

DISPUTE RESOLUTION PRACTICE GROUP UPDATE

MAY 2013

In the case of *Bongalon v. People of the Philippines* (G.R. No. 169533, March 20, 2013), the Supreme Court held that not every instance of laying of hands on a child constitutes the crime of child abuse under Republic Act No. 7610. The Court explained that a person can only be punished for child abuse when the laying of hands on the minor is shown, beyond reasonable doubt, to be intended by the accused to debase, degrade or demean the intrinsic worth and dignity of the child as a human being. Otherwise, such acts are punishable only as an offense under the Revised Penal Code.

The case began as a simple altercation between the daughter of accused George Bongalon, Mary Rose Ann, and the son of private complainant Rolando Dela Cruz, Jayson, both minor children.

During a religious procession in Legazpi City, Mary Rose Ann threw stones at Jayson and called him “sissy” as he and his brother passed by the front of the Bongalon

## CHILD ABUSE: DEBASE, DEGRADE OR DEMEAN DIGNITY

residence. In the belief however that it was his daughter who was being harmed, the accused confronted Jayson and struck him on the back and slapped him on the face.

Outraged by the acts committed against his son, Jayson’s father filed a criminal complaint against Bongalon and the latter was eventually tried and convicted for the crime of child abuse, which carried a minimum penalty of six years imprisonment. The Court, on appeal, modified the conviction to Slight Physical Injuries.

According to the Court, the harm inflicted by Bongalon on the person of Jayson did not amount to child abuse. When Bongalon struck and slapped Jayson, the accused did not do so with the intention to debase the child’s “intrinsic worth and dignity” or to humiliate or embarrass him. Rather, said the Court, the accused did so at the spur of the moment

and in anger which only indicated his being overwhelmed by his fatherly concern for the personal safety of his own minor daughter.

In deciding this case, the Court referred to the legal definition of “child abuse,” which means the maltreatment of the child, whether habitual or not, including 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.

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The Court reduced the penalty of imprisonment to ten days and ordered the accused to pay moral damages of Php5,000 to Jayson. *LF*©May 10, 2013

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