



REPUBLIC OF THE PHILIPPINES  
**COMMISSION ON HUMAN RIGHTS**

**RESOLUTION**  
**CHR (V) No. POL2021-009**

The Commission **RESOLVES** to **APPROVE** the following reports on the situation of children, submitted by the Child Rights Center, Human Rights Centers Management Office:

1. Report on Child Protection during the COVID-19 Pandemic;
2. Report on the Effects of the COVID-19 Pandemic to Children's Right to Education;
3. Report on the Situation of Children in Conflict with the Law (CICL) and Children-at-Risk during the COVID-19 Pandemic; and
4. Report on the Situation of Children in Street Situations (CISS).

**SO RESOLVED.**

Done this 31<sup>st</sup> day of August 2021, Quezon City, Philippines.

**JOSE LUIS MARTIN C. GASCON**  
Chairperson

**KAREN S. GOMEZ DUMBIT**  
Commissioner

**GWENDOLYN LL. PIMENTEL-GANA**  
Commissioner

**LEAH C. TANODRA-ARMAMENTO**  
Commissioner

**ROBERTO EUGENIO T. CADIZ**  
Commissioner

ATTESTED BY:

**MARIA ASUNCION I. MARIANO-MARAVILLA**  
Commission Secretary

**CHR: Dignity of all**

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REPUBLIC OF THE PHILIPPINES  
COMMISSION ON HUMAN RIGHTS

**HUMAN RIGHTS CENTERS MANAGEMENT OFFICE**  
**Child Rights Center**

**REPORT ON CHILD PROTECTION DURING THE COVID-19 PANDEMIC**  
(March 18-June 26, 2020)

**I. INTRODUCTION**

On 8 March 2020, upon confirmation by the Philippine Government of the local transmission of the Coronavirus Disease (COVID-19) in the country, President Duterte signed Proclamation No. 922 declaring a State of Public Health Emergency throughout the Philippines.<sup>1</sup> On 11 March 2020, the World Health Organization (WHO) declared COVID-19 as a pandemic,<sup>2</sup> to which the Philippine Government responded swiftly by placing Metro Manila under a state of calamity and community quarantine for one month.<sup>3</sup> Continuous rise of COVID-19 cases has been reported by the Department of Health (DOH) and this prompted the Government to issue Proclamation 922 which placed the whole country under a State of Calamity.<sup>4</sup> It was also during this time when enhanced community quarantine (ECQ) measures were expanded to cover the entire island of Luzon.<sup>5</sup> The ECQ was strictly imposed by the Government to protect its citizens from further harm.<sup>6</sup>

<sup>1</sup> Franco Luna, Duterte signs proclamation declaring state of public emergency, Philstar, March 9, 2020, <https://www.philstar.com/headlines/2020/03/09/1999396/duterte-signs-proclamation-declaring-state-public-emergency>, (last accessed June 26, 2020)

<sup>2</sup> Jamie Gumbrecht and Jacqueline Howard, WHO declares novel coronavirus outbreak a pandemic, CNN, March 12, 2020, last accessed <https://edition.cnn.com/2020/03/11/health/coronavirus-pandemic-world-health-organization/index.html> (June 26, 2020).

<sup>3</sup> Ed Gumban, *Walang Pasok: Duterte suspends Metro Manila classes until April 12*, Philstar, March 12, 2020, available at <https://www.philstar.com/headlines/2020/03/12/2000353/walang-pasok-duterte-suspends-metro-manila-classes-until-april-12> (last accessed June 27, 2020).

<sup>4</sup> Franco Luna, *Duterte signs proclamation declaring state of public emergency*, Philstar, March 9, 2020, available at <https://www.philstar.com/headlines/2020/03/09/1999396/duterte-signs-proclamation-declaring-state-public-emergency> (last accessed June 27, 2020).

<sup>5</sup> Ana P. Santos, *Coronavirus: Philippines quarantines island of 57 million people*, Aljazeera, March 17, 2020, available at <https://www.aljazeera.com/news/2020/03/coronavirus-philippines-quarantines-island-57-million-people-200316161225532.html> (last accessed June 27, 2020)

<sup>6</sup> *Id.*

The Philippines has been widely affected by the pandemic. Offices, schools, businesses, and other enterprises were closed for an exceptionally long period of time. The paralyzing effects of the pandemic is unprecedented and has never been seen in all of human history. Movements have been extremely limited for the past few months and many were forced to stay at home to curb the spread of the virus and keep people safe. But the fact is, not everyone is safe at home, especially children.

According to the 2015 National Baseline Study on Violence against Children (NBS-VAC) conducted by UNICEF and the Council for the Welfare of Children (CWC), most of the violence that children have experienced occurred within their homes.<sup>7</sup> The study also stated that most of the violence were perpetrated by family members and friends that they trust.<sup>8</sup>

Also, prior to the COVID-19 Pandemic, the Philippines has been consistently labelled as the “global epicenter of livestream sexual abuse trade”<sup>9</sup> and the “top global source of child pornography.”<sup>10</sup> Based on a research conducted the International Justice Mission (IJM), the annual number of cases referred to and/or investigated by Philippine anti-trafficking units increased sharply and consistently from 2014 (1 case) to 2017 (43 cases).<sup>11</sup> Data from the study showed the following:<sup>12</sup>

- Of the 90 cases which involved 381 victims from 2011-2017, 43 victims were reported to have been abused from 2 months to 4 years.
- The OSAEC Victim Typology of age ranged from less than 1-year-old to 31-year-old. 86% of the victims were female while 14% were male.
- The OSAEC Trafficker Typology revealed that 41% of the abuses were committed by parents while 42% were committed by other relatives of children.
- The OSAEC Customer Typology showed that 39% of cases involved customers who were known to have traveled to the Philippines at some point in their lives while 9% involved customers with a known history of contact abuse of children in the Philippines.

Studies showed that OSEC is generally a family-based crime because in cases where the relationship to the trafficker is established, 41% were perpetrated by biological parents and 42% were committed by other relatives.<sup>13</sup> In a survey conducted by International Justice

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<sup>7</sup> Council for the Welfare of Children, *National Baseline Study on Violence Against Children: Philippines*, October 2016, available at <https://www.unicef.org/philippines/sites/unicef.org.philippines/files/2019-02/phl-nbsvac-resultssummary.pdf> (last accessed June 27, 2020)

<sup>8</sup> *Id.*

<sup>9</sup> Andy Brown, *Safe from harm: Tackling online child sexual abuse in the Philippines*, available at [https://www.unicef.org/protection/philippines\\_91214.html](https://www.unicef.org/protection/philippines_91214.html) (last accessed at June 26, 2020)

<sup>10</sup> Patty Passion, *Philippines top global source of child pornography – Unicef*, Rappler, Dec. 13, 2017, available at <https://www.rappler.com/nation/191219-philippines-top-global-source-child-pornography-unicef> (last accessed June 26, 2020)

<sup>11</sup> International Justice Mission, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry and Civil Society*, available at [https://www.ijm.org/documents/Final\\_OSEC-Public-Summary\\_05\\_20\\_2020.pdf](https://www.ijm.org/documents/Final_OSEC-Public-Summary_05_20_2020.pdf) (last accessed June 26, 2020)

<sup>12</sup> *Id.*

<sup>13</sup> Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry and Civil Society, *supra* note 3.

Mission (IJM) of cases between 2011 and 2017, the median age for victims of online child sexual abuse is eleven years old.<sup>14</sup> Without intervention, the abuse often lasted for years.<sup>15</sup>

Adding to these factors is the fact that Philippines is the top country worldwide for the most time spent on the internet. The latest Digital 2019 report from Hootsuite and We Are Social shows that users from the Philippines spend an average of 10 hours and 2 minutes on the internet daily via any device.<sup>16</sup>

## II. CHILD PROTECTION ISSUES DURING COVID-19 PANDEMIC

### A. Violence against Children

Children are facing increasing threats to their safety and wellbeing – including mistreatment, gender-based violence, exploitation, social exclusion, and separation from caregivers, because of lockdown measures to contain the spread of the COVID-19 pandemic. The increased threat to women and children can be a predicted consequence of the coronavirus lockdowns. As the country's Gender Ombud, the CHR has observed that heightened occurrence of abuse is a pattern repeated in many emergencies—whether driven by conflict, disasters, economic crisis, or during disease outbreaks.<sup>17</sup>

Watchdog groups had warned of an increase in such incidents because stay-at-home measures are locking in victims with their abusers. However, PNP WCPC data shows that there was a decrease in reported gender-based abuse and violence during the first months of lockdown.<sup>18</sup> The number of reported cases during lockdown was lower than the number of cases reported in the previous months. In January 2020, there were 1,383 reported cases of Violence against Women and Children (VAWC), and other forms of gender-based violence (GBV) nationwide. In February, it went down to 1,224. The figure dipped further to 1,044 in March.<sup>19</sup>

Based on Malacañang's 6th coronavirus report to the Congress, the Philippine National Police recorded 763 cases of crimes against women and 521 cases of crimes against children.<sup>20</sup> Data from the PCW obtained by *Rappler* shows that the reported 804 incidents of gender-based

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Krissy Aguilar, Filipinos spend the most time on internet, social media worldwide - study, January 31, 2019, <https://technology.inquirer.net/83180/filipinos-spend-the-most-time-on-internet-social-media-worldwide-study#ixzz6R7bbsZV1>, (last accessed July 3, 2020)

<sup>17</sup> Statement of CHR Spokesperson, Atty Jacqueline Ann de Guia, on rising incidences of domestic violence during COVID-19 lockdown, 05 April 2020, available at [https://www.facebook.com/notes/commission-on-human-rights-of-the-philippines/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-rising-incidences-o/2719333844849810/?\\_\\_tn\\_\\_=-R](https://www.facebook.com/notes/commission-on-human-rights-of-the-philippines/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-rising-incidences-o/2719333844849810/?__tn__=-R)

<sup>18</sup> Pia Ranada, During coronavirus lockdown: Abused women, children more vulnerable, *Rappler*, May 9, 2020, available at <https://www.rappler.com/newsbreak/in-depth/260072-during-coronavirus-lockdown-abused-women-children-more-vulnerable> (July 4, 2020)

<sup>19</sup> *Id.*

<sup>20</sup> Official Gazette, Report to the Congressional Oversight Committee, May 4, 2020, available at <https://www.officialgazette.gov.ph/downloads/2020/05may/20200504-Report-to-the-Joint-Congressional-Oversight-Committee.pdf> (last accessed July 4, 2020)

violence and violence against women and children all over the country were mostly violations of eight (8) laws: anti-violence against women and children law, anti-rape law, revised penal code provisions against acts of lasciviousness and concubinage, anti-photo and video voyeurism law, anti-trafficking persons law, anti-sexual harassment law, and the safe spaces law.<sup>21</sup>

As of 4 June 2020, the PNP has recorded a total of 1,945 cases of violence against women and 1,754 cases of violence against children since the implementation of the ECQ (enhanced community quarantine). According to the GBV online reporting portal published by the Gender Ombudsman, between 15 March and 15 April alone, there have been 337 reports of violation of the Anti-Child Abuse Law.<sup>22</sup>

## **B. Online Sexual Abuse and Exploitation of Children (OSAEC)**

Lockdown has also fueled the demand and supply of child pornography. Like in many other emergencies, this pandemic heightens vulnerability of children to abuse. Due to confinement in their homes, children are exposed to increased risk of maltreatment, gender-based violence and sexual exploitation. With limited or no supervision from parents or guardians, children spend more time online, making them more at risk to online child perpetrators. Also because of this confinement, children's social interaction with their peers and mentors has been greatly affected. Instead of physically socializing with friends and classmates, their interaction has been confined to virtual space.

The economic strain suffered by families due to the slowdown of economic activities during the ECQ also makes these families vulnerable to online sexual predators. The worsening economic situation may have pushed adults to resort to peddling children to sexual predators online "due to the lucrative nature of these activities." Online sexual predators, on the other hand, are taking advantage of the situation to exploit more children to satisfy their disturbing sexual obsessions.<sup>23</sup>

Terre des Hommes – Netherlands, a Swiss child relief agency, stated that as the lockdown bars many people from going to work, these people will look for various alternatives to provide for their own families.<sup>24</sup> Given the stressful environment at home, selling sexually explicit materials of their children online may seem to be a viable option for them. Unemployment, coupled with the lack of social subsidy for poor families, has also pushed people to traffic children or force them to engage in pornography. Families who have lost their income may see this as an to engage in online "live-streaming shows" as demand from offenders across the

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<sup>21</sup> *Id.*

<sup>22</sup> Commission on Human Rights, GBV Heatmaps, *available at* <https://www.gbvccovid.report/landing/heatmap> (last accessed July 4, 2020)

<sup>23</sup> Janvic Mateo, *Secret Pandemic: Online Child Exploitation on The Rise Amid COVID-19 Problems*, One News, April 22, 2020, *available at* <https://www.onenews.ph/secret-pandemic-online-child-exploitation-on-the-rise-amid-covid-19-problems> (last accessed July 4, 2020)

<sup>24</sup> Terre Des Hommes, *Terre des Hommes warns of a dramatic increase in child labour as a result of the Corona pandemic*, June 12, 2020, *available at* <https://www.terredeshommes.org/wp-content/uploads/2020/06/Impact-Covid-on-Child-Labour-Terre-des-Hommes-Extended-version-12-June.pdf> (last accessed June 27, 2020)

world continue to increase, especially now that these offenders cannot move nor travel due to the imposition of lockdowns in their own countries. This is particularly true in the Philippines where OSAEC has been rampant even before the pandemic began.

Based on the data from the National Center for Missing and Exploited Children (NCMEC), a total of 279,1666 cases of online sexual abuse has been reported since the beginning of the enhanced community quarantine.<sup>25</sup> According to the same report, most of these cases include possession, manufacture, and distribution of child pornography; online enticement of children for sexual acts; child sex trafficking; sex tourism involving children; extra-familial child sexual molestation; unsolicited obscene material sent to a child; and misleading words or digital images on the internet.<sup>26</sup>

For instance, in Caloocan City, a 41-year-old woman was arrested for forcing her 3 kids to perform sexual acts on camera, the youngest of whom is 5 years old.<sup>27</sup> The authorities saw a desktop computer, mobile phone and remittance receipts from Australia in their living room. Similarly, in an undisclosed province in Luzon, a 25-year-old woman was caught making 7 kids do lewd acts in front of a webcam, the youngest victim is only 3 years old.<sup>28</sup> Four of them were her own.<sup>29</sup>

In a statement issued by the Commission on Human Rights (CHR), it expresses concern on the existence of private groups in Facebook where members post and circulate compromising materials without the consent of the parties involved.<sup>30</sup> Victims were at the receiving end of threats of rape, stalking, defamation and even death.<sup>31</sup> These damages women and girls' emotional and mental well-being.<sup>32</sup> According to CHR, this problem should be approached holistically by changing people's behavior through integrating internet literacy, sex education and streamlining gender sensitivity orientation in basic education curriculum and other information drive efforts.<sup>33</sup> It is also important to establish an accessible and responsive mechanism where victims can report incidents.<sup>34</sup>

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<sup>25</sup> Joseph Almer Pedrajas, *DOJ: Online child sexual exploitation cases tripled during ECQ*, Manila Bulletin, May 25, 2020, available at <https://news.mb.com.ph/2020/05/25/doj-online-child-sexual-exploitation-cases-tripled-during-ecq/> (last accessed June 27, 2020)

<sup>26</sup> *Id.*

<sup>27</sup> 'Trapped with abusers,' 7 kids rescued from sex trafficker in Luzon, Rappler, April 25, 2020, available at <https://www.rappler.com/nation/258987-trapped-with-abusers-children-rescued-from-sex-trafficker-luzon> (last accessed July 4, 2020)

<sup>28</sup> Lian Buan, Mother arrested for livestreaming sexual abuse of own children, Rappler, May 30, 2020, available at <https://www.rappler.com/nation/262424-mother-arrested-online-sexual-exploitation-children-caloocan> (last accessed July 4, 2020)

<sup>29</sup> *Id.*

<sup>30</sup> Janvic Matteo, *Secret Pandemic: Online Child Exploitation On The Rise Amid COVID-19 Problems*, One News, April 22, 2020, available at <https://www.onenews.ph/secret-pandemic-online-child-exploitation-on-the-rise-amid-covid-19-problems> (last accessed June 28, 2020)

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

### ***III. RESPONDING TO VIOLENCE AGAINST CHILDREN DURING THE COVID-19 PANDEMIC***

#### **A. Global Response to Violence Against Children**

On July 2, United Nations member states attended a *Special Briefing on Violence against Children amidst the COVID-19 Pandemic* where speakers shared the numerous challenges that they faced concerning child protection and identified the best practices that participating countries have taken to address those challenges.<sup>35</sup> Almost all panelists reported that their countries have adopted the following measures: (1) strengthened reporting channels by creating a “cybertipline” or the creation of a child helpline center; (2) mobilization of local networks to frequently monitor at-risk children; (3) provision of mental health and psychosocial support remotely; and (4) established guidelines to further strengthen the definition of “domestic violence.” Since the launch of these reporting channels, all countries have reported a dramatic increase in reports concerning violence against children. The panelists also shared that there has been a disruption of child protection services because social workers were mobilized to focus on COVID response and aid distribution.

#### **B. Child Protection in the Philippines**

##### **a. Domestic Child Protection Laws**

##### **1. Child and Youth Welfare Code (PD 603)**

The Child and Youth Welfare Code is a domestic law codifying the rights of children. It seeks to promote non-discrimination in the enjoyment of rights.<sup>36</sup> Like the international convention, it explicitly prohibits discrimination on the basis of sexual orientation and gender. More than the dignity and life of the child, the Code respects the right of the child to be brought up in an atmosphere of morality and rectitude for the enrichment and the strengthening of his character.<sup>37</sup> In line with this, children should be protected against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development.<sup>38</sup>

While parents or guardians have the right to discipline the child,<sup>39</sup> they shall make sure to give affection, companionship and understanding; to extend to him the benefits of moral guidance, self-discipline and to administer his property, if any, according to his

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<sup>35</sup> End Violence Against Children, Join us for a Special Briefing on Ending Violence against Children during COVID-19 and Beyond, June 26, 2020, *available at* <https://www.end-violence.org/articles/join-us-special-briefing-ending-violence-against-children-during-covid-19-and-beyond> (last accessed July 4, 2020)

<sup>36</sup> CHILD AND YOUTH WELFARE CODE, PD 603, 1974, Art. 3.

<sup>37</sup> *Ibid.*, Art. 3(5).

<sup>38</sup> *Ibid.*, Art. 3(11).

<sup>39</sup> *Ibid.*, Art. 45.

best interests, subject to the provisions of Article 320 of the Civil Code.<sup>40</sup> This means that the home shall be a conducive and proper atmosphere for the upbringing of children.<sup>41</sup> Similarly, Barangay Councils shall enact ordinances and resolutions not inconsistent with law or municipal ordinances, as may be necessary to provide for the proper development and welfare of the children in the community.<sup>42</sup>

2. Special Protection of Children Against Abuse, Exploitation and Discrimination Act (RA 7610)

This law does not only cover minors but also includes individuals who are unable to protect themselves due to a physical or mental disability.<sup>43</sup> The law punishes the sexual abuse of a child in various forms, including child prostitution, child trafficking, other neglects of cruelty and abuse, obscene shows, and employment of children beyond safe parameters.<sup>44</sup>

Sexual abuse, aside from the engagement of a child to prostitution or sexual intercourse, 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.”<sup>45</sup> The acts of employing, using, persuading, inducing, enticing, or coercing a child to any sexual conduct is broad so as to include that psychological coercion or influence against the child.<sup>46</sup>

Section 10 of the law also includes other acts of neglect, abuse, cruelty or exploitation prejudicial to child’s development.<sup>47</sup>

3. Anti-Violence Against Women and Children Act of 2004 (RA 9262)

This law seeks to protect women and their children from any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.

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<sup>40</sup> CHILD AND YOUTH WELFARE CODE, PD 603, 1974, Art. 46.

<sup>41</sup> CHILD AND YOUTH WELFARE CODE, PD 603, 1974, Art. 102.

<sup>42</sup> CHILD AND YOUTH WELFARE CODE, PD 603, 1974, Art. 87.

<sup>43</sup> An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes [Special Protection of Children Against Abuse, Exploitation, and Discrimination Act], Republic Act No. 7610, § 3 (a).

<sup>44</sup> *Id.*

<sup>45</sup> Rules and Regulations on the Reporting and Investigation of Child Abuse Cases, § 2 (g) (1993).

<sup>46</sup> See LEONOR D. BOADO, NOTES AND CASES ON SPECIAL PENAL LAWS 169 (2011) (citing *People v. Larin*, 297 SCRA 309 (1998) & *Malto v. People*, 533 SCRA 643 (2007))

<sup>47</sup> RA 7610, Sec 10.



#### 4. Anti-Trafficking in Persons Act of 2003, as amended

The Expanded Anti-Trafficking in Persons Act of 2012<sup>48</sup> amended the Anti-Trafficking in Persons Act of 2003<sup>49</sup> to define trafficking in persons (TIP) or human trafficking as—

[T]he recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes[,] at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude, or the removal or sale of organs. The recruitment, transportation, transfer, harboring, adoption, or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.<sup>50</sup>

Following this definition, the elements of trafficking in persons are the following: (1) act; (2) means; and (3) purpose.<sup>51</sup> The act of trafficking is either recruiting, obtaining, hiring, providing offering, transporting, transferring, maintaining, harboring, or receiving persons.<sup>52</sup>

#### 5. Anti-Child Pornography Act of 2009 (RA 9775)

The Anti-Child Pornography Act of 2009 defines child pornography as “any representation, whether visual, audio, or written combination thereof, by electronic, mechanical, digital, optical, magnetic, or any other means of a child engaged or involved in real or simulated explicit sexual activities.”<sup>53</sup>

Under the law, the elements of child pornography are as follows: (1) There is a written, visual and/or audio material; (2) The content of the material involves a real or simulated explicit sexual activity, and (3) The one engaged in the sexual activity, whether a natural person, a graphical representation of a person, or a computer-generated image of a person, is a child or is presented, depicted or portrayed as a child.<sup>54</sup>

The following acts are prohibited under RA 9775:

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<sup>48</sup> An Act Expanding Republic Act No. 9208, Entitled “An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for Its Violations and for Other Purposes” [Expanded Anti-Trafficking in Persons Act of 2012], Republic Act No. 10364 (2012).

<sup>49</sup> An Act to Institute Policies to Eliminate Trafficking in Persons Especially Women and Children, Establishing the Necessary Institutional Mechanisms for the Protection and Support of Trafficked Persons, Providing Penalties for Its Violations and for Other Purposes [Anti-Trafficking in Persons Act of 2003], Republic Act No. 9208 (2003).

<sup>50</sup> Expanded Anti-Trafficking in Persons Act of 2012, § 3 (a).

<sup>51</sup> *People v. Casio*, 744 SCRA 113, 128-29 (2014).

<sup>52</sup> Expanded Anti-Trafficking in Persons Act of 2012, § 3 (a), para. 1.

<sup>53</sup> An Act Defining the Crime of Child Pornography, Prescribing Penalties Therefor and for Other Purposes [Anti-Child Pornography Act of 2009], Republic Act No. 9775 (2009).

<sup>54</sup> *Id.*

- (a) To hire, employ, use, persuade, induce, or coerce a child to perform in the creation or production of any form of child pornography;
- (b) To produce, direct, manufacture, or create any form of child pornography;
- (c) To publish, offer, transmit, sell, distribute, broadcast, advertise, promote, export, or import any form of child pornography;
- (d) To possess any form of child pornography with the intent to sell, distribute, publish, or broadcast: Provided. That possession of three or more articles of child pornography of the same form shall be prima facie evidence of the intent to sell, distribute, publish, or broadcast;
- (e) To knowingly, willfully, and intentionally provide a venue for the commission of prohibited acts as, but not limited to, dens, private rooms, cubicles, cinemas, houses, or in establishments purporting to be a legitimate business;
- (f) For film distributors, theaters, and telecommunication companies, by themselves or in cooperation with other entities, to distribute any form of child pornography;
- (g) For a parent, legal guardian, or person having custody or control of a child to knowingly permit the child to engage, participate[,], or assist in any form of child pornography;
- (h) To engage in the luring or grooming of a child;
- (i) To engage in pandering of any form of child pornography;
- (j) To willfully access any form of child pornography;
- (k) To conspire to commit any of the prohibited acts stated in this section. Conspiracy to commit any form of child pornography shall be committed when two (2) or more persons come to an agreement concerning the commission of any of the said prohibited acts and decide to commit it;
- (l) To possess any form of child pornography.<sup>55</sup>

## 6. Cybercrime Prevention Act of 2012 (RA 10175)

Prohibited acts under the Anti Child Pornography Law of 2009, when committed through a computer system, will be punishable by a penalty that is one degree higher under the Cybercrime Prevention Act of 2012.<sup>56</sup> In *Disini v Secretary of Justice*, the Court upheld the constitutionality of this provision because it merely expands the scope of the Anti-Child Pornography Act of 2009, which is an exercise of legislative discretion in making and defining punishable acts.<sup>57</sup> Thus, Section 4 (c) (2) of the Cybercrime Prevention Act of 2012 necessarily includes an act under the Anti-Child Pornography Act of 2009.<sup>58</sup>

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<sup>55</sup> *Id.*

<sup>56</sup> An Act Defining Cybercrime, Providing for the Prevention, Investigation, Suppression and the Imposition of Penalties Therefor and for Other Purposes [Cybercrime Prevention Act of 2012], Republic Act No. 10175 (2012).

<sup>57</sup> *Disini, Jr. v. Secretary of Justice*, 716 SCRA 237 (2014).

<sup>58</sup> Online Sexual Exploitation of Children: Applicable Laws, Casework Perspectives, and Recommendations *supra* note 27, at 14

## 7. Republic Act 11313 (RA 11313) or the Safe Spaces Act

RA 11313 penalizes Gender-based Online Sexual Harassment which include acts such as unwanted sexual remarks and comments, threats, uploading or sharing of one's photos without consent, video and audio recordings, cyberstalking, and online identity theft. Further, if the offended party is a minor, then the penalty higher in degree will apply.

### **b. Child Protection Efforts of Law Enforcement Agencies during the Pandemic**

For the fifth year in a row, the Philippines has obtained the highest status in terms of compliance with the US anti-human trafficking measures, based on the US State Department's Trafficking in Persons report.<sup>59</sup> In spite of compliance with the minimum standards, there is still failure to prosecute and investigate government officials who are involved in trafficking crimes or increase the specialized protection and assistance services for child victims of cybersex trafficking consistently. According to the report, community reintegration services, including trauma-informed care and other aftercare programs, are still inadequate.

Despite the current lockdown situation brought about by COVID-19, our police officers continue their valiant efforts in investigating cases of online sexual exploitation of children in the country. The Philippine National Police (PNP), through its Women Children Protection Center (WCPC), said that the current situation will not hinder it from performing its sworn duty to protect the most vulnerable women and children.<sup>60</sup>

The Philippine National Police (PNP) placed all its offices/units under full alert status which, in effect, required 100% attendance 24/7 of all their personnel. PNP's Women and Children Protection Center (WCPC) alerted and monitored all Women and Children Protection Desks (WCPD) nationwide.

PNP also increased resource allocation and revamped action plans, coordination mechanisms, prevention, and response services for the protection of children from all forms of violence, abuse and exploitation.

### **c. Collaboration among National Government Agencies and Non-Government Organizations**

To address the rather complex problem of COVID-19, multisectoral response is necessary to address the gaps of the existing policies and strengthen the institutions. For instance, the SaferKidsPH consortium, which includes Save the Children, Asia Foundation, United Nations Children's Fund and the Australian government, in

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<sup>59</sup> John Gabriel Agcaoili, *PH retains Tier 1 status in US anti-trafficking standards*, ABS-CBN News, June 26, 2020, available at <https://news.abs-cbn.com/spotlight/06/26/20/ph-retains-tier-1-status-in-us-anti-trafficking-standards> (last accessed June 26, 2020)

<sup>60</sup> Christopher Lloyd Caliwang, *Anti-child exploitation drive relentless amid quarantine: PNP* Republic of the Philippines-Philippine News Agency, April 3, 2020, available at <https://www.pna.gov.ph/articles/1098534> (last accessed June 28, 2020).

collaboration with the Department of Information and Communications Technology (DICT), the National Telecommunications Commission (NTC), Smart Communications, and Globe Telecom launched an SMS campaign which focused on practical child online safety measures that can be used during the COVID-19 ECQ.<sup>61</sup> Mobile subscribers were invited to visit the platforms of SaferKidsPH and UNICEF to know more information about online child protection.<sup>62</sup>

The Philippine Internet Crimes Against Children Center (PICACC), a collaboration between the Philippine National Police and the National Bureau of Investigation, together with the Australian Federal Police, UK National Crime Agency, and the International Justice Mission (IJM), continued pursuing its mission of combatting online exploitation of children. Since the inception of the PICACC in February 2019, three hundred twenty (320) children have been rescued from online sexual abuse and exploitation, 77 suspects/facilitators charged, and four offenders convicted<sup>63</sup>.

In fact, during the lockdown, there have been several arrests made in relation to online sex-trafficking of minors. On 22 April 2020, a woman allegedly engaged in cybersex trafficking of minors, including her own children, in an undisclosed province in Luzon was arrested by police officers.<sup>64</sup> In Cebu province, a team of cops arrested a 25-year-old woman in Lapu-Lapu City for online sex trafficking.<sup>65</sup> In Butuan City, a 28-year old woman was arrested for offering to livestream sexual abuse of seven minors and one adult.<sup>66</sup> Similarly, on 17 June 2020, another online sex trafficker was arrested in Taguig City for abusing eight people, including her own son and her younger sister.<sup>67</sup>

The Inter-Agency Council Against Child Pornography (IACACP) remains active in developing measures to redress and prevent OSAEC. Since the start of the lockdown, the members of the Council have been actively working together to monitor and respond to cases of online sexual abuse against children, and to raise awareness about OSAEC in order to encourage the public, especially the children, to report and access help. Furthermore, there has been engagement with business entities and other stakeholders to develop joint strategies on reducing the risk of vulnerable workers in

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<sup>61</sup> Save the Children, *Higher Risk of OSAEC During COVID-19 Quarantine*, available at <https://www.savethechildren.org.ph/our-work/our-stories/story/higher-risk-of-osaec-during-covid-19-quarantine/> (last accessed June 28, 2020)

<sup>62</sup> *Id.*

<sup>63</sup> <https://www.unicef.org/philippines/press-releases/child-rights-network-and-saferkidsph-join-call-safer-and-better-internet-children>

<sup>64</sup> 'Trapped with abusers,' 7 kids rescued from sex trafficker in Luzon, Rappler, April 25, 2020, available at <https://www.rappler.com/nation/258987-trapped-with-abusers-children-rescued-from-sex-trafficker-luzon> (last accessed June 27, 2020)

<sup>65</sup> *Online sex trafficker arrested in Lapu-Lapu City*, Rappler, April 18, 2020, available at <https://www.rappler.com/nation/258331-online-sex-trafficker-arrested-lapu-lapu-city-april-2020> (last accessed June 27, 2020)

<sup>66</sup> International Justice Mission, Police arrest online sex trafficker in Butuan City, rescue 13 victims and children at risk, available at <https://www.ijmuk.org/news/police-arrest-online-sex-trafficker-in-butuan-city-rescue-13-victims-and-children-at-risk> (last accessed June 27, 2020)

<sup>67</sup> Cops arrest online sex trafficker in Taguig who abused own son, sister, Rappler, June 19, 2020, available at <https://www.rappler.com/nation/264266-cops-arrest-online-sex-trafficker-taguig> (last accessed June 27, 2020)

their operations and supply chains becoming exposed to contemporary forms of slavery in the context of the pandemic.

### The Child Protection Working Group in the Philippines

The Protection Cluster in the Philippines was established by the National Disaster Coordinating Council (NDCC) through Circular No 5 series of 10 May 2007 (Institutionalizing Cluster Approach in Philippine Disaster System). The Department of Social Welfare and Development (DSWD) is designated as government lead and UNHCR is co-lead of the Protection Cluster. The Child Protection Working Group (CPWG), which is a sub-cluster to the Protection Cluster, is led by the DSWD and the Council for the Welfare of Children (CWC), with UNICEF as co-lead.

The Child Protection Working Group (CPWG) provides coordination support to government offices from the national to municipal levels in ensuring prevention of and response to child protection concerns in humanitarian settings. The group brings together NGOs, UN agencies, academics, and others under the shared objective of ensuring more predictable, accountable and effective child protection responses in emergencies. The CPWG has conducted fifteen (15) regular meetings in 2020. During its regular meetings, members provide updates on child-related concerns/issues that were brought to them, and their responses to address these concerns.

During a CPWG meeting, representatives from the Regional CPWGs identified the need to strengthen child protection measures at home to track VAC, OSEC and online recruitment of children by armed groups. They also reported difficulty in accessing VAWC desks and other services for possible cases of abuse.

### **d. Child Protection Mechanisms**

In examining the effectiveness of the government's response to the increased incidence of violence against children during the COVID-19 pandemic, it is important to ask this question: What essential protection measures, including identification, reporting, referral and investigation, have been put in place to detect and prevent child sexual abuse and exploitation cases and how effective have they been since the outbreak?

On 6 April 2020, the Department of Internal and Local Government (DILG) and Council for the Welfare of Children (CWC) issued a Joint Memorandum Circular (DILG-CWC JMC 2020-001) which reiterates the protocol on reaching out to children in need of special protection, children at risk, including those in street situations, and children in conflict with the law during the enhanced community quarantine.<sup>68</sup> LGUs

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<sup>68</sup> DILG, Reiteration of Protocols on Reaching out to Children, including those in Street Situations, in need of Special Protection, Children at Risk, and Children in Conflict with the Law During the Enhanced Community Quarantine, April 6, 2020, *available at* <https://www.dilg.gov.ph/issuances/jc/Reiteration-of-Protocols-on-Reaching-out-to-Children-including-those-in-Street-Situations-in-need-of-Special-Protection-Children-at-Risk-and-Children-in-Conflict-with-the-Law-During-the-Enhanced-Community-Quarantine/130> (last accessed July 4, 2020)

are being directed to adopt or enhance existing guidelines on children, with technical assistance from the CWC National Secretariat and Regional Coordinators or the JJWC Regional Focal Persons, to ensure the flowchart of protocols are shown in conspicuous places in their locality, and ensure that the Local Councils for the Protection of Children, including the Barangay Councils for the Protection of Children are functioning.<sup>69</sup>

Under the JMC, there is also a provision for exceptional considerations for children who are outside their homes during the ECQ, such as for children or adolescents living with HIV who need to visit treatment clinics for ARV refills, children needing services on prenatal and other childcare services, children with disabilities, children needing to report cases of violence, abuse, and exploitation.<sup>70</sup> When children are found outside their homes during the ECQ, all local government officials, in consultation with the LCPCs, are enjoined to apply child and gender-sensitive language and guidelines, and where at first instance, such officials should reach out to parent or guardian of the child or social worker before such child is processed.<sup>71</sup>

Aside from the JMC, DILG also issued an advisory that "all Barangay Violence against Women Desks and Barangay Council for the Protection of the Children shall remain active and fully functional during the ECQ."

In addition, a "Health, Nutrition and Child Protection Referral Pathway for COVID-19 Emergency" was developed by the National Child Protection Working Group (NCPWG), a group composed of government agencies, NGOs, UN agencies, academics and other organizations with the shared objective of ensuring more predictable, accountable and effective child protection responses in emergencies.<sup>72</sup> The Referral Pathway provides for the basic guide on the flow of reporting and referral of cases of child abuse during the COVID-19 Pandemic<sup>73</sup>.

With support from the United Nations Populations Fund (UNFPA), CHR has developed the online reporting portal for cases of GBV during the COVID ECQ to provide an accessible platform to facilitate reporting, referral, response, and documentation of GBV during COVID 19.<sup>74</sup> The reporting is not limited to those who are victim-survivors of violence, but may be used by anyone who has witnessed incidents of GBV and

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> Humanitarian Response, Philippines: CPMS in Philippine COVID context: New Normal Guidelines as of 16 June 2020, *available at* <https://www.humanitarianresponse.info/en/operations/philippines/document/philippines-cpms-philippine-covid-context-new-normal-guidelines-16> (last accessed July 4, 2020)

<sup>73</sup> Advisory on the Dissemination of the Referral Pathway, <http://rso04a.psa.gov.ph/article/advisory-referral-pathway>

<sup>74</sup> Jodesz Gavilan, *CHR launches online reporting portal for gender-based violence during lockdown*, Rappler, April 27, 2020, *available at* <https://www.rappler.com/nation/259171-chr-online-reporting-portal-gender-based-violence-coronavirus-lockdown> (last accessed July 4, 2020)

wishes the same to be responded to and documented. It aims to help women and girls break the silence and make GBV visible during this crisis. Correspondingly, the Philippine Commission on Women (PCW) continues to implement the VAW (Violence Against Women) Referral System, which provides for a national mechanism for monitoring and reduction of gender-based violence.<sup>75</sup>

#### ***IV. CHALLENGES IN THE PHILIPPINE COVID-19 RESPONSE***

The government's seemingly uphill battle against sexual predators of children is further hindered by factors that is unique to the pandemic. Because of limited mobility, there is a significant disruption of child protection services and children have little to no access to helpline services.

Common risk factors for abuse associated with the COVID-19 lockdown include the following: (1) increased poverty and food insecurity due to the loss of income; (2) the inability of children to access education either in person or online; (3) an increase in children's digital activity which exposes them to greater risks; (4) disruption of peer and social support services for children; (5) possibility of increased alcohol and substance abuse by parents and caregivers thereby exposing children to possibly abusive and vulnerable situations.<sup>76</sup> Due to the depleting resources, there is not enough social amelioration program (SAP) for poor families and there is no additional budget from the government to continue existing programs on child protection.<sup>77</sup>

According to the Philippine Commission on Women (PCW) "disrupted public services like police, justice and social services" could also contribute to lower reports of abuse. Due to the current COVID situation, the level of cooperation and response at the local level has become challenging. While it is recognized that the priority, as of the moment, is to address the threat of the disease; still, the government must equally undertake measures to combat and protect victims of domestic violence. It is possible that women and children who are experiencing abuse are trapped inside their homes with their abusers and have nowhere to go. The circumstances created by the lockdown might prevent these victims from reporting violations to the authorities.

These problems are compounded by pre-existing gaps concerning the implementation of laws protecting children. The Department of Social Welfare and Development (DSWD) in 2019 lamented on the non-compliance of ISPs when it comes to proactively reporting websites that

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<sup>75</sup> Genalyn Kabling, *Close to 4,000 cases of violence vs. women, children reported during lockdown*, Manila Bulletin, June 8, 2020, available at <https://news.mb.com.ph/2020/06/08/close-to-4000-cases-of-violence-vs-women-children-reported-during-lockdown/> (last accessed July 4, 2020)

<sup>76</sup> UNICEF, *COVID-19: Protecting Children from Violence, Abuse and Neglect in the Home*, available at <https://www.unicef.org/documents/covid-19-protecting-children-violence-abuse-and-neglect-home> (last accessed June 27, 2020)

<sup>77</sup> *Left Behind: Over 300,000 Families Yet To Receive Cash Aid As Gov't Prepares For Second Tranche*, OneNews, June 12, 2020, available at <https://www.onenews.ph/left-behind-over-300-000-families-yet-to-receive-cash-aid-as-gov-t-prepares-for-second-tranche> (last accessed June 27, 2020)

distribute child sexual abuse material.<sup>78</sup> As mandated by RA 9775 or the “Anti-Child Pornography Act”, internet service providers are mandated to report to the police if they obtained information of any child sexual abuse materials distributed in their servers.<sup>79</sup> In addition, the implementing rules and regulations of the Cybercrime Act also require ISPs to “install available technology, program or software to ensure that access to or transmittal of any form of child pornography will be blocked or filtered.”<sup>80</sup> In a study published by International Justice Mission (IJM), it attributed the inability of ISPs to detect livestreamed abuse as one of the primary reasons why OSAEC cases more than tripled in the last three years.<sup>81</sup> Because of this gap, law enforcement agencies are inhibited from fully understanding the full extent of the crime and tailor specific responses to it.

Furthermore, child participation is not being taken into consideration during policy formulations of child protection responses. As a result, there is an inadequacy of baseline data on child abuse cases during the pandemic.

International organizations like UNICEF are urging governments to ensure the safety and wellbeing of children amidst the intensifying socio-economic fallout from the disease through a set of guidance to support authorities and organizations involved in the response.<sup>82</sup> Likewise, the Child Rights Network (CRN) said that clear-cut guidelines are urgently needed to avoid possible incidents of abuse against children during the pandemic. The CRN believed that the varying interpretation on the implementation of the national action plan to combat COVID-19 springs from the lack of clear-cut guidelines from the national level of authority.<sup>83</sup>

## **V. RECOMMENDATIONS**

### **A. Global Recommendations on Child Protection**

According to the UNICEF Technical Note, the government must provide emergency cash assistance to vulnerable families to mitigate disruptions due to the livelihood shocks caused by

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<sup>78</sup> Michelle Abad, *Internet service providers fail to report sites transmitting child porn* – DSWD, Rappler, October 22, 2019, available at <https://www.rappler.com/nation/243137-dswd-says-internet-service-providers-fail-report-child-porn-websites> (last accessed June 26, 2020).

<sup>79</sup> An Act Defining the Crime of Child Pornography, Prescribing Penalties therefor and for other Purposes [Anti-Child Pornography Act of 2009], Republic Act No. 9775, §9, (2009).

<sup>80</sup> Rules and Regulations Implementing Republic Act No. 10175, Otherwise Known as the Cybercrime Prevention Act of 2012 [Implementing Rules and Regulations of Republic Act No. 10175], §31(1) (2015)

<sup>81</sup> Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry and Civil Society, *supra* note 3.

<sup>82</sup> UNICEF, COVID-19: Children at heightened risk of abuse, neglect, exploitation and violence amidst intensifying containment measures, March 20, 2020, available at [https://www.unicef.org/press-releases/covid-19-children-heightened-risk-abuse-neglect-exploitation-and-violence-amidst?fbclid=IwAR0eF0k9qt3fbUFxmLbWGD0jLQMYqWOoIU\\_otJMgHe-MBIFmBwlyGzceBo](https://www.unicef.org/press-releases/covid-19-children-heightened-risk-abuse-neglect-exploitation-and-violence-amidst?fbclid=IwAR0eF0k9qt3fbUFxmLbWGD0jLQMYqWOoIU_otJMgHe-MBIFmBwlyGzceBo) (last accessed July 7, 2020)

<sup>83</sup> Merlinda Hernando-Malipot, *Report incidents of child rights violations, advocates urge*, Manila Bulletin, April 2, 2020, available at [https://news.mb.com.ph/2020/04/02/report-incidents-of-child-rights-violations-advocates-urge/?fbclid=IwAR1-lqeJwsxOaEK1\\_cYTUelhutctuz7ELfF-mPvOgsFfeRp4q6rXQ8A6b\\_s](https://news.mb.com.ph/2020/04/02/report-incidents-of-child-rights-violations-advocates-urge/?fbclid=IwAR1-lqeJwsxOaEK1_cYTUelhutctuz7ELfF-mPvOgsFfeRp4q6rXQ8A6b_s) (last accessed July 4, 2020)



the lockdown.<sup>84</sup> It must also strengthen the capacities of social services to support children and families such as parent's mental illness, disability, domestic violence, or drug and alcohol dependency which may have increased due to the pandemic.<sup>85</sup> It must also endeavor to keep family courts operational and hold emergency hearings and execute court orders for the care and protection of children who are at immediate risk of neglect and abuse.<sup>86</sup> In addition, a reliable and responsive child helpline service must also be established for purposes of reporting cases of gender-based violence and child abuse.<sup>87</sup> And finally, children who are experiencing trauma must be assisted with virtual psychosocial support when stay-at-home orders preclude face-to-face meetings.<sup>88</sup>

While the US State Department lauded the Philippines's increased use of plea bargaining and recorded victim interviews at the inquest stage to prevent possible "retraumatization" of victims in OSAEC cases,<sup>89</sup> the country still has a long way to go when it comes to child protection. When it comes to law enforcement, the report recommended that the Philippine government should increase funding for anti-trafficking task forces to conduct rigorous investigations and coordinated inter-agency operations, while ensuring that witness and victim protection services are adequately supported.<sup>90</sup>

In terms of prosecution of OSAEC-related cases and hearings, there should be an increased funding for comprehensive victim services, including specialized accommodation for child and male victims.<sup>91</sup> Trauma-informed officials should be appointed to conduct child victim witness interviews in a child-friendly manner.<sup>92</sup>

During the webinar last 18 May 2020 on ending violence against children, various experts gave their recommendation on child protection.<sup>93</sup> They highlighted the problem of lacking up-to-date valid statistics which makes it difficult to say whether violence against children has increased during the COVID-19 pandemic.<sup>94</sup> According to these experts, it will be an important and necessary task in the near future to determine how children's vulnerability to abuse differs between countries that are offering different solutions.<sup>95</sup>

In the aforementioned webinar, Dr. Najat Maalla M'jid said that our communities need to switch from separate, and sometimes competitive messages and actions, to adopting a unified

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<sup>84</sup> UNICEF, COVID-19: *Protecting Children from Violence, Abuse and Neglect in the Home*, available at <https://www.unicef.org/documents/covid-19-protecting-children-violence-abuse-and-neglect-home> (last accessed June 27, 2020)

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> US State Department, *Trafficking in Persons Report*, June 25, 2020, available at <https://www.state.gov/trafficking-in-persons-report-2020/> (last accessed June 27, 2020).

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> End Violence Against Children, *Tackling COVID-19 Hidden Crisis: Webinar Recap*, May 18, 3030, available at <https://www.end-violence.org/articles/tackling-covid-19s-hidden-crisis-webinar-recap> (last accessed June 27, 2020)

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

agenda for action to prevent violence against children.<sup>96</sup> He also emphasized that there is a critical need for a unified response to protect children which include adopting good practices at the country level, and contextualizing programs to each country and community.<sup>97</sup> Furthermore, Dr. M'jid said, that it is hugely important to ensure children play an integral role in this effort. They should be seen as both actors to prevent violence and essential pieces of the solution.<sup>98</sup>

### The INSPIRE Model

Developed through an in-depth consultation with program directors, violence prevention advisers, civil society organizations, and government decision-makers, the Inspire Model is composed of “seven complementary and mutually reinforcing strategies” for ending violence against children in low and middle-income communities. It is founded upon the social ecological model which highlights the importance of prevention at individual, family, community, and society levels. This model demonstrates how primary prevention efforts can promote non-violence, reduce perpetration, and change the circumstances that contribute to violence. The following are strategies to prevent violence against children under the INSPIRE Model<sup>99</sup>:

1. ***Implementation and enforcement of laws.*** *Ensure the implementation and enforcement of laws that prohibit and prevent violence against children, reduce excessive alcohol use, and limit youth access to firearms and other weapons.*
2. ***Norms and Values.*** *Strengthen norms and values that support non-violent, respectful, nurturing, positive and gender-equitable relationships for all children and adolescents.*
3. ***Safe Environments.*** *Create and sustain safe physical and social environments where children and youth gather and spend time.*
4. ***Parent and Caregiver Support.*** *Promote positive norms on child-rearing, discipline and gender roles in parenting.*
5. ***Income and Economic Strengthening.*** *Improve family economic security and stability, reduce child maltreatment and intimate partner violence.*
6. ***Response and Support Services.*** *Improve access to good-quality health, social welfare, and justice support services—including reporting violence—for all children who need them, to reduce the long-term impact of violence.*
7. ***Education and Life Skills.*** *Increase children's access to more effective, gender-equitable education and social-emotional learning and life-skills training and ensure that school environments are safe and enabling.*

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<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> INSPIRE: Seven strategies for Ending Violence Against Children, 26 October 2016, available at <https://www.who.int/publications/i/item/inspire-seven-strategies-for-ending-violence-against-children>

## **B. CHR Recommendations on Preventing and Responding to OSAEC**

In response to the rising incidences of OSAEC in the Philippines during the lockdown, the CHR, in an advisory<sup>100</sup> issued on 03 June 2020, made the following recommendations to the concerned stakeholders both in the government and the private sectors:

1. For the local government units to ensure functional barangay VAWC desks and full operation of all women and children's desk in police stations where victims may seek immediate assistance, redress, and refuge. Deputization of Barangay/Local Council for the Protection of Children to act on OSAEC cases.
2. For the Philippine National Police and Department of Justice to continue to strengthen their coordination with international law enforcement agencies and organizations involved in handling and investigating OSAEC and cybercrimes, to identify and prosecute perpetrators.
3. For the DSWD to continue operations or establishment of half-way houses for victims of OSAEC while observing physical distancing and other COVID-19 necessary measures determined by the Department of Health. Psycho-social support should also be made available for the child's development and well-being.
4. For the Department of the Interior and Local Government (DILG) to emphasize the role of local government units, especially the Barangays, in information drive and wide dissemination of available redress mechanisms, either through the use of traditional medium of communication or social media platforms providing support and assistance to victims.
5. For the private sector, in particular the information and communication technology sector, the tourism and travel industry and the banking and finance sectors, as well as civil society, to report to the proper authorities any suspected child pornography materials or transactions that they may detect or obtain because of the nature of their work or businesses.
6. For all internet service providers (ISPs) to comply with the following provisions under RA 9775:
  - To notify the Philippine National Police (PNP) or the National Bureau of Investigation (NBI) within seven (7) days from obtaining facts and circumstances that any form of child pornography is being committed using its server or facility, and to preserve such evidence for purpose of investigation and prosecution by relevant authorities.

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<sup>100</sup> ADVISORY ON THE PROTECTION OF CHILDREN FROM ONLINE SEXUAL ABUSE AND EXPLOITATION DURING COVID-19 CHR (V) A2020-014. Available here <http://chr.gov.ph/wp-content/uploads/2020/06/Protection-of-children-from-online-sexual-abuse-and-exploitation-during-COVID-19-CHR-V-A2020-014.pdf>

- Upon the request of proper authorities, to furnish the particulars of users who gained or attempted to gain access to an internet address which contains any form of child pornography, and
- To install available technology, program or software to ensure that access to or transmittal of any form of child pornography will be blocked or filtered.

In the same advisory, CHR also reminded the parents and guardians to ensure that children are given adequate information on internet safety especially on their use of social media platforms, and to properly supervise screen time and internet use. Further, parents and guardians must recognize that sexual abuse may include a range of behaviours other than physical act or sex. Concerned citizens and community organizations are also encouraged to help report OSAEC by reporting to the law enforcement authorities or calling the action line of the Inter-Agency Council Against Trafficking *at (02) 1343*.

#### ***IV. CONCLUSION***

The world has been put on hold because of this global pandemic. The uncertainty of how and when the situation will end has made it even worse. During this troubling time, children have become more vulnerable to abuse, exploitation and neglect. Most of the time, they rely on their parents and guardians for guidance and protection. But it is saddening to know that these same people whom children look up to for protection are the ones perpetrating abuses within the supposed safe confines of their homes. This calls for a paradigm change on the way people view abuse of children. There must be awareness, especially among the parents and guardians, that child abuse is not merely physical. It involves emotional, psychological, and verbal and a range of online behaviours or acts that are currently happening in the virtual space among, and targeting, our children. If we are not able to recognize these acts as forms of abuse against our children, it will be impossible for us to fully protect them.

Globally, there have been efforts to prevent exploitation of children. But even in countries where child protection measures are being strongly advocated, there are still challenges. During the first webinar with UN officials on child protection last 13 May 2020, Sweden mentioned their constant fight towards zero child abuse and how the country has installed safety nets that would protect every Swedish child.<sup>101</sup> It was the only country that did not close its schools during this COVID-19 pandemic because they knew how important it was for the child to continue with their education and the services that schools provide. Despite having one of the best child protection system in the world, Sweden ranked second among the top country offenders of online child abuse in the Philippines based on an IJM study.<sup>102</sup> Indeed, it is not enough that countries develop and adopt an effective child protection system. To ensure protection of all children, States must agree to come together and pool their actions and resources to fight this online pandemic and advocate for change.

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<sup>101</sup> COVID-19's Hidden Crisis: Violence Against Children. Webinar recap may be accessed at <https://www.end-violence.org/articles/tackling-covid-19s-hidden-crisis-webinar-recap>

<sup>102</sup> Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry and Civil Society, *supra* note 11.

In addition to creating awareness on the impact of VAC and the importance of global partnership, the following are additional recommendations that are viewed to provide the necessary protection needed by children during this pandemic:

The Philippine Government should advocate the importance of ending violence against children (EVAC) as part of its agenda for action on the COVID-19 pandemic and to ensure that government policies are formulated through a human rights-based approach and presented in a child friendly manner.

Furthermore, like other countries, it must make the child helpline an integral part of the national child protection response by making sure that it has adequate budget support from the government. This child help desk should coordinate with law enforcement agencies to establish safety protocols in handling child abuse cases. It must also establish partnership with telecommunications companies and other online platforms like Facebook and Twitter to create a policy that will better safeguard children when using the internet

Organizations like the PNP, through the WCPC, and the International Justice Mission (IJM) have continuously implemented measures to curb online exploitation of children in the country. These efforts have led to the reporting of online abuses and even the arrests of perpetrators. But again, for sustainability purposes, these efforts need to be supported and supplemented by various stakeholders, primarily by the Philippine Government.

Lastly, case management and intervention protocols should be strengthened by the lead agencies and other organizations working on child protection. This can be done through providing trainings and support to caseworkers and existing child helplines on VAC and COVID-19; establishing mechanisms to ensure that children experiencing violence have continued access to child-friendly services and programs despite the quarantine and travel restrictions, and working with the local actors to identify and reach marginalized children to ensure that no child is left behind.



**REPUBLIC OF THE PHILIPPINES**  
**COMMISSION ON HUMAN RIGHTS**

**HUMAN RIGHTS CENTERS MANAGEMENT OFFICE**  
**Child Rights Center**

**Report on the Effects of the COVID-19 Pandemic  
to Children's Right to Education**  
(March 18-October 5, 2020)

**I. Introduction**

The President of the Philippines, through Proclamation No. 929 (series of 2020), declared a state of calamity throughout the country due to the COVID-19 threat. As a preventive measure to halt the spread of the virus, the entire island of Luzon has been placed under the enhanced community quarantine (ECQ) on 16 March 2020. In turn, the ECQ has prompted suspension of classes in all levels within Metro Manila and in selected LGUs. According to the data from the Department of Education (DepEd), school closures caused by the pandemic have affected over 20 million learners in the Philippines in more than 41,000 schools in 15 regions.

Children belong to one of the most vulnerable and unprotected sectors in our society today. For most of them, education is lifesaving because it gives them hope for a brighter future. Studies have shown that children's attitudes are greatly affected by the lack of access to education during emergency situations. As a result of continued interruption of classes, regression may be felt by some children whose foundational learning was not that strong to begin with. Drop-out rates may increase across the country due to the massive disruption of classes.<sup>1</sup>

Continuation of education in the midst of this pandemic is not an easy task. DepEd needs to ensure the learners that despite the ECQ, education will not be disrupted. Distance learning may be considered during these times but it should be inclusive. The high poverty rate across Metro Manila alone may be a deterrent when it comes to this kind of education platform because not every household has the means to afford mobile phones, laptops and a stable internet connection. This disparity presents a digital divide on the learning capacity between the privileged and marginalized sectors of our society. This is just one of the issues being faced by DepEd as it tries to install measures to promote continuing education while maintaining the health safety of the learners.

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<sup>1</sup> Education Cannot Wait, *COVID-19 and Education in Emergencies*, available at <https://www.educationcannotwait.org/covid-19/> (last accessed on 9 May 2020).

## II. Issues and Challenges Related to Children's Right to Education

The government, through DepEd, is given the difficult task of ensuring the continuous education of children. While the department has, arguably, addressed some of the issues faced with the completion of school year 2019-2020, it now needs to focus on the issues of school year 2020-2021.

### A. *Opening of Classes for SY 2020-2021*

DepEd Secretary Briones announced on 5 May 2020 that based on extensive consultations with stakeholders, DepEd would move the opening of classes from June to August. The new schedule of SY 2020-2021 was proposed on 24 August 2020 and end on 30 April 2021. According to Republic Act No. 7977, a school year may start on the first Monday of June but not later than the last day of August. She also clarified that not all teachers and students will physically report to schools due to lockdowns implemented in certain areas.<sup>2</sup>

Senate President Vicente Sotto III, on the other hand, proposed to move the opening of the school year to September in order to ensure the safety of the students from the threat of COVID-19. Senator Sotto filed Senate Bill No. 1438, which seeks to amend the Republic Act No. 7977. He also added that delaying of the school opening will give DepEd more time to prepare and adopt measures for the new normal of the Philippine education system.<sup>3</sup>

However, after DepEd wrapped up its extended enrollment period for school year 2020-2021 in July 15, 2020, the numbers show that more than 6 million students from the last school year have failed to enlist<sup>4</sup>. DepEd data shows that only 76% of the students in the basic education program of SY 2019-2020 in public and private schools enrolled in the current school year. The decline in enrollment is across all the regions, with the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) having the the biggest drop with 42.1%<sup>5</sup>.

DepEd records also showed that there are only 1,169, 976 enrollees in private schools for 2020-2021. This is a huge decline compared to the 4 million enrollees in the last year school year. Over 300,000 private school students have also decided to transfer to public schools for SY 2020-2021<sup>6</sup>.

According to Secretary Leonor Briones, DepEd has already anticipated the lower turnout of enrollees as they understood that not all parents could enroll their children due to the impact of the [Covid19 pandemic](#). She also attributed the low enrollment turnout to the economic downturn caused by the closure or limited operations of most businesses and establishments.

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<sup>2</sup> Jaehwa Bernardo, *DepEd moves opening of classes to August*, ABS-CBN News, May 5, 2020, available at <https://news.abs-cbn.com/news/05/05/20/class-opening-deped-august-24-coronavirus-covid-19> (Accessed on 9 May 2020).

<sup>3</sup> Jaehwa Bernardo, *Sotto seeks to move class openings to September*, ABS-CBN News, May 5, 2020, available at <https://news.abs-cbn.com/news/05/05/20/sotto-seeks-to-move-class-opening-to-september> (last accessed May 9 2020).

<sup>4</sup> [Bonz Magsambol](#), *More Than 6M Elementary, High School Students Fail To Enroll During Pandemic*, July 18, 2020, available at <https://www.rappler.com/nation/millions-fail-to-enroll-elementary-high-schools-philippines-2020-2021>

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

Despite calls for delaying classes, Education Secretary Leonor Briones reiterated that classes would open on August 24.<sup>7</sup> Classes will be conducted in a classroom setting or online depending on the state of the coronavirus pandemic by then.<sup>8</sup> There is also a high probability that classes will be purely online for areas that are under the enhanced community quarantine.<sup>9</sup> As such, teaching methods and the class syllabus might have to be updated to fit the “new normal.”<sup>10</sup> DepEd also announced that it is also considering the possibility of using television and radio platforms.<sup>11</sup>

On July 17, 2020, Pres. Rodrigo Duterte signed a law adjusting the school calendar amid the prevailing COVID-19 pandemic. RA 11480, also known as “An Act to lengthen the school calendar from 200 days to not more than 220 class days”, amends RA 7977. It allows the President, upon the recommendation of the Education Secretary, to set a different date for the start of the school year in the country in the event of a state of emergency or state of calamity.

Finally, on August 14, 2020, the Office of the President issued a directive to DepEd to defer school opening to October 5, 2020<sup>12</sup>. The deferment was made to provide relief to the logistical limitations faced by the areas placed under modified enhanced community quarantine (MECQ), and to fill in the remaining gaps of the school opening are currently being addressed by DepEd<sup>13</sup>.

Due to the COVID-19 pandemic, DepEd implemented a blended learning program where learning modules, television, radio and the internet are utilized as alternative media of instruction. The decision to adopt a distance learning approach in the middle of a pandemic was met with criticisms from the parents and youth sectors. In response, DepEd maintained that it will be providing printed modules for students with no access to gadgets.<sup>14</sup> These modules will be delivered to them or picked up by their parents at agreed schedules.

DepEd also called on private schools to defer any planned tuition fee hikes to help families cope with their household expenses amid the coronavirus pandemic’s impact on their livelihoods. DepEd also called on private schools to be transparent about charges amid reports that certain schools sought payments inconsistent with distance learning.<sup>15</sup>

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<sup>7</sup> [Bonz Magsambol, No backing down: Briones says classes will open on August 24 ‘whatever form it is](https://www.rappler.com/nation/briones-says-classes-will-open-on-august-24-whatever-form-it-is), 16 July 2020, available at <https://www.rappler.com/nation/briones-says-classes-will-open-on-august-24-whatever-form-it-is>

<sup>8</sup> Bonz Magsambol, *Classes to open on August 24*, Rappler, May 5, 2020, available at <https://www.rappler.com/nation/259936-deped-announcement-classes-resume-august-24-2020> (last accessed June 28, 2020)

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Krissy Aguilar, *DepEd Moves Opening of Classes to October 5*, August 14, 2020, available at <https://newsinfo.inquirer.net/1321659/deped-opening-of-classes-in-public-schools-moved-to-october-5>

<sup>13</sup> *Id.*

<sup>14</sup> Bonz Magsambol, *Fast Facts: DepEd’s distance learning*, Rappler, June 1, 2020, available at <https://www.rappler.com/newsbreak/iq/262503-things-to-know-department-education-distance-learning> (last accessed June 28, 2020)

<sup>15</sup> Matthew Reysio-Cruz, *DepEd to private schools: Defer tuition increase*, Philippine Daily Inquirer, June 26, 2020, available at <https://newsinfo.inquirer.net/1297607/deped-to-private-schools-defer-tuition-increase> (last accessed June 28, 2020)



## ***B. Physical Reopening of Schools***

The government is caught between the difficult trade-off of protecting public health and minimizing the adverse economic and social impacts of school closures. To protect learners and teachers from the threat of COVID 19, governments around the world have temporarily suspended physical reopening of schools affecting more than 1.6 billion<sup>16</sup> children and youth.

In the Philippines, under DepEd's learning continuity plan<sup>17</sup>, face-to-face classes is not yet allowed. Learning opportunities are to be provided through blended distance learning modalities until such time that the Department of Health (DOH), the Inter-Agency Task Force on Emerging Infectious Diseases (IATF-EID), or the President lifts or relaxes the prohibition on face-to-face learning.

According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), nationwide closures of educational institutions due to COVID-19 pandemic have adverse consequences on children. Their impact, however, is particularly severe for the most vulnerable and marginalized boys and girls, and their families. Some of the negative consequences affecting children are:

- ***Interrupted learning:*** *Schooling provides essential learning and when schools close, children and youth are deprived opportunities for growth and development. The disadvantages are disproportionate for under-privileged learners who tend to have fewer educational opportunities beyond school.*
- ***Poor nutrition:*** *Many children and youth rely on free or discounted meals provided at schools for food and healthy nutrition. When schools close, nutrition is compromised.*
- ***Gaps in childcare:*** *In the absence of alternative options, working parents often leave children alone when schools close and this can lead to risky behaviours, including increased influence of peer pressure and substance abuse.*
- ***Rise in dropout rates:*** *It is a challenge to ensure children and youth return and stay in school when schools reopen after closures. This is especially true of protracted closures and when economic shocks place pressure on children to work and generate income for financially distressed families.*
- ***Increased exposure to violence and exploitation:*** *When schools shut down, early marriages increase, more children are recruited into militias, sexual exploitation of girls and young women rises, teenage pregnancies become more common, and child labour grows.*
- ***Social isolation:*** *Schools are hubs of social activity and human interaction. When schools close, many children and youth miss out of on social contact that is essential to learning and development.*
- ***Challenges measuring and validating learning:*** *Calendared assessments, notably high-stakes examinations that determine admission or advancement to new education levels and institutions, are thrown into disarray when schools close. Strategies to postpone, skip or administer examinations at a distance raise serious concerns about fairness, especially when access to learning becomes variable. Disruptions to*

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<sup>16</sup> Covid 19 and Children, UNICEF data hub, available at <https://data.unicef.org/covid-19-and-children/>

<sup>17</sup> Department of Education, Department Order No. 12, s. 2020, Adoption of the Basic Education Learning Continuity Plan for School Year 2020-2021 in the Light of the COVID-19 Public Health Emergency, 19 June 2020, available at [https://www.deped.gov.ph/wp-content/uploads/2020/06/DO\\_s2020\\_012.pdf](https://www.deped.gov.ph/wp-content/uploads/2020/06/DO_s2020_012.pdf)

*assessments results in stress for students and their families and can trigger disengagement.*<sup>18</sup>

UNESCO, UNICEF, the World Food Programme, and the World Bank has issued a framework on the safe reopening of schools. This framework offers practical advice for national and local authorities on when to consider reopening and how to prepare schools to receive and keep children safe when they return.<sup>19</sup> Schools should look at how they can reopen better, with improved learning and more comprehensive support for children at school including health, nutrition, psychosocial support and water, sanitation, and hygiene facilities.<sup>20</sup>

### ***C. Lack of Gadgets and Poor Internet Connectivity***

In a study conducted by the UN and UNESCO, it was revealed that half of all the students currently out of the classroom, reaching nearly 830 million, currently do not have access to a computer.<sup>21</sup> More than 40 percent of those students have no Internet access at home. These stark disparities are further exacerbated by the unprecedented and limiting effects of the pandemic.<sup>22</sup> According to the same study, even teachers are struggling to cope with the rapid transition to online learning, even in those countries with strong IT infrastructure and reliable internet connection.<sup>23</sup>

In a survey organized by DepEd last year, 87% of teachers who answered have laptops or computers at home and only 13% have none.<sup>24</sup> However, among those who have gadgets, only 41% have a stable internet connection, 49% have internet signal in their area but no connection of their own, and 10% lack both.<sup>25</sup> Even Filipino students are also experiencing difficulties in accessing the internet. A DepEd survey shows that 2.8 million students have no access to the internet. This is especially true in rural areas where 53% of the population live, and where both internet access and speed can be a challenge. And while 6.5 million students have access to the internet, approximately 20% of these students use computer shops or other public places to go online.<sup>26</sup>

In preparation for the opening of classes amid the coronavirus disease pandemic, DepEd distributed a total of 1,042,575 devices to 43,948 public schools. This accounts for 93 percent of all schools that have computers, laptops, and tablets which can be used by the students.<sup>27</sup> Another batch, comprising of 211,344 devices will be delivered to students by the end of 2020.

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<sup>18</sup> Adverse consequences of school closures, <https://en.unesco.org/covid19/educationresponse/consequences>

<sup>19</sup> Maida Pasic, *COVID-19 threatens to reverse education gains*, UNICEF East Asia and Pacific, May 8, 2020, <https://www.unicef.org/eap/stories/covid-19-threatens-reverse-education-gains> (last accessed May 9, 2020).

<sup>20</sup> *Id.*

<sup>21</sup> UN News, Startling disparities in digital learning emerge as COVID-19 spreads: UN education agency, April 21, 2020, available at <https://news.un.org/en/story/2020/04/1062232> (last accessed June 28, 2020)

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Thousands of teachers lack gadgets, internet to cope with pandemic: DepEd, ABS-CBN News, June 26, 2020, available at <https://news.abs-cbn.com/news/06/16/20/thousands-of-teachers-lack-gadgets-internet-to-cope-with-pandemic-deped> (last accessed June 28, 2020)

<sup>25</sup> *Id.*

<sup>26</sup> <https://eu.boell.org/en/2020/10/06/philippines-distance-learning-reveals-digital-divide>

<sup>27</sup> Cathrine Gonzales, 93 percent of public schools receive devices from DepEd — official, 24 August 2020. Available at <https://newsinfo.inquirer.net/1326362/93-percent-of-public-schools-received-devices-from-deped-official#ixzz6wXHbJ4Nu>

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DepEd has also been coordination with the Department of Interior and Local Government (DILG), local government units (LGUs), and the Department of Budget and Management (DBM) on the possible use of the special education fund of LGUs for the purchase of gadgets<sup>28</sup>.

DepEd also assured parents that there is no need to buy new gadgets or devices as printed modules or learning materials will be provided for their children. This is to ensure that their children will be able to participate in the new modes of learning delivery to be implemented by schools when classes start. For school year 2020-2021, printed modules will be prepared for learners who have limited access or have absolutely no access to the internet and digital devices. The printed materials will be distributed to the homes of students.<sup>29</sup> DepEd is seeking the help of local government units (LGUs) in distributing learning modules for students in high-risk areas who cannot go to school or have no access to the internet.<sup>30</sup> The government will also use television and radio stations to broadcast educational programs at specific times to ensure that students from far-flung barrios can still learn during the incoming school year.

Correspondingly, Department of Education (DepEd) also reminded teachers that they do not need to buy gadgets including laptops and personal computers. While, DepEd recognizes the importance of having the right equipment for the task at hand, it assured teachers that are striving to provide public school teachers with laptops among other equipment they need for the new learning modalities. In the meantime, DepEd has released a memorandum allowing school heads to release or lend equipment to its teachers. They have also issued a directive to provide guidelines enabling public school teachers to borrow Information Technology (IT) equipment such as desktop computers, laptops, tablet PCs, and smartphones from their schools for use during the pandemic and in preparation for SY 2020-2021<sup>31</sup>.

#### ***D. Unpreparedness for Online Learning of Schools, Teachers, Parents and Learners***

In his public address aired on 5 June 2020, President Duterte expressed his doubts about the country's capability to implement distance learning. Vice President Leni Robredo also expressed her reservations on the readiness of DepEd, especially when it comes to online learning. While she commended DepEd for its idea to tap television and radio stations for education, she also raised some questions on how these will be done especially in remote areas where getting a signal might be difficult.<sup>32</sup>

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<sup>28</sup> Vanne Elaine Terrazola, DepEd unable to buy laptops for students — Umali, 25 June 2020. Available at <https://mb.com.ph/2020/06/25/deped-unable-to-buy-laptops-for-students-umali/>

<sup>29</sup> Merlina Hernando-Malipot, DepEd to parents: 'no need to buy gadgets; we will provide printed materials', Manila Bulletin, May 29, 2020, available at <https://news.mb.com.ph/2020/05/29/deped-to-parents-no-need-to-buy-gadgets-we-will-provide-printed-materials/> (last accessed July 3, 2020).

<sup>30</sup> Jeffrey Damicog, DepEd to seek help from LGU in distributing learning materials to students, Manila Bulletin, May 12, 2020, available at <https://news.mb.com.ph/2020/05/12/deped-to-seek-help-from-lgu-in-distributing-learning-materials-to-students/> (last accessed July 3, 2020)

<sup>31</sup>by Merlina Hernando-Malipot DepEd to teachers, students: 'No urgent need to buy gadgets', August 4, 2020. Available at <https://mb.com.ph/2020/08/04/deped-to-teachers-students-no-urgent-need-to-buy-gadgets/>.

<sup>32</sup> Merlina Hernando-Malipot, DepEd disputes claims that it is not ready for blended learning, June 8, 2020, available at <https://news.mb.com.ph/2020/06/08/deped-disputes-claims-that-it-is-not-ready-for-blended-learning/> (last accessed July 4, 2020)

Education Secretary Leonor Briones disputed claims that DepEd is not yet ready for blended learning and assured that groundwork for this is “well underway,” as they prepare for the opening of the SY 2020-2021.<sup>33</sup>

Mr. Juco Antonio Rivera, an online teacher in iAcademy, shared his opinion that the Philippines is not yet ready for online rollouts. He added that we were not ready for K-12 and were also not ready for online classes. He pointed out that the Philippines’ educational system is still struggling to adjust to the change brought about by the K-12 program, and to bring up online classes will cause another major change in our educational system.<sup>34</sup>

A teachers' group from the Visayas also said that while they support the postponement of face-to-face classes, they need more time and resources to get used to the new learning system. According to the group, DepEd should take into account that a considerable number of public school teachers are nearing retirement age, and are having difficulty adjusting to online learning.<sup>35</sup>

The Teachers' Dignity Coalition (TDC) proposed to delay the opening of classes to January 2021 to give more time for teachers to prepare for the distance learning approach. TDC says that three (3) months is not enough given that there are a lot of issues that need to be addressed such as accessibility, connectivity, and training for teachers.<sup>36</sup>

Even parents are apprehensive about enrolling their children this coming school year. In a distance learning approach, parents will have to play an active role in the learning process as they will have to facilitate and guide their children through modular lessons sent by the school. Some parents feel that they are not capable of guiding their children in the learning process at home. There are also doubts as to whether the children could learn their lessons effectively through the proposed alternative modes.<sup>37</sup>

While distance learning is programmed to be self-paced to some extent, keeping students focused and motivated enough is another issue. The home may not be a conducive place for studying. Some family members may not be cooperative and may cause distractions. These factors might cause pupils to miss their teachers and classmates, or look for the sense of stability and normalcy that schools provide. Self-isolation at home can also negatively affect children’s mental health and well-being.

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<sup>33</sup> Merlina Hernand-Malipot, DepEd disputes claims that it is not ready for blended learning, June 8, 2020, available at <https://news.mb.com.ph/2020/06/08/dep-ed-disputes-claims-that-it-is-not-ready-for-blended-learning/> (last accessed July 4, 2020)

<sup>34</sup> Maan D’Asis Pamaran, *Education post COVID-19 will be largely virtual, but is the Philippines ready?*, ANC, available at <https://news.abs-cbn.com/ancx/culture/spotlight/04/23/20/education-post-covid-19-will-be-largely-virtualbut-is-the-philippines-ready> (last accessed May 9, 2020).

<sup>35</sup> Nestle Semilla, et al, Visayas teachers hesitant about Deped’s planned blended learning, June 9, 2020, available at <https://newsinfo.inquirer.net/1288778/visayas-teachers-hesitant-about-depeds-planned-blended-teaching>, last accessed July 3, 2020)

<sup>36</sup> Bonz Magsambol, Teachers' group wants class opening delayed to January 2021, Rappler, June 3, 2020, available at <https://www.rappler.com/nation/262741-teachers-group-wants-class-opening-delayed-january-2021> (last accessed July 4, 2020)

<sup>37</sup> Bonz Magsambol, Decline in enrollees: Parents cite finances, doubts about distance learning, Rappler, May 29, 2020, available at <https://www.rappler.com/nation/262270-decline-enrollees-students-not-attending-school-coronavirus-pandemic> (last accessed June 28, 2020)

### ***E. Access to alternative education of the most vulnerable children***

School closures may disproportionately affect children who already experience barriers accessing education, or who are at higher risk of being excluded from the education system due to circumstance or situation. These include children with disabilities, children living in poverty, girls, internally displaced children, students in remote locations, children from indigenous communities, and others in fragile and conflict-affected areas. For these children, the COVID-19 pandemic will mean limited or no education, and/or falling further behind their peers. And, while out of school, these children might become more vulnerable to engaging in unsafe practices and negative coping mechanisms. School closures will leave them increasingly exposed to violence, neglect, abuse and exploitation.<sup>38</sup>

### **III. Measures Taken by the Philippine Government to Address the Educational Needs of Children:**

The following are some of the measures undertaken by the Philippine government to address the issues faced by schools during the COVID-19 pandemic.

#### ***a. Continuing Education***

To provide clear guidance to all offices, units, schools, and community learning centers (CLCs) of the Department, and to the learners, their parents, and other stakeholders on how to respond to the challenges brought about by COVID 19, DepEd adopted the Basic Education Learning Continuity Plan (BE-LCP) for School Year 2020-2021 in June 2020<sup>39</sup>.

The BE-LCP provides learning delivery strategies and operational directions that aims to protect the health, safety and well-being of all learners, teachers and school personnel. It also offers multiple learning delivery modalities such as blended learning, distance learning, and homeschooling, either on top or in place of the face-to-face learning modality in order to ensure that learning opportunities among children shall continue to be provided in School Year (SY) 2020-2021.

Under this program, a Learning Resources and Platforms Committee is created to ensure that appropriate learning resources of good quality are developed, and that necessary platforms and technologies are made available to both learners and teachers in a timely and efficient manner.

#### ***b. Online Platform***

In a press release of DepEd dated 20 March 2020, DepEd Commons was introduced as a new tool for learning while staying at home. This is an online platform for public school teachers to support the learners through distance learning modalities. To date, there is a total of 151,749 teachers who have joined the online platform; it gained a lot of support from parents as well. According to DepEd Secretary Leonor Magtolis Briones, DepEd Commons is a step towards

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<sup>38</sup> World Vision, Policy Brief COVID-19 & Disruptions to Education, May 2020, available at [https://reliefweb.int/sites/reliefweb.int/files/resources/World%20Vision%20COVID-19%20Education%20Policy%20Brief\\_2020-05-22.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/World%20Vision%20COVID-19%20Education%20Policy%20Brief_2020-05-22.pdf) (last accessed July 4, 2020)

<sup>39</sup> Department of Education, Department Order No. 12, s. 2020, Adoption of the Basic Education Learning Continuity Plan for School Year 2020-2021 in the Light of the COVID-19 Public Health Emergency, 19 June 2020, available at [https://www.deped.gov.ph/wp-content/uploads/2020/06/DO\\_s2020\\_012.pdf](https://www.deped.gov.ph/wp-content/uploads/2020/06/DO_s2020_012.pdf)

being able to offer continuity of education to Filipino learners, despite the disruption of classes. She also emphasized that education must continue even in times of crisis whether it may be a calamity, disaster, emergency, quarantine, or even war. On the other hand, Undersecretary for Administration, Alain Del Pascua noted that DepEd Commons may still have many limitations but it is being improved for it to be made available and accessible to all teachers and learners in the country.<sup>40</sup>

In addition, DepEd Commons has also been made available to out-of-school youth and adults (OSYA) learners who are enrolled under the Alternative Learning System (ALS) of DepEd. According to Undersecretary Diosdado San Antonio, it is a big step for the Department as it looks for alternative ways to continue education for all types of learners despite the challenges. He also said that DepEd has longed for the time when the suspension of classes will not, in any way, obstruct nor delay the education of all Filipino children.

As mandated by RA 10650, the University of the Philippines Open University (UPOU) assisted national government agencies and educational institutions in developing their own distance education programs by training teachers and educators through webinars offered for free to the public.<sup>41</sup> These programs aim to capacitate school administrators, support staff and teachers in using open and distance learning as an alternative to traditional onsite classes.<sup>42</sup> It also launched a semimonthly podcast called “Edu-Hack: Navigating through a Turbulent Educational Landscape” which primarily discusses how Philippine universities are responding and adapting to the disruptions in higher education caused by the COVID-19 pandemic.<sup>43</sup>

The Department has also engaged with the private sectors to ensure the sustainability of the online education platform. Two of the biggest telecom providers in the country, Globe Telecom, Inc. and Smart Communications have committed to giving free access to DepEd’s online platforms to all of their mobile subscribers. Both companies recognize the importance of continued education in this time of the pandemic. Through this partnership, educators and learners are encouraged to use DepEd Commons without having to worry about incurring data charges.

### ***c. Completion of the DepEd School Year 2019-2020***

The implementation of the ECQ last 15 March 2020 greatly affected the DepEd School Calendar for SY 2019-2020. In order to address the different concerns of teachers, learners, and parents, DepEd issued a memorandum on 15 March 2020 regarding the “Guidelines for the Remainder of School Year 2019-2020 in Light of COVID-19 Measures.” In the said Memorandum, the following considerations for learners have been adopted by the Department:

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<sup>40</sup> Department of Education. *Learning while staying at home: Teachers, parents support DepEd distance learning platform*, March 20, 2020, available at <https://www.deped.gov.ph/2020/03/21/learning-while-staying-at-home-teachers-parents-support-deped-distance-learning-platform/> (last accessed May 28, 2020)

<sup>41</sup> UP Open University, *UPOU’s Free Online Courses will Train Teachers in Online Teaching*, available at <https://www.upou.edu.ph/news/upou-s-free-online-courses-will-train-teachers-in-online-teaching/> (last accessed June 28, 2020)

<sup>42</sup> *Id.*

<sup>43</sup> UP Open University, *UPOU launches Edu-Hack, a Podcast on Crises Adaptation for Higher Education*, available at <https://www.upou.edu.ph/news/upou-launches-edu-hack-a-podcast-on-crises-adaptation-for-higher-education/> (last accessed June 28, 2020).

(1) 4<sup>th</sup> Quarter Examinations should be scheduled on a staggered basis; (2) In areas where classes have been suspended, 4<sup>th</sup> Quarter Examinations will no longer be administered. A specific grading formula shall be used for the computation of the final grades for the 4<sup>th</sup> quarter; and (3) Further academic requirements, if any, shall be done as home-based assignments.

#### ***d. Remote Enrolment***

To adhere with the guidelines set by the IATF-EID, DepEd issued Department Order No. 008<sup>44</sup>, Series of 2020 to provide schools and community learning centers (CLCs) various options for implementing a modified enrollment process amidst the COVID Pandemic.

Under DO 008, s. 2020, physical enrollment is highly discouraged and seen only as a measure of last resort, even in low-risk areas. Unless otherwise necessary, any form of physical submission of enrollment data shall be done in coordination with local government units (LGUs). Previous advisers will collect and enter the enrollment and survey data into the End-of-School-Year Learner Information System thus parents and/or enrollees shall only be required to submit the Learner and Survey Forms to their previous class advisers. Enrollment forms can be submitted online or through the designated drop boxes in schools, barangay halls and in other specified locations. In addition, new data shall be collected this schoolyear to capture information that will be relevant in assessing the capacity of the basic education system, and the appropriate targeting of learners, for the continuing delivery of learning in the context of constraints and opportunities presented by physical distancing measures.

## **IV. Recommendations**

### **For the Government:**

- a. Adopt a variety of hi-tech, low-tech and no-tech solutions to assure the continuity of learning among students, regardless of their location or circumstance.
- b. Ensure access to education of vulnerable populations by:
  - a. Adopting school opening policies and practices to expand access to marginalized and vulnerable groups of children.
  - b. Consider the specific needs of children with disabilities, and how the pandemic impacted their access to education.
  - c. Ensure learning materials and platforms are accessible to children with disabilities.
  - d. Relevant information and communication should be available in local dialect, multiple, accessible formats, and tailored to the needs of marginalized children.
  - e. Examine any specific implications for girls that may increase their risk, such as responsibility for taking care of the sick at home, or exploitation when out of school.
- c. Address the digital divide affecting marginalized children by adopting remote learning strategies that will not depend heavily on home internet connectivity, i.e. use of modules, television, radio.

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<sup>44</sup> Department of Education, Department Order No. 008, s. 2020, Guidelines on Enrollment for School Year 2020-2021 in the Context of the Public Health Emergency due to COVID, May 28, 2020, may be accessed at [https://www.deped.gov.ph/wp-content/uploads/2020/05/DO\\_s2020\\_008-Guidelines-on-Enrollment-for-SY-2020-2021.pdf](https://www.deped.gov.ph/wp-content/uploads/2020/05/DO_s2020_008-Guidelines-on-Enrollment-for-SY-2020-2021.pdf)



- d. Invest in the necessary telecommunication and technological infrastructure, in order to remove structural obstacles impeding children's full enjoyment of their right to education. The government should enter into partnerships with telecommunication companies to guarantee free access to education platforms.
- e. Consider providing targeted funding to teachers and school officials in under-resourced areas so that they can contact their students, print materials for all, and distribute learning materials in more remote or rural areas. This is also to avoid teachers from funding their teaching materials using their personal money.
- f. Adopt specific measures to protect girls and boys from the risk of sexual abuse and exploitation while out of school, and while online.
- g. Gather gender-disaggregated data of children affected by school closures, and the number and profile of children returning when schools reopen, to determine the impact of COVID-19.
- h. Protect the data collected from children online from misuse. Over the longer term, governments should institute data protection laws for children.

#### **For School Administrators, Teachers and Staff:**

- a. Continue capacitating teachers and school personnel to help them adapt and adjust to the new learning modalities. Teachers who are not familiar or proficient in the use of modern technology, i.e., computer, internet, online platforms, must be provided with basic training to help them adapt to the new system.
- b. Reduce/waive school fees and other miscellaneous expenses (school uniforms, laboratory, etc.) wherever possible to encourage enrolment especially among marginalized students
- c. Provide age-appropriate health education on COVID 19 to students and their parents/guardians.
- d. Address Mental Health/Psychosocial support needs of the students, teachers and school staff. It is suggested that a dedicated psychosocial support and counselling that is accessible to students, or a referral mechanism to ensure provision of psychosocial support, is in place.
- e. Providing practical support to parents and caregivers on how to facilitate learning at home.

#### **For Parents and Caregivers:**

- a. Know and understand basic information about coronavirus disease (COVID-19), including its symptoms, complications, how it is transmitted and how to prevent transmission.
- b. Help children cope with the stress. Listen and respond to their concerns in a supportive way.
- c. Create opportunities for children to play and relax.
- d. Maintain regular routines and schedules as much as possible.
- e. Monitor and limit children's use of gadget and internet.
- f. Protect children's well-being at home during school closures.

## **V. Conclusion**

School closure is one of the first response of the government to contain and prevent the COVID-19 virus from infecting more people, especially children. But while school closures



are a necessary measure to halt the spread of COVID-19, it must be remembered that education is a human right, and States should employ all necessary measures to ensure its continuity in times of crisis. Bearing in mind the principle of the best interest of the child, we should not only look at the structure itself but at the way it affects the learners when they are not able to interact with other students and receive the other benefits that they get by being physically present in schools.

While the government is lauded for coming-up with measures to ensure the continuous education of children, it should, however, ensure that the measures adopt a rights-based approach. It is also necessary to keep in mind a holistic approach in the implementation of educational programs and interventions that will be given to the learners. Such measures, if based on these approaches, will promote a safe, accessible, inclusive learning environment that will help children achieve their highest potential.

During the COVID-19 Pandemic, the government has started adopting a participatory approach in addressing the educational needs of children, through various stakeholders' consultations. These efforts must be continued and expanded to ensure that children's voices, especially those from the marginalized sectors will be heard. As child rights advocates, it is important that we recognize the right of children to participate in the discussion of matters that affect them. This way, our children can be secured that they are not being left behind, and that their best interest is still being considered by the duty bearers even during this time of pandemic.



**REPUBLIC OF THE PHILIPPINES**  
**COMMISSION ON HUMAN RIGHTS**

<b>HUMAN RIGHTS CENTERS MANAGEMENT OFFICE</b> <b>Child Rights Center</b>
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**Report on the Situation of Children in Conflict with the Law (CICL) and  
Children-at-Risk during the COVID-19 Pandemic**  
(March 18-June 26, 2020)

**I. Legal Framework**

1. The Philippine Government is a state-party to the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC provides what children need to survive, grow and reach their full potential. It enumerates the rights that every child must enjoy and be able to exercise at any given time, and in all circumstances. More importantly, it emphasizes that the best interest of the child must be given primordial consideration in the development and implementation of policies, programs and services concerning children.

Article 40 of the UN Convention on the Rights of the Child (UNCRC) provides that CICL shall be treated in a manner consistent with the promotion of his/her sense of dignity and worth, taking into account his/her age and the desirability of promoting his/her reintegration and assumption of a constructive role in society. The UNCRC also provides alternatives to institutionalization, such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes and other forms of dispositions that may be availed of by the child to ensure that he/she is dealt with in a manner appropriate to his/her well-being and proportionate both to his/her circumstances and offense.

2. In June 2017, the UN Committee on the Rights of the Child promulgated General Comment No. 21 (GC 21) on children in street situations (CISS). Its publication was a historical moment for CISS, as this is the first piece of international law that recognizes their peculiar situations, needs and aspirations. GC 21 “provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations

using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child”.

Under the present general comment, the term “children in street situations” refers to: (a) children who depend on the streets to live and/or work, whether alone, with peers or with family; and (b) a wider population of children who have formed strong connections with public spaces and for whom the street plays a vital role in their everyday lives and identities.

3. The United Nations General Assembly adopted the Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) states that “juvenile justice shall be conceived as integral part of national development process of each country within a comprehensive framework of social justice for all juveniles, thus at the same time, contributing to the protection of the young and maintenance of peace and order”. Rules 13 and 19 declare that detention pending trial and institutionalization shall be the last resort and if necessary, at the shortest possible time.
4. Rule 46 of Riyadh Guidelines or the UN Guidelines for the Prevention of Juvenile Delinquency reiterates that institutionalization of young persons shall be a measure of last resort at the minimum period. Criteria authorizing formal intervention of this type should be strictly defined and limited to certain situation such as but not limited to where the child has been abused and abandoned or neglected by parents or guardians.
5. Article II, Section 11 of the 1987 Philippine Constitution provides that the State values the dignity of every human person and guarantees full respect for human rights. To protect and ensure the respect, dignity, development and welfare of children are inherent obligations of the state.
6. Presidential Decree 603 or the Child and Youth Welfare Code of 1974 declares that “the child is one of the most important assets of the nation”. It is for this reason that the State should exert efforts to promote children’s welfare and enhance their opportunities for a useful and happy life. The same law provides for the rights that all children shall enjoy regardless of their sex, religion, political antecedents, or any other status. It also mandated the duty bearers to commit CICL to the care of DSWD or local rehabilitation center or detention home of the province or city. It is only in the absence of such facilities that the CICL may be committed to jails (although still separate from adults) or released under recognizance to the custody of parents or any suitable person who shall be responsible in the appearance of the child in court.
7. Section 17, paragraph (2) of the Local Government Code of 1991, otherwise known as Republic Act 7160 identified the Basic Services and Facilities that an LGU should provide for its constituents. The Code enumerated social welfare services which include programs and projects on child and youth welfare, family and community welfare, women’s welfare, welfare of the elderly, and disabled persons; community-based rehabilitation programs for vagrants, beggars, *street children*, “scavengers”, “juvenile delinquents”, and victims of

drug abuse; livelihood and other pro-poor projects; nutrition services; and family planning services that must be provided at the municipal level.

8. Republic Act 7610 or otherwise known as the *Special Protection of Children against Abuse, Exploitation and Discrimination Act* declares that it shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control. Children in street situations are considered as vulnerable and victims of the situations.
9. The Juvenile Justice and Welfare Act, as amended, reiterated the rights of CICL not to be deprived, unlawfully or arbitrarily of his or her liberty, and emphasized that detention or imprisonment, being a disposition of last resort, shall be made for the shortest appropriate period of time. It also decriminalized status offenses. The act also provides that a child found violating a curfew ordinance is considered a “child-at-risk” and not a “child in conflict with the law”. Therefore, no penalty shall be imposed on the child. He/she shall instead be referred to Barangay station for registration and intake, and thereafter released to the custody of his/her parents. Appropriate interventions shall also be provided to the child and his/her parents or guardians.
10. The Revised Implementing Rules and Regulations (RIRR) of JJWA specified that CICL shall never be locked up in detention cells such as barangay or police lock-ups, Bureau of Jail Management and Penology (BJMP) managed facilities, and provincial jails.
11. In the Supreme Court’s decision in *Samahan ng mga Progresibong Kabataan (SPARK) vs. Quezon City, City of Manila and Navotas City* (GR No. 225442), the Court ruled that curfew ordinance must not contravene existing statutes. Ordinances should be read and implemented in conjunction with related law. In this case the related law is the Juvenile Justice and Welfare Act, as amended by RA 10630.
12. There are existing protocols that are primarily used when government agencies encounter CISS. These are the *Protocol to Reach Out to Street Children*, developed by the Council for the Welfare of Children, and the Philippine National Police’s Manual in *Handling Cases of Children at Risk and Children in Conflict with the Law*. These protocols set standards and provide a common framework for the conduct of reach out to street children.

## **II. Introduction**

Under RA 9344, a “Child in Conflict with the Law” (CICL) refers to a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws. While a “Child at Risk” (CAR) is a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances. Children who are abused, exploited, abandoned, neglected, from dysfunctional families, out of school, out on the street, members of a gang, in

situations of armed conflict or living in communities with a high level of criminality or drug abuse belong to this classification.<sup>1</sup>

Because of their situation and circumstances, CAR and CICL are among the most disadvantaged and vulnerable children at any given time. This is especially true in situations of crisis as they are at greater risk of abuse, neglect, violence and exploitation.

For CAR, especially those who have been abandoned, neglected, and are on the streets, their situation and livelihood may be directly affected with the imposition of curfew and movement restrictions. Access to basic needs and services such as food, housing and medical services may also be difficult for homeless and undocumented persons, including children in street situations (CISS), as they may not be covered by the existing social services and amelioration programs by the local government.

On the other hand, CICLs reside in a restrained environment where physical movement is restricted, access to information is regulated, if not prohibited, and a healthy living is not guaranteed. These conditions put them in a truly precarious situation. Although they are separated from the rest of the society, CICL are easily affected by what is happening in the outside world. They feel the impact of these events even inside the four walls of the facilities in which they are kept.

CAR and CICL may also face discrimination because of the perception that they are more susceptible to the COVID virus due to their living situations. Furthermore, such children are distinctly disadvantaged when it comes to access to education under the current circumstances, given that many of them may not have the requirements for the current modalities of education such as internet connectivity, gadgets or adults or family members who are able to facilitate their learning and monitor their progress.

### **III. The Situation**

The Government, through the Inter-Agency task Force (IATF), prohibited citizens that are above 65 and below 18 years old from leaving their homes. This order was carried out in the entire country. In fact, some went further, there were cities and provinces who wanted to implement a 24-hour curfew. Other local ordinances ordered the cancellation of benefits and support such as scholarship program to those who will be found violating curfew ordinances. Other local chief executives issued pronouncements that parents and guardians of children who violate the curfew would face unspecified sanctions.

News report from all over the country, especially during the first two weeks of the implementation of the Bayanihan Act resulted in the detention of thousands of violators across the nation. According to police data, 20,389 curfew violators have been apprehended in Luzon alone. Nationwide, 75,750 violators have been recorded from March 17 until Apr. 1, with over 50,000 of

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<sup>1</sup> Sec 4, Definition of Terms, RA 9344.

them given warnings and almost 4,000 penalized with a fine.<sup>2</sup> Included in the statistics of curfew violators were children.

## Curfew-related Violence

Police and local officials in several parts of the country have mistreated people detained for violating COVID-19 regulations. Authorities have subjected children to abusive treatment for violating curfew and quarantine rules. Reports received by CHR include children being arrested, confined in dog cages, locked in a coffin, paraded in the streets and forced to sit for hours under the heat of the sun as punishment for violating curfew.<sup>3</sup> These incidences show blatant disregard by the law enforcers of the protocol on handling Children at Risk as provided under the Juvenile Justice and Welfare Act (RA 9344, as amended by RA 10630), which provides that –

No penalty shall be imposed on children for violation of ordinances, and they shall instead be brought to their residence or to any barangay official at the barangay hall to be released to the custody of their parents. Appropriate intervention programs shall be provided for in such ordinances. The child shall also be recorded as a ‘child at risk’ and not as a ‘child in conflict with the law’. The ordinance shall also provide for intervention programs, such as counselling, attendance in group activities for children, and for the parents, attendance in parenting education seminars [emphasis supplied].

While it is clear that under our law, children found violating curfew ordinances are CAR and are not be treated as CICL, still the treatment of minor curfew violators varies across the nation.

For instance, there is a report in social media about the arrest of four boys and four girls in Manila for violating curfew. According to the report, the village officials allegedly forcibly cut the hair of seven of the children and stripped naked those who resisted arrest.<sup>4</sup> There is also a verified case of a barangay chairman who ordered putting some Grade 10 students inside a dog for violating curfew.<sup>5</sup> In Pandacaqui, Mexico, Pampanga, three (3) LGBTQ+ persons were ordered to kiss each other and do a sexy dance in front of a minor as punishment for a curfew violation.<sup>6</sup>

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<sup>2</sup> Some 20,000 violators of lockdown curfew arrested- PNP, ABS-CBN News, 02 April 2020, available at <https://news.abs-cbn.com/news/04/02/20/some-20000-violators-of-lockdown-curfew-arrested-pnp> (last accessed 27 January 2021).

<sup>3</sup> Margaret Wurth and Carlos H. Conde, Philippine Children Face Abuse for Violating COVID-19 Curfew, Human Rights Watch, April 3, 2020, available at <https://www.hrw.org/news/2020/04/03/philippine-children-face-abuse-violating-covid-19-curfew> (last accessed July 4, 2020)

<sup>4</sup> *Philippine Children Face Abuse for Violating COVID-19 Curfew*, Human Rights Watch, 03 April 2020, available at <https://www.hrw.org/news/2020/04/03/philippine-children-face-abuse-violating-covid-19-curfew> (last accessed 27 January 2021).

<sup>5</sup> Barangay captain faces raps for locking curfew violators in dog cage, Philstar.com, 21 March 21, 2020 available at <https://www.philstar.com/nation/2020/03/21/2002637/barangay-captain-faces-raps-locking-curfew-violators-dog-cage> (last accessed 27 January 2021).

<sup>6</sup> *Barangay captain makes LGBTQ+ quarantine violators do lewd acts as punishment*, Rappler, 07 April 2020, available at [https://www.rappler.com/nation/257292-barangay-captain-lgbtq-quarantine-violators-lewd-acts-punishment?utm\\_medium=Social&utm\\_campaign=Echobox&utm\\_source=Facebook&fbclid=IwAR0aY\\_YIacDd3UJ9eTB4NQTb-rok69Cmt-NF-5bGrYmCPmD1P82yB5v7GpM#Echobox=1586261742](https://www.rappler.com/nation/257292-barangay-captain-lgbtq-quarantine-violators-lewd-acts-punishment?utm_medium=Social&utm_campaign=Echobox&utm_source=Facebook&fbclid=IwAR0aY_YIacDd3UJ9eTB4NQTb-rok69Cmt-NF-5bGrYmCPmD1P82yB5v7GpM#Echobox=1586261742) (last accessed 27 January 2021)

In Ilocos Sur, a 15-year-old girl was gunned down on her way home after filing charges against two (2) police officers who allegedly took advantage of her and her cousin after they were caught violating curfew. According to the report, the Philippine National Police (PNP) has already filed murder charges against the two policemen for the killing of the 15-year-old girl who accused them of rape.<sup>7</sup>

Aside from these forms of inhumane and degrading treatment, children who were found violating curfew were mixed with adult curfew violators, disregarding social distancing, and putting them at greater risk of being exposed to COVID-19. Moreover, there were also reports that children's parents and caregivers were also arrested for allowing their children to play/stay outdoors.<sup>8</sup>

### **The Situation inside Bahay Pag-asa Facilities (BPAs)**

On March 18, 2020, the national government started implementing measures, guidelines and policies aimed at addressing the spread of the deadly COVID-19 virus. These policies brought tremendous impact not only to citizens living in the "free world" but also to those living behind bars, such as CICL. Before the pandemic, family members were allowed to visit their children in BPAs. They were permitted within designated visiting areas and allowed to bring food and other items for the children. Volunteer groups were also allowed to conduct activities with and for CICL. These practices were temporarily stopped or modified to prevent transmission and spread of the disease. For CICL, a family visit is sacred, a source of joy and strength. But this pandemic cause longer separation between them and their families.

According to the Juvenile Justice and Welfare Council (JJWC), there are 1,239 children in BPAs as of May 20, 2020. Of this number, 1,227 are male and 11 are female. This data were gathered from 39 out of 75 operational BPAs in the country.

Based on JJWC's weekly monitoring of BPAs, none of the child-residents are Persons under Investigation (PUIs), Persons Under Monitoring (PUMs), or confirmed positive of Covid-19. However, one staff was exposed to a Covid-19 positive but is now undergoing quarantine while awaiting her test results.

In a webinar hosted by the Juvenile Justice and Welfare Council (JJWC), the Council Secretariat shared the following concerns in the current operations of the BPAs:

- LGUs limited capacity to implement protective measures and to provide basic necessities
- High congestion rate which may increase risk of transmission

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<sup>7</sup> *2 Ilocos Sur cops charged in murder of teenager who accused them of rape*, ABS CBN News, 06 July 2020, available at <https://news.abs-cbn.com/news/07/05/20/2-ilocos-sur-cops-charged-in-murder-of-teenager-who-accused-them-of-rape> (last accessed 27 January 2021).

<sup>8</sup> *Philippine Children Face Abuse for Violating COVID-19 Curfew*, Human Rights Watch, 03 April 2020, available at <https://www.hrw.org/news/2020/04/03/philippine-children-face-abuse-violating-covid-19-curfew> (last accessed 27 January 2021).

- Highly limited rehabilitative activities, affecting children's emotional and mental well-being
- Suspension of court hearings affecting the progress of cases
- Policy issues on admission of children due to COVID-19 threat

The Child Rights Center conducted an online consultation among social welfare officers and staff of BPA in Metro Manila in June 2020. During this activity, attendees reported that COVID-19 preventive measures are in place and are observed within their facilities.

Staff and residents are provided with masks, alcohol, and hand soap. Supplies are being replenished by the local government. In Valenzuela and Malabon, children are also given multivitamins.

To ensure continuous contact with their loved ones, landlines are made available for the use of residents on a scheduled-basis. In Mandaluyong and Malabon, BPA staff allow residents to borrow their personal mobile phones to call their parents. Valenzuela also allows video calls and chat for five (5) minutes.

Visitations and sending of goods have been prohibited in BPAs since the start of the lockdown. In Mandaluyong, family members and relatives can visit the facility but cannot enter beyond the gate. At most, they can only see their children from afar or leave food or personal necessities for them.

Psychosocial support is provided to CICLs in Navotas. A registered nurse in Valenzuela checks the temperature of BPA residents twice a day. In Malabon, Dep-Ed teachers continue to facilitate alternative learning by sending the modules via email, while house parents assist with the learning activities of the students.

Case management is on-going. However, in some areas of the country, the implementation of the Social Amelioration Program (SAP) somehow affected the presence of social workers in BPAs being run by LGUs. BPA social workers were required to temporarily leave their assignment to assist their local government in the distribution of support to their constituents.

Video conferencing and online court hearings are also being conducted. According to Navotas, court hearings started last June 15.

#### **IV. Government's Response**

In response to the reports of degrading treatment of children caught violating the ECQ guidelines, Department of the Interior and Local Government (DILG) and Council for the Welfare of Children (CWC) have issued Joint Memorandum Circular (DILG-CWC JMC 20202-001). The circular mandates that no penalty shall be imposed on children who are caught violating the ECQ. They should be brought instead to their residence or the barangay official at the nearest barangay hall, to be released to the custody of their parents.

The circular also provides for exceptional considerations for children who are outside their homes during the ECQ, such as for children or adolescents living with HIV who need to return to their



treatment clinics for ARV refills, children needing services on prenatal and other childcare services, children with disabilities, and children needing to report cases of violence, abuse, and exploitation.<sup>9</sup> When children are found outside their homes during the ECQ, all local government officials, in consultation with the LCPCs, are enjoined to apply child and gender-sensitive language and guidelines, and where at first instance, such officials should reach out to parent or guardian of the child or social worker before such child is processed.<sup>10</sup>

The JJWC, the inter-agency council mandated to promulgate policies to ensure the implementation of RA 9344, as amended by RA 10630, issued a guideline entitled “*Guidance for the BPA and other Youth Care and Rehabilitation Facilities in Handling Children at Risk (CAR) and Children in Conflict with the Law (CICL) during the COVID-19 Pandemic Situation.*” This guideline provides standards to be followed and requires heads of the aforementioned facilities to submit status reports to JJWC every Monday of the week.<sup>11</sup>

JJWC has also requested DILG for weekly updates on the status of CICL held in local government unit (LGU)-managed jails with suspected and confirmed COVID 19, and the corresponding actions taken by the facility in response to the COVID situation. On April 28, a Memorandum Circular<sup>12</sup> was issued by the DILG to cascade JJWC’s request to all concerned LGUs.

The DILG also issued an advisory on June 23, 2020 ordering barangay leaders and law enforcement officers to treat children who violated curfew regulations under the community quarantine humanely and with dignity. The guidelines will apply to children in street situations, those in conflict with the law, and children at risks or those abandoned and vulnerable to physical, sexual, and economic exploitation. The new rules were based on the provisions of the Juvenile Justice and Welfare Act or Republic Act 9344, as amended by RA 10630.<sup>13</sup>

Below is the summary of the issues monitored by the JJWC, and the actions undertaken by the Council relative to these concerns:

Issues	JJWC’s Response
Limited capacity of LGUs to implement protective measures and to provide basic necessities	JJWC commits support to be drawn from its regular budget.
High congestion rate which may increase risk of transmission	JJWC is working with the Supreme Court for possible release of some residents in accordance with OCA Circular 19-2020, and other legal basis that will qualify them for release. JJWC also issued BPA Guidelines emphasizing admission to the center as measure of last resort.

<sup>9</sup> Department of the Interior and Local Government (DILG) and Council for the Welfare of Children (CWC) Joint Memorandum Circular (DILG-CWC JMC 20202-001)

<sup>10</sup> *Id.*

<sup>11</sup> JJWC Guidelines issued in May signed by the Sec. Rolando Joselito Bautista, DSWD Secretary and JJWC Chairperson

<sup>12</sup> DILG Memorandum Circular No. 2020-078, 28 April 2020

<sup>13</sup> [https://www.savethechildren.org.ph/our-work/our-stories/story/humane-treatment-of-children-in-quarantine-offenses/?fbclid=IwAR0cWHJoGZMMv\\_YNJ7E66p0CMrZTc6Drd4rGHZrBc7xn06oNA8dFbQy4\\_ZA](https://www.savethechildren.org.ph/our-work/our-stories/story/humane-treatment-of-children-in-quarantine-offenses/?fbclid=IwAR0cWHJoGZMMv_YNJ7E66p0CMrZTc6Drd4rGHZrBc7xn06oNA8dFbQy4_ZA)

Highly limited rehabilitative activities, affecting children's emotional and mental well-being	BPA to conduct psychological/stress debriefing; NGOs and other partners to provide support
Suspension of court hearings affecting progress of cases	<p>JJWC is working with the Supreme Court for possible release of some residents in accordance with OCA Circular 19-2020, and other legal basis that will qualify them for release.</p> <p>JJWC has also called a meeting to discuss how the member-agencies and partner organizations can help fast track the disposition of cases of the residents of Bahay-Pag Asa Facilities. Follow-up meetings will be scheduled in the coming weeks to discuss concrete actions to facilitate the provision of legal and other forms of assistance to these children.</p>
Policy issues on admission of children due to covid-19 threat	Guidance for the BPA and Youth Care and Rehabilitation Facilities Handling CAR and CICL during the COVID 19 Pandemic Situation.

Several local government units also heeded the call to release CICL during this time. The Province of Cebu has set guidelines for the release of their CICL during the COVID-19 pandemic. On May 6, 2020, the Provincial Governor together with executive judges of from Lapu-lapu- City, Mandaue City, Cebu City, and Talisay City met on the guidelines and protocols on releasing CICL.<sup>14</sup>

Under the agreed guidelines:

1. Concerned Mayors would be informed ahead of the arrival of CICL.
2. CICL set for release will undergo 14-day quarantine, during this period, they will be tested for COVID-19. If they test negative, they will be turned over to their respective local government units.
3. Upon arrival in their respective hometowns, the minors may be subjected to the safety protocols being observed by their local governments, including another 14-day quarantine.
4. They will be turned over to their respective barangay chairpersons, social worker, and the barangay's gender and development official.

Having a protocol is a positive development especially in regions which registered high incidence of CICL and increasing number of cases of COVID-19.

Quezon City (QC) also reported that it has implemented the following initiatives since March 15, 2020:

- Coordination with Family Court Judges for the request of Release on Recognizance (ROR) via alternative modes of communication or video conferencing; and
- Appeal to the Supreme Court to waive ROR provisions for immediate release of children in detention.

To date, QC has already released 71 children to their families in compliance with the Revised Rules on CICL. QC Mayor Joy Belmonte also instructed to fast track the construction of the new

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<sup>14</sup> *Cebu sets guidelines for release of Children in Conflict with the Law*, Rappler.com, May 7, 2020, available at <https://www.rappler.com/nation/cebu-guidelines-release-children-in-conflict-with-law-coronavirus>

building for a more spacious shelter and to continue the initiatives for ROR so that more children can be reconciled with their families<sup>15</sup>.

CHR, through its various units, responded to the call of the times. CHR has been monitoring and responding to the reports of degrading treatment of children found violating curfew all over the country. The cases monitored have been referred to the regional offices for verification and investigation, and to the DILG and JJWC for verification and appropriate action. CHR also played its role as monitoring office and in ensuring the compliance of the state to observe standards prescribed by international bodies. CHR sent communications to the heads of the Bureau of Corrections (BOC) and Bureau of Jail Management and Penology (BJMP), sharing and putting forward the various points raised by the Office of the High Commissioner on Human Rights (OHCHR) and World Health Organization (WHO) in their Interim Guidance on COVID-19 Focus on Persons Deprived of their Liberty issued in March 2020. Further, BJMP was also enjoined to implement the Circular issued by the Supreme Court on the Release of Qualified Persons Deprived of their Liberty.

The Commission also issued two advisories, entitled *Handling of Children in Street Situations in Times of Health Crises* and *Pangangalaga sa mga Batang Pilipino sa Gitna ng Pangkalusugang Krisis na Dala ng COVID-19*. The latter was distributed by the DILG to Local Government Units (LGUs).

As reiteration of the JJWC's BPA Guidelines and to ensure its implementation, the Commission has developed an abridged monitoring tool for the use of its regional offices during COVID 19. The CHR BPA Monitoring tool has two parts: the form containing queries to be filled up by facility personnel and a letter for the child residents. The latter aimed to know the general mental, physical and emotional state of the CICL. Result of monitoring activities shall form part of CHR's annual report on the Situation of Child Deprived of their Liberty (CDL).

## **V. Recommendations**

In view of the foregoing, the Commission encourages our duty bearers to conscientiously apply the child rights approach in addressing the needs of CICL and CAR during the Pandemic. In a child rights approach, children are treated as rights holder and not merely beneficiaries of benevolent activities. It ensures respect for the dignity, life, survival, well-being, health, development, and participation of every child regardless of his or her age, race, gender, wealth, social origin, property, birthplace or other status.

Concretely, the Commission recommends the following:

1. That duty bearers use arrest, detention and imprisonment only as a measure of last resort, as a proportionate response to any violence and for the shortest appropriate period of time. Undertake all appropriate measures, to include diversion and other alternative measures to detention and imprisonment, to prevent new admissions of children to places of deprivation of liberty.

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<sup>15</sup> Letter from Quezon City LGU addressed to PREDA

2. Develop a mechanism for reaching out to CAR/CISS during the state of national health emergency. A standard process should be in place every time a child is rescued on the streets while an enhanced community quarantine or general community quarantine, as the case may be, is in effect. In addition, mechanisms for monitoring and reporting violence, discrimination, exploitation and other forms of child abuse; and holding perpetrators accountable for these violations must be established and made accessible to children.
3. Provide temporary shelter for CAR/CISS and their families. In managing cases of children, the general rule is that institutionalization should be a measure of last resort. However, the current health condition warrants immediate removal of children from the health risk situation they are in. The preservation of the lives of the children, and their families, is the outmost consideration. In providing accommodation for these children, emphasis must be on protection rather than punishment. The use of police lock-up or other detention cells to accommodate children, owing to lack of alternative care facilities, is not acceptable.
4. Deputize the Local Council for the Protection of Children (LCPC) to handle CAR/CISS. Together with the local social welfare officers, LCPC members may assist in convincing children to be rescued and temporarily reside in the shelter during the period of community quarantine.
5. Install gender-sensitive responses. CAR and CICL are particularly vulnerable to sexual violence and exploitation so that gender-sensitive responses must be made available by professionals who are trained in understanding the specific circumstances and needs of children in street situations.
6. Ensure access to health services. Provide CAR and CICL access to the same level of health care and other services available to children in the community, without discrimination;
7. Offer education and formation programs. While staying at the shelter, aside from the provision of food and lodging, CAR/CICL must be given access to an education program that includes lessons on proper hygiene, values formation, life skills and other structured learning activities that could build their character to be more responsible children and citizens. LGUs could tap non-government organizations or well-meaning individuals in their locality that can assist them in running such undertaking.
8. Extend support to parents and caregivers. The government must also take appropriate measures to assist parents and legal guardians in fulfilling the rights of children under their care and custody. This can be done by providing material assistance and support programmes, particularly with regard to nutrition, clothing, housing, medical care and education. On the other hand, material assistance in the form of services may be provided directly to unsupervised children or those with abusive family connections.

Provide CDL with the same information provided to children in the community about the pandemic, as well as how to protect themselves, ensuring accessible and child-friendly information.

## **VI. Conclusion**

In the Philippines, there has long been a comprehensive legal framework that provides measures on how to treat children during the state of public health emergency. Laws such as Republic Act 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act, Republic Act 9344 or the Juvenile Justice and Welfare Act of 2006, and RA 10821 or the Children's Relief and Protection Act of 2016 may provide guidance to law enforcement authorities in responding to the condition we are in right now.

Evidently the reports, both in the mainstream and social media, illustrate incorrect interpretations or lack of knowledge on the part of the duty bearers on laws and policies pertaining to children. While curfew is seen as an effective measure to prevent the spread of COVID-19, its implementation has brought discomfort, fear, embarrassment and feeling of harassment among children and their families.

The need to put in place specific protections for vulnerable children, including CAR, CICL and children in institutions is very critical at this point. This should include prohibition on the arrest or detention of children for violating directives relating to COVID-19; ensuring that any child who was arrested or detained is immediately returned to his or her family; and releasing children in detention, whenever possible.

According to JJWC, the detention of children in jails, lock-up cells, or prison-like facilities, particularly if these children are very young, exposes them to abuse, violence, negative adult influences, and criminal elements that may lead them to become hardened offenders. Based on a UNICEF study in 2017, depriving children of their liberty has a long-lasting effect on a child's well-being and development. There is no credible evidence showing that detaining children will contribute to improving security or decreasing criminality in society.

Reliable, disaggregated and up-to-date data on the number and profile of children affected by the pandemic and the prevalence of violence against children is essential for the government to: (a) properly assess the impact of COVID-19 to the children; and (b) effectively develop processes and programs that are responsive to the needs of children during this time. Good practices of both government and non-government organizations, especially in the local level, should also be documented so they can be replicated by other government units.

While the Commission recognizes the need to implement quarantine measures and impose movement restrictions as a means to prevent further spread of COVID-19, we reiterate the need for the government to undertake holistic strategies in assessing and responding to the needs of the children. This may be done using child rights standards and principles based on the legal frameworks cited above. In all processes and programs that will, directly or indirectly, affect children, it is very important that the rights enunciated in the UNCRC: right to survive, right to development, right for protection and right to participate, will be considered and observed. This is to ensure that no children, regardless of their situation or status, will be left behind.



**Republic of the Philippines**  
**COMMISSION ON HUMAN RIGHTS**  
**Diliman, Quezon City**

**Looking into the Plight of Children in the Streets**  
A CHR Situation Report on Children in Street Situations (CISS)

Human Rights Centers Management Office  
Child Rights Center

2021

*A report prepared for the Child Rights Center of the Commission on Human Rights (CHR) by Ms. Marvee Anne M. Ramos and Mr. Gerald Nicolas of the John J. Carroll Institute on Church and Social Issues.*

# Executive Summary

## The purpose of the report

Through this situation report, the Commission on Human Rights (CHR), through its Child Rights Center (CRC), attempts to raise important issues surrounding Filipino children in street situations (CISS) and to recommend steps in making laws and policies work for these vulnerable and young members of society. It is important to note that this report comes after the United Nations Committee on the Rights of the Child issued General Comments #21 (henceforth GC#21) on the Convention on the Rights of the Child (CRC) in June 2017 and while the country is in the middle of a health pandemic.

This report is a product of a series of data-gathering activities conducted by the CRC in the latter half of 2018 and by the regional offices in 2019. It draws data and insights from focus group discussions with CISS in Manila, La Trinidad, Angeles City, San Fernando City, Cebu City, Digos City, and Koronadal City, from interviews and separate consultations with local government and nongovernment stakeholders. As part of data gathering for this report, the various CHR Teams also made unannounced and scheduled visits in the residential centers run both by local government units and non-government organizations in the seven (7) cities.

To highlight the vulnerability of these children, how they are being handled by barangay officials and law enforcers during the quarantine period due to the current health pandemic is also included in the report.

The report is divided into five sections: 1) profile of the children in street situations, 2) how international and domestic laws are protecting their rights 3) the current plight of these children 4) the issues and concerns of these children at this time of COVID-19 pandemic and 5) recommendations for the local government units and other government agencies directly involved with CISS.

## Who are the children in street situations?

The report distinguishes two types of CISS. Street children are either “children on the street” or “children of the street.” Children on the street are those who spend [most] of their time on the street because that is where they earn their livelihood. These children normally return home to communities and/or their families on a regular basis... These children are often ‘in school.’ Children of the street are children who spend most of their time on the street, living, working or playing. They have families in communities but return home infrequently or not at all. Generally, children of the street are not in school. They have often chosen to live on the street because of problems at home including extreme poverty, violence, and substance abuse. Under this category are two groups: (1) abandoned and neglected and (2) children of street families. The reasons that push



children be either on or of the streets vary—from extreme poverty and abuse at home to displacement due to armed conflicts in their places of origin or disasters.

The exact number of CISS in the Philippines is unknown, but it is believed that there are more children on the street (70%) than the children of the street (30%). The DSWD and the Council for the Welfare of Children (CWC) would often report that there are 250,000 street children in the Philippines, and this figure is based on an estimated number in a UNICEF-supported study back in 2002. However, caution must be exercised when extrapolating data using an old formula, as the results may appear at odds with local-level data as well as with updated definitions of terms. Addressing the problems arising from the gaps in data requires methodologies and approaches that will yield estimates that are closer to reality. Nevertheless, one child in destitute street situation is too many. The harsh life on the streets exposes children to various risks that affect their wellbeing.

### How are CISS's rights protected by international and local laws?

The Philippines is a state-party to the United Nation Convention on the Rights of the Child (UNCRC), a legally binding international agreement that outlines the rights every child has regardless of their race, religion, or abilities. As such, the government and its instrumentalities are obliged to comply with the various provisions of the Convention. In June 2017, the UN Committee on the Rights of the Child promulgated *General Comment No. 21 on Children in Street Situations* which “provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child”. In short, GC 21 stresses the point that the motivation to keep children off the streets for their safety and protection can be misguided.

At the national level, the 1987 Constitution states that “The State shall defend... the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.” However, there is no law intended specifically to address the issues faced by CISS, before and even after the 1987 Constitution. Consistency of current practices in reaching out to CISS with these policies that mainly adopt a protection-oriented model will help identify gaps both in the policies and programs.

There are two protocols that are primarily used when government agencies encounter CISS. These are the *Protocol to Reach Out to Street Children*, developed by the Council for the Welfare of Children, and the Philippine National Police's *Manual in Handling Cases of Children at Risk and Children in Conflict with the Law*.

## What is happening to Filipino children in street situations?

Many children in street situations come from families in difficult circumstances and in desperate poverty, which forces some of them to a life of toil. Others survive by begging for money or food. For their parents, relying on their children is a means to survive and cope with poverty. For those without anything to eat, sniffing solvent or smoking can help temporarily fill their empty stomachs. They are fortunate if they chanced upon “outreach projects” which hand out food to them. Some still attend school for part of the day. In the communities where they live, usually neighborhoods in slum-like squalor, these children are avoided for being “*madungis*” (filthy) and “*magugulo*” (troublemakers). In the streets, they are “eyesores” that local governments get rid of especially when there is a public event. Those without homes to return to after working or begging in the streets sleep on sidewalks and other open spaces such as parks, under the bridge, and frontage of stores and commercial establishments. Girls in such situations are at greater risk of being sexually harassed and abused by fellow children or adults, which sometimes lead to their contracting of sexually transmitted diseases and teen-age pregnancies. Spending most of their day in the streets, they are prone to diseases such as tuberculosis, dengue, and urinary tract infection. Other street children involve themselves in criminal activities (e.g., drug selling, petty theft) and engage in risky behaviors (e.g., drug or substance abuse, transactional and unsafe sex). Among the lowest of the low, CISS have the least access to education (because many of them do not have birth certificates), health services, protection, and other sources of economic and emotional security.

Currently, the DSWD is implementing a program called “Sagip Kalinga” which aims to prevent the proliferation of street dwellers, including children, and to protect them from the dangers and hazards of street life. The various local government units also implement their own services aim to response to the issue. In Manila, Manila Department of Social Welfare is the city government’s main arm in reaching out to CISS through “reach out and rescue” operations. However, there have been reports of violent “rescue operations” by the city government personnel, resulting in further abuse of children throughout the process. CSOs also reported that CISS in Manila are brought to a different place when there is a public event, but they are returned to the streets and fend for themselves again after the event. It does not help that the city government is not cooperative with these CSOs. CISS in Manila also dread the sight of social workers and police doing “rescue missions,” because being caught would mean placing them in the RAC-KAMADA, which children who had been there dislike for many reasons.

In other cities, “rescue operations” are being conducted by the city social welfare development offices together with the local police. Thereafter, “rescued” children stay at their facilities or referred to homes run by faith-based or non-government organizations in their jurisdiction for assessment whether or not the child may be reintegrated with their families.

The COVID-19 pandemic highlighted the vulnerability of these children and the capacity of local officials especially barangay workers and law enforcers in handling children at risk such as CISS. The disgusting news both in social and mainstream medias necessitate the Council for the Welfare of Children (CWC) and Department Of Interior Local Government (DILG) to issue Joint Memorandum No. 2020-001, Reiteration of Protocols on Reaching out to Children, including those in Street Situations, in need of Special Protection, Children at Risk, and Children in Conflict with the Law During the Enhanced Community Quarantine. In April 1, 2021, the Commission on Human Rights (CHR) has issued Human Rights Advisory on Handling of Children in Street Situations in Times of National Health Emergency (CHR (V) A2020-003) to address the inappropriate handling of children found violating curfew ordinances and health protocols.

### Which provisions of existing government guidelines are consistent with the GC #21?

Framing the issue of children in street situations using a rights-based approach, GC #21 discourages the taking out of children from the streets, a strategy found both in the CWC's protocol and the PNP's manual. GC #21 urges government of states parties to the CRC to expand its view of the issue—from one that treats street-connected children as needing rescuing to one that recognizes their rights even in street situations. This suggests that current government programs targeting CISS do not necessarily promote their rights as these can put them in further harm's way. Streets pose “real” danger to children but from a rights-based perspective (e.g., right to play), areas outside their homes can be made safe for them. Unfortunately, in cities where space is contested, such places where children can play and stay are among the first to be sacrificed.

In 2019, the DILG issued Revised Child-Friendly Local Governance Audit and Implementation Guideline to assess LGU performance in delivering child-friendly policies, programs and services which is part of the up scaled criteria for Seal of Good Local Governance.

### From a human rights perspective, how can existing mechanisms be improved to help ease the burden of Filipino CISS?

The UN CRC provides that children should be protected from any harm, violence, and abuses at all levels: in the family, schools and community. The Convention states that necessary laws, guidelines, and systems must be instituted by the State to protect and nurture its children. The issuance of the General Comment No. 21 of the Committee on the Rights of the Child was a timely intervention, on which to base broad interventions such as: (1) enhancing CISS's claim-making, (b) linking the issue with the right to adequate housing and security of land tenure, (c) engaging perspectives that favor heavy-handed treatment, and (d) reducing the CISS's fear and distrust of services that might be necessary for their development. The motivation to keep children safe by taking them out of streets can be misguided and may not, in all cases, promote the best interest of children. GC #21 does not encourage governments to not take notice of the situation of children in

and of the streets, but rather, the recommendations urge them to undertake a more holistic, albeit painstaking process, of assessing and responding to the needs of CISS. There is no “one size fits all” approach to reaching out to CISS.

Child-friendly policies and programs aimed at the holistic development of CISS both at the national and local levels are needed to promote, protect, and fulfill children’s rights. Below are some suggestions:

1. **Develop a mechanism for reaching out to CISS during the state of national health emergency.** A standard process should be in place every time a child is rescued on the streets while the enhance community quarantine is in effect. In developing this measure, the principles and standards provided in the UNCRC, GC 21 and relevant domestic laws must be integrated in the guidelines. In addition, mechanisms for monitoring and reporting violence, discrimination, exploitation and other forms of child abuse; and holding perpetrators accountable for these violations must be established and made accessible to children.
2. **Adoption of a uniform guideline on handling CISS.** The DSWD and the DILG should adopt and implement a uniform guideline on handling CISS following the framework provided for by the UN General Comments No. 21. Whether this will entail the crafting of a new guideline or the implementation of an existing protocol, what is important is that the Local Government Units as the direct service provider are made aware, and are capacitated to observe the protocol.
3. **Provision of temporary shelter for CISS, and their families.** In managing cases of children, the general rule is that institutionalization should be a measure of last resort. However, the current health condition warrants immediate removal of children from the health risk situation they are in. The preservation of the lives of the children, and their families, is the outmost consideration. In providing accommodation for these children, emphasis must be on protection rather than punishment. The use of police lock-up or other detention cells to accommodate children owing to lack of alternative care facilities is not acceptable.
4. **Deputize the Local Council for the Protection of Children (LCPC) to handle CISS.** Together with the local social welfare officers, LCPC members may assist in convincing children to be rescued and temporarily reside in the shelter.
5. **Gender-sensitive responses.** Children in street situations are particularly vulnerable to sexual violence and exploitation so that gender-sensitive responses must be made available by professionals who are trained in understanding the specific circumstances and needs of children in street situations.
6. **Access to Health services.** CISS should also have access to free basic health-care services, including sexual and reproductive health services. Such services should

be friendly and supportive, confidential, non-judgmental, non-discriminatory, respectful of autonomous decision by the children, and, if warranted in cases of emergency, without the requirement for parental consent.

7. **Education and Formation Program.** While staying at the shelter, aside from the provision of food and lodging, CISS must be provided and compel to undergo education module that will include proper hygiene, values formation, life skills and other structured learning activities that could build their character to be more responsible children and citizens. LGUs could tap non-government organizations or well-meaning individuals in their locality that can assist them in running such undertaking.
8. **Support to parents and caregivers.** The government must also take appropriate measures to assist parents and legal guardians in fulfilling the rights of children under their care and custody. This can be done by providing material assistance and support programmes, particularly with regard to nutrition, clothing, housing, medical care and education. On the other hand, direct material assistance in the form of services may be provided directly to unsupervised children or those with abusive family connections.

# **Looking into the Plight of Children in the Streets**

## **A CHR Situation Report on Children in Street Situations (CISS)**

### **The purpose of this report**

On September 8, 2018, a video showing a group of children, mostly teenagers, hurting and robbing some jeepney passengers along Macapagal Boulevard in Pasay City went viral on social media and made headlines on primetime news programs. The person who recorded the video claimed on his social media post that 12 to 15 children, “a bunch of rugby kids... hanging out under the tree,” crowded the jeepney when the stoplight was on red. Some of them stole junk food from a passenger and one pulled the hair of a woman who was carrying a child. As expected, commenters had unkind words for the children.<sup>1</sup> Four days after drawing criticism for the absence of law enforcers in the vicinity, the Philippine National Police (PNP) conducted a “rescue operation” and nabbed a total of 17 children. The children were handed over to the Department of Social Welfare and Development (DSWD) for temporary custody. They would be returned to their families after the DSWD has assessed the capability of their parents in caring for the children involved in the incident.

The news died a natural death but was replaced by other news about children harassing adults. In one incident, captured again on video and posted on social media, a group of children between the ages of 9 and 16, ganged up on an old man riding a jeepney in Manila. They told the police that they were avenging a friend whom the man allegedly molested. As in the case of the Macapagal Boulevard children, the 13 minors involved in the Manila incident were under the custody of the DSWD.<sup>2</sup> Another video by the Metropolitan Manila Development Authority (MMDA) caught two children climbing atop a moving taxi in Edsa. Neither their identity nor their motive for doing a “daredevil act” was never known but once they are found, the MMDA would “help” the children and bring them to the DSWD.<sup>3</sup>

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<sup>1</sup> Katrina Hallare, “WATCH: Street kids gang up on jeepney passenger along Taft Avenue,” *Philippine Daily Inquirer* (14 September 2018); available from <https://newsinfo.inquirer.net/1032298/p2fb-street-kids-gang-up-on> (accessed 3 October 2018). Original video can be accessed from <https://www.facebook.com/sam.bagatcholon/videos/2384761674882260/>.

<sup>2</sup> Francine Ciasico, “Streetkids tell police they were getting back at elderly man for insulting their friend,” *Manila Bulletin* (24 September 2018); available from <https://news.mb.com.ph/2018/09/16/streetkids-tell-police-they-were-getting-back-at-elderly-man-for-insulting-their-friend/> (accessed 3 October 2018).

<sup>3</sup> Consuelo Marquez, “WATCH: Daring street kids ride on top of a moving taxi along Edsa,” *Philippine Daily Inquirer* (21 September 2018); available from <https://newsinfo.inquirer.net/1034657/watch-daring-street-kids-ride-on-top-of-a-moving-taxi-along-edsa> (accessed 3 October 2018).

Without any attempt by media to investigate the reasons why these children are on the streets and to educate the public about what mechanisms are in place to effectively address the needs of these children, such images reinforce negative stereotypes about street children—or children in street situations or CISS<sup>4</sup>, to use the term that emphasizes that it is the street situations that bring children to streets—and shore up entrenched misconceptions about them. Despite laws and policies aimed at protecting children in vulnerable situations, the rights of CISS remain largely ignored.

Through this situation report, the Commission on Human Rights (CHR), through its Child Rights Center (CRC), attempts to raise important issues surrounding Filipino CISS and to recommend steps in making laws and policies work for these vulnerable and young members of society. It is important to note that this report comes after the United Nations Committee on the Rights of the Child issued General Comments #21 (henceforth GC#21) on the Convention on the Rights of the Child (CRC) in June 2017 and during a health pandemic.

This report is a product of a series of data-gathering activities conducted by the CRC in the latter half of 2018 and by the regional offices in 2019. It draws data and insights from focus group discussions with CISS in Manila, La Trinidad, Angeles City, San Fernando City, Cebu City, Digos City, and Koronadal City, from interviews and separate consultations with local government and nongovernment stakeholders. As part of data-gathering for this report, the various CHR Teams also made unannounced and scheduled visits in the residential centers run both by local government units and non-government organizations in the seven (7) cities.

To highlight the vulnerability of these children, how they are being handled by barangay officials and law enforcers during the quarantine period due to the health pandemic is also included in the report.

The report is divided into five sections: 1) profile of the children in street situations, 2) how international and domestic laws are protecting their rights 3) the current plight of these children 4) the issues and concerns of these children at this time of COVID-19 pandemic and 5) recommendations for the local government units and other government agencies directly involved with CISS.

### Who are the children in street situations?

The *Protocol to Reach Out to Street Children* (2011, 5) adopts the definition of “street children” by United Nations Children’s Fund (UNICEF) and the University of the Philippines-Manila’s Child Protection Unit (CPU) in their National Survey on Children in Need of Special Protection (CNSP) conducted in 2006:

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<sup>4</sup> Terre des hommes, *Children in Street Situations – Sectoral Policy* (Lausanne, Switzerland: Terre des hommes, 2010), 8.

Street children refers to children who stay most of the time on the streets and in public places and are engaged, while in the streets, in various types of activities other than engaging in economic activities to earn.

Street children are either “children on the street” or “children of the street.” **Children on the street** are those

who spend [most] of their time on the street because that is where they earn their livelihood. These children normally return home to communities and/or their families on a regular basis... These children are often ‘in school.’

**Children of the street** are

children who spend most of their time on the street, living, working or playing. They have families in communities but return home infrequently or not at all. Generally, children of the street are not in school. They have often chosen to live on the street because of problems at home including extreme poverty, violence, and substance abuse.

Under this category are two groups: (1) **abandoned and neglected** and (2) **children of street families**. The first group are those

on the street because they have no families, have been abandoned or neglected by their families, or have been displaced from their families. They maintain no connection with their families. They live and work on the streets and are normally out of school.

Falling into the second group are

... children who live with their families on the street. Their families have often been homeless for a long period of time and they earn their livelihood on the streets. Many of these families make their homes in wooden pushcarts, moving from place to place around the city.

The reasons that push children be either on or of the streets vary—from extreme poverty and abuse at home to displacement due to armed conflicts in their places of origin or disasters.

### How many Filipino children are in street situations?

The exact number of CISS in the Philippines is unknown, but it is believed that there are more children on the street (70%) than the children of the street (30%). The DSWD and the Council for the Welfare of Children (CWC) would often report that there are 250,000 street children in the Philippines, and this figure is based on an estimated number in a UNICEF-supported study back in 2002. The said study arrived at this estimate using a formula adopted in another UNICEF-funded study in 1987. The formula assumed that



three percent (3%) of the population aged 0 to 17 years are street children. Following this formula using the population data from the latest census (there were 38.34 million who were between 0 and 17 years old), there could be 1.15 million Filipino street children in 2015!

However, **caution must be exercised when extrapolating data using an old formula**, as the results may appear at odds with local-level data as well as with updated definitions of terms. For example, in a rapid appraisal of street families in the 16 cities and 1 urban municipality making up Metro Manila, the DSWD in 2010 managed to identify 5,086 street people, more than half of them (3,072) are children.<sup>5</sup> Considering that street children are most visible in urban areas and that Metro Manila has the highest urban population, the number of children counted by the DSWD in a major urban area, albeit rapidly, represents a tiny drop in the bucket when set against the alarmingly huge estimated number of street children that local institutions and international organizations cite. It is not difficult to guess that other cities and urban areas in the country would have fewer street children.

**Addressing the problems arising from the gaps in data requires methodologies and approaches that will yield estimates that are closer to reality. Nevertheless, one child in destitute street situation is too many. The harsh life on the streets exposes children to various risks that affect their wellbeing.**

### How are CISS's rights protected by international and local laws?

#### 1.1. International instruments

The Philippines is a state-party to the United Nation Convention on the Rights of the Child (UNCRC), a legally binding international agreement that outlines the rights every child has regardless of their race, religion, or abilities. As such, the government and its instrumentalities are obliged to comply with the various provisions of the Convention.

#### **United Nations Convention on the Rights of the Child**

##### Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

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<sup>5</sup> Rapid Appraisal of Street Children in NCR, Department of Social Welfare and Development, December 2010, cited in Protocol to Reach Out to Street Children.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, *kafalah* of Islamic law, adoption or if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

In June 2017, the UN Committee on the Rights of the Child promulgated ***General Comment No. 21 on Children in Street Situations*** which “provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child”. The comments sought to:

- (a) To clarify the obligations of States in applying a child rights approach to strategies and initiatives for children in street situations;
- (b) To provide comprehensive and authoritative guidance to States on using a holistic, child rights approach to: prevent children experiencing rights violations and the lack of choices that results in them having to depend on the streets for their survival and development; and to promote and protect the rights of children already in street situations, ensuring a continuum of care and helping them to develop to their fullest potential;
- (c) To identify the implications of particular articles of the Convention for children in street situations to enhance respect for them as rights holders and full citizens, and to enhance understanding of children's connections to the street.

In short, **GC 21 stresses the point that the motivation to keep children off the streets for their safety and protection can be misguided.**

## 1.2. National laws

Article 15, Section 3 of the 1987 Constitution states that “The State shall defend... the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.” However, **there is no law intended specifically to address the issues faced by CISS, before and even after the 1987 Constitution.**

Presidential Decree 603 or the Child and Youth Welfare Code of 1974 predates the 1987 Constitution. Article 1 of this law declares that “The Child is one of the most important assets of the nation. Every effort should be exerted to promote his welfare and enhance

his opportunities for a useful and happy life.” Article 3 states that “All children shall be entitled to the rights... without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors.”

**Executive Order No. 56 series of 1986**

Section 1. “...any minor who is apprehended or taken into custody by any peace officer or by the duly authorized officers of the Ministry of Social Services and Development for engaging in prostitution or other illicit conduct punished under existing laws shall, immediately from such apprehension, be delivered by the arresting officer to the Ministry of Social Services and Development or to its duly authorized office or agency within a particular territorial jurisdiction for protective custody.”

**Republic Act No. 7160 (The Local Government Code of 1991)**

Section 17. “Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them” including “Social welfare services which include programs and projects on child and youth welfare, family and community welfare, women's welfare, welfare of the elderly and disabled persons; community-based rehabilitation programs for vagrants, beggars, street children, scavengers, juvenile delinquents, and victims of drug abuse...”

Section 391. As the legislative body of the barangay, the Sangguniang Barangay “shall provide for... Provide for the proper development and welfare of children in the barangay by promoting and supporting activities for the protection and total development of children, particularly those below seven (7) years of age.”

Section 447. “The Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants... and shall” ... “Provide for the care of paupers, the aged, the sick, persons of unsound mind, disabled persons, abandoned minors, juvenile delinquents, drug dependents, abused children and other needy and disadvantaged persons, particularly children and youth below eighteen (18) years of age and, subject to availability of funds, establish and provide for the operation of centers and facilities for said needy and disadvantaged persons.”

**Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act)**

Section 1. “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 to 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.”

In 2003, Republic Act. No. 9231 was passed to amend Republic Act No. 7610. The law prohibits the employment of children in hazardous areas.

#### **Republic Act No. 9344 (Juvenile Justice and Welfare Act of 2006)**

Section 2 includes “being a streetchild” as one circumstance that constitutes a “child at risk,” which “refers to a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances.” The same section defines the “best interest of the child” as the “the totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development. It also means the least detrimental available alternative for safeguarding the growth and development of the child.”

**Consistency of current practices in reaching out to CISS with these policies that mainly adopt a protection-oriented model will help identify gaps both in the policies and programs.**

In terms of programs, the *Pantawid Pamilyang Pilipino* Program (4Ps), the conditional cash transfer (CCT) program of the DSWD, is the main social protection program of government in which children in street situation are included. The 4Ps “invests in the health and education of children 0-18 years old from eligible poor households.” The program beneficiaries must comply to their “co-responsibilities” to continue receiving cash grants that are meant to augment, not replace, the household’s sources of income. Families with members who are children in street situations are among the target beneficiaries of the Modified Conditional Cash Transfer (MCCT) program which grants monthly health subsidy of ₱500 per family, monthly educational assistance of ₱300 per child for 10 months if they maintain a minimum school attendance of 85%. They also receive rice subsidy of ₱600 per month. Through its *Oplan Balik Bahay, Sagip Buhay* (OBBSB), the DSWD assists families with rental subsidy of ₱3,500 per month for one year.

### 1.3 Local Ordinances

Except for curfew ordinances for minors, in the seven (7) cities monitored, there is neither city nor barangay ordinance addressing directly the needs and well-being of these children.

#### What is happening to Filipino children in street situations?

Many children in street situations come from families in difficult circumstances (e.g., separated parents) and in desperate poverty, which forces some of them to a life of toil—the young ones earn by selling *sampaguita* garlands, the older ones work as *kargadors*, car washers, or parking attendants. Others survive by begging for money or food. For their parents, relying on their children is a means to survive and cope with poverty. For those without anything to eat, sniffing solvent or smoking can help temporarily fill their empty stomachs. They are fortunate if they chanced upon “outreach projects” which hand out food to them. Some still attend school for part of the day.

In the communities where they live, usually neighborhoods in slum-like squalor, these children are avoided for being “*madungis*” (filthy) and “*magugulo*” (troublemakers). In the streets, they are “eyesores” that local governments get rid of especially when there is a public event.

Those without homes to return to after working or begging in the streets sleep on sidewalks and other open spaces such as parks, under the bridge, and frontage of stores and commercial establishments. Girls in such situations are at greater risk of being sexually harassed and abused by fellow children or adults, which sometimes lead to their contracting of sexually transmitted diseases. Spending most of their day in the streets, they are prone to diseases such as tuberculosis, dengue, and urinary tract infection. Other street children involve themselves in criminal activities (e.g., drug selling, petty theft) and engage in risky behaviors (e.g., drug or substance abuse, transactional and unsafe sex). Among the lowest of the low, CISS have the least access to education (because many of them do not have birth certificates), health services, protection, and other sources of economic and emotional security.

Below are stories of children in two areas in Manila frequented by children in street situations:

#### 1.3. Stories from Binondo, Manila

If only her family lives in a house they can call their own, 14-year-old **Rea** would not be living on the sidewalk with her parents and grandparents. They would not have to wait for the bank to close before they can lay their mats on the parking space and rest after a day of hard work. She would not have to sell clothes in Divisoria, or rush to a spot near the bridge (*sa gilid ng tulay*) to defecate. In heavy rain, she and

other children seek shelter in a shopping mall, that is, if they manage to sneak in past the security guards.

If only her father has a more stable work instead of scavenging, 12-year-old **Sandra** and her family could be renting a small house, even in densely populated neighborhoods in Delpan or Parola. They would have a toilet where she does not have to pay ₱5 just to take a bath. In that house, she would not have to cover herself with a cardboard when she answers a call of nature (*"minsan po nagtatakip sa gilid ng kalsada"*) and if the guard of a fast food branch would not allow her to use the toilet. She would not have to spend the night sleeping in a bank's parking lot. Her mother would probably have not left them.

Other children sharing the busy streets of Binondo with Rea and Sandra are luckier. **Krystal**, a 14-year old Grade 8 student lives in Parola, but she spends the rest of her day after school to help her parents peddle their wares in the park. Thirteen-year-old **Bimboy** goes home in Delpan but he prefers to stay on the streets where he plays with his friends. Besides, he does not have a mother who would berate him for staying long on the street.

It is thus not surprising that, when asked to rank their most basic needs, almost all children chose having a house (*"bahay"*) as a priority. Bimboy explained, *"Medyo masikip kami sa bahay kasi apat po kami, 'yong dalawa ko pong kapatid tapos 'yong papa ko."* If Krystal could ask help from government, she would want to have a house for her family. *"'Yong komportable lang po hindi po namin kailangan 'yong bahay na malaki. 'Yong maayos, basta komportale lang po talaga kami."*

CISS in Binondo have also grown accustomed to violence, from petty fights between them (sometimes because of food; in some cases, because of bullying) to resisting "rescue missions" by the city social workers. *"Patayan na po 'yun eh. Minsan po kapag may nahuli... Riot,"* shared one. Although most of those involved in such violence are older boys, girls and younger children would be also hurt.

But the violence experienced by CISS in Binondo is not limited to the police forcing them to ride the mobile or to fighting groups of children who throw bottles at each other. Every day, they are looked down on by passersby, their presence considered a nuisance by commuters. *"Para pong nandidiri sila sa amin,"* said one. *"Minsan po kapag alam nilang nasa gilid kami tapos po dadaan po sila, parang nababahuan,"* another girl shared.

CISS in Binondo said they fear the city social workers who, they claimed, forcibly bring street children to the Reception Action Center-KAMADA or RAC-KAMADA located in another city, Marikina. Their fear, however, is mostly based on stories by their peers who have been in the RAC-KAMADA. They were told that children in the center beat one another (*"marami daw nangbubugbog doon na mga kapwa bata"*)

or the food is less than desirable (“*yong tipo po na... ‘yong champoradong may paa ng manok, ganoon daw po ang pinapakain sa kanila.*”). These stories have made them distrustful of social workers: “*Sila po ang [dapat] tumutulong para mapabuti or mapaayos po ang mga bata. Kaso po nagiging baliktad kasi po karamihan po ng napupunta sa RAC-KAMADA sinasabi po nila ang pangit daw, mabaho.*” One teenage girl who has been in the RAC-KAMADA a few times—mainly because she loiters in Luneta Park, said, “*pangit din po silang maghatid, parang ginagawa nilang binebenta ‘pag hahatid ka nila [sa] Marikina.*” And because the center is at least 23 kilometers away from Manila—it took her family more than one month to raise money to visit her and had her released from the Girls’ Home.

Some CISS manage to go to school, but not many attend their classes regularly because their parents have no means of buying them school uniforms and shoes or of paying for their school projects. “*Minsan po kasi uniform ‘yong problema kaya hindi nakakapasok,*” Krystal said. In some cases, they would go to school with an empty stomach. For those who fail to complete basic education, the alternative learning system or ALS by the Department of Education (DepEd) allows them to develop skills in reading, writing, and numeracy.

When they have the time to play—for some, it is when their parents permit them after helping sell their goods in Divisoria—CISS make the most of the spaces in the streets. They can also go to the public plaza or vacant parking spaces. For Krystal, there is a sense of freedom when they get to turn the streets or a plaza into playgrounds, something that children of privileged families do not get to enjoy. “*Di ba po kapag mayaman ka po hindi mo po kayang gawin ‘yung mga kayang gawin po nang mga batang nasa lansangan, kasi po karamihan po sa mayayaman parang hindi masaya. Kapag nasa kalsada ka po, lahat po nang gusto mong gawin magagawa mo po kagaya ng maglaro.*”

But this freedom to play that the streets of Binondo give children cannot be replaced by the security of having a place to call home. They know that if only their parents can provide them a home—with the help of government—they would not end up on the streets.

#### 1.4. Stories from Luneta Park

The waiting shed in front of the old building of the Philippine Long-Distance Telephone Company (PLDT) near Museong Pambata is home for Grace, 11 years old. **Grace** is one of five children of a jeepney barker. Her mother died of tuberculosis, and her younger sibling, left to her care, has hydrocephalus. Ten-year-old **Dagul** and his family live hand-to-mouth in the Luneta Grandstand. Making both ends meet for Dagul and his 11 siblings is an everyday struggle for his parents. His



father works as a laborer in construction projects, if he manages to get into one. Her mother works as a laundrywoman. They pay ₱5 to ₱25 to use the toilet near the PLDT building or the public toilets in Luneta.

Being in a waiting shed or the bleachers of the grandstand has somehow helped spare the families of Grace and Dagul from the “rescue missions” of the city government. Those caught sleeping on the streets or loitering beyond the curfew hours, which start at 8:00 pm, are targets of these “missions”, like what had happened to a Grace’s and Dagul’s fellow CISS. His entire family was brought to the RAC located near the City Hall after a *barangay tanod* saw them spending the night on the sidewalk. They were released the following day and went back to the streets of Luneta.

Not all children in the streets of Luneta have no place to live or families to go home to. There are many reasons why children in Luneta are on the streets. It could be as simple as enjoying the chance to play and make friends (“*Sa kalsada po kasi nakakapaglibang, kapag nasa bahay lang po, walang ginagawa.*”) or even go to the Museong Pambata. For some, their parents’ livelihood such as street vending and hawking forces them to be on the streets, even helping their parents sell. **Fruits**, 12, lives in Baseco but she spends most of her time on the streets while her parents tend a *sari-sari* store in Luneta. Fifteen-year old **Kuting** earns money from serving as an “errand boy” in a police station where he cleans the toilet and washes the dishes. Others work as parking attendants or get free food in exchange for tending a *sari-sari* store along the sidewalk. Begging, it turns out, is for the most desperate on the streets, according to one child. “*Hindi po gusto ng magulang namin na mamalimos kami,*” he explained.

Yet the CISS in Luneta are aware of the dangers of the streets, which for them include getting caught by the city social workers. “*Sa kalsada po kasi maraming puwedeng mangyari sayo, kahit nasaan ka, kahit ano. Mahuhuli ka sa kalsada.*” The thought of being brought to the Boys’ Town scares them: “*Takot po kaming dalhin sa Boys’ Town.*”

But despite not having their own house and being in the street, the children in Luneta find happiness in their families. Sharing a meal together makes them happy and feel loved: “*Kapag sama-samang kumakain buong pamilya*”. This, however, is “wishful thinking” for those with abusive parents: “*Binubugbog [ng tatay ko] ‘yong nanay ko nang walang kasalanan kapag lasing siya.*” Sometimes, the father would also hurt him and his siblings when he gets drunk. In the case of another street child, her grandfather hurts them when he is overwhelmed by financial woes: “*Kasi kapag lasing po siya lagi niyang sinusumbat sa amin mga problema niya. Wala po kasi siyang pera.*” It is indeed not surprising to encounter CISS who hail from families in



difficult circumstances—separated parents, unemployed parents, children of persons with disability, etc.

The situation in the City of Manila is not an isolated case. Data gathered by CHR regional offices provide similar predicaments for CISS in other parts of the country. Though they are visible in the streets and public spaces, local government units do not have baseline data or statistics on CISS. This resulted to non-recognition, absence or lack of services and untrained duty bearers.

For instance, the result of the Key Informant Interview conducted in SOCCSARGEN region, which is among the regions identified as having the highest number of visible children in the streets and the fourth with the highest incidence of children belonging to poor families, revealed that the children loitering around the downtown of Koronadal City are not necessarily homeless children. They actually live with their parents or guardians but their families belong to below poverty line, in fact to the poorest of the poor family in the region. Their parents or guardians are mostly sidewalk vendors or domestic helpers. Some live with their relatives because their mothers are OFW or domestic helpers working in Luzon, some have separated parents. They are forced to go out on the street after school to earn through selling of sampaguita or begging. And, when they return home without the income they are expected to have, they are being scolded and even beaten. They are out in the streets hungry, dirty, they wear torn clothes, and some do not even have slippers, an evident show off of lack of parental care and social care. However, despite their presence in the streets, despite their being exposed to danger, despite their being known to be the most vulnerable children the government still has no clear and specific program for these CISS <sup>6</sup>.

In the FGD conducted by CHR together with the local chief executive of La Trinidad, Benguet, the attendees, came from huge and structurally disadvantaged homes with poor living conditions. Due to too much time in the streets, these children acquired vices such as smoking and going to computer shops every night and staying there till early morning. According to them, in the streets, they have met friends and now have new families<sup>7</sup>.

The profile of CISS in San Fernando and Angeles, Pampanga is more or less similar, most of the children came from a big family, having 6-10 as siblings and their parents do not have permanent and stable job. Majority of the children were former parking boys. They are aware that children should not be working in the streets however for them that is their only way to help their parents. They admitted that they do not have enough food and seldom eat three times a day however, despite this situation they are happy because they have their parents around. According to them they learned many traits and values in school which were not taught in their homes such as praying, giving respect to the elders and proper hygiene and sanitation. The children were not aware that they can

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<sup>6</sup> CHR Region XII Monitoring Report on the Situation of CISS, 2019.

<sup>7</sup> CHR Region III, Monitoring report on the Situation of CISS, 2019.

participate in the decision making process in their community. They said, more often than not they prefer to keep quiet when elders were around because they were afraid to be scolded. The children have high hopes and trust that the police officers and barangay officials can help them when they are being abused as they were the person who helped them in the past. Also, being in the street provides them comfort zone as it is where they can play with other children<sup>8</sup>.

The absence of government facility or shelter is true to other cities as well. In Baguio City, when the CHR Team requested information from the City Social Welfare Office, such as to the number of CISS, they former could not provide the requested data and was also told that there is no facility that caters for CISS in the City.<sup>9</sup>

While in Digos City, CISS is categorized as disadvantaged children and those needing shelter are housed in a government facility which is not suited for their age and developmental needs. Further, the lack of program is also manifested to Badjao children who live in the streets. These children could neither read nor write. And, worst some CISS are engaged in prostitution and pre-marital sex which resulted to acquisition of sexually transmitted disease or unwanted pregnancy.<sup>10</sup>

The lack of a full blown programs and services by the national and local government are augmented by charity and faith-based organizations. In Pampanga, the Tuloy Foundation<sup>11</sup>, in Cebu City by the Abtangan sa Kalooy<sup>12</sup>, in Digos City, the Heaven of Hope while the Marist Hope Center in Koronadal City provide programs for CISS.

### How CISS are treated during the national health emergency?

The COVID-19 pandemic brought havoc to the lives of these children. During the community quarantine period, CISS in streets of Manila for instance were abruptly rounded-up and brought to sports complex or facilities intended for homeless. In the national scene, news on how children were ordered to stay under the sun for hours, walked barefoot and clean streets and public spaces as punishments were shown both in social media platforms and reported in national news programs. Worst, some children were put inside a dog cage and a coffin. These inappropriate acts committed against the children have shown the state of awareness and comprehension of duty bearers on how children, CISS in particular should be handled under the circumstances as provided both by international standards and domestic laws. Under Philippine laws, CISS are considered as children at risk, and should be provided special protection given their vulnerability and present circumstances.

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<sup>8</sup> CHR Region III, Monitoring Report on the Situation of CISS, 2019

<sup>9</sup> CHR CAR Monitoring Report on the Situation of CISS, 2019.

<sup>10</sup> CHR Region XI Monitoring Report on the Situation of CISS, 2019.

<sup>11</sup> CHR Region III Monitoring Report on CISS Situation, 2019.

<sup>12</sup> CHR Region VII Monitoring Report on CISS Situation, 2019.

## How does government handle cases of children in street situations?

There are two protocols that are primarily used when government agencies encounter CISS. These are the *Protocol to Reach Out to Street Children*, developed by the Council for the Welfare of Children, and the Philippine National Police's *Manual in Handling Cases of Children at Risk and Children in Conflict with the Law*.

### A. Protocol to Reach Out to Street Children

Officially adopted in 2012 by the DSWD and DILG, the protocol introduced a shift in how government and other stakeholders should approach CISS. Instead of “rescuing” street children which in practice was akin to arresting children indiscriminately, entities seeking to remove children from the street are to “reach out” to them. This implies that duty-bearers must consider the rights, needs, and circumstances of children, rather than contribute to stigmatizing them as public nuisance that should be taken out the streets. The protocol specifies the members of a “reach out team” who should be knowledgeable about the UNCRC and laws on children and trained in handling children in need of special protection (CNSP), among other requisites. No reach out operation can be carried out without a registered social worker accompanying the team. The protocol also enumerates the steps in undertaking activities before, during, and after reaching out.

The experience of some children in Manila, however, points to a need for government personnel reaching out to CISS to address the impression children have of them. When they see the uniformed social welfare personnel of the city government, children would run away and hide to avoid what they considered as arrest. Moreover, there were reports that local authorities “rescue” everyone living on the streets which makes it appear like a “mass arrest” of street dwellers. NGOs assisting CISS in Manila lamented the city government’s non-observance of the principles of reaching out to children. “*Ang Manila kumukuha talaga ng mga bata. Sinasabi nila araw-araw naman nilang ginagawa ito tapos iiwan nila sa isang lugar,*” said one social worker working in an NGO during a CHR-organized roundtable discussion with civil society organizations.

A major requirement in the protocol is a “pre-determined diagnostic and assessment centers” where children will be brought; the police precinct is not such center. Once in the center, children are informed about the rules to be observed and the schedule of activities. They stay there until they are reunified with their family or, if their family was among those “reached out,” referred to a temporary shelter.

The protocol also requires the local government to set up a grievance committee that will receive complaints against the reach out team. Relatives up to the fourth degree of consanguinity of children can file a complaint to the committee headed by the city mayor. A CSO working in Manila, however, claimed during the RTD that the city government does not have such a committee. Because of the documentary requirements such as a written complaint filed under oath, which relatives who unable to read or write cannot easily

comply with, one would expect that violations are not always brought to the attention of the grievance committee.

Local rescuers, however, do not fully follow the protocol. Only the term “rescue” was changed on paper but the practice remains essentially unfriendly to children.

B. Manual in Handling Cases of Children at Risk and Children in Conflict with the Law by the Philippine National Police (PNP)

Issued four years after the release of the CWC’s protocol, the manual provides the procedure to be followed by the members of the PNP when handling CISS (considered as “children at risk”), from the initial contact until the transfer of children to social workers. The manual specifies the Women and Children Protection Desk (WCPD) as the main police unit that will coordinate with a social worker in “rescuing a child victim.” However, “initial contact” with children may be done by “first responders, beat patrol officers, the WCPD, and other responding police officers.” Depending on the case of the child to be rescued, the composition of the “rescue team” varies. Children rescued by the team shall be endorsed to the local social welfare office and the operations entered in the mandatory registry (also known as the “pink blotter”).

A CISS may be apprehended by the police if he or she is found engaged in a criminal activity, in a manner similar to dealing with adult law offenders. His or her parents or guardians will be notified by the apprehending officer; if there is no one looking after the child, notification will be given to the local social welfare office or the Public Attorney’s Office (PAO). The manual reminds apprehending officers to restrain themselves from physically hurting or humiliating the child, and “use reasonable force” to affect an apprehension when a CISS resists and when, as provided by Republic Act No. 9344, “absolutely necessary and only after all other methods have been exhausted and have failed.”

C. Practice on the ground

Currently, the DSWD is implementing a program called “Sagip Kalinga”, which means “to save and to care.” The objectives are to prevent the proliferation of street dwellers, including children, and to protect them from the dangers and hazards of street life. The various local government units also implement their own services aim to response to the issue. One of the most common programs is the “Sagip Bata” but whether this program is efficient and responsive is a question that needs to be thoroughly assessed regularly.

In Manila, the Manila Department of Social Welfare is the city government’s main arm in reaching out to CISS through “reach out and rescue” operations. According to an experienced social worker working for an NGO for years, “rescue operations” by the city government personnel are violent, resulting in further abuse of children throughout the process. She claimed that the rescuers have a quota per day, so they indiscriminately pick up children from the streets. Children are not prepared psychologically or emotionally

before bringing them to the RAC. They are not asked whether they are ready to go to the center, which the protocol requires.

The RAC, a reception center, next to the city hall, serves as temporary housing for children “rescued” from the city’s streets, usually in the busy areas such as Ermita and Binondo as well as areas near universities such as Mendiola Bridge and España Boulevard. These children come not only from Manila but also from surrounding areas, such as Quezon City, Caloocan City (South), Pasay City, and Makati City. In an interview with the head of the Center, she shared that the youngest that they have reached out so far was a two-year old child whose father is a pedicab driver while the oldest would be a senior citizen. In the case of the two-year old child, the father allowed social workers to bring his child to the center and would pick her up after his work is done. Some parents even brought their children there because they are relieved to know that their child is safe inside the center instead of being out on the streets.

Upon arrival at the RAC, the child is assessed by a social worker to determine if he/she is from Manila or another place. If the child is found to come from the province, the RAC facilitates his/her return through the *Balik Probinsya* Program (BPP). If studying, he/she will be brought to the school which will coordinate with the family. If found to have a medical condition, a social worker will accompany the child to a public hospital. Children are not allowed to spend the night at the RAC. If the child is abandoned or parents could not be contacted, the child is transferred to the city’s Boystown Complex in Marikina City.

However, CISS in Manila dread the sight of social workers and police doing “rescue missions,” because being caught would mean placing them in the RAC-KAMADA, which children who had been there dislike for many reasons. Some said they were mixed with persons with mental and medical conditions. Others complained about the poorly-kept and unsanitary center, and the poorly prepared food, which some claimed caused them diarrhea. There were also reports of maltreatment of younger children by the older residents and the house parents. Because of these, the CISS interviewed prefer staying in the streets where they can buy or beg for food.

One may recall in October 2014 that the dismal situation of children in the center brought the Manila City government at the center of criticisms after a photo of “Frederico,” a severely malnourished boy lying naked on a cement floor, circulated online. The exposé prompted the DSWD to order the temporary closure of the RAC in January 2015. As regards to Frederico, the CHR was informed that to date he is under the custody of the same NGO and still need to be looked after for he is suffering from mental disabilities.

In July 2018, when the CHR visited the RAC-KAMADA, the Center showed no signs of improvement. The entire facility was in squalid and decrepit condition. The box below enumerates some of the team’s observations.

- The building emanated foul odor. There were puddles of urine, presumably from little children, in several areas.
- Floors were very dirty and stained. Personal effects of residents, including plates with rotten food, littered the floor.
- The halls are spacious, but one could not distinguish which are the sleeping spaces and which are common areas. There were no doors to separate dormitory halls from common areas.
- In the hall where many were sleeping there were no beds, pillows, sheets, blankets, or even sleeping mats.
- The facility lacked good ventilation. Electric fans were not available.
- Children looked sickly, malnourished, or stunted. The young ones were often naked.
- Children were not separated from adult residents. There are no separate spaces for boys and girls.
- There was only one functional bathroom on each floor of the facility. These, moreover, were poorly lit, not well ventilated, and untidy.
- There were several broken windows that pose hazard to children.

Rescued children, aged 8 to 16, who are brought to the RAC, and who are considered abandoned, or whose parents cannot be located are transferred to the Manila Boystown (MBT) Complex.

MBT is a 23-hectare residential care center built in 1947. The property is located in Parang, Marikina City but it is owned by the City of Manila. The facility is comprised of five (5) buildings, each one accommodating specific group of “rescued” individuals: the Boys Home, the Girls Home, the Kids Home, the Luwalhati ng Manila, and the RAC-KAMADA. As of July 2018, there were a total of 853 residents in the Manila Boystown Complex.

CSOs also reported that CISS in Manila are brought to a different place when there is a public event, but they are returned to the streets and fend for themselves again after the event. It does not help that the city government is not cooperative with these CSOs.

In cities with high incidence of CISS, Sagip Bata or Reach Out Operations are being carried out by the City Social Welfare Offices together with the local police.<sup>13</sup>

D. Other policies with direct implications on CISS

*War on drugs.* The Duterte administration's aggressive crackdown on illegal drugs involved parents getting killed and children abandoned or neglected. A religious congregation that runs a center for CISS encountered a case of a mother left behind by his partner with seven children. In another NGO, children as young as one year old are brought to them after losing their parents in the "war on drugs." The Bahay Tuluyan used to be a center for young CISS but the campaign produced abandoned and neglected younger children.

*Turfing.* Some local governments deny services to CISS if they are found to come from a different place.

*Curfew hours and anti-tambay.* In compliance with the current administration's order to rid streets of loiterers, many local governments units are implementing curfew ordinances as a means of preventing children from staying in the streets during unsafe hours. Minors are not also spare from the anti-tambay measure being implemented by law enforcement officers. In 2017, the Supreme Court declared in a 40-page decision in GR No. 225442 that of the three promulgated ordinances of Manila, Navotas City, and Quezon City, only that of Quezon City was valid.

The Court En Banc said that Ordinance No. 8046 of the City of Manila entitled "An Ordinance Declaring the Hours from 10 p.m. to 4 a.m. of the Following Day as 'Barangay Curfew Hours' for Children and Youths Below 18 Years of Age; Prescribing Penalties Therefor; and for Other Purposes" that its exceptions were inadequate and run the risk of overly restricting the minors' fundamental freedoms.

Further, the Court stated that City of Manila Ordinance's penal provisions which impose reprimand and fines/imprisonment on minors are in conflict with Section 57-A of RA 9344 (Juvenile Justice and Welfare Act of 2006), as amended, which provides that no penalty shall be imposed on children for violations of juvenile status offenses.<sup>14</sup> To date, the City has yet to come-out with a new Curfew Ordinance.

As to CHR's position regarding curfew, the agency supports the intention and purpose of any measure that aim to ensure peace in the community and protection from harm of children in the streets, however, CHR maintains that imposing penalties for violation the curfew imposed on children may be considered a status offense, to which the Convention on the Rights of the Child prohibits. General Comment No. 10 (2007) of the Committee on

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<sup>13</sup> CHR Regions III, VII, CAR, 2019

<sup>14</sup> "Status Offenses" refers to offenses which discriminate only against a child, while an adult does not suffer any penalty for committing similar acts. These shall include curfew violations; truancy, parental disobedience and the like (R.A. 9344).

the Rights of the Child urges States-Parties to the convention to abolish status offenses to uphold equal treatment under the law for children and adults.

#### E. CISS during the COVID-19 Pandemic

On April 4, 2020, the CHR issued a Human Rights Advisory providing how CISS should be treated at this time of health pandemic. CHR(v) A2020-003, Advisory on Handling Children in Street Situation (CISS) In Times of National Health Pandemic reiterated that children rights must be observed at all times, especially when children are at their most vulnerable state and needing special attention and protection against unsafe environment.

Alarmed by the gravity of the situation and to prevent further abuse against children, the CWC together with the DILG on April 6, 2020, issued DILG-CWC JMC No. 2020-001. This joint Circular calls for the Reiteration of Protocols on Reaching out to Children, including those in Street Situations, in need of Special Protection, Children at Risk, and Children in Conflict with the Law During the Enhanced Community Quarantine.

Meanwhile to remind the public particularly those who come into contact with children, CHR also came-up with an information material entitled “Pangangalaga sa mga Batang Pilipino sa Gitna ng Pangakalusugang Krisis Dala ng COVID-19. A social media material was uploaded in CHR Website and the document was forwarded to the DILG National Barangay Operations Office (NBOO). The latter, distributed the document to its regional offices with intention that it will be shared to local government units particularly to barangay officials, the front liners in child protection.

#### Which provisions of existing government guidelines are consistent with the GC No. 21?

Framing the issue of children in street situations using a rights-based approach, GC No. 21 discourages the taking out of children from the streets, a strategy found both in the CWC’s protocol and the PNP’s manual. GC No. 21 urges government of states parties to the CRC to **expand its view of the issue—from one that treats street-connected children as needing rescuing to one that recognizes their rights even in street situations**. This suggests that current government programs targeting CISS do not necessarily promote their rights as these can put them in further harm’s way.

As has been advocated by CSOs, CISS should be assessed and their case managed individually. This will require hiring and training of social workers, not only in handling cases of children in street situations but also in providing guidance to immediate duty bearers, i.e., the parents and guardians.

Streets pose “real” danger to children but from a rights-based perspective (e.g., right to play), areas outside their homes can be made safe for them. Unfortunately, in cities where



space is congested, such places where children can play and stay are among the first to be sacrificed.

## How is the Philippine government protecting the rights of children in street situations?

### A. Initiatives from Non-Government Sector

The deficiencies of the national and local government are augmented by charity and faith-based organizations. In Pampanga, the Tuloy Foundation offers shelter, basic services and Alternative Learning System (ALS) to their residents<sup>15</sup>. In Cebu City, the Abtangan sa Kalooy provides various programs such as educational assistance, feeding, space to play, medical and counselling services, proper hygiene and even late birth registration<sup>16</sup>.

The Heaven of Hope in Digos City provides shelter for disadvantaged children. Together with the academe, the Marist Hope Center in Koronadal City provides avenues for college students to interact with CISS roaming in the city.

In Manila, ChildHope, an NGO that has been working with street children in Manila, specifically in the Luneta, Binondo and Malate Districts since 1995, provides services to CISS, mostly aged between 7 and 17 years old. It provides basic needs, medicines, and counselling. Every Tuesday and Saturday, street educators teach CISS through the organization's Basic Literacy Program. ChildHope accompanies CISS and their families to barangay facilities where they can spend the night and sleep. Adolescents reached out by ChildHope undergo a 10-module session on adolescent moral development run by its street educators. The NGO also attends to teenage mothers by supporting their prenatal checkups.

Bahay Tuluyan is another organization working with children in need of special protection, including CISS. They have been working on improving "rescue" practices for street children since 2006. In 2008 and 2009 Bahay Tuluyan conducted studies into the practice of rescue in the cities of Caloocan, Manila, Pasay and Quezon Cities. The results were recorded in a book entitled 'Sagip or Huli? Rescue of Street Children in Caloocan, Manila, Pasay and Quezon Cities'.

### B. Government Interventions

In direct response to Bahay Tuluyan's study, the Department of Social Welfare and Development launched new Standards for Community Based Services for Street Children (DSWD AO. 08, series of 2009). In 2012, the Council for the Welfare of Children released a Protocol for the Reach Out to Street Children.

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<sup>15</sup> CHR Region III Monitoring Report on CISS Situation (2019).

<sup>16</sup> CHR Region VII Monitoring Report on CISS (2019).

When the UN General Comment 21 was adopted in June 2017, the Philippine government responded by reconvening the Sub-Committee for the Protection and Welfare of Children in Street Situations in 2019. A year after it was reconvened, the sub-committee was able to develop a national, multisectoral strategic plan for children in street situations. It was designed to respond to General Comment 21 and has adopted a rights-based approach. The plan which will run from 2021 –2025 has four (4) key outcomes:

1. CISS are free from discrimination and stigmatization as reflected in laws and policies.
2. CISS are protected from all forms of violence, abuse and exploitation, and able to access justice when harmed or in conflict with the law.
3. CISS are able to access and benefit from essential services crucial for reaching their full potential.
4. CISS are able to access and benefit from specialized services and opportunities that respond to their needs and aspirations.

On one hand, local governments have their own variation of a “reach out program”. For them, rescuing children from the streets is an effective intervention to shield these children from harm. On the other hand, law enforcers adopted a Manual in Handling Cases of Children at Risk and Children in Conflict with the Law.

### **From a human rights perspective, how can existing mechanisms be improved to help ease the burden of Filipino CISS?**

The UN CRC provides that children should be protected from any harm, violence, and abuses at all levels: in the family, schools and community. The Convention states that necessary laws, guidelines, and systems must be instituted by the State to protect and nurture its children. The issuance of the General Comment No. 21 of the Committee on the Rights of the Child was a timely intervention. This Guidelines could assist the national agencies and local governments to align their current programs and services for vulnerable children, specifically the CISS.

In the series of roundtable discussions conducted by the CHR, it was found out that “reach out” strategy does not produce long-term positive effects for the children. It was found that after almost one decade since the promulgation of the protocol on how authorities “reach out” to CISS, only few implementers are aware that a set of guidelines exists. Both social workers and law enforcers, the primary actors in implementing said guidelines, are not fully capacitated to “reach out” to CISS in a manner that follows the said protocol.

#### **1.1. Enhance CISS’s claim-making**

One of the most significant statements of the children who participated in the UN CRC study, which served as the basis of GC #21, was the assertion that they must be consulted

in drawing out programs that concern them. CISS should not be considered as end users of the programs and policies only but as active participants in the process.

### **1.2. Link the issue with the right to adequate housing and security of land tenure**

Under the UN CRC, right to shelter is one of the basic rights of every child. As a stop-gap measure, city government can establish centers where CISS and their families can stay temporarily during typhoon or when the place they frequent is flooded.

### **1.3. Engage—if not totally correct—perspectives that favor heavy-handed treatment**

Street children have developed fear of authorities mainly because the police and social workers, in some areas, are often hostile to children, especially those on the streets who have the greatest need of support. Civil servants tasked to look after the welfare of children, including law enforces, need to develop a perspective that see CISS as young persons with dignity and deserving of respect.

### **1.4. Reduce the CISS's fear and distrust of services that might be necessary for their development.**

At times, where contact with children occurs, concrete time bounded plans and interventions must be presented to them. Such as assurance, that their studies will not be interrupted and that no harm will befall them.

The motivation to keep children safe by taking them out of streets can be misguided and may not, in all cases, promote the best interest of children. GC #21 does not encourage governments to not take notice of the situation of children in and of the streets, but rather, the recommendations urge them to undertake a more holistic, albeit painstaking process, of assessing and responding to the needs of CISS. There is no “one size fits all” approach to reaching out to CISS.

## **What can be done?**

Today, the phenomenon of children living in the streets with their families, alone or with their friends or “tropa” is alarming and must be addressed. Under the UN CRC, spending significant time in a place where harm, violence, and abuses are imminent, is not acceptable and should not be the usual norm. Child-friendly policies and programs aimed at the holistic development of CISS are needed to promote, protect, and fulfill children's rights. Below are some suggestions culled from the CHR CRC-organized RTDs and internal discussions:

- 1. Develop a mechanism for reaching out to CISS during the state of national health emergency.** A standard process should be in place every time a child is rescued on the streets while the enhance community quarantine is in effect. In

developing this measure, the principles and standards provided in the UNCRC, GC 21 and relevant domestic laws must be integrated in the guidelines. In addition, mechanisms for monitoring and reporting violence, discrimination, exploitation and other forms of child abuse; and holding perpetrators accountable for these violations must be established and made accessible to children.

2. **Adoption of a uniform guideline on handling CISS.** The DSWD and the DILG should adopt and implement a uniform guideline on handling CISS following the framework provided for by the UN General Comments No. 21. Whether this will entail the crafting of a new guideline or the implementation of an existing protocol, what is important is that the Local Government Units as the direct service provider are made aware, and are capacitated to observe the protocol.
3. **Provision of temporary shelter for CISS, and their families.** In managing cases of children, the general rule is that institutionalization should be a measure of last resort. However, the current health condition warrants immediate removal of children from the health risk situation they are in. The preservation of the lives of the children, and their families, is the outmost consideration. In providing accommodation for these children, emphasis must be on protection rather than punishment. The use of police lock-up or other detention cells to accommodate children owing to lack of alternative care facilities is not acceptable.
4. **Deputize the Local Council for the Protection of Children (LCPC) to handle CISS.** Together with the local social welfare officers, LCPC members may assist in convincing children to be rescued and temporarily reside in the shelter.
5. **Gender-sensitive responses.** Children in street situations are particularly vulnerable to sexual violence and exploitation so that gender-sensitive responses must be made available by professionals who are trained in understanding the specific circumstances and needs of children in street situations.
6. **Access to Health services.** CISS should also have access to free basic health-care services, including sexual and reproductive health services. Such services should be friendly and supportive, confidential, non-judgmental, non-discriminatory, respectful of autonomous decision by the children, and, if warranted in cases of emergency, without the requirement for parental consent.
7. **Education and Formation Program.** While staying at the shelter, aside from the provision of food and lodging, CISS must be provided and compel to undergo education module that will include proper hygiene, values formation, life skills and other structured learning activities that could build their character to be more responsible children and citizens. LGUs could tap non-government organizations or well-meaning individuals in their locality that can assist them in running such undertaking.

8. **Support to parents and caregivers.** The government must also take appropriate measures to assist parents and legal guardians in fulfilling the rights of children under their care and custody. This can be done by providing material assistance and support programmes, particularly with regard to nutrition, clothing, housing, medical care and education. On the other hand, direct material assistance in the form of services may be provided directly to unsupervised children or those with abusive family connections.

The CHR also proposes to specific agency the following:

**For the CWC**

- Facilitate and monitor the implementation of the national strategic plan for CISS. it must be cascaded to local government units, and given appropriate systems, adequate funding, and trained and capable implementors. A joint planning session with concerned local government leagues could be a good start.
- Continue strengthening the existing sub-sector committee to ensure the participation of civil society organizations in the implementation and monitoring of such national plan. As the focal government agency for children, including CISS, the CWC can also explore possible ways to encourage local government participation in the said inter-agency committee.

**For the DSWD**

- Assess the capacity and capability of the local social welfare offices to perform their duties and responsibilities, especially in doing individual case management. Civil society organizations must not take on most of what government duty-bearers are entrusted and mandated to do for CISS.
- Conduct regular, unannounced inspection of home facilities to ensure that standards prescribed are strictly followed and complied with.
- Offer or organize training for house parents to ensure that service providers staff are fully equipped with the necessary skills in handling children from different circumstances.
- Develop a reward/incentives system for complying institutions.

**For the LGUs**

- The attention of the local chief executives must be called on the poor condition of the city government's facilities for CISS or the establishment of homes that are at far with the standards prescribed by domestic laws and international tools. Local implementers should be familiar with the principles and provisions of the GC #21. They must be capacitated with the necessary orientation and skills in handling

children, i.e., they must view children not only recipients of charity but as individuals with rights that must be promoted and respected.