrong in itself, it is not the specific intent to degrade, debase, or demean the intrinsic worth and dignity of the child under Section 3(b)(2) of R.A. No. 7610 that must be considered. Rather, the act itself must be examined under Section 3(b)(1) of R.A. No. 7610.

The act of San Juan falls under Section 10(a) in relation to Section 3(b)(1) of R.A. No. 7610

In the case at bar, the Information charges San Juan with violation of R.A. No. 7610, alleging "psychological cruelty and emotional maltreatment." While the term "psychological cruelty" is absent from among the enumeration under R.A. No. 7610, the allegations in the Information nonetheless informed San Juan of what he was being charged with. San Juan was not made unaware that what is involved is an act of psychological abuse and an act of cruelty.

Under the Rules and Regulations of R.A. No. 7610 "cruelty" has been defined in the same manner as the punishable act under Section 3(b)(2) of R.A. No. 7610. Section 2(c) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases defines cruelty as follows:

(c) "Cruelty" refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein[.]

The Rules and Regulations of R.A. No. 7610 nonetheless failed to consider that the term "cruelty" appears under Section 3(b)(1) and not under Section 3(b)(2) of R.A. No. 7610. As worded, Section 3(b)(1) of R.A. No. 7610 reads:

Sec. 3. Definition of Terms. -

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment[.] (Emphasis supplied)

The term cruelty, in its common usage, has been defined as the intentional and malicious infliction of physical suffering upon living creatures, particularly human beings; or, as applied to the latter, the wanton, malicious, and unnecessary infliction of pain upon the body, or the feelings and emotions; abusive treatment; inhumanity; outrage.[62] Under the RPC, cruelty is included as one of the aggravating circumstances. It presupposes that the injury caused be deliberately increased by causing other wrong and that other wrong be unnecessary for the execution of the purpose of the offender.[63]

Certainly, the term cruelty, in its common usage, simply means suffering that is excessive and unnecessary to the purpose to be achieved by an offender. An act that is accompanied by such a cruel act can easily be determined by the manner it was executed. It does not need an inquiry into the specific intent to debase, degrade or demean the intrinsic worth and dignity of the child, as being referred to under the Rules and Regulations of R.A. No. 7610.

As such, while cruelty has been given a definition under the Rules and Regulations of R.A. No. 7610, such term cannot be confined therein especially that Section 3(b)(1) includes cruelty among its enumeration, that is separate from Section 3(b)(2).

To avoid confusion, child cruelty, when referring to Section 3(b)(2) of R.A. No. 7610 must thus always carry the qualification that the act complained of, debased, degrade or demeaned the intrinsic worth and dignity of the child. Otherwise, the same may be used in its common usage, which is the definition being applied in the instant case.

To illustrate, the use of the term "cruel" in its common usage, and not as used under the Rules and Regulations of R.A. No. 7610, was applied in *Lucido v. People*,[64] by making the following pronouncement:

Strangling, severely pinching, and beating an eight (8)-year-old child to cause her to limp are intrinsically cruel and excessive. These acts of abuse impair the child's dignity and worth as a human being and infringe upon her right to grow up in a safe, wholesome, and harmonious place. It is not difficult to perceive that this experience of repeated physical abuse from petitioner would prejudice the child's social, moral, and emotional development.

x x x x

Hence, the intent to debase, degrade, or demean the minor is not the defining mark. Any act of punishment that debases, degrades, and demeans the intrinsic worth and dignity of a child constitutes the offense.[65] (Emphases and underline supplied)

Unlike in cases where the surrounding circumstances of the act were examined to determine the specific intent to degrade, debase or demean the intrinsic worth and dignity of the child, an act that is intrinsically cruel may already be examined based on Section 3(b)(1) of Republic Act No. 7610. When the act itself is examined based on the inherent characteristic of the act itself and the manner of its execution, and it later turns out to be intrinsically cruel, there should be no need to look into the specific intent. Again, the term cruelty, when not qualified by the terms "to debase, degrade or demean the intrinsic worth and dignity of the child," may still be utilized based on its common usage.

Herein, the Information filed against San Juan does not carry the qualifying allegations of "debased, degrade or demeaned the intrinsic worth and dignity of the child." To analyze the Information based on the definition of the Rules and Regulations of Republic Act No. 7610 alone would require this Court to look into the requirement of specific intent because of the allegation of "cruelty." However, such a step would result in requiring the

prosecution to prove more than what has been alleged in the Information. Moreso, this additional requirement would be based on an Implementing Rules and Regulations that failed to make a differentiation based on the provisions of the law it seeks to implement. The term "cruelty" as found in Section 3(b)(1) of Republic Act No. 7610, and not under Section 3(b)(2), cannot be automatically associated with the latter provision, which requires an additional requirement of proof of specific intent, especially when it does not contain the material allegations of "debased, degrade or demeaned the intrinsic worth and dignity of the child."

This must be so for it is settled that both the accused and the State are entitled to due process. For the former, such right includes the right to present evidence for his or her defense; for the latter, such right pertains to a fair opportunity to prosecute and convict.^[66] As the State sought the prosecution of San Juan in an Information that did not allege debasing, degrading or demeaning the intrinsic worth and dignity of a child, it cannot be required to prove such a specific intent, especially when the averments in the Information is supported by another provision of R.A. No. 7610 that do not require such a specific intent. To do otherwise would be tantamount to a violation of the State's right to due process.

As such, the allegation of cruelty in the Information filed against San Juan must be analyzed based on its common usage.

In this case, pointing a firearm towards a minor is intrinsically cruel. Due to the nature of a firearm, R.A. No. 10591 regulates the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof.^[67] R.A. No. 10591 was enacted to maintain peace and order and protect the people against violence. It also recognizes the right of qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms.^[68] For the members of the Philippine National Police, Armed Forces of the Philippines and law enforcement agents, mere displaying of a firearm, when not used for a legitimate purpose, is even prohibited.^[69] Such is understandable for in the normal course of things, a gun, when displayed, moreso, when pointed towards another, regardless of age, instantly generates fear.

It bears emphasis that the object involved in this case is a gun. Unlike other objects that may be used to hurt a child, a gun serves no other purpose than to cause injury or death. In the hands of a person with ill-motive, the objective to injure or kill could be achieved; in the hands of a person with good intention, the objective to repel an unlawful aggression may be accomplished. In these cases, one has to cause injury in order to achieve either objective.

Certainly, when there is nothing to defend against, any preparatory act of using a gun, as by pointing it towards a minor, would only cause fear in the mind of that person. With the only remaining act of pulling the trigger of a gun, it is the near possibility of the resulting death or injury that will remain etched in the mind of the minor. There is no denying that psychological harm immediately results therefrom, which falls as psychological abuse, as Section 3(b) of R.A. No. 7610 classifies maltreatment as child abuse based on the act committed, whether it be habitual or not.

Militating against San Juan is his training as a police officer, whose duty is to uphold the law and to protect the well-being of the citizens of the community. Woefully, San Juan did the exact opposite. The use of his service firearm against a hapless 15-year old minor, when he could have used other means to prevent AAA and his friends from playing basketball during such time, is manifestly excessive and unnecessary to achieve his purpose.

It is not farfetched to assume that children, recognized as the most vulnerable members of society, can offer no resistance against an armed officer and in all likelihood, would be scarred by trauma long after the incident. A gun, when used to threaten an individual, moreso a minor, would undoubtedly create a lasting fear that could

persist throughout the minor's life; worse, such an incident could further erode and even endanger the minor's psychological state and normal development. Ineluctably, the use of such firearm in such manner as in this case inherently carries with it a malicious intent to which San Juan must be held answerable for. As such, San Juan must be held liable for violation of Section 10(a) in relation to Section 3(b)(1) of R.A. No. 7610.

With respect to the imposable penalty, Section 10(a) of R.A. No. 7610 prescribes the penalty of prision mayor in its minimum period, which has a period of six (6) years and one (1) day to eight (8) years. In the absence of any mitigating or aggravating circumstance, the maximum penalty to be imposed upon San Juan shall be taken from the medium period of the imposable penalty, which has a range of six (6) years, eight (8) months and one (1) day to seven (7) years and four (4) months. Applying the Indeterminate Sentence Law, the minimum penalty to be imposed shall be taken one degree lower from the imposable penalty, which is prision correccional maximum, with a range of four (4) years two (2) months and one (1) day to six (6) years. Considering the prevailing circumstances, this Court deems it proper to impose the penalty of four (4) years, nine (9) months and eleven (11) days as minimum, to seven (7) years and four (4) months, as maximum term of imprisonment.

As to the damages, this Court affirms the CA ruling that San Juan should be liable to pay AAA the amount of P20,000.00 as moral damages on account of the psychological abuse and cruelty he suffered. Further, in order to serve as an example for the correction of the public good,[70] this Court likewise affirms the award of P20,000.00 as exemplary damages. These civil liabilities shall earn interest at the rate of six (6%) percent per annum from the finality of judgment until full payment.

WHEREFORE, the instant Petition is DENIED. The Decision dated May 31, 2017 and the Resolution dated January 10, 2018 of the Court of Appeals in CA-G.R. CR. No. 38091, are AFFIRMED with MODIFICATION. Petitioner Marvin L. San Juan is GUILTY of violation of Section 10(a) in relation to Section 3(b)(1) of Republic Act No. 7610. The correlation to Grave Threats is DELETED. He is sentenced to suffer imprisonment for a period of four (4) years, nine (9) months and eleven (11) days of prision correccional, as minimum, to seven (7) years and four (4) months of prision mayor, as the maximum. He is likewise ORDERED to PAY AAA the amounts of twenty thousand pesos P20,000.00 as moral damages and Twenty Thousand Pesos P20,000.00 as exemplary damages, plus interest at the rate of six (6%) percent per annum on the civil liability hereby imposed, reckoned from the finality of this Decision until full payment.

SO ORDERED.

Gesmundo, C.J., Hernando, Zalameda, M. Lopez, Gaerlan, Rosario, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.

Leonen, SAJ., see separate concurring opinion.

Caguioa, J., see dissent.

Lazaro-Javier, J., please see concurrence.

Inting, J., joined the dissent of Justice Caguioa.

[1] Rollo, pp. 9-22.

[2] Id. at 25-32. The May 31, 2017 Decision was penned by Associate Justice Danton Q. Bueser, concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Marie Christine Azcarraga-Jacob, Thirteenth Division, Court of Appeals, Manila.

[3] Id. at 34-35. Dated January 10, 2018.

[4] Id. at 57-67. The July 22, 2015 Decision was penned by Judge Evangeline M. Francisco, Branch 270, Regional Trial Court, xxxxxxxxxxxx City.

[5] Id. at 25-26.

[6] The real name of the victim, his personal circumstances and other information which tend to establish or compromise his identity, as well as those of his immediate family, or household members, shall not be disclosed to protect his privacy, and fictitious initial shall, instead, be used, in accordance with People v. Cabalquinto, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

[7] Rollo, pp. 25-26.

[8] Id. at 26.

[9] Id.

[10] Id. at 52.

[11] Id. at 26.

[12] The real name of the victim, his personal circumstances and other information which tend to establish or compromise his identity, as well as those of his immediate family, or household members, shall not be disclosed to protect his privacy, and fictitious initial shall, instead, be used, in accordance with People v. Cabalquinto, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

[13] The real name of the victim, his personal circumstances and other information which tend to establish or compromise his identity, as well as those of his immediate family, or household members, shall not be disclosed to protect his privacy, and fictitious initial shall, instead, be used, in accordance with People v. Cabalquinto, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

[14] Id. at 26.

[15] Id. at 59.

[16] Id. at 26.

[17] Id. at 27.

[18] Id.

[19] Id.

[20] Id. at 57-67.

[21] Id. at 25.

[22] Id. at 13.

[23] Id. at 29.

[24] Id. at 25-32.

[25] Id. at 13-14.

[26] Id. at 30.

[27] Id.

- [28] Id.
- [29] *Torres v. People*, 803 Phil. 480, 487 (2017). (Citation omitted)
- [30] *Rollo*, pp. 48-49.
- [31] Id. at 62-64.
- [32] Id. at 48-49.
- [33] Id. at 48.
- [34] 596 Phil. 220 (2009).
- [35] Id. at 223. (Citation omitted)
- [36] Id.
- [37] Id. at 223-224.
- [38] Id. at 224.
- [39] Id. at 227. (Citation omitted)
- [40] *Rollo*, pp. 25-26.
- [41] 160 Phil. 1011 (1975).
- [42] Id. at 1028-1029.
- [43] 256 Phil. 527 (1989).
- [44] Id. at 531-534.
- [45]

[Presidential Decree] No. 603, Article 59

Possible [Revised Penal Code] Counterpart

(1) Conceals or abandons the child with intent to make such child lose his civil status.

Article 347. Simulation of births, substitution of one child for another and concealment or abandonment of a legitimate child.

(2) Abandons the child under such circumstances as to deprive him of the love, care and protection he needs.

Article 276. Abandoning a minor or Article 277. Abandonment of minor by person entrusted with his custody; indifference of parents.

(3) Sells or abandons the child to another person for valuable consideration.

Article 272. Slavery.

(4) Neglects the child by not giving him the education which the family's station in life and financial conditions permit.

Article 277. Abandonment of minor by person entrusted with his custody; indifference of parents.

(5) Fails or refuses, without justifiable grounds, to enroll the child as required by Article 72.

Article 277. Abandonment of minor by person entrusted with his custody; indifference of parents.

(6) Causes, abates, or permits the truancy of the child from the school where he is enrolled. x x x

None.

(7) Improperly exploits the child by using him, directly or indirectly, such as for purposes of begging and other acts which are inimical to his interest and welfare.

Article 278. Exploitation of minors.

(8) Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him.

Article 358. Slander, Article 263. Serious physical injuries, Article 265. Less serious physical injuries, or Article 266. Slight physical injuries and maltreatment.

(9) Causes or encourages the child to lead an immoral or dissolute life.

Article 340. Corruption of minors.

(10) Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership.

None.

(11) Allows or requires the child to drive without a license or with a license which the parent knows to have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he permitted or ordered the child to drive x x x

None.

[46] Record, Senate 9[th] Congress, vol. I, No. 7189, August 1, 1991.

[47] Record, Senate 9[th] Congress, vol. I, No. 7173, August 1, 1991.

[48] Record, Senate 9[th] Congress, vol. I, No. 7550, August 1, 1991.

[49] Record, Senate 9[th] Congress, vol. I, No. 7 258-259, August 1, 1991.

[50] 578 Phil. 876 (2008).

[51] Id. at 884-886.

[52] Calaoagan v. People, G.R. No. 222974, March 20, 2019.

[53] See Talocod v. People, G.R. No. 250671, October 7, 2020.

[54] De Guzman, Jr. v. People, 748 Phil. 452, 458 (2014).

[55] United States v. Tria, 17 Phil. 303, 309 (1910).

[56] 707 Phil. 11 (2013).

[57] Id. at 20-21.

[58] Supra note 53.

[59] G.R. No. 246017, November 25, 2020.

[60] Id.

[61] Id.

[62] <https://thelawdictionary.org/cruelty/>.

[63] Reyes, Luis VB. THE REVISED PENAL CODE CRIMINAL LAW BOOK I (2017 ed.) p. 479.

[64] 815 Phil. 646 (2017).

[65] Id. at 663-664.

[66] Gomez v. People, G.R. No. 216824, November 10, 2020. (Citations omitted)

[67] Republic Act No. 10591, article 1, section 2.

[68] Republic Act No. 10591, article 1, section 1.

[69] Implementing Rules and Regulations of Republic Act No. 10591, rule II, section 7.11.1.

[70] See Civil Code, title XVIII, chapter 3, section 5, art. 2229.

Art. 2229. – Exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.

CONCURRING OPINION

LEONEN, SAJ.:

I concur in the result that petitioner Marvin L. San Juan (San Juan) should be convicted of violation of Section 10(a) of Republic Act No. 7610. I contribute for the consideration of the ponente the following observations.

I

An Information was filed against petitioner charging him with subjecting AAA to "psychological cruelty and emotional maltreatment." [1] The Information reads:

That on or about March 26, 2014, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, who was drunk, without and justifiable cause, did then and there willfully, unlawfully and feloniously threaten of life of one [AAA] 15 years old (DOB: May 5, 1998) (complainant) by poking a gun at him, an act amounting to a crime, thereby subjecting said minor to psychological cruelty and emotional maltreatment.

CONTRARY TO LAW.

After trial, the Regional Trial Court convicted San Juan of child abuse under Section 10(a) of Republic Act No. 7610. [2] The Court of Appeals sustained San Juan's conviction but modified the designation of the offense as grave threats [3] in relation to Section 10(a) of Republic Act No. 7610. [4]

The ponencia, while affirming petitioner's conviction, deleted the correlation to grave threats and convicted him of violation of Section 10(a) in relation to Section 3(b)(1) of Republic Act No. 7610. [5] In ruling this, the ponencia considered the interplay between the provisions of Republic Act No. 7610, Presidential Decree No. 603, and the Revised Penal Code. It also took into account the legislature's intent in enacting Republic Act No. 7610. [6]

It observed that while most of the punishable acts under Article 59 of Presidential Decree No. 603 had a

counterpart provision in the Revised Penal Code, paragraphs 6, 10 and 11 of Article 59 had no equivalent rule under the Revised Penal Code, and thus "no recourse could be had if these acts were committed by a non-parent." [7] It then presented a comparative table [8] of the corresponding offenses punished under Presidential Decree No. 603 and the Revised Penal Code:

[Presidential Decree] No. 603, Article 59

Possible [Revised Penal Code] Counterpart

(1) Conceals or abandons the child with intent to make such child lose his civil status.

Article 347. Simulation of births, substitution of one child for another and concealment or abandonment of a legitimate child.

(2) Abandons the child under such circumstances as to deprive him of the love, care and protection he needs.

Article 276. Abandoning a minor or Article 277. Abandonment of minor by person entrusted with his custody; indifference of parents.

(3) Sells or abandons the child to another person for valuable consideration.

Article 272. Slavery.

(4) Neglects the child by not giving him the education which the family's station in life and financial conditions permit.

Article 277. Abandonment of minor by person entrusted with his custody; indifference of parents.

(5) Fails or refuses, without justifiable grounds, to enroll the child as required by Article 72.

Article 277. Abandonment of minor by person entrusted with his custody, indifference of parents.

(6) Causes, abates, or permits the truancy of the child from the school where he is enrolled....

None.

(7) Improperly exploits the child by using him, directly or indirectly, such as for purposes of begging and other acts which are inimical to his interest and welfare.

Article 278. Exploitation of minors.

(8) Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him.

Article 358. Slander, Article 263. Serious physical injuries, Article 265. Less serious physical injuries, or Article 266. Slight physical injuries and maltreatment.

(9) Causes or encourages the child to lead an immoral or dissolute life.

Article 340. Corruption of minors.

(10) Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership.

None.

(11) Allows or requires the child to drive without a license or with a license which the parent knows to have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he

permitted or ordered the child to drive. . .

None.

While I admire the ponencia's effort to harmonize Presidential Decree No. 603 and the Revised Penal Code, I believe that the acts punished under paragraph 8, Article 59 of Presidential Decree No. 603 are not on all fours with that of Articles 263, 265, 266, and 358 of the Revised Penal Code. For reference, paragraph 8 of Article 59 reads:

ART. 59. Crimes. - Criminal liability shall attach to any parent who:

. . . .

(8) Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him.

Meanwhile, Articles 263, 265, 266, and 358 of the Revised Penal Code provide:

ARTICLE 263. Serious physical injuries. - Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

1. The penalty of prision mayor, if in consequence of the physical injuries inflicted, the injured person shall become insane, imbecile, impotent, or blind;
2. The penalty of prision correccional in its medium and maximum periods, if in consequence of the physical injuries inflicted, the person injured shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm, or a leg or shall have lost the use of any such member, or shall have become incapacitated for the work in which he was therefor habitually engaged;
3. The penalty of prision correccional in its minimum and medium periods, if in consequence of the physical injuries inflicted, the person injured shall have become deformed, or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance of the work in which he as habitually engaged for a period of more than ninety days;
4. The penalty of arresto mayor in its maximum period to prision correccional in its minimum period, if the physical injuries inflicted shall have caused the illness or incapacity for labor of the injured person for more than thirty days.

If the offense shall have been committed against any of the persons enumerated in Article 246, or with attendance of any of the circumstances mentioned in Article 248, the case covered by subdivision number 1 of this Article shall be punished by reclusion temporal in its medium and maximum periods; the case covered by subdivision number 2 by prision correccional in its maximum period to prision mayor in its minimum period; the case covered by subdivision number 3 by prision correccional in its medium and maximum periods; and the case covered by subdivision number 4 by prision correccional in its minimum and medium periods.

The provisions of the preceding paragraph shall not be applicable to a parent who shall inflict physical injuries upon his child by excessive chastisement.

Article 265. Less serious physical injuries. - Any person who shall inflict upon another physical injuries not described in the preceding articles, but which shall incapacitate the offended party for labor for ten days or more, or shall require medical assistance for the same period, shall be guilty of less serious physical injuries and shall suffer the penalty of arresto mayor.

Whenever less serious physical injuries shall have been inflicted with the manifest intent to kill or offend the injured person, or under circumstances adding ignominy to the offense in addition to the penalty of arresto

mayor, a fine not exceeding 500 pesos shall be imposed.

Any less serious physical injuries inflicted upon the offender's parents, ascendants, guardians, curators, teachers, or persons of rank, or persons in authority, shall be punished by prision correccional in its minimum and medium periods, provided that, in the case of persons in authority, the deed does not constitute the crime of assault upon such person.

Article 266. Slight physical injuries and maltreatment. - The crime of slight physical injuries shall be punished:

1. By *arresto menor* when the offender has inflicted physical injuries which shall incapacitate the offended party for labor from one to nine days, or shall require medical attendance during the same period.
2. By *arresto menor* or a fine not exceeding 20 pesos and censure when the offender has caused physical injuries which do not prevent the offended party from engaging in his habitual work nor require medical assistance.
3. By *arresto menor* in its minimum period or a fine not exceeding 50 pesos when the offender shall ill-treat another by deed without causing any injury.

Article 358. Slander. - Oral defamation shall be punished by *arresto mayor* in its maximum period to *prision correccional* in its minimum period if it is of a serious and insulting nature; otherwise the penalty shall be *arresto menor* or a fine not exceeding 200 pesos.

A perusal of these provisions reveals that while Article 59 (8) is couched in general terms, in that it may include the beating, assaulting, and oral defamation of a child, Article 59 (8) requires the additional element of embarrassment or humiliation. The infliction of cruel or unusual punishment upon a child must have resulted in the child's embarrassment or humiliation. Yet, an individual prosecuted for violation of Articles 263, 265, 266, and 358 of the Revised Penal Code may be convicted regardless of the effect of his or her act upon the child victim.

In the same way, it is my view that Article 59 (9) cannot be equated to Article 340 of the Revised Penal Code.

On one hand, Article 59 (9) imposes criminal liability upon a parent who "[c]auses or encourages. . . [his or her] child to lead an immoral or dissolute life[.]"

On the other hand, Article 340 penalizes "[a]ny person who shall promote or facilitate the prostitution or corruption of persons underage to satisfy the lust of another[.]"

Immorality pertains to conduct that "is willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community[.]"[9] While this definition may include the acts punished under Article 340 of the Revised Penal Code, immoral conduct is not limited to prostitution of children.

Accordingly, I submit that the acts punished under Article 59, paragraphs 8 and 9 cannot be interpreted to equate to Articles 263, 265, 266, 358, and 340 of the Revised Penal Code.

II

I concur with the ponencia that San Juan is guilty of violating Section 10(a) in relation to Section 3(b)(1) of Republic Act No. 7610.

Republic Act No. 7610 is a legislation enacted to advance the State's policy of affording children special protection against "all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial their development[.]"[10]

In line with this, the law enumerates certain prohibited acts which include child prostitution^[11] and child trafficking,^[12] among others. In addition, Section 10 of Republic Act No. 7610 outlines the acts which are characterized as other acts of abuse. Section 10(a) provides:

SECTION 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. -

(a)

Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

Among the acts punished under Section 10(a) is child abuse, the definition of which is provided in Section 3(b) of the same law:

(b)

"Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

(2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

(3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or

(4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

In *Malcampo-Repollo v. People*,^[13] this Court, citing *Lucido v. People*,^[14] characterized violations of Republic Act No. 7610 as *malum prohibitum*, for which "no malice or intent to commit a crime need be proved."^[15] It held:

Child abuse, as penalized under Republic Act No. 7610, is *malum prohibitum*, where intent is not the defining mark in the offense:

Republic Act No. 7610 is a measure geared to provide a strong deterrence against child abuse and exploitation and to give a special protection to children from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development. It must be stressed that the crime under Republic Act No. 7610 is *malum prohibitum*. Hence, the intent to debase, degrade, or demean the minor is not the defining mark. Any act of punishment that debases, degrades, and demeans the intrinsic worth and dignity of a child constitutes the offense.

In other words, intent is not an indispensable element to sustain all convictions under Section 10 (a) of Republic Act No. 7610. Generally, in *mala prohibita*, the defense of lack of criminal intent is irrelevant. As long as all the

elements of the offense have been established beyond reasonable doubt, conviction ensues.[16]

Yet, Malcampo-Repollo clarified that in some forms of child abuse, the prosecution must also prove the existence of the specific intent to debase, degrade, or demean the child's intrinsic worth and dignity as a human being:

The act of debasing, degrading, or demeaning the child's intrinsic worth and dignity as a human being has been characterized as a specific intent in some forms of child abuse. The specific intent becomes relevant in child abuse when: (1) it is required by a specific provision in Republic Act No. 7610, as for instance, in lascivious conduct; or (2) when the act is described in the information as one that debases, degrades, or demeans the child's intrinsic worth and dignity as a human being.[17]

It is the factual allegations in the information that determine whether there is a need to establish the specific intent to debase, degrade, or demean. "If the form of child abuse alleged requires specific intent as defined by law, the prosecution is required to prove it. If the information does not allege the specific intent, or if it is not required by law, it need not be established." [18]

I agree with the ponencia that the facts, as alleged in the Information, do not require the prosecution to establish the specific intent to debase, degrade, or demean.[19] The acts of petitioner, as described in the Information, constitute child abuse under Section 3(b)(1) of Republic Act No. 7610. Crimes of this nature are inherently cruel for which intent of the offender is immaterial.

Abusing a child is always an intrinsically cruel act. Regardless of one's intent, acts constituting child abuse have the effect of impairing "the child's dignity and worth as a human being and infringe upon [his or her] right to grow up in a safe, wholesome, and harmonious place." [20]

It is human instinct which holds us accountable to rear a child in a hospitable, secure, and abundant environment. Away from maltreatment, obscenities, and deprivation, a child has a better chance of growing into a well-rounded adult. The effect of abuse is not always apparent. Scars and trauma are not always visible.

ACCORDINGLY, I vote to GRANT the Petition.

[1] Ponencia, p. 2.

[2] Id.

[3] ARTICLE 282. Grave threats. - Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

1. The penalty next lower in degree than that prescribed by law for the crime be threatened to commit, if the offender shall have made the threat demanding money or imposing any other condition, even though not unlawful, and said offender shall have attained his purpose. If the offender shall not have attained his purpose, the penalty lower by two degrees shall be imposed.

If the threat be made in writing or through a middleman, the penalty shall be imposed in its maximum period.

2. The penalty of arresto mayor and a fine not exceeding 500 pesos, if the threat shall not have been made subject to a condition.

[4] Ponencia, p. 4.

[5] Id. at 23.

[6] Id. at 8-15.

[7] Id. at 12.

[8] Id. at 11-12. See footnote 43.

[9] *Arciga v. Maniwang*, 193 Phil. 730, 735 (1981) [Per J. Aquino, Second Division]. (Citations omitted)

[10] Republic Act No. 7610, sec. 2. See also *Caballo v. People*, 710 Phil. 792 (2013) [Per J. Perlas- Bernabe, Second Division].

SECTION 2. Declaration of State Policy and Principles. — It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty exploitation and discrimination and other conditions, prejudicial their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

[11] Republic Act No. 7610, sec. 5.

[12] Republic Act No. 7610, sec. 7.

[13] G.R. No. 246017, November 25, 2020 <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67548>> [Per J. Leonen, Third Division].

[14] 815 Phil. 646 (2017) [Per J. Leonen, Second Division].

[15] *People v. Lubo*, 101 Phil. 179, 183 (1957) [Per J. Padilla, En Banc].

[16] *Malcampo-Repollo v. People*, G.R. No. 246017, November 25, 2020 [Per J. Leonen, Third Division].

[17] Id.

[18] Id.

[19] Ponencia, p. 21.

[20] *Lucido v. People*, 815 Phil. 646, 663 (2017) [Per J. Leonen, Second Division].

DISSENTING OPINION

CAGUIOA, J.:

From the various observations, analyses, and suggestions introduced by my esteemed colleagues, as well as the revisions undergone by the ponencia, I offer my humble comments through this Dissenting Opinion on the proper understanding of what acts are meant to be punished under Section 10(a) of Republic Act No. (RA) 7610.[1]

The ponencia discusses: (a) the meaning of the clause "but not covered by the Revised Penal Code [(RPC)]" in Section 10(a) of RA 7610; and (b) the difference between child abuse as defined in Section 3(b)(1) and Section 3(b)(2) of the same law.

Section 10(a) of RA 7610 states:

Section 10. Other Acts of Neglect; Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the

Child's Development. -

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the [RPC], as amended, shall suffer the penalty of prision mayor in its minimum period.

On the meaning of the clause "but not covered by the [RPC]"

The ponencia explains that the clause "but not covered by the [RPC]" is meant to modify only the immediately preceding clause "including those covered by Article 59 of Presidential Decree No. [(PD)] 603,[2] as amended." Considering the intent of the legislature to increase penalties, the ponencia interprets these two adjacent clauses to mean that acts which were previously enumerated under Article 59[3] of PD 603, but do not have any counterpart in the RPC, should be deemed punished under Section 10(a) of RA 7610. As to what these acts are, the ponencia explains:

The interpretation means that acts punished under Sec. 10(a) of [RA] 7610 include those acts punishable under Article 59 of [PD] 603, even if not covered by the [RPC]. Notably, as pointed out by Associate Justice Alfredo Benjamin Caguioa, most of the criminal acts defined under Article 59 of [PD] 603 find counterparts in the [RPC]. In the case of [PD] 603, its provisions apply in case the offenders are the child-victim's parents, where "parent" also encompasses "the guardian and the head of the institution or foster home which has custody of the child." Meanwhile, the RPC applies in case of non-parent-offenders, as its provisions did not specify the personality of the offender. Since Article 59 of [PD] 603 defined certain acts which found no counterparts in the RPC [i.e., subparagraphs (6), (10), and (11)], no recourse could be had if these acts were committed by a non-parent.[4]

Hence, based on the ponencia, the clause "including those covered by Article 59 of [PD] 603, as amended, but not covered by the [RPC], as amended," refers to paragraphs 6, 10, and 11 of Article 59 of PD 603 as committed by non-parents, since these would not have been covered by either PD 603 or the RPC prior to the enactment of RA 7610. The ponencia further explains that by making "any person" a possible offender under Section 10(a), this section also now punishes the acts enumerated under Article 59 of PD 603, even as they are acts committed by parents:

x x x With the word "any person" under Section 10(a) and the intention to increase the penalties of the punishable acts involving child abuse, Section 10(a) of [RA] 7610 encompasses a wide-ranging act by which the punishable acts under Article 59 of [PD] 603, whether or not these are covered by the RPC, as well as acts under the RPC, involving children may be examined. x x x[5]

I agree with the ponencia's interpretation as discussed. Notably also, punishing the acts enumerated in Article 59 of PD 603 under Section 10(a) of RA 7610 is supported by Article 60 of PD 603, which states:

ART. 60. Penalty. – The act[s] mentioned in the preceding article [(referring to Article 59)] shall be punishable with imprisonment from two to six months or a fine not exceeding five hundred pesos, or both, at the discretion of the Court, unless a higher penalty is provided for in the [RPC] or special laws, without prejudice to actions for the involuntary commitment of the child under Title VIII of this Code.

The penalty of prision mayor in its minimum period (six years and one day to eight years) is undeniably higher than the two to six months of imprisonment or a fine imposed by Article 60 of PD 603.

As the foregoing discussion has already established that the acts punished under Article 59 of PD 603 should be punished under Section 10(a), the only remaining question is under which law should an offender be prosecuted and convicted if his/her acts can fall in either or both the RPC or Section 10(a) of RA 7610.

The distinctions between Section 3(b)(1) and Section 3(b)(2) of RA 7610

Section 3(b) in its entirety states:

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1)

Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

(2)

Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

(3)

Unreasonable deprivation of his basic needs for survival, such as food and shelter; or

(4)

Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

The ponencia points out that the acts described in Section 3(b)(1), 3(b)(3), and 3(b)(4), in contrast to the acts described in 3(b)(2), require only proof of general criminal intent, which is ordinarily presumed from the commission of the criminal act.[6] It is for the accused to rebut this presumption.[7] On the other hand, Section 3(b)(2) additionally requires that the prosecution prove the existence of the specific intent to debase, degrade, or demean the intrinsic worth and dignity of a child as a human being, as an essential element of the crime.[8]

In applying these principles to the case at hand, the ponencia begins by examining the Information filed against petitioner Marvin L. San Juan (San Juan):

That on or about March 26, 2014, in xxxxxxxxxxxxxxxx and within the jurisdiction of this Honorable Court, the above-named accused, who was drunk, without any justifiable cause, did then and there willfully, unlawfully and feloniously threaten the life of one AAA,[9] 15 years old (DOB: May 5, 1998) (complainant) by poking a gun at him, an act amounting to a crime, thereby subjecting said minor to psychological cruelty and emotional maltreatment.

CONTRARY TO LAW.[10]

The ponencia notes that aside from narrating the act of threatening the life of the minor by poking a gun at him, the Information also alleges that San Juan subjected the minor to "psychological cruelty and emotional maltreatment." Given these allegations in the Information, the ponencia concludes that what is being described is an act of "psychological abuse and an act of cruelty." [11] "Psychological abuse" is among the acts enumerated in Section 3(b)(1) of RA 7610. As far as "cruelty" is concerned, the ponencia observes that there may be two ways of understanding the same.

First is the definition of "cruelty" in Section 2(c) of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases (Rules on Child Abuse Cases), as follows:

(c) "Cruelty" refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical

or psychological injury as defined herein[.]

The above definition evidently references the phrase "debases, degrades, or demeans the intrinsic worth and dignity of a child." This, as already mentioned, is a clause that appears in Section 3(b)(2) and not in 3(b)(1). This then conflicts with characterizing the alleged acts as "psychological abuse" under Section 3(b)(1). Furthermore, "cruelty" itself appears in the enumeration in Section 3(b)(1) alongside "psychological and physical abuse," among other acts. To remedy this, the ponencia looks to the ordinary meaning of "cruelty":

Certainly, the term cruelty, in its common usage, simply means suffering that is excessive and unnecessary to the purpose to be achieved by an offender. An act that is accompanied by such a cruel act can easily be determined by the manner it was executed. It does not need an inquiry into the specific intent to debase, degrade or demean the intrinsic worth and dignity of the child, as being referred to under the Rules and Regulations of [RA] 7610.

As such, while cruelty has been given a definition under the Rules and Regulations of [RA] 7610, such term cannot be confined therein especially that Section 3(b)(1) includes cruelty among its enumeration, that is separate from Section 3(b)(2).

To avoid confusion, child cruelty, when referring to Section 3(b)(2) of [RA] 7610 must thus always carry the qualification that the act complained of, debased, degrade[d] or demeaned the intrinsic worth and dignity of the child. Otherwise, the same may be used in its common usage, which is the definition being applied in the instant case.[12]

The ponencia then borrows the term "intrinsically cruel" from the case of *Lucido v. People*[13] (*Lucido*) to distinguish between what might be considered "cruelty" under Section 3(b)(1) and "cruelty" as defined in the Rules on Child Abuse Cases. According to the ponencia, if the act involved is inherently cruel (such as in *Lucido*, where the accused severely pinched and beat an 8-year-old child, causing her to limp) there is no need to establish the existence of the specific intent to debase, degrade, or demean the intrinsic worth or dignity of the child as a human being.

Finally, the ponencia observes that since the Information in the case at bar does not allege the specific intent, the Court cannot analyze the facts using the definition of "cruelty" in the Rules on Child Abuse Cases. Hence, the ordinary definition of "cruelty" should be followed. This leads the ponencia to the following conclusion:

Certainly, when there is nothing to defend against, any preparatory act of using a gun, as by pointing it towards a minor, would only cause fear in the mind of that person. With the only remaining act of pulling the trigger of a gun, it is the near possibility of the resulting death or injury that will remain etched in the mind of the minor. There is no denying that psychological harm immediately results therefrom, which falls as psychological abuse, as Section 3(b) of [RA] 7610 classifies maltreatment as child abuse based on the act committed, whether it be habitual or not.[14]

At this point, I make the observation that the ponencia's method of analyzing the facts of the case vis-à-vis RA 7610 is essentially a process of elimination. While the ponencia no longer goes into this, it is also clear that the alleged act is not similar to any of the acts described in Article 59 of PD 603. Also, the act alleged against San Juan does not fall under Section 3(b)(3) and 3(b)(4), and these are rightly excluded from the discussion. Following these, the ponencia explains that Section 3(b)(2) also does not apply, because the specific intent is not alleged in the Information. Finally, the act described was found to be covered by psychological abuse per Section 3(b)(1).

I believe this to be a logical and efficient way of determining whether Section 10(a) of RA 7610 is applicable. I agree with the discussions and the process employed by the ponencia for cases clearly falling under Section 10(a).

However, while I agree with the method of analysis, I have come to a different conclusion as regards the criminal liability of San Juan.

San Juan's act of pointing a gun at the victim cannot be punished under RA 7610

The bulk of the discussion on RA 7610 in recent years focuses on the supposed intent to increase penalties for crimes committed against children. Oft-quoted are the explanations of Senator Jose Lina during the Senate deliberations on the bills which eventually culminated in the enactment of RA 7610. But I do not believe that this should automatically classify every act which has a child or minor as its victim, as child abuse punishable under Section 10(a) of RA 7610. RA 7610 simply did not provide that it would apply automatically, in place of the RPC, once the victim is a child/minor. In fact, it explicitly recognized that the provisions of the RPC remain operative, but it only provided a higher penalty if the victim was below a certain age:

For purposes of this Act, the penalty for the commission of acts punishable under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the [RPC], for the crimes of murder, homicide, other intentional mutilation, and serious physical injuries, respectively, shall be reclusion perpetua when the victim is under twelve (12) years of age. The penalty for the commission of acts punishable under Article 337, 339, 340 and 341 of Act No. 3815, as amended, the [RPC], for the crimes of qualified seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, and white slave trade, respectively, shall be one (1) degree higher than that imposed by law when the victim is under twelve (12) years of age.[15]

In this connection, I quote the following passage in the ponencia:

Thus, it is only when the Information alleges a specific intent, or when the provision of law demands it, must the prosecution prove its existence. Specific intent becomes significant for determining the specific provision—whether under the RPC, under [RA] 7610, or even other criminal laws—under which an act will be punished. As such, where the specific intent is not proven under a provision of law, the act may still be punished under other applicable penal laws provided that the elements of the crime [have] been satisfied. It is only when both general and specific intent are not proven that an accused is entitled to acquittal.[16]

It is my understanding that "specific intent" as used in the foregoing paragraph refers not only to the specific intent to debase, degrade, or demean the inherent worth and dignity of a child. It could refer to any specific outcome which the accused intended to cause, such as the intent to make a child lose his/her civil status, as required in paragraph 1 of Article 59 of PD 603.[17]

In a similar way, I understand Section 10(a) of RA 7610 as punishing acts not merely because the victim is a child, but because the victim was sought out as a victim precisely because he or she is a child. This is the enduring thread I have observed in the myriad of cases in which the Court refused to convict the accused under Section 10(a) because the acts alleged were perpetrated in the spur of the moment, out of retaliation to a harm caused to the accused's own children, or in the heat of the moment or during an altercation.[18] In other words, I believe that the dividing line between acts punished under the RPC, on the one hand, and those punished under Section 10(a), on the other, is the intention to commit "child abuse" — which means that, in the first place, the offender committed the acts against the child precisely because the latter is a child.

To illustrate, I borrow the situation involved in the case of *Bongalon v. People*,[19] where the accused struck a minor on his back and face, "being then overwhelmed by his fatherly concern for the personal safety of his own minor daughters who had just suffered harm at the hands of [the minor victim]."[20] To my mind, a situation like this should not be categorized as "child abuse" and would be more properly punished under the RPC. For one, the accused in *Bongalon* did not commit the act against the child because the latter is a child. Arguably, the accused therein would have committed the act regardless of who harmed his daughters, minor or otherwise. Furthermore,

the definition of "physical injury" in the Rules on Child Abuse Cases, which in turn clarifies the definition of "child abuse" as punishable under Section 10(a) of RA 7610, is as follows: "includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child." [21] While this enumeration is by no means exhaustive, its interpretation should adhere to the doctrine of ejusdem generis. A single slap in the heat of anger as described in the above example, if no serious injuries are proven, should not be lumped in together with "lacerations, fractured bones, burns, internal injuries x x x."

Applying the foregoing in the present case, I note that San Juan's act of pointing a gun against the minor to threaten and intimidate him was an act which can be perpetrated against anyone, even an adult. My reading of the facts is that San Juan did not choose the minor complainant as his victim because he was a child. If he had been an adult, he would have likely used the same tactics in order to assert himself and to make him take him seriously. Hence, I believe he is liable, not for a violation of Section 10(a) of RA 7610, but only of Grave Threats under the RPC.

Furthermore, while I agree with the ponencia's formulation of the distinction between Section 3(b)(1) and Section 3(b)(2), and while I agree that San Juan's act does not fall under Section 3(b)(2) because no specific intent to debase the inherent dignity of the child was ever alleged in the Information, I also believe that the act in question does not fall under Section 3(b)(1) because it is not inherently cruel.

In its discussion on what "cruelty" or being "cruel" means, the ponencia keenly notes:

The term cruelty, in its common usage, has been defined as the intentional and malicious infliction of physical suffering upon living creatures, particularly human beings; or, as applied to the latter, the wanton, malicious, and unnecessary infliction of pain upon the body, or the feelings and emotions; abusive treatment; inhumanity; outrage. Under the RPC, cruelty is included as one of the aggravating circumstances. It presupposes that the injury caused be deliberately increased by causing other wrong and that other wrong be unnecessary for the execution of the purpose of the offender. [22] (Emphasis supplied)

Intentional, malicious, inhumane — these words used in the foregoing paragraph, to my mind, carry such severe implications. One would ordinarily understand a cruel person as one who delights in or derives gratification out of the suffering of his or her victim, or, knowing the extent of the harm his or her acts could cause, callously performs those acts anyway, without justifiable reason.

With this understanding, I struggle to characterize San Juan's act as inherently cruel. While any reasonable person would understand that a gun would cause fear in the person staring down its barrel, the ordinary person would not be readily aware of the long-term psychological effects of such fear after its source — the gun — has already been taken away. Hence, San Juan cannot be said to have been deliberately inducing psychological abuse on his victim. Furthermore, his motive was clear: to intimidate the minors, who he says were laughing at him, into respecting him and his complaint against their basketball game, given how early it was in the morning. His actions may have been excessive and immature, but they do not have the same sinister quality as cruelty or abuse.

Thus, in conclusion, while I agree with the ponencia's interpretation of Section 10(a) vis-à-vis Section 3(b) of RA 7610, it is my considered view that, as previously mentioned, San Juan should be found guilty only for Grave Threats under the RPC, and not Section 10(a) of RA 7610. The two-fold reason for this is simple: (a) San Juan's act is not punishable under Section 10(a) because his act was not attended by the specific intent to commit "child abuse" as the minority of the victim in this case was not specifically sought, nor was it the prime consideration for the act committed, by San Juan; and (b) the specific intent to debase, degrade, or demean the intrinsic worth and dignity of the victim was not alleged, and inherent cruelty was not proven.

[1] AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION, AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES, approved on June 17, 1992.

[2] THE CHILD AND YOUTH WELFARE CODE, signed on December 10, 1974.

[3] ART. 59. Crimes. - Criminal liability shall attach to any parent who:

(1)

Conceals or abandons the child with intent to make such child lose his civil status.

(2)

Abandons the child under such circumstances as to deprive him of the love, care and protection he needs.

(3)

Sells or abandons the child to another person for valuable consideration.

(4)

Neglects the child by not giving him the education which the family's station in life and financial conditions permit.

(5)

Fails or refuses, without justifiable grounds, to enroll the child as required by Article 72.

(6)

Causes, abates, or permits the truancy of the child from the school where he is enrolled. "Truancy" as here used means absence without cause for more than twenty schooldays, not necessarily consecutive.

It shall be the duty of the teacher in charge to report to the parents the absences of the child the moment these exceed five schooldays.

(7)

Improperly exploits the child by using him, directly or indirectly, such as for purposes of begging and other acts which are inimical to his interest and welfare.

(8)

Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him.

(9)

Causes or encourages the child to lead an immoral or dissolute life.

(10)

Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership.

(11)

Allows or requires the child to drive without a license or with a license which the parent knows to have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he

permitted or ordered the child to drive. "Parents" as here used shall include the guardian and the head of the institution or foster home which has custody of the child.

[4] Ponencia, pp. 11-12.

[5] Id. at 14.

[6] Id. at 16.

[7] Id.

[8] Id. at 16-17.

[9] The real name of the victim, his/her personal circumstances and other information which tend to establish or compromise his/her identity, as well as those of his/her immediate family, or household members, shall not be disclosed to protect his/her privacy, and fictitious initial shall, instead, be used, in accordance with *People v. Cabalquinto*, 533 Phil. 703 (2006), and Amended Administrative Circular No. 83-2015 dated September 5, 2017.

[10] Ponencia, p. 2.

[11] Id. at 18.

[12] Id. at 19.

[13] 815 Phil. 646 (2017).

[14] Ponencia, pp. 21-22.

[15] RA 7610, Sec. 10.

[16] Ponencia, p. 18.

[17] ART. 59. Crimes. - Criminal liability shall attach to any parent who:

(1) Conceals or abandons the child with intent to make such child lose his civil status.

[18] See *Briñas v. People*, G.R. No. 254005, June 23, 2021; *Talocod v. People*, G.R. No. 250671, October 7, 2020; *Calaoagan v. People*, 850 Phil. 183 (2019); *Bongalon v. People*, 707 Phil. 11 (2013).

[19] Id.

[20] Id. at 21.

[21] RULES ON CHILD ABUSE CASES, Sec. 2(d).

[22] Ponencia, p. 19.

CONCURRENCE

LAZARO-JAVIER, J.:

I concur in the result.

I start with this legal doctrine –

A statute or act is vague when it lacks comprehensible standards that individuals of common intelligence must necessarily guess at its meaning and differ in its application.^[1] This incomprehensibility violates the Constitution

in two ways — it violates due process for failure to give persons, especially the parties targeted by it, fair notice of what conduct to avoid; and, it leaves law enforcers unchecked discretion in carrying out its provisions and becomes an arbitrary source of government orders.[2] But a statute or act cannot be vague if it can be clarified either by a saving clause or by construction.[3]

This doctrine is important in cases like the present one where the language of the law has to be clarified. Here, the interpretation and application of Section 10(a) of Republic Act No. 7610, otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act"[4] have confused our prosecutors and courts of what is and what is not the prohibited conduct under it. Even the name of the crime under this subsection has not been consistent and certain. This case is the appropriate means to uphold the doctrine and settle these concerns.

Antecedents

The prosecution initiated the criminal case below with this Information:

That on or about March 26, 2014, in Valenzuela City and within the jurisdiction of this Honorable Court, the above-named accused, who was drunk, without any justifiable cause, did then and there willfully, unlawfully[,] and feloniously threaten the life of one [AAA] 15 years old (DOB: May 5, 1998) (complainant) by poking a gun at him, an act amounting to a crime, thereby subjecting said minor to psychological cruelty and emotional maltreatment.

The criminal acts are the poking of the gun and the threat to the life of the minor. As stated in the Information, the resulting offense is the conjoined "psychological cruelty and emotional maltreatment." The prosecution identifies the crime as violation of Section 10(a) of Republic Act No. 7610.

After trial, the second-level court found that petitioner pointed a gun and he motioned as if to throw the stone at the minor as he was hurling invectives at him and his friends. The trial court concluded that the crime committed was Child Abuse under Section 10(a) of Republic Act No. 7610.

The Court of Appeals affirmed the factual findings of the trial court. It however digressed from the trial court in identifying the offense committed – grave threats in relation to Section 10(a) of Republic Act No. 7610. The ponencia mentioned that the Court of Appeals had based its ruling on these legal conclusions: there was "maltreatment" that "debase[d]" and caused fear to the minor.

My Observations

Having read the ponencia and all the Reflections, and having dealt with Section 10(a) of Republic Act No. 7610 in the past, I conclude that the prosecution, the trial court, and the Court of Appeals each came up with their own name of the crime that petitioner is guilty of. Thus, for:

- the prosecution, it is a violation of Section 10(a) of Republic Act No. 7610 for the minor's suffering of psychological cruelty and emotional maltreatment;
- the trial court, Child Abuse under Section 10(a) of Republic Act No. 7610 as a result of the pointing of the gun at him; and
- the Court of Appeals it is grave threats in relation to Section 10(a) of Republic Act No. 7610 arising from his maltreatment that debased and caused fear in him.

There are things amiss in the designation of the offense.

One. There is no "psychological cruelty" – it is either "psychological abuse," "psychological injury" or "cruelty." More, "psychological abuse" is distinct from (though could be similar to) "emotional maltreatment."

Two. "Child Abuse" itself consists of distinct modes of committing this umbrella offense.

Three. The crime of grave threats in relation to Section 10(a) of Republic Act No. 7610 is a juxtaposition of different elements from each of these crimes, grave threats under the Revised Penal Code (RPC) and Section 10(a) of Republic Act No. 7610 (which itself consists of different crimes of diverse elements). Maltreatment is an overarching criminal act for the different modes of Child Abuse (refer to Section 3(b) of Republic Act No. 7610)[5] while "debase" is specific to subsection 3(b)(2) Republic Act No. 7610.[6] Causing fear to the minor is a throwback to grave threats under the RPC.[7]

Must individuals of common intelligence necessarily guess at the meaning and differ in the application of Section 10(a) of Republic Act No. 7610? If we are to take the different designations given by the prosecution, the trial court, and the Court of Appeals, to petitioner's offense, then for sure the Court must clarify this criminal provision either by a saving clause or construction.

My Analysis

Section 10(a) of Republic Act No. 7610 provides a comprehensive cover for every prohibited conduct which may not have been captured by the other provisions of Republic Act No. 7610. This is at once shown by the use of the word "other" in identifying the criminal acts:

SECTION 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.

(a)

Any person who shall commit any other acts of child abuse, cruelty[,] or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.[8]

Section 10(a) pertains to acts other than Child Prostitution and Other Sexual Abuse, Child Trafficking, Obscene Publications, and Indecent Shows, and the criminal acts listed in Section 10(b) to (e).[9]

For purposes of the present case, Subsections 3(b)(1)[10] and 3(b)(2) of Republic Act No. 7610 are helpful in identifying what these other criminal acts are, thus:

SECTION 3. Definition of Terms. —

(a)

"Children" refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation[,] or discrimination because of a physical or mental disability or condition;

(b)

"Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(1)

Psychological and physical abuse, neglect, cruelty, sexual abuse[,] and emotional maltreatment;

(2)

Any act by deeds or words which debases, degrades[,] or demeans the intrinsic worth and dignity of a child as a human being... (Emphasis supplied)

So are the following provisions of the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases (1993) –

SECTION 2. Definition of Terms. — As used in these Rules, unless the context requires otherwise —

a)

"Child" shall refer to a person below eighteen (18) years of age or one over said age and who, upon evaluation of a qualified physician, psychologist[,] or psychiatrist, is found to be incapable of taking care of himself fully because of a physical or mental disability or condition or of protecting himself from abuse;

b)

"Child abuse" refers to the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse[,] or exploitation of a child;

c)

"Cruelty" refers to any act by word or deed which debases, degrades[,] or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein;

d)

"Physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury[,] or serious bodily harm suffered by a child;

e)

"Psychological injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal[,] or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

f)

"Neglect" means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education[,] or medical care so as to seriously endanger the physical, mental, social[,] and emotional growth and development of the child;

g)

"Sexual abuse" includes the employment, use, persuasion, inducement, enticement[,] or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children;

h)

"Lascivious conduct" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person;

i)

"Exploitation" means the hiring, employment, persuasion, inducement, or coercion of a child to perform in obscene exhibitions and indecent shows, whether live or in video or film, or to pose or act as a model in obscene publications or pornographic materials, or to sell or distribute said materials; and[11] (Emphasis supplied)

x x x x

As in all other criminal provisions, we begin with identifying the elements of the offense. There are two general headings for this identification - the actus reus and the mens rea. Of course, there are strict liability regulatory offenses where the voluntary doing of the prohibited conduct would be enough to convict. The mental element is not essential. Conviction for these crimes can be had just by proving the prohibited act. There is no particular guilty mind required.

Section 10(a) requires both the actus reus and the mens rea. The mens rea however need not always be a specific intent. In some of the offenses under Section 10(a) the general intent is enough. Hence, *Malcampo-Repollo v. People*[12] (*Malcampo-Repollo*) is correct that not all the offenses under Section 10(a) will require the specific intent of demeaning, degrading and debasing the intrinsic worth and dignity of a child. However, I respectfully disagree with the ruling in *Malcampo-Repollo* that criminal intent is not an essential element for the other offenses under Section 10(a) that do not involve the specific intent demeaning, degrading, and debasing the intrinsic worth and dignity of a child. For these other crimes, the prosecution must still prove general criminal intent to obtain a conviction.

1. Actus reus

The actus reus of Section 10(a) is a combination of separate acts which are further divided into their respective constituent acts. For the present case, the actus reus for each of the offenses under this provision is as follows:

a.

any other acts of Child Abuse,

i.

maltreatment, whether habitual or not, of the child which includes any of the following:

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Psychological abuse or injury;

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mean harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal[,] or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response[,] or cognition.

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Emotional maltreatment;

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Physical abuse or injury;

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includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury[,] or serious bodily harm suffered by a child.

-

Cruelty;

o

any act by word or deed which debases, degrades[,] or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein.

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Neglect

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means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education[,] or medical care so as to seriously endanger the physical, mental, social[,] and emotional growth and development of the child.[13]

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Sexual abuse, and

-

Exploitation

o

means the hiring, employment, persuasion, inducement, or coercion of a child to perform in obscene exhibitions and indecent shows, whether live or in video or film, or to pose or act as a model in obscene publications or pornographic materials, or to sell or distribute said materials;[14] and

Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.

b.

any other acts of Child Cruelty;

c.

any other acts of Child Exploitation;[15] and

d.

any other acts that are responsible for other Conditions Prejudicial to the Child's Development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the RPC.

From these, we can see that while any other acts of Child Abuse is a distinct offense under Section 10(a) from its other offenses of any other acts of Child Cruelty and any other acts of Child Exploitation, these offenses must be correlated with each other in their interpretation and application to avoid any confusing overlaps. This is because cruelty and exploitation are also constituent actus reus of any other acts of Child Abuse, and therefore, the cruelty and exploitation in any other acts of Child Abuse must be distinguished from the cruelty and exploitation involved in any other acts of Child Cruelty and any other acts of Child Exploitation.

Note also that under any other acts of Child Abuse, cruelty as a constituent actus reus parallels another constituent actus reus of any other acts of Child Abuse, which is any act by deeds or words which debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being.

The ponencia discussed the relevance of the clause "but not covered by the RPC" in Section 10(a):

SECTION 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the

Child's Development.

(a)

Any person who shall commit any other acts of child abuse, cruelty[,] or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period. (Emphasis supplied)

The ponencia then held that the clause modifies only the last antecedent, which is the clause that reads "including those covered by Article 59 of Presidential Decree No. 603, as amended...." This is correct. I wish only to add that grammatically, the clause "including those covered by Article 59 of Presidential Decree No. 603" forms a single thought with the clause "but not covered by the RPC" and therefore the latter cannot be dissociated from the former.

I respectfully disagree, however, with this holding in the ponencia:

We find that the phrase "but not covered by the Revised Penal Code, as amended" only qualifies the immediately preceding antecedent phrase "including those covered by Article 59 of Presidential Decree No. 603, as amended" under Section 10(a) of R.A. No. 7610, and not the acts enumerating the offense under said provision.... The interpretation means that acts punished under Sec. 10(a) of R.A. No. 7610 includes those acts punishable under Article 59 of P.D. No. 603, even if not covered by the RPC.

The entire clause "including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the RPC, as amended," is a dependent clause that modifies, consistently with the ponencia's holding, the closest antecedent - "be responsible for other conditions prejudicial to the child's development...."

As already explained in *Araneta v. People*,^[16] this closest antecedent is itself a free-standing offense under Section 10(a), thus:

As gleaned from the foregoing, the provision punishes not only those enumerated under Article 59 of Presidential Decree No. 603, but also four distinct acts, i.e., (a) child abuse, (b) child cruelty, (c) child exploitation, and (d) being responsible for conditions prejudicial to the child's development. The Rules and Regulations of the questioned statute distinctly and separately defined child abuse, cruelty[,] and exploitation just to show that these three acts are different from one another and from the act prejudicial to the child's development. Contrary to petitioner's assertion, an accused can be prosecuted and be convicted under Section 10(a), Article VI of Republic Act No. 7610 if he commits any of the four acts therein. The prosecution need not prove that the acts of child abuse, child cruelty[,] and child exploitation have resulted in the prejudice of the child because an act prejudicial to the development of the child is different from the former acts.

Moreover, it is a rule in statutory construction that the word "or" is a disjunctive term signifying dissociation and independence of one thing from other things enumerated. It should, as a rule, be construed in the sense which it ordinarily implies. Hence, the use of "or" in Section 10(a) of Republic Act No. 7610 before the phrase "be responsible for other conditions prejudicial to the child's development" supposes that there are four punishable acts therein. First, the act of child abuse; second, child cruelty; third, child exploitation; and fourth, being responsible for conditions prejudicial to the child's development. The fourth penalized act cannot be interpreted, as petitioner suggests, as a qualifying condition for the three other acts, because an analysis of the entire context of the questioned provision does not warrant such construal.^[17] (Emphasis supplied)

Therefore, given this analysis, the correct interpretation should be,

- The acts punished under Sec. 10(a) as any other acts of Child Abuse, any other acts of Child Cruelty, and any other acts of Child Exploitation include those acts punishable under Article 59 of Presidential Decree No. 603,

whether or not covered by the RPC.

- However, those acts punished under Sec. 10(a) as being responsible for other conditions prejudicial to the child's development including those acts punishable under Article 59 of Presidential Decree No. 603 but not covered by the RPC.

The interpretation arrived at in the ponencia, with due respect, fails to account for the clause "but not covered by the RPC, as amended." This is because the interpretation lumps together all the cognate offenses under Section 10(a) regardless of whether the RPC already covers any of these offenses if the offense pertains to acts criminalized under Article 59 of Presidential Decree No. 603. The interpretation is correct for the first three offenses under Section 10(a) – any other acts of Child Abuse, any other acts of Child Cruelty, and any other acts of Child Exploitation – but not in relation to the fourth one on being responsible for other conditions prejudicial to the child's development. If the criminal act pertains to any of those in Article 59, Presidential Decree No. 603, this fourth offense would arise only if it is not covered by the RPC.

2. Mens rea

For psychological abuse or injury, emotional maltreatment, physical abuse or injury, cruelty, and any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being, as the constituent actus reus of any other acts of Child Abuse, the mens rea element would either be a general or specific intent.

An act is intentional when the accused has a conscious desire to commit the act or achieve the result. For example, if I say I want to kill this male person and shoot this individual with my pistol, my act of shooting this person and causing his death would be intentional. If an 11-year-old boy destroys my garden of bonsai trees, and out of anger and frustration, I get a piece of wood and hit his buttocks with moderate force, my act of hitting his buttocks with the wood would be intentional. If the offense charged is violation of Section 10(a) of Republic Act No. 7610 through Other Acts of Child Abuse of physical abuse, my (general) criminal intent to batter the boy would suffice to satisfy the mens rea for this crime. If the boy suffers psychological trauma as a result, I would be liable for violation of Section 10(a) of Republic Act No. 7610 through Other Acts of Child Cruelty only if I had the (specific) criminal intent of demeaning, degrading, and debasing the intrinsic worth and dignity of a child.

General intent means that the accused voluntarily did and intended to do the wrongful act. To illustrate, where the accused is charged with physically abusing or injuring a child, it is enough that the accused voluntarily performed the wrongful act, regardless of the nature of the injury that resulted.

The offense would be violation of Section 10(a) of Republic Act No. 7610 through Other Acts of Child Abuse of physical abuse if the criminal act resulted in any of the following physical injuries whether an accused intended it or otherwise: lacerations, fractured bones, burns internal injuries, severe injury or serious bodily harm of the child.

I do not have to specifically intend the result because this type of offense under Section 10(a) of Republic Act No. 7610 does not require a specific intent as mens rea. It is enough that I performed intentionally the initiating criminal act – the swinging of the piece of wood towards the boy's buttocks (a wrongful act). The resulting injury is not a part of this offense's mens rea but of its actus reus. There is no required mental element to bring about an injury much less the exact type of injury. The only criminal mind I must have is the intent to swing the wood towards the boy's buttocks. Of course, since the resulting injury is part of the actus reus of this type of offense, the criminal act must be its proximate cause. The resulting injury is relevant only to the analysis of the actus reus but not to the mens rea. *Mabunot v. People*[18] supports this analysis.

On the other hand, specific intent means that the accused intended the particular result. To illustrate, where the

accusation against the accused is cruelty towards a child, the criminal act that resulted in the denigration, debasement, or degradation must have been specifically intended to happen as a consequence of the accused. Hence, where the criminal act causing denigration, debasement, or degradation to the child was done in a state of extreme and momentary anger, the specific intent to cause this specific result would have been absent from the doing of the act.[19]

Motive could be crucial in specific intent crimes. Motive is the "why" someone commits an act. It is not the same thing as intent. It is not the same thing as the guilty mind, blameworthiness, or culpability. The motive, the "why" the accused did it, might help prove that the accused did have a specific criminal mind required by the law.

There are several other concepts dealing with mens rea that are relevant to Section 10(a).

One. The accused must have knowledge of a particular fact that is an element of the crime. This is called scienter. The accused should know that the victim is a child.

Two. We also have the notion known as transferred intent. It is where the accused might be intending a particular harm, but because of something else happening, this original intent did not come true and the accused ended up harming someone else or causing a different harm. With transferred intent, we say that the original intent to cause that original harm, the intended harm is transferred to the intent to cause the harm that was actually caused. This concept was put to use in *Mabunot and Patulot v. People*.^[20] (*Patulot*) It is codified in Article 4(1) of the RPC.^[21]

Three. If the accused did not intend to cause the criminal act, but he or she knew that there was a substantial risk, or was reasonably certain, that the criminal act is going to happen from his or her actions, and nonetheless proceeded to do his or her actions, and the criminal act occurs, the accused had the mens rea of recklessness. He or she ignored this substantial risk of causing the criminal act and went on to do his or her actions despite this knowledge of the substantial risk that something awful would happen as a result.

On the other hand, the accused is negligent when he or she did not know or was not aware of the substantial risk of the criminal act taking place, but should have been or ought to have been aware of such substantial risk. If he or she so acts, and a criminal act ensues, he or she acted with the mens rea of negligence.

3. Nomenclature of the Offense

As for the naming protocol of the offense, I think violation of Section 10(a) of Republic Act No. 7610 through –

- Other acts of Child Abuse (of psychological abuse, or physical injury, or cruelty, etc.)
- Other acts of Child Cruelty,
- Other acts of Child Exploitation, or
- Other Conditions Prejudicial to the Child's Development

would be appropriate. This nomenclature reflects the title of Section 10(a) of Republic Act No. 7610 and captures how the Court in *Araneta v. People*^[22] has interpreted and named the offense in this subsection.

I do not think the naming protocol advised in the ponencia – "violation of Section 10(a) in relation to Section 3(b)(1) of Republic Act No. 7610" – helps in informing an accused and the public of the prohibited conduct being charged. No one memorizes the section or article number of a criminal statute. We refer to a crime as murder or homicide, by its verbal reference, rather than its numerical reference, because it is easier to recall and easily communicate the prohibited criminal act.

Application to the Present Case

Petitioner was specifically charged with "psychological cruelty and emotional maltreatment" after he poked a gun at the minor and hurled invectives at him. The consequence was that the minor felt threatened which impacted his psychological security. In other words, he suffered "emotional maltreatment" or "psychological abuse or injury."

It is incorrect for the prosecution to combine psychological with cruelty. Both are terms of art in Section 10 (a) and Section 3(b) of Republic Act No. 7610 and the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases.

In this regard, I agree with the ponencia that the reference to cruelty in Section 3(b)(1) as a constituent element of Other Acts of Child Abuse does not require the specific intent of demeaning, degrading, and debasing the intrinsic worth and dignity of a child. This specific intent is required only for the offense of Other Acts of Child Cruelty. The constituent actus reus of cruelty in Other Acts of Child Abuse pertains to the ordinary meaning of cruelty, and not to the definition of cruelty as used in the Rules and Regulations on the Reporting and Investigation of Child Abuse Cases. The latter is, to repeat, relevant to the offense of Other Acts of Child Cruelty.

In any event, while erroneous, the allegations in the Information nonetheless truly communicated to petitioner what he was being charged with. To my mind, the proper naming protocol for the offense charged and proved is violation of Section 10(a) through other acts of Child Abuse of psychological abuse, or emotional maltreatment.

There is proof beyond a reasonable doubt of the actus reus – the accused pointed a gun at the minor and hurled invectives at him, which resulted in psychological injury or harm or emotional maltreatment to his psychological or intellectual functioning as exhibited by severe anxiety. The complainant is indisputably a child. The psychological injury was determined subjectively to the complainant child. He suffered the psychological injury and attested to its existence, both established beyond a reasonable doubt.

The mens rea has also been proven beyond a reasonable doubt. First, petitioner knew he was a child when petitioner threatened him. Next, only general intent is required. Petitioner voluntarily pointed and intended to point the gun at the minor. He knew the victim to be a child. He may or may not have intended to cause the minor's psychological injury but that is beside the point.

As affirmed in *Mabunot and Patulot*, petitioner would have nonetheless transferred his intent to voluntarily and intentionally pointing the gun at the minor, already a criminal act, to the consequence of this act, which is the minor's psychological injury. Hence, by transferred intent, petitioner is deemed to have also intended to cause the psychological injury even without specifically intending to cause it. And this is because, again, this type of offense is a general intent offense, only the general intent to do intentionally and voluntarily the original criminal act was required to be proved beyond reasonable doubt.

Disposition

I concur in the result with the simple modification that the nomenclature of the crime is violation of Section 10(a) of Republic Act No. 7610 through other acts of Child Abuse of psychological abuse or emotional maltreatment.

[1] See *Zabal v. Duterte*, 846 Phil. 743 (2019) [Per J. Del Castillo, En Banc].

[2] *Id.*

[3] *Id.*

[4] Republic Act No. 7610, Sec. 10, Other Acts of Neglect, Abuse, Cruelty, or Exploitation and Other Conditions

Prejudicial to the Child's Development. – (a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period. (Special Protection of Children Against Abuse, Exploitation and Discrimination Act, June 17, 1992).

[5] Republic Act No. 7610, Sec. 3, Definition of Terms. -

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

(Special Protection of Children Against Abuse, Exploitation and Discrimination Act, June 17, 1992).

[6] Republic Act No. 7610, Sec. 3, Definition of Terms. -

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

x x x x

(2) Any act by deeds or words which debases, degrades, or demeans the intrinsic worth and dignity of a child as a human being;

x x x x

(Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, June 17, 1992).

[7] REV. PEN. CODE.

[8] Supra note 4.

[9] Republic Act No. 7610, Sec. 10, Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. -

x x x x

(b) Any person who shall keep or have in his company a minor, twelve (12) years or under or who in ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places shall suffer the penalty of prision mayor in its maximum period and a fine of not less than Fifty thousand pesos (P50,000): Provided, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law, local custom and tradition or acts in the performance of a social, moral or legal duty.

(c) Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph shall suffer the penalty of prision mayor in its medium period and a fine of not less than Forty thousand pesos (P40,000); Provided, however, That should the perpetrator be an ascendant, stepparent or guardian of the minor, the penalty to be imposed shall be prision mayor in its maximum period, a fine of not less than Fifty thousand pesos (P50,000), and the loss of parental authority over the minor.

(d) Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food, drink or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described shall be imposed a penalty of prision mayor in its medium period and a fine of not less than Fifty thousand pesos (P50,000), and the loss of the license to operate such a place or establishment.

(e) Any person who shall use, coerce, force or intimidate a street child or any other child to;

- (1) Beg or use begging as a means of living;
 - (2) Act as conduit or middlemen in drug trafficking or pushing; or
 - (3) Conduct any illegal activities, shall suffer the penalty of prision correccional in its medium period to reclusion perpetua.
- (Special Protection of Children Against Abuse, Exploitation and Discrimination Act, June 17, 1992).

[10] Republic Act No. 7610, Sec. 3, Definition of Terms.-

x x x x

(b) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;

x x x x

[11] Rules and Regulations on the Reporting and Investigation of Child Abuse Cases (1993).

[12] G.R. No. 246017, November 25, 2020 [Per J. Leonen, Third Division]

[13] Republic Act No. 7610, Sec. 3, (Special Protection of Children Against Abuse, Exploitation and Discrimination Act, June 17, 1992).

[14] Id.

[15] Id.

[16] 578 Phil. 876 (2008) [Per J. Chico-Nazario, Third Division]

[17] Id. at 885-886.

[18] 795 Phil. 453 (2016) [Per J. Reyes, Third Division]

[19] Bongalon v. People, 707 Phil. 11 (2013) [Per J. Bersamin, First Division]

[20] G.R. No. 235071, January 7, 2019 [Per J. Peralta, Third Division]

[21] REV. PEN. CODE, article 4. Criminal Liability. — Criminal liability shall be incurred:

1. By any person committing a felony (delicto) although the wrongful act done be different from that which he intended.

[22] Supra note 16.

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