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مجلس حقوق الإنسان

الدورة السادسة والأربعون

22 شباط/فبراير - 19 آذار/مارس 2021

البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

رسالة خطية من لجنة حقوق الإنسان* في الفلبين

مذكرة من الأمانة

تتشرف الأمانة بأن تحيل إلى مجلس حقوق الإنسان الرسالة الخطية المقدمة من لجنة حقوق الإنسان في الفلبين**، التي تُعمَّم وفقاً للفقرة (ب) من المادة 7 من النظام الداخلي للمجلس (انظر قرار المجلس 1/5، المرفق) واستناداً إلى الترتيبات والممارسات التي وافقت عليها لجنة حقوق الإنسان في قرارها 74/2005.

* مؤسسة وطنية لحقوق الإنسان معتمدة من جانب التحالف العالمي للمؤسسات الوطنية لتعزيز وحماية حقوق الإنسان ضمن الفئة "ألف".

** عُممت بالصيغة التي وردت بها، وباللغة التي قُدمت بها فقط.



الرجاء إعادة الاستعمال

Statement of the Commission on Human Rights of the Philippines in relation to the Annual Report of the Special Representative of the Secretary-General on Violence against Children

1. The Commission commends Ms. Najat Maalla M'jid, Special Representative of the Secretary-General on Violence Against Children (SRSG-VAC) for the presentation of her annual report reflecting the major initiatives and developments to address the concerns on violence against children.

2. Impact of COVID-19 on violence against children:

(a) Like in many other emergencies, the pandemic heightens the vulnerability of children to abuse. Children are facing increasing threats to their safety and wellbeing, which include mistreatment, gender-based violence, exploitation, social exclusion, and separation from caregivers because of lockdown measures to contain the spread of COVID-19.

(b) Lockdowns have fueled the demand and supply of child pornography. With limited or no supervision from parents or guardians, children spend more time online making them more exposed to online child sexual predators. Also, due to the children's confinement in their homes, their 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 the virtual space, which increases the likelihood of their exposure to online sexual exploitation.¹

(c) Also, the economic strain being suffered by families during the slowdown of economic activities during the enhanced community quarantine (ECQ) 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."² Online sexual predators, on the other hand, are taking advantage of the situation to exploit more children to satisfy their disturbing sexual obsessions.³

(d) The Commission received reports of an "alarming prevalence" of online sexual harassment against women and girls. There are also reports of existing private groups on Facebook where members post and circulate compromising materials of women and children.⁴ Victims were at the receiving end of threats of rape, stalking, defamation and even death.⁵

(e) Police and local officials across the country were reported to have mistreated people for violating COVID-19 regulations. 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

¹ Commission on Human Rights, CHR (V) A2020-014, Advisory On The Protection Of Children From Online Sexual Abuse And Exploitation During COVID-19, available at <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> (last accessed 12 February 2021) citing Press Release by Safer Kids Consortium, SaferKidsPH advocates to stop online sexual abuse and exploitation of children (11 February 2020) (on file with Author).

² Id., citing Jodesz Gavilan, Child sex abuse material now peddled for as low as P100 on Twitter, RAPPLER, 21 May 2020, available at <https://www.rappler.com/newsbreak/investigative/besides-private-sex-videos-child-porn-peddled-twitter-philippines#Echobox=1590052151> (last accessed 12 February 2021).

³ Janvic Mateo, Secret Pandemic: Online Child Exploitation on The Rise Amid COVID-19 Problems, ONE NEWS, 22 April 2020, available at <https://www.onenews.ph/secret-pandemic-online-child-exploitation-on-the-rise-amid-covid-19-problems> (last accessed 12 February 2021).

⁴ Commission on Human Rights, *supra* note 1. See also International Justice Mission, Online Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry and Civil Society, available at https://www.ijm.org/documents/Final-Public-Full-Report-5_20_2020.pdf (last accessed 12 February 2021).

⁵ Krissy Aguilar, Online sexual harassment on the rise, says CHR, INQUIRER.NET, 22 April 2020, available at <https://newsinfo.inquirer.net/1262739/fwd-chr-make-internet-a-safer-place-for-women-as-online-sexual-harassment-rise> (last accessed 12 February 2021).

hours under the heat of the sun as punishment for violating curfew.⁶ These incidences show a blatant disregard by the law enforcers on the protocol on handling Children At Risk as provided under the Juvenile Justice and Welfare Act (JJWA).

(f) 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.

3. As the country's Gender Ombud, the Commission 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. Watchdog groups had warned of an increase in such incidents because stay-at-home measures are locking in victims with their abusers. However, Philippine National Police (PNP) data shows that there was a decrease in reported gender-based abuse and violence during the first months of lockdown.

4. CHR is of the position that these problems should be approached holistically by changing people's behavior through integrating internet literacy, sex education and streamlining child- and gender sensitivity orientation in the basic education curriculum and other information drive efforts. To this end, the Commission works in partnership with government agencies and organizations to ensure the appropriate programs are developed and undertaken.

5. It is also important to establish an accessible and responsive mechanism where victims can report incidents. To ensure that the public will be able to reach the Commission amid physical restrictions imposed due to the COVID-19 pandemic, the created the following online portals in 2020.

(a) The E-lawyering Program⁷ aims to provide real-time legal assistance to citizens whose rights are under threat or being violated either by the government or being abused by private parties. E-lawyering may be availed via email or phone call, or through CHR's website and social media accounts.

(b) The OFW and Migrant Complaint Portal offers legal assistance to migrants and members of their families who have experienced actual or threatened human rights violations. Through the portal, cases may also be referred to appropriate government agencies for proper action.

(c) The e-Report sa Gender Ombud.⁸ With support from the United Nations Populations Fund (UNFPA), the Commission has developed an accessible online platform that will facilitate reporting, referral, response, and documentation of GBV during COVID 19. The reporting is not limited to those who are victim-survivors of violence, but can be used by anyone who witnessed or knows of incidents of GBV and wishes the same to be responded to and documented.

6. The Commission would like to highlight some of the initiatives of the government in response to violence against children during the reporting period, and specifically during the time of the COVID-19 pandemic.

⁶ Data from the Commission on Human Rights' Child Rights Center; See also: Merlina Hernando-Malipot, "'Stop cruel treatment of children,' local officials urged," 14 April 2020, Manila Bulletin, <https://news.mb.com.ph/2020/04/14/stop-cruel-treatment-of-children-local-officials-urged/> (Last accessed: 14 May 2020); Commission on Human Rights of the Philippines, CHR (V) A2020-013, Human Rights Advisory on the right to Freedom of Movement, <http://chr.gov.ph/wp-content/uploads/2020/06/Human-Rights-Advisory-Right-to-Freedom-of-Movement-CHR-V-A2020-013.pdf>.

⁷ Janvic Mateo, CHR offers e-lawyering service, PHILSTAR, 11 December 2020, *available at* <https://www.philstar.com/headlines/2020/12/11/2062956/chr-offers-e-lawyering-service> (last accessed 12 February 2021).

⁸ Commission on Human Rights, e-Report sa Gender Ombud, *available at* <https://www.gbvcovid.report/>.

(a) A Joint Memorandum Circular⁹ (JMC) was issued by the Department on the Interior and Local Government (DILG) and the Council for the Welfare of Children (CWC) which reiterates the protocol on reaching out to children, including those in street situations, in need of special protection, children at risk (CAR) and children in conflict with the law (CICL) during the ECQ. Under the JMC, local government units (LGUs) are directed to (1) adopt or enhance existing guidelines on children, (2) display flowchart of protocols in conspicuous places in their locality, and (3) ensure that the Local Councils for the Protection of Children are functioning.

(b) The JMC also enumerates exceptional considerations for children who need to go out of their homes during the Enhance Community Quarantine (ECQ), such as for children or adolescents living with HIV who have to return to their 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.

(c) In addition, the Child Protection COVID referral pathway was also developed by the Child Protection Working Group (CPWG) which establishes a protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation. Based on this protocol, the LGUs, law enforcers, local social welfare and Department of Social Welfare and Development (DSWD) offices, the Municipal Health Office (MHO) or hospitals are the official receivers of the child-related reports, and that these units should continue to function amid the ECQ.

(d) The 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.

(e) The PNP also placed all its offices/units under full alert status which in effect required 100% attendance, 24/7. With that comes the Women and Children Protection Center's (WCPC) efforts in alerting and monitoring all Women and Children Protection Desks (WCPD) nationwide.

(f) The National Child Protection Working Group (NCPWG), a sub-cluster to the Protection Cluster, led by the DSWD and CWC, with UNICEF as a co-lead, ensures comprehensive government responses to children concerns during emergencies. Sub-national CPWGs were established on the basis of the Regional Sub-Committee on the Welfare of Children (RSCWC)'s expanded function and as mandated by the Children's Emergency Relief and Protection Act of 2016.

(g) The Juvenile Justice and Welfare Council (JJWC), the inter-agency council mandated to promulgate policies to ensure the implementation of the JJWA, issued the guidelines entitled "*Guidance for the Houses of Hope and other Youth Care and Rehabilitation Facilities in Handling CAR and CICL during the COVID-19 Pandemic Situation.*"¹⁰ This guideline provides standards and processes to be followed in handling CAR and CICL, and requires heads of the facilities to submit weekly status reports to the Council.

⁹ Department of Interior and Local Government and Council for the Welfare of Children, DILG-CWC JMC 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, 6 April 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 12 February 2021).

¹⁰ Juvenile Justice and Welfare Council, Guidance for BPA and Other Youth Care and Rehabilitation Facilities Handling Children at Risk and Children in Conflict with the Law during the COVID-19 Pandemic Situation, *available at* <https://www.facebook.com/JJWCOfficial/posts/the-jjwc-issues-the-guidance-for-bpa-and-other-youth-care-and-rehabilitation-fac/568092323843104/> (last accessed 12 February 2021).

(h) JJWC has also requested the DILG to provide weekly updates on the status of CICL incarcerated in LGU-managed jails with suspected and confirmed COVID 19, and the corresponding actions taken by the facility in response to the COVID situation.

(i) In December 2020, the Department of Information and Communications Technology (DICT) launched the Child Online Safeguarding Policy for the Free Wi-Fi for All program.¹¹ The policy prescribes mechanisms and standards in order to protect and safeguard children and young people online in line with the implementation of the Free Public Internet Access Program.

(j) Helplines for reporting cases of abuse, exploitation and violence were made available even during the health pandemic. These include the CWC Bantay Bata 163 Hotline, 24-hour crisis intervention units in all DSWD field offices, PNP Hotline, 1343 Actionline Against Trafficking, among others

7. The Commission is however concerned with the current legislative agenda of the Philippines, which has prioritized the lowering of minimum age of criminal responsibility (MACR) in its attempt to curb illegal drugs in the country, stating that children are being used by drug syndicates as couriers. The government almost succeeded during the 17th Congress, where the bill to lower the MACR to twelve (12) was passed on third reading before the House of Representatives. It, however, failed to hurdle the Senate. At the 18th Congress, only two (2) bills have been filed in the House of Representatives¹² and in the Senate.¹³

8. The Commission recognizes, as stressed by the SRSB, the strategy on the centrality in the implementation of the 2030 Agenda and the initiative of the Secretary-General to accelerate progress through the decade of action for Sustainable Development Goals (SDGs).

(a) The 3rd National Plan of Action for Children (3rd NPAC)- 2017-2022 was developed by the CWC, it seeks to concretize strategies, policies, and programs for children and relates to the commitments of the 2030 SDGs. Regional and local plans of action for children shall be developed to contribute to national goals and targets those that shall address their distinct situations.

(b) The Philippine Plan of Action to End Violence Against Children (PPAEVAC), 2017-2022, is a translation of the continued efforts and commitments of the Philippine government in eliminating violence against children. The PPAEVAC represents one of the Philippines' strongest moves to date to address the longstanding phenomenon of violence against children.

9. The Commission commends the SRSB for highlighting the role of children as agents of change, and citing the Philippine experiences on engaging children in decision making processes.

10. To conclude, the Commission requests the Human Rights Council to urge the Philippines to:

(a) Submit an outcome report on the result of the implementation of the 3rd NPAC given that the final review, assessment and reporting for both 3rd NPAC and PPAEVAC will end in 2022;

¹¹ Janvic Mateo, DICT bares safety policy for kids using government Wi-Fi, PHILSTAR, 10 February 2021, available at <https://www.philstar.com/nation/2021/02/10/2076636/dict-bares-safety-policy-kids-using-government-wi-fi> (last accessed 12 February 2021).

¹² An Act Lowering the Minimum Age of Criminal Responsibility for Heinous Crimes, Amending for the Purpose Republic Act No. 9344, Otherwise Known as the "Juvenile Justice and Welfare Act of 2006, House Bill No. 270, House of Representatives, 18th Congress (2019) available at http://www.congress.gov.ph/legisdocs/basic_18/HB00270.pdf (last accessed 9 October 2019).

¹³ An Act Lowering The Minimum Age Of Criminal Responsibility Amending For The Purpose Sections 6, 20, 20-a, 20-b And 22 Of Republic Act No. 9344, As Amended, Otherwise Known As "The Juvenile Justice And Welfare Act Of 2006", And For Other Purposes," Senate Bill No. 5, 18th Congress (2019) available at <http://www.senate.gov.ph/lisdata/3022127049!.pdf> (last accessed 9 October 2019).

- (b) Adopt the recommendations of the SRSG to realize the vision set out in the 2030 Agenda of a world free from fear and from violence, especially for our children;
- (c) End the use of violence to address the country's drug problem and uphold the rule of law and due process in the resolution of drug cases. Provide necessary assistance to families, especially children affected by the campaign against illegal drugs;
- (d) Stop all proposed measures to lower the minimum age of criminal responsibility in accordance with General Comment No. 24, replacing General Comment No. 10 (2007) - Children's rights in juvenile justice. Please refer to the Commission's 2019 advisory on the lowering of MACR our full analysis and recommendations.¹⁴; and;
- (e) Update on the current human rights situation of children during its interactive dialogue with the UN Committee on the Rights of the Child at its 89th session.

¹⁴ Commission on Human Rights of the Philippines, CHR (V) A2019-002, Human Rights Advisory on the Lowering of the Minimum Age of Criminal Responsibility, http://chr.gov.ph/wp-content/uploads/2019/02/CHR-Advisory_Lowering-MACR.pdf.