

ERASMUS+ Capacity Building for  
Legal and Social Advancement in  
the Philippines (CALESA)



# Case Study on YOUTH JUSTICE

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**KNOWLEDGE SHARING ON THE MODERNIZATION OF CRIMINAL LAW (*Seminar-Workshop*)**

June 6 to 9, 2022, The Judicial Academy Philippines, Tagaytay City



# Case Study: YOUTH JUSTICE

Participants	Reactors	Resource Persons
Atty. Rommel Abitria	Justice Emily L. San Gaspar-Gito	Prof. Marta Fernandez Cabrera
Judge Philip Aguinaldo	Judge Wilhelmina B. Jorge-Wagan	Prof. Demelza Benito Sanchez
Prosecutor Lilian Doris Alejo	Judge Lorna Francisca V. Catris-Chua Cheng	Prof. Elisa Garcia Espana
Atty. Klarisse Cajucom		
Atty. Tricia Clare A. Oco		
Judge Cecilyn B. Villavert		





**Professor MARTA FERNÁNDEZ CABRERA**

**Hon. EMILY L. SAN GASPAR-GITO**

**Hon. WILHELMINA B. JORGE-WAGAN**

**Hon. LORNA FRANCISCA V. CATRIS-CHUA CHENG**

**Atty. ROMMEL A. ABITRIA**

**Hon. PHILIP A. AGUINALDO**

**Atty. LILIAN DORIS S. ALEJO**

**Atty. KLARISE E. CAJUCOM**

**Atty. TRICIA CLARE A. OCO**

**Hon. CECILYN B. VILLAVERT**

**Atty. RIZSA ROSE S. BAER**

**Atty. JEHAN V. HARUN**

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Carlos, 17 years old, went out with his friends to a well-known party area. Around 12:15 a.m. on March 13, 2022, at the Gallery Pub nightclub, he had a few words with Ignacio, 16 years old, in relation to Almudena, the girl Ignacio had dated. Ignacio made it clear to Carlos that the girl was with him and that she had no interest in dancing or having a drink with him. After the discussion, each one went with their group of friends to continue the party.



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Carlos proceeded to Gallery Pub while Ignacio and Almudena went dancing at the pub next door with their friends. At 3:00 a.m., the closing time of the pubs in the area, Carlos and Ignacio met each other again on the street. After a heated argument in which mutual insults are hurled, Ignacio turns around and tells Carlos to leave him alone. Unable to bear that Almudena would have preferred Ignacio, and with his cognitive and volitional abilities clearly diminished by an outburst, Carlos hits Ignacio on the head from behind, to the point that he (Carlos) loses his balance and falls to the ground.



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Lying there, Carlos warns his 15-year-old friend Javier and tells him to go help him. Carlos kicks Ignacio in the face, which caused him (Ignacio) to lose consciousness slightly and bleed from the mouth, resulting in the loss of two teeth. Javier, for his part, kicked Ignacio in the stomach and in the arms. Almudena called the police and they proceeded to arrest Carlos and Javier.



# 1. Applying Spanish and Philippine criminal legislations, may Carlos and Javier be held criminally liable? What kind of response or sanction would they receive?

PHILIPPINE LAW	SPANISH LAW
<p><b>CARLOS committed:</b>            Serious Physical Injuries: prision correccional in minimum and medium periods             Less than 6 years imprisonment             With discernment – YES, criminally liable            Without discernment – NO criminal liability</p> <p><b>JAVIER committed:</b>            Slight Physical Injuries            15th birthday when he committed the crime            NO criminal liability.</p>	<p>Yes, they will be held criminally liable according with the Organic Law 5/2000 regulating the criminal liability of minors. There is a presumption of semi-accountability for those who are above 14 and below 18 and an attenuated response. It means that there is a general presumption that between this ages the minors do not have the ability to be motivated by the penal norm as the adults. This Organic Law is going to be applied with independence of the seriousness of the crime committed.</p>



# 1. Applying Spanish and Philippine criminal legislations, may Carlos and Javier be held criminally liable? What kind of response or sanction would they receive?

PHILIPPINE LAW	SPANISH LAW
<p><b>CARLOS's CASE:</b>  <u>With discernment</u></p> <p><b>Police</b>  Refer the case to the social worker for determination of discernment → Yes</p> <p><u>1<sup>st</sup> option</u>  Police refer case to WCPD or to the Barangay for <b>DIVERSION</b></p> <p>If diversion program successful → termination of case and closure</p>	<p>There are 2 possible options depending on the prosecutors consideration (if s/he considers the seriousness of the violence) and on the educational needs on the minor</p> <ol style="list-style-type: none"> <li>1. Diversion. If the violence is not serious</li> <li>2. Receiving a measure (penalty). For example Freedom under surveillance (or other of the article 7)</li> </ol> <p>For Carlos (17 years old) up to 6 years</p> <p>For Javier (15 years old) up to 3 years</p>





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<p><b>2<sup>nd</sup> option</b>  <b><u>Diversion NOT successful/NOT Appropriate</u> → barangay/ WCPD (police) will elevate case to the Prosecutor</b></p> <p><b>Prosecutor</b></p> <ul style="list-style-type: none"> <li>- Authority to divert if they deem it appropriate and convene a Diversion Committee</li> <li>- <u>Otherwise</u> file the case in court</li> </ul> <p><b>Court</b></p> <ul style="list-style-type: none"> <li>- Discretion to DIVERT or proceed with TRIAL</li> <li>- Automatic Suspension of Sentence if found guilty during Trial</li> </ul>	<p><b>Detention in close regime is not allowed. When a judge wants to apply a deprivation of liberty measures, he has to compare with the adult penal system. If an adult would have not been sentenced to imprisonment or a deprivation of liberty for that offence, neither would the minor.</b></p> <p><b>The injuries (art 147 SPC) provides imprisonment 3 months to 3 years or fine (6-12 months). This crime has as an alternative penalty to the prison, the fine so the judge could not apply the minors detention in close regime.</b></p>



# 1. Applying Spanish and Philippine criminal legislations, may Carlos and Javier be held criminally liable? What kind of response or sanction would they receive?

PHILIPPINE LAW	SPANISH LAW
<p><b>CARLOS's CASE:</b> <b><u>Without discernment</u></b></p> <p>Same procedure as Javier Not entitled to Diversion, instead he will undergo intervention program</p>	<p>(Refer to previous slides)</p>



# 1. Applying Spanish and Philippine criminal legislations, may Carlos and Javier be held criminally liable? What kind of response or sanction would they receive?

PHILIPPINE LAW	SPANISH LAW
<p><b>JAVIER'S CASE:</b></p> <p><b>Commit crime on his 15th birthday, NO CRIMINAL RESPONSIBILITY</b></p> <p><b>Police coordinates with social worker and release him to his parents, if no parents/guardian, back to social worker. —&gt; Social worker will recommend INTERVENTION PROGRAM</b></p> <p><b>LSWDO will monitor the INTERVENTION program together with the barangay</b></p> <p><b>If non-compliant or DANA, social worker can petition the court for Involuntary Commitment of child to Bahay Pag-Asa (Deprivation of Liberty)</b></p>	<p>(Refer to previous slides)</p>



***2. Applying Spanish and Philippine criminal legislations, how relevant is the fact that when Carlos committed the crime, he acted with his intellectual and volitional capacities diminished due to his state of outburst?***

PHILIPPINE LAWS	SPANISH LAWS
<p>If case reaches Court Trial, it may be considered as a generic mitigating circumstance, particularly, passion and obfuscation</p> <p>(Note also: Minority as a privileged mitigating circumstance will be appreciated by the court in determining penalty)</p>	<p>It will be a mitigating circumstance</p>



### 3. If Carlos and Javier had previously been punished for a similar crime in June 2021, how would the case be resolved applying Spanish and Philippine criminal legislations?

PHILIPPINE LAWS	SPANISH LAWS
<p><b>Repetition of offense:</b></p> <p><b>CARLOS:</b> Considered as factor on appropriateness of diversion (Barangay, Police, Prosecutor, Court levels).</p> <p>In court trial, the recidivism can be appreciated as an aggravating circumstance, if alleged in the Information (charging document).</p> <p><b>JAVIER:</b> Can be subjected to INTENSIVE COMMUNITY INTERVENTION program and (if history of previously failed intervention program from first offense) he will be committed to BPA (deprivation of liberty) for his INSTITUTIONAL INTERVENTION</p>	<p>There is no aggravating circumstance of recidivism in minors. The judge can value this circumstance under the principle of flexibility in 2 moments: (1) diversion and (2) the duration and nature of measure.</p>



**4. What would be the answer if instead of being 17 years old, Carlos was 13? Compare Spanish and Philippine criminal legislations on this point.**

PHILIPPINE LAWS	SPANISH LAWS
<p><b>CARLOS - No criminal liability. Same process as JAVIER</b></p> <p><b>The victim can file a civil case for damages</b></p>	<p><b>No criminal liability. Prosecutor will inform the child protection agency.</b></p> <p><b>The victim could ask for a compensation in a civil process</b></p>



## *5. Do Carlos and Javier have some kind of civil liability under Spanish and Philippine criminal legislations?*

PHILIPPINE LAWS	SPANISH LAWS
Yes, there is civil liability regardless of age	Yes. The parents or tutors are civil liable and they have to compensate the victim.

