



The Civil Society Coalition on the Convention on the Rights of the Child (CSC-CRC) Inc. is an alliance of 17 local and international child rights organizations in the Philippines. Through its advocacy and capacity building activities, the CRC Coalition leads civil society efforts towards strengthening government accountability for children’s rights through systematic monitoring of the implementation of the UN Convention on the Rights of the Child (CRC) in the country. It has been submitting periodic reports to the UN Committee on the Rights of the Child following the Philippines’ ratification of the CRC in 1990. It also prepared a submission to the 2nd Cycle of the Universal Periodic Review (UPR) in 2012, and has contributed to civil society joint submissions/reports to the UPR, and other human rights monitoring mechanisms.

CSC-CRC is presently lobbying with Member States to consider the following issues and recommendations in line with the 3rd UPR cycle of the Philippines.

PROTECT CHILDREN FROM BECOMING VICTIMS OF THE GOVERNMENT’S “WAR ON DRUGS”




PHOTO BY JIRU RADA, ORIGINALLY USED AS PART OF THE #CHILDRENNOTCRIMINALS CAMPAIGN; ICONS FROM FLATICON.COM

Human rights groups in the Philippines have expressed concern over the rising number of people killed, including children, as a result of the war on drugs being waged by the Duterte administration. According to the consolidated data by the Children’s Legal Rights and Development Center (CLRD),

34 children have been killed from July 2016 to March 2017.


The Philippine government’s war on drugs has taken its toll on the lives of children in many communities. As of January 2017, the Philippine National Police (PNP) reported that

 **Althea Fhem Barbon**, 4 years old, and her father were riding a motorcycle on their way home when police shot at them. They died on September 3, 2016. The police claimed that Althea’s father was a drug dealer and that he attempted to shoot at the police.



The Department of Social Welfare and Development (DSWD) gave a “conservative estimate” that because of this “war”, around **18,000 children have either lost one of their parents/guardians or have been orphaned.** Some of them have witnessed the killing of their loved ones in their homes and communities and experienced trauma due to these events.

SOURCE: INQUIRER.NET, “DRUG WAR’S OTHER VICTIMS: ORPHANS”, 12/25/2016

 **John Ryan Garbo**, 11 years old, and his siblings were sleeping in their house in Navotas City when armed men barged and dragged their father. Hours later, their father’s dead body was found in Barangay North Bay Boulevard South. John Ryan was heard saying, “Pinatay nila, kinuha nila; natutulog lang (They killed him. They took him while he was asleep.)”

 **Michelle Mergillano**, mother of 5, was at home cradling her youngest child when four men barged into her house on the night of February 20, 2017. The men dropped the baby on the floor and shot Michelle four times in front of her other children. Mergillano’s 8-year old daughter “Bea” said she begged the hooded intruders to spare her mother’s life because she has many siblings and nobody will look after them, but to no avail. Mergillano and her husband are alleged drug users.

RECOMMENDATIONS SUPPORTED BY THE PHILIPPINE GOVERNMENT IN THE 2ND UPR CYCLE

- Fight against extrajudicial killings by strengthening accountability and monitoring mechanisms, persecuting perpetrators, and implementing necessary reforms (Germany, Republic of Korea, Singapore, Holy See, Spain, United States of America, Sweden, Timor-Leste, Northern Ireland, United Kingdom of Great Britain)

Source of position: A/HRC/21/12 - Para. 129

RECOMMENDATIONS TO THE PHILIPPINE GOVERNMENT FOR THE 3RD UPR CYCLE

- Investigate the killings especially those that resulted in the death of children, make investigation reports accessible to the public, and hold perpetrators accountable to the crimes they have committed.
- Provide psychosocial interventions and medical assistance to children and to families who were traumatized with witnessing the death of their loved ones.
- Relevant government agencies to review their protocols in handling children affected by the “war on drugs” to ensure that children are protected at all times.

SUGGESTED QUESTIONS

- What is being done by the Philippine government to address the issue of “children as collateral damage” in the war against drugs?

SOURCES: ABS-CBN NEWS, “4-YEAR-OLD GIRL, DAD SHOT DEAD BY COPS IN DRUG OPERATION”, 09/03/2016; INQUIRER.NET, “DRUG WAR’S OTHER VICTIMS: ORPHANS”, 12/25/2016; INQUIRER.NET, “GUNMEN TOOK BABY IN MOM’S ARMS BEFORE KILLING HER IN FRONT OF KIDS”, 03/01/2017.

NO TO THE LOWERING OF THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY (MACR)

The Minimum Age of Criminal Responsibility (MACR) is the lowest age at which a child in a given country can be prosecuted in court. In the Philippines, under the Juvenile Justice and Welfare Act (JJWA), the MACR is set at 15 years old. Presently, several bills have been filed in the 17th Congress to lower the MACR from 15 years to 9 years old. This proposal is one of the priority legislations under the Duterte administration. If this law gets passed, children as young as 9 years old may be sent to detention centers or jails where they will be prone to abuses and discrimination, exposed to criminal elements, and which will lower their chances to have a better future. A research commissioned by the United Nations Children's Fund (UNICEF) in 2015 found that the JJWA has not been properly implemented since its enactment in 2006. This has significantly affected the delivery of services provided to children at risk (CAR), children in conflict with the law (CICL), and their victims.



PHOTO BY JIRU RADA; ICONS FROM FLATICON.COM

SOURCE: UNICEF, EVALUATION OF THE INTERVENTION AND REHABILITATION IN RESIDENTIAL FACILITIES AND DIVERSION PROGRAMS FOR CHILDREN IN CONFLICT WITH THE LAW, JUNE 2015.

REASONS WHY THE MACR SHOULD NOT BE LOWERED

1 CHILDREN ARE NOT LITTLE ADULTS.



Children do not have the same psychosocial and decision making capacity as adults. The developmental immaturity of young people lessens their criminal culpability. Neuroscientific evidence has shown this.

2 LOWERING THE MACR WILL NOT RESULT IN LOWER CRIME RATES.



Data from the Philippine National Police (PNP) show that only 1.72% of reported crimes are committed by children. Most of them are first time offenders who have committed petty offenses (e.g., theft). While any decrease in the crime rate, however small is desirable, there are more restorative ways in handling cases of CICL without criminalizing them.

3 JAILS ARE NOT PLACES FOR CHILDREN.



Detention should be the last resort and not the first and only option. A child's "exposure to the criminal justice system, where the child will be labeled a criminal and exposed to criminal models will more likely establish the "criminal identity" of the young person. Research has shown that encounters with the justice system do not deter but rather result in greater and subsequent crime for the young person".¹

¹ PSYCHOLOGICAL ASSOCIATION OF THE PHILIPPINES, "POSITION PAPER ON HB 002 OR THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY ACT" (24 AUGUST 2016)

4 CHILDREN ARE VICTIMS OF DRUG SYNDICATES.

Some legislators have argued that crime syndicates are using children in their illegal activities to get away with crimes so the children need to be detained to stop them from committing offenses. If crime syndicates or adults use children in their illegal activities, clearly the children are victims. Therefore, the children should be rescued and provided rehabilitative support and the syndicates should be the ones arrested and penalized for their criminal acts.

5 JJWA DOES NOT NEED TO BE AMENDED, IT NEEDS TO BE IMPLEMENTED.

The JJWA has created a separate juvenile justice system for children which provides prevention, intervention, diversion and rehabilitation to children at risk and children in conflict with the law. However, the law is not being fully implemented because of weak government commitment and lack of sufficient funding.

RECOMMENDATIONS SUPPORTED BY THE PHILIPPINE GOVERNMENT IN THE 2ND UPR CYCLE

- Take immediate measures to effectively implement the Juvenile Justice and Welfare Act of 2006 (Norway)
- Improve conditions of detention centers and separate children/juvenile offenders from adult offenders (Ecuador, Germany)

Source of position: A/HRC/21/12 - Para. 129

RECOMMENDATIONS NOTED BY THE PHILIPPINE GOVERNMENT IN THE 2ND UPR CYCLE

- Ensure that the age of criminal responsibility is not lowered (Germany)
- Source of position: A/HRC/21/12 - Para. 131 & A/HRC/21/12/Add.1 - Para. 4 (p)

RECOMMENDATIONS TO THE PHILIPPINE GOVERNMENT FOR THE 3RD UPR CYCLE

- Maintain the MACR at 15 years old and strengthen the implementation of the Juvenile Justice and Welfare Act (JJWA).
- Law enforcement agencies to arrest and penalize criminal syndicates that use children in their illegal activities.
- Allocate sufficient budget to support capacity building of duty bearers to effectively implement the JJWA.

SUGGESTED QUESTIONS

- Were all measures undertaken to ensure the full implementation of the Juvenile Justice and Welfare Act (JJWA) before any decision was made to amend the MACR?
- Were all duty bearers adequately trained on processes and guidelines in handling cases of children at risk and children in conflict with the law?
- Has the government provided sufficient budget for implementing agencies to effectively carry out their duties under the law? How much budget is provided at the national and local levels?

STOP THE USE OF CORPORAL PUNISHMENT AND PROMOTE POSITIVE DISCIPLINE

Despite laws that prohibit corporal punishment in school (Article 233 of the Family Code of 1987), the juvenile justice system and institutions (Article 61 of the Juvenile Justice and Welfare Act), there is still no law that explicitly prohibits the use of corporal and humiliating or degrading punishment in the home. Existing laws justify its use, allowing punishment that is “just and reasonable” and “moderate in degree.”² Current laws address only those forms of punishment that are excessive and which result in severe physical or psychological harm.

Since 2007, several bills have been filed to prohibit corporal punishment in home and other settings but failed to pass in both House of Representatives and Senate.

² RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES OF REPUBLIC ACT 7610 “ANTI CHILD ABUSE LAW”



PHOTO BY JIRU RADA, ORIGINALLY USED AS PART OF THE #CHILDRENNOTCRIMINALS CAMPAIGN; ICONS FROM FLATICON.COM



3 in 5 respondents (66.3%) experienced any form of physical violence during childhood and 60% of these cases happened inside their homes.

SOURCE: COUNCIL FOR THE WELFARE OF THE CHILDREN, NATIONAL BASELINE STUDY ON VIOLENCE AGAINST CHILDREN: PHILIPPINES, 2016.



3 out of 5 children have been verbally abused, threatened and/or abandoned by their parents or guardians.

SOURCE: UNICEF PHILIPPINES, A SYSTEMATIC LITERATURE REVIEW OF DRIVERS OF VIOLENCE AFFECTING CHILDREN: THE PHILIPPINES, 2016



LGUs generally have a low capacity to prevent and respond to violence against children (VAC).

Local Councils for the Protection of Children (LCPCs) and Barangay Councils for the Protection of Children (BCPCs) are not in place in the areas covered by the study, or if they are, these are not fully functional.

SOURCE: UNICEF PHILIPPINES, A SYSTEMATIC LITERATURE REVIEW OF DRIVERS OF VIOLENCE AFFECTING CHILDREN: THE PHILIPPINES, 2016



Low disclosure and reporting of VAC despite its high prevalence.

Disclosure is low at 10% of children and youth overall. Most children who experience violence disclosed to their friends, and to some extent, to their mothers. Only 29.2% of children were aware of the services they could utilize for their needs.

SOURCE: UNICEF PHILIPPINES, A SYSTEMATIC LITERATURE REVIEW OF DRIVERS OF VIOLENCE AFFECTING CHILDREN: THE PHILIPPINES, 2016

VIOLENCE AGAINST CHILDREN IN THE HOME IS A RISK FACTOR FOR EXPERIENCING VIOLENCE IN THE COMMUNITY.

Physical punishment makes children more aggressive and antisocial, and can cause cognitive impairment and developmental difficulties.

SOURCE: J. DURRANT, PHYSICAL PUNISHMENT OF CHILDREN: LESSONS FROM 20 YEARS OF RESEARCH, 2012.

RECOMMENDATIONS SUPPORTED BY THE PHILIPPINE GOVERNMENT IN THE 2ND UPR CYCLE

- Prohibit all forms of corporal punishment in the home, school, institutions, penal system and in all other areas (Uruguay, Portugal, France)
- Intensify awareness-raising campaigns on the harmful effects of corporal punishment and the use of alternative and non-violent forms of discipline in a manner consistent with the child’s dignity (Liechtenstein, Uruguay)

Source of position: A/HRC/21/12 - Para. 129

RECOMMENDATIONS TO THE PHILIPPINE GOVERNMENT FOR THE 3RD UPR CYCLE

- Pass the Anti-Corporal Punishment/Positive Discipline Act in the 17th Congress to extend the prohibition of corporal punishment in the home and the family.
- Develop a comprehensive program on Positive Discipline with a corresponding budget to prevent and respond to cases of corporal punishment.
- Intensify the implementation of education and awareness raising campaigns to promote positive discipline among parents, service providers and caregivers.

SUGGESTED QUESTIONS

- What measures has the Philippine Government undertaken to prevent and respond to cases of corporal punishment experienced by children inside the home?
- What has the Philippine Government done to expedite the enactment of the Positive and Non-Violent Discipline of Children Bill?

PREVENT ONLINE CHILD ABUSE



PHOTO BY JIRU RADA; ICONS FROM FLATICON.COM

The Philippines has high social media engagement rates in almost all platforms. Internet users (estimated through the Facebook users) are young – 20% are aged 13 to 17 years old. The high level of engagement of children in cyberspace, along with weak regulation of cyberspace use and content, makes them highly vulnerable to online violence. Despite the enactment of Anti-Child Pornography Act (RA 9775) and Cybercrime Prevention Act of 2012 (10175), and the establishment of an inter-agency body to oversee the full implementation of these laws, the Philippines continues to be considered as a major global source for the child cybersex industry. The Philippine Judiciary System is also not fully equipped to handle cases involving cybercrime as this is still a relatively new jurisdiction.³

³W. AWITAN. AN OVERVIEW OF CHILD-SAFE CYBER LAWS AND ENFORCEMENTS IN THE PHILIPPINES: STRENGTHS AND GAPS. QUEZON CITY: WORLD VISION, 2016.

The 2015 National Baseline Study on Violence Against Children showed that:



43.8% of children aged 13 to under 18 years experienced cyber violence.

Of those who experienced cyber violence

45.3% **42.2%**



About a third of the types of cyber violence were in the form of verbal abuse over the internet or cell phone; a fourth were sexual messages.

22.8% **25.5%**

More females than males received sexual messages or words over the internet or cellphone.



An estimated 2.5 % had their nude body or own sexual activities shown on the internet or cellphone including both real and falsified images.

More males reported having their nude body or their own sexual activities, whether true or not, shown on the internet or cellphones (3.2% males, 1.8% females).

The Department of Justice's Office of Cybercrime (OCC) confirmed that they received 12,374 Cyber Tips from April – December 2014 and 14,988 in 2015. Cyber Tips are reports submitted by the public and/or United States ISP and ESPs pertaining to child abuse being committed with the use of their systems.

SOURCES: COUNCIL FOR THE WELFARE OF CHILDREN. NATIONAL BASELINE STUDY ON VIOLENCE AGAINST CHILDREN EXECUTIVE SUMMARY. QUEZON CITY, PHILIPPINES, 2016. UNICEF PHILIPPINES, CHILD ONLINE SEXUAL ABUSE AND EXPLOITATION. MAKATI CITY, PHILIPPINES, 2016.

ECPAT Philippines, a CSC-CRC member, cited in its alternative report on the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography that there is a lack of budget allocation for the full implementation of RA 9775 which hampers capacity building for law enforcers and provision of services for child victims of online sexual abuse and exploitation.

RECOMMENDATIONS TO THE PHILIPPINE GOVERNMENT FOR THE 3RD UPR CYCLE

- Develop and implement a National Plan of Action to prevent online child exploitation and abuse.
- Strengthen inter-agency coordination to combat cybersex in the community.
- Intensify education sessions on child protection and safety in the internet for children and their families, schools and local officials, especially in cybersex-affected communities.
- Secure cooperation from the private sector such as the information and communications technology (ICT) industry and money transfer services to prevent and respond to child online abuse.
- Invest in upgrading facilities and capacities of law enforcement agencies and the judiciary in handling online sexual exploitation cases.
- Pass local ordinances and allocate budget for online child protection programs and activities and to implement the Anti-Child Pornography Act of 2009.

SUGGESTED QUESTIONS

- What measures has the Philippine government undertaken to prevent and respond to cases of online child exploitation?

THIS PUBLICATION IS SUPPORTED BY



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