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**PHILIPPINE ALTERNATIVE REPORT (final draft)**

**On the Implementation of the U.N. Convention on the Rights of the Child**

**By: Children’s NGO Network**

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**EXECUTIVE SUMMARY**

**Introduction**

The Children’s NGO Network (CNN) first submitted an Alternative Report on the United Nations Convention on the Rights of the Child (UNCRC) sometime in 2004 for the second reporting period because it wanted to emphasize the local aspect of UNCRC implementation in the country.

In the next reporting period (3rd and 4th) sometime in 2008, CNN did not submit its report but participated in the workshop conducted by the Philippine NGO Coalition on the UNCRC. It was this Coalition that submitted a report to the Committee at that time and integrated the results of the workshop.

This time for the 5th and 6th reporting period, CNN decided to again submit a separate report to better emphasize its priority issues. This report is based on a consultation workshop held on November 21-22, 2017 to monitor and assess the Philippine government’s compliance of its mandates and obligations under the UNCRC in anticipation of the State Party Report which was due that year 2017.

The workshop was participated by 29 Visayas-based civil society organizations (CSOs) composed of sectoral organizations, school and community-based youth organizations, development non-government organizations (NGOs), shelter-based institutions, academe representatives, and socio-political organizations. Children and youth were also represented.

A total of 40 participants participated. During the consultation workshop, resource persons provided inputs on the UNCRC and the reporting process. The recommendations of the State Party in the last reporting period in 2008 were also presented.

The participants were grouped based on the different clusters of the UNCRC during the workshop, where issues and recommendations for better implementation of the UNCRC were identified. This was followed by a gallery walk where the participants were able to clarify and add issues and recommendations for the other clusters. Prioritization of the identified issues and recommendations then followed.

Since the State Party only submitted its report in January 2019, this report was reviewed *vis-à-vis* the results of the consultations by the Children’s Legal Bureau (CLB), Inc. as the secretariat of the CNN to finalize this present alternative report.

Other studies and documents regarding issues and situations of Filipino Children such as the UNICEF study on the Situational Analysis of Filipino Children, Report of JJWC, and other studies and news reports were also referred to as the basis for the data in this report.

Validation of the report was done with the local CSOs in Cebu City on November 22, 2019. The Final Report was prepared to incorporate the results of the validation.

**Children’s Situation**

The situation of children in the Philippines is largely affected by the country’s situation. Poverty in the country is persistent. Based on 2015 statistics, 21.6 percent of the population is still living below the basic needs poverty line.

According to a study commissioned by  United Nations Children's Fund(UNICEF)[[1]](#footnote-1), the impacts of poverty are more significant for children based on 2016 statistics. There is growing evidence that children experience poverty more acutely than adults. The negative impacts of poverty on their development can have profound and irreversible effects into adulthood.

It has also been noted that when a family moves into poverty (*e.g.* as a consequence of an economic shock), children often suffer by being withdrawn from school and draw into working in forms of hazardous labor. In 2015, 31.4 percent of children (0–17 years) were living below the basic needs poverty line compared to 21.6 percent of the total population. This is an indicator that children continue to be disproportionately vulnerable to living in poverty.

Aside from poverty and economic situation, children are also affected by the present political conditions, i.e., the war on drugs and martial law in Mindanao as well as disasters that have befallen the country such as the supertyphoon Yolanda in 2011 and earthquakes.

The same study of UNICEF concluded that many girls and boys continue to face barriers to the full realization of their rights affecting their ability to survive, develop and thrive despite the progress of the Philippine government in the implementation of children’s rights.

Strong economic growth and a comprehensive legal and policy framework have sadly failed to translate into improved outcomes for children across the country. This observation of the UNICEF study was validated during the workshop. The CSOs noted that violation of children’s rights persists despite many laws already passed.

### **General Comments on the State Party Report**

1. The State Party Report has addressed several recommendations made by the Committee in its 2008 Concluding Observations. However, there are still concerns which have not yet been acted upon such as the minimum age of sexual consent, discrimination against children born out of wedlock, and the prohibition of corporal punishment and other forms of violence in the home, schools, in public and private institutions and the alternative care system.

1. The State Party Report was completely silent about the main thrust of the present Duterte administration- the War on Drugs- and its effects on the children. Aside from reporting about the successful prosecution of the police involved in the killing of Kian delos Santos, nothing was mentioned about the thousands of people killed in the War on Drugs. Nothing was also mentioned about the declaration of Martial Law in Mindanao in May 2017, which has displaced families and their children.
2. Issues such as turnover of personnel, change in the administration both at the local and national levels is also a concern that is not reported. These changes affect the services for children since with every change of administration, policies, priorities, and programs also change.
3. As far as the local level is concerned, only the report about the functionality of the local councils for the protection of children was mentioned. Disparities among regions in the Philippines in terms of the indicators (such as poverty incidence) and implementation of programs for children are rarely mentioned. The fact is that most programs mentioned in the report are implemented only in the urban centers and do not reach the most marginalized groups such as those children in the Autonomous Region of Muslim Mindanao (ARMM).

The following priority concerns were identified by the CSOs during the workshop:

1. **Children affected by the War on Drugs**. The present administration of President Rodrigo Duterte is pursuing a War on Drugs, resulting in thousands of cases of extra-judicial killings (EJK) of alleged drug addicts and pushers. Some of them are children like the case of 17-year-old Kian delos Santos, who was suspected of being a drug pusher and killed defenseless.

These killings were justified because the suspects allegedly resist or fight police officers in the course of anti-drug operations. Some children are caught in the crossfire during drug operations like the case of four-year-old Skyler Abatayo. The child was hit by a stray bullet during one of the anti-drugs operations in Cebu City. The killings of minors are dismissed by President Duterte as mere collateral damage.

Some children are left orphaned, as either or both parents become EJK victims. Thus, no one is left to take care of them. Their sustenance is under threat. Usually, the breadwinner of the family is killed. If only one of the parents is an EJK victim, the other parent may be arrested or will leave the residence because of fear.

This concern needs to be addressed and prioritized. Children affected by this War on Drugs cannot just be dismissed as collateral damage.

1. **Lack of government response to children’s issues**. On top of the list under this concern are:
2. ***Lack of budgetary allocation*** for activities, agencies, and councils for children. Although the report showed that budget allocation for children’s programs has increased, it remains inadequate. For one, the allocation of only 1% of the internal revenue allotment (IRA) for the local councils for the welfare of children is too small, especially for smaller local government units.
3. ***Corruption in government***. In 2018, a year after its creation, the Duterte-created Presidential Anti-Corruption Commission (PACC) concluded that ‘the corruption situation in our country today continues to be alarming”.[[2]](#footnote-2)Deputy Ombudsman Cyril Ramos recently revealed that around 700 billion (in Philippine peso) or around 20% of the annual government budget are lost every year due to corruption. This amount could have been spent on children’s programs.
4. ***Lack of services and facilities for children in need of special protection.*** Even with the facilities and services provided by the government, it is still inadequate to address the needs, especially for children in need of special protection. These include psychosocial services to rescued victims of abuse and those victims referred to centers.

There is also a lack of temporary shelters for boy victims of abuse and exploitation and homes for girls who are in conflict with the law, and aftercare services to survivors of abuse, particularly the child-victims of trafficking in persons among others.

1. ***Legislation for children still needs to be improved.*** Although there are several new legislations to protect children, there are still laws needed to be enacted. Other laws also have to be amended. The following bills are pending for a long time: the Anti-Corporal Punishment Bill, the Positive Discipline Bill, and the bill raising the age for statutory rape. A law repealing the classification of children to legitimate and illegitimate needs to be passed. The present administration is bent on raising the minimum age of criminal liability when it should not be an issue at all.

1. ***Some groups of children are still discriminated against.*** Non-discrimination may be provided in the law but in terms of services, they are still discriminated against and prone to abuse.

These are the Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus (LGBTQIA+), children who are bullied and very vulnerable to abuse, the children with disabilities who cannot easily access services, the children of Indigenous Cultural Communities (ICC) who are displaced and labeled as rebels, children in the ARMM who are mostly neglected, children in conflict with the law (CICL) and children in armed conflict who are labeled as bad elements in the society.

**Recommendations**

***General Recommendations:***

1. Alternatives to the War on Drugs that do not cost the lives of thousands of people should be explored and implemented in the long term. In the short term, the basic needs of children affected by the drug war after the death of their parents should be addressed. The psychological needs of children, especially if they had witnessed such violence, should be given priority.
2. The government should stop militarization and Martial Law in Mindanao, as it has affected the children, particularly those children of indigenous cultural communities (ICCs) who have been displaced.

***Legislation and Policy:***

1. The Anti-Corporal Punishment Law and the law raising the age for statutory rape to below 18 should already be passed. This has been recommended by the committee for several reporting periods already. Discriminatory laws should be repealed such as the barrier between legitimate and illegitimate children.
2. The laws should be reviewed whether they respond to all vulnerable groups of children, and address all other violations of children’s rights. The needs of some groups are not adequately addressed in the laws such as the Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus (LGBTQIA+), the internally displaced children, and child laborers in the informal sector. Other issues require attention such as surrogacy, which affects the identity of the child, and genuine participation of children in decision-making.
3. The Supreme Court should institutionalize the Court Appointed Special Advocate/Guardian Ad Litem (CASA/GAL) by providing support to its volunteers and making it a policy that all courts appoint CASA/GAL for all children involved in court cases to consistently consider the best interest of the child in coming up with judicial decisions.
4. Explore agreements with other States on the matter of child pornography so that the perpetrators in the other States exploiting Filipino children can be arrested.
5. Explore agreements with other States on child support so that orders for support may be enforced on parents who are foreigners.

***Programs:***

1. Programs for the promotion and protection of children’s rights such as health, education and other services should be further strengthened and prioritized. The following still needs to be done:
   1. Intensify the campaign for immunization of children to counter the effects of *dengvaxia* scare. Before the scare, the percentage of immunized children has already declined.
   2. Address the present problems in the health care system such as the lack of facilities and equipment, and medical staff before the policy of discouraging home births is implemented.
   3. The Conditional Cash Transfer (CCT) should be reviewed and improved so that its aim at addressing poverty, one of the causes for violations of children’s rights, would be reached. This is also to avoid creating dependency among covered families.
   4. The K-12 program should also be reviewed and if the program is continued, more support should be given to the Senior High School to increase enrolment.
2. Priority should be given to address the needs of vulnerable children such as the children of indigenous communities, children in the ARMM, children with disabilities, child laborers, children in armed conflict, internally displaced children, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus (LGBTQIA+)children, and other children who require special protection.
   1. Existing programs for these vulnerable children should be strengthened and continued.
   2. Programs for internally displaced children and Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus (LGBTQIA+), are not yet prioritized nor implemented. These programs should be comprehensive and should address the needs of these children in the long term, including their families and communities.
   3. Facilities and services should be made available, particularly for the boy victims of abuse and exploitation and for the girl children in conflict with the law (CICL) so that these children are not re-victimized or do not become repeat offenders to make them useful members of society.
   4. Facilities, staff, and equipment should be in place, such as interview rooms to implement protocols and guidelines in handling of cases.
3. Information dissemination and capacity building of duty bearers and rights holders should be intensified not only on children’s rights. The following still has to be done:
   1. Information dissemination on new legislation, programs and issues related to children
   2. Children and parents should be informed and capacitated on online safety, personal safety lessons, where and how to report abuses to protect themselves from being abused and exploited.
   3. The media should also be informed on guidelines in their coverage of children-related issues.
   4. Duty-bearers should be trained on child sensitivity and proper procedures and protocols in handling of children in need of special protection.
   5. Capacity-building should be continuous and not just one shot deal because there is a high turnover of personnel assigned to children such as the Philippine National Police Women and Child Protection Desks (PNP-WCPD).
4. Child participation should also be integrated into decision-making processes- within the family, community, and society as a whole. Venues and mechanisms for genuine child participation should be established from the local to national levels. In this manner, the legislations and programs for children become responsive to their needs and for their best interest. Also, the state should respect the right of the children to participate in rallies, as well as the rights of the parents to allow their children to join in movements and community activities without the employment of violence on such assemblies.

***Budget and Support***

1. Child-friendly budgeting should be in place. An adequate budget should be provided for children and it should be segregated from the general budget of the different agencies to allow monitoring of budget allocation for children. There should be clear criteria fora child-focused program to properly allocate budget for such programs from the overall budget of the concerned agency.
2. Database for different information and indicators on children’s rights particularly protection rights should be set up and operationalized, provided with budget and resources. This would guide the planning and design of programs to address children’s rights.
3. As the independent monitoring agency, the Commission on Human Rights (CHR) should be strengthened and given the necessary resources, particularly human resources for its Child’s Rights section. Aside from lawyers, social workers should be hired so that monitoring efforts would reach the local levels.
4. Sustained and adequate support in terms of capacity building and mentoring as well as budget should be appropriated to the following:
   1. Local government units (LGUs), particularly the local councils for the protection of children (LCPC), as frontlinersin providing comprehensive services to the children,
   2. *Sanggunians* to pass ordinances at the local level to address specific issues such as regulation of *pisonet* (coin-operated computer)and the money transfer agencies to prevent children from being exploited and abused.
   3. Empowerment of children so that children themselves can promote their rights and advocate for the full implementation of children’s rights.
   4. Families and communities so they can establish mechanisms for reporting of cases, and provide support to the victims and a safe environment for the children.

##### **General Measures of Implementation**

***Legislation***: While the CSOs agree that the State Party has enacted several laws for the protection of children such as those mentioned in the report, there are still laws that need to be passed and have been pending in Congress for a long time. These proposed statutes include the bill seeking to prohibit corporal punishment in domestic settings, and bills calling to increase the age of statutory rape.

The age of statutory rape has remained below 12 years old. This means that for minors who are 12 years old or older, the sexual act with an adult will not automatically be considered rape[[3]](#footnote-3). It must be attended by force, threat, intimidation, fraudulent machinations, or other similar conditions.However, in the absence of these circumstances, it may still be considered sexual abuse under RA 7610 (Anti Child Abuse Law) if a minor had sexual intercourse or was a subject of lascivious conduct due to the coercion or influence of any adult, syndicate or group[[4]](#footnote-4). What these provisions seem to suggest is that in the absence of adult influence and/or force, there cannot be any sexual misconduct with a minor who is 12 years old or older.

As for children born out of wedlock, while the government has taken steps to improve the status of children born out of wedlock through the provisions of the Family Code in the previous reporting periods, it has not ultimately taken down the barrier for these children. There still exists differentiation between legitimate and illegitimate children within the Philippine legal system.

The CSOs are also concerned about the pending bills lowering the minimum age of criminal responsibility (MACR) to nine or twelve years old. Republic Act No. 9344 or the Juvenile Justice and Welfare Act (JJWA) as amended increased the MACR to fifteen years old and has strengthened interventions for those below the MACR. However, the present administration is bent on lowering the MACR.

**Recommendation**: The laws raising the age for statutory rape, penalizing corporal punishment, promoting positive discipline, and repealing the classification of children as legitimate and illegitimate should immediately be passed as these had been the recommendation of the Committee for a long time. The Juvenile Justice Law should not be amended particularly to lower the MACR.

***Implementation Mechanism.*** There is still no separate agency for children’s rights alone. The Council for the Welfare of Children (CWC)and its regional counterparts are composed of different government agencies [*e.g.* Department of Health (DOH), Department of Social Welfare and Development (DSWD) and Department of Education (DepEd)]. The council is only a coordinative mechanism. The involved agencies provide services, not only to benefit children but the whole population.

The plans of the Councils are limited only to celebrations of the Children’s Month, Child Sexual Abuse Week, Girl Child Week, 18 days of Activism on Violence against Women and Children (VAWC), among others. Although the report states that there is the budget allocation for the CWC, it is inadequate to cover the aforementioned activities because the allocation covers only for the staff from the social services department assigned as secretariat to the Council.

While it is true that there are Local Councils for the Protection of Children (LCPCs), a significant number of Local Government Units (LGUs) do not have separate activities from that of the local legislative councils or *sanggunians*. What most LGUs have done is merely passing ordinances or resolutions creating LCPCs.

Other than the LCPC, there are numerous councils needed to be establishedat the *barangay[[5]](#footnote-5)* level such as the Barangay Development Council, Peace and Order Committee, Physical Fitness and Sports Development Council, Ecological Solid Waste Management Council, Disaster Risk Reduction Management Council, Anti-Drug Abuse Council, Human Rights Council, among others.It is not surprising that these councils are not functional unless the Department of Interior and Local Government (DILG) is closely monitoring them or non-government organizations are consistently supporting them.

The LCPCs do not have sufficient budget, especially the smaller *barangays*. The present statute only allows one percent of the budget to be allocated for the LCPCs. Furthermore, in the national assessment conducted by the Juvenile Justice and Welfare Council (JJWC) last 2017[[6]](#footnote-6), it was noted that only 33 percent of local government units in the country allocated at least one percent of their IRA for the strengthening of the LCPCs.

Another factor affecting the sustainability of the LCPC is the change in the leadership at the local level. Usually, there is no proper turnover and the good programs of past administration will not be continued by the incoming one,including the LCPC and other programs for children.

**Recommendation**: LCPCs should not only be monitored but provided with financial and technical assistance and mentoring to address the needs of children as frontliners at the local level. The problem of sustainability with the change of administration should also be addressed.

***National Plan of Action.***The National Plan of Action for Children (NPAC) has not reached the local government units (LGU) level. Local plans for children are not consciously aligned to the National Plan of Action. Instead, local plans are largely based on their situations and the usual activities like feeding programs.

The achievements mentioned in the report are somehow insignificant. For example, in terms of the poverty level, there may be a slight decrease but 31.4 percent is high. The UNICEFhas even reported that for children in the Autonomous Region of Muslim Mindanao (ARMM), poverty incidence has even increased from 52.6 percent in 2006, to 63.1 percent in 2015.[[7]](#footnote-7)

The same UNICEF report states that although child mortality rates have improved, they are significantly higher in rural areas and ARMM. Huge efforts will be required to meet national targets of 15 (for infants) and 22 (for children under 5 years).

The maternal mortality rate is at 114 deaths per 100,000 live births in 2015, which is about 25 percent less from the average of 152 deaths in 1990. This number is significantly higher than the regional average of 62 for East Asia and the Pacific and short of the sustainable development goal (SDG) of 70.

**Recommendation**: The National Plan of Action needs to be disseminated at the local government levels so their plans would be aligned with national plans including the community and more efforts have to be done to meet the targets.

***Independent Monitoring.***  According to the report, the budget of the Commission on Human Rights (CHR), the independent monitoring body on the implementation of UNCRC, has increased and doubled. It may be recalled that sometime in 2017, the House of Representativesvoted to give CHR only a THOUSAND PESO budget f0r 2018 because of its efforts to investigate police officers who allegedly killed suspectsat the height of the drug war of the present administration.[[8]](#footnote-8)Even if the shockingly low budget did not push through because of negative public reaction, such legislative move is a threat to the very existence of the CHR.

Even with the budget increase, it is not enough. CHR is under-staffed, considering its wide mandate.At the regional level, the Commission operates with very few staff members covering four or more provinces. The Commission does not only monitorthe implementation of the UNCRC but also other international human rights instruments. The CHR is also the monitory body of the implementation of the Magna Carta of Women.

Aside from monitoring work, the CHR is also rendering legal services such as giving legal advice to victims of human rights violations (HRVs)including women and childrenand investigating such violations. The staff of CHR does not even include social workers which it also needs in terms of assisting children and women.

With the increase in EJKs and HRVs in the middle of 2016, the time when the administration of President Duterte commenced, CHR became overwhelmed with voluminous cases. Around 30,000 incidents of EJKs of suspected drug users and pushers have been reported. Thus, children’s rights may not at all be prioritized because of this situation.

**Recommendation:**The CHR should be strengthened and given the necessary resources, particularly human resources for its Child’s Rights Center. Aside from lawyers, there should be more social workers and efforts to establish counterparts at the local levels.

***Budget.***There is no segregation in the allocation for children in the national budget. The State Party only reported the budgets of certain departments such as theDepartment of Education (DepEd), Department of Social Welfare and Development (DSWD), and the Department of Health (DOH).

There was an attempt to break down the budget for child-focused programs such as the allocations for DSWD and DOH. However, it is not clear whether a certain program can be considered child-focused. Is it automatically a child-focused program such as the Pantawid Pamilyang Pilipino Program (4Ps), a supposedly family-focused program.

For the other agencieshaving child-focused programs mentioned in the report, there is an indication that the whole budget has been increased. It does not, however, mean that there is an automatic increase in thebudget for children in the agency.

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| **Recommendation**: There is a need to scrutinize the budget to reflect which part of the entire budget is being used for children’s programs. |

***Data Collection***. Any improvement mentioned in the report is not at all known at the local level. It is getting more difficult to get data, particularly on child protection. These include cases or incidents of child abuse, child exploitation, child trafficking, child pornography, among others.Disaggregated data per municipality or city is also not available. There were databases on trafficking in persons but these are not being utilized.

**Recommendation**: Database for different information and indicators on children’s rights, particularly protection rights, should be operationalized with appropriate budget and resources.

***Dissemination, Training, and Awareness Raising.*** Children’s rights under UNCRC arewidely disseminated. However, there is still a lack of information, training, and efforts to raise awarenessamong duty bearers on child protection laws especially the recent statutes. Thus, there is a lack of implementation of the laws.

**Recommendation**: More training and awareness-raising activities for both duty bearers and rights holders to implement laws in a child-sensitive manner.

###### **Definition of a Child**

###### As mentionedin the report, children are defined as “persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical mental disability or condition.” The term is defined under Republic Act No. 7610.

###### Even among child’s advocates, there is growing confusion over the second definition of “child”. Are persons with disabilities (PWDs) automatically considered children? Is it only in the presence of abuse?The special definition is rather unclear and ambiguous.

###### Under the Anti-Child Pornography Act (Republic Act No. 9775), achild can also mean “a person, regardless of age, who is presented, depicted or portrayed as a child and computer-generated, digitally or manually crafted images or graphics of a person who is represented or who is made to appear to be a child.” This adds to the definition of a child provided by RA No. 7610.

###### There are also legal discrepancieswhen it comes to the age of consent.It is only for child abuse and exploitation cases when the age of the victim is below 18. But when it comes to other criminal acts, the laws are conflicting on what age children may give valid consent.

###### For statutory rape, consented abduction and simple seduction, the age is 12 which implies that a child may give “partial” consent to sexual activities at the age of 12. The age of criminal responsibility is 15.The working age is 15 but only for non-hazardous work. The age of marriage is 18 but parental consent is still needed for persons between 18 to 21 years of age.

**Recommendation**: These different ages of consent should be reviewed andharmonized.

**General Principles**

***Non-discrimination***. As mentioned earlier, there is still discrimination for children born out of wedlock, particularlyin terms of their inheritance. The current law allows only half of the share of the legitimate child for illegitimate children. This barrier between illegitimate and legitimate children has not been amended.

The report mentions the Magna Carta of Women which was enacted to protect girl children from discrimination. However, monitoring compliance with the law is lacking. As the monitoring agency, the CHR lacks the staff, particularly atthe regional level.

Many groups of children are still discriminated in terms of services such as children with disabilities, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus (LGBTQIA+), children of indigenous cultural communities (ICCs), children in armed conflict, children in conflict with the law (CICL), among others.

For children with disabilities, they are not able to seek assistance because service providers are not equipped to handle their special needs. Although it is not covered under this reporting period, the passage of the Filipino Sign Language Act in 2018 is a welcome development. The law requiresthe justice system to ensure the availability of qualified Filipino sign language interpreters in all proceedings involving the deaf. Other modes of communication may be chosen as well.This law, however, has yet to be implemented.

For LGBTQAI, they are vulnerable to both physical and sexual abuse, as most of them are not accepted even by their parents. They are often bullied by other children and the community in general. It may not be important for other people but the simple issue ofchoosing theirtoilet (whether for male or female)has been raised.Although some local government units (LGUs) have passed local anti-discrimination ordinances, the Sexual Orientation and Gender Identity and Expression (SOGIE) Bill has not yet been passed. The issues of other vulnerable children will be discussed in other parts of this report.

**Recommendation**: Laws should be reviewed if these can respond to the needs of all the vulnerable children.If not, the gaps in legislation should be addressed by enacting laws such as the SOGIE Bill. Existing laws should be implemented and monitored. Programs for these children should be strengthened and prioritized.

***Best Interest of the Child.***  It is well-articulated in our laws that thebest interest of the child should always be consideredin all judicial decisions affecting children. However, it will be the courts that will decide what is for the best interest of the child.

To assist the court in doing this, the Supreme Court Rule on Child Witness provides for a Guardian Ad Litem (GAL), also referred to as Court Appointed Special Advocate (CASA). The GAL/CASAstands to represent the best interest of the child in court. However, the GAL/CASA has not yet been institutionalized in the court system. It is not similar in the United States (U.S.) where it becomesimperative for the courts to appoint a GAL/CASA in all cases involving children.

**Recommendation**: The Supreme Court shall institutionalize the GAL/CASA by providing support to the GAL/CASA Volunteers. The Highest Court shall make it a policy that courts appoint GAL/CASA for all children involved in cases so that the best interest of the child will always be considered in case decisions.

***Respect for the Views of the Child.*** The amendment of the *Sangguniang Kabataan* (Youth Council) Law[[9]](#footnote-9)or the New SK Law now excludes children below 18 to be voted as councilors. Only those 18 t0 24 years old may be elected. Although children between 15 and below 18 are part of the *Katipunan ng Kabataan* (Youth Assembly) and allowedto vote, they cannot be elected. The Assembly now also includes persons up to 30 years old. Thus, there is a possibility that the children are overlooked because they are not represented in the Council.

This new law prides an anti-political dynasty provision, disqualifying persons related within the second degree of consanguinity or affinity to an elective official. However, the issue of the SK being used by politicians remains. SK chairpersonsvoted by the Federation sits as councilors of their respective *sanggunians*. Thus, politicians usually influence the SK to vote for their allies to the city or municipal councils. Instead of representing the interest of the youth, it might be the politician’s interest that they represent.

As for child representation in the Regional Councils and Local Councils for the Protection of Children, there is no guarantee that the children’s interest is genuinely represented, and that representatives can articulate the concerns of the sector. It should be noted that there are different groups of children in the community, (*i.e*., the CICL, child laborers, out of school, children with disabilities). There are just two child representatives out of around 20 members of the councils, and their class schedules usually conflict with meetings. This representation might just be a form of tokenism.

**Recommendation:** The laws should be reviewed if these provide children an opportunity for genuine participation. The government should also provide venues and mechanisms for genuine child and youth participation and not just tokenism.

***Right to Life, survival, and development.*** Although laws have been enacted to protect the child’s rights to life, survival, and development such as the Mandatory Infants and Children Health Immunization Act of 2011 (Republic Act No. 10152), it must be noted that childhood immunization rates are low and has even declined.

According to the UNICEF Study on the Situation Analysis of Filipino children, the routine immunization coverage rate dropped from 89 percent to around 62 percent between the years 2013 and 2015.Low immunization rates contributed to an increased incidence of vaccine-preventable diseases such as rubella (2011) and measles (2014). There is also a significant disparity in immunization coverage across the country, with only 18 percent of children in ARMM receiving all their basic vaccinations in 2017. This is low compared to up to 87 percent in other areas.

Given the recent “dengvaxia scare” in 2018, the immunization rate is expected to decrease even further. There was a recent polio outbreak, as there are some polio cases have been confirmed in the Philippines. Before the outbreak, the country was declared polio-free for a significant period.

**Recommendation**: The government should address this issue by intensifying the campaign for immunization, and conducting information drive among parents and young children.

The issue of extrajudicial killings was raised in the last concluding observations of the committee. This issue has even worsened now with the present administration’s War on Drugs. The case ofKian Lloyd delos Santos mentioned in the report ended in a conviction of the police officers. There was a closed-circuit television(CCTV) camera that recorded the killing of delos Santos during the police anti-drug operation. Otherwise, it will just end up with the other EJK cases where no perpetrator gets convicted because witnesses are scared to testify against the police.

**Recommendation**: The government should explore alternatives in addressing the problem of dangerous drugs other than the violent war on drugs where thousands of lives are lost including that of children.

**Civil Rights and Freedom**

***Birth Registrations, name, and nationality***. Non-registration of children during birth has been addressed through certain programs done by the government, particularly in areas that are not accessible, undocumented children abroad, and for those children who require special protection. However, many areas are still not reached. It is difficult to register adults without sources of birth information. The issue of erroneous registrations results in double registration since most people will register again instead of merely correcting the entries.

Another issue concerns the foundling. The certificate of foundling is supposedly considered to be his/her birth certificate.It is not, however, honored by the Department of Foreign Affairs (DFA) in issuing passports. The case of Senator Grace Poe-Lamanzares mentioned in the report is only true for foundlings who are eventually adopted. For foundlings who grew up in shelters, this is not the case.

**Recommendation**: The bill on Civil Registry and Vital Statistics, which addresses the status of foundlings who were not adopted, shall be passed.

Another issue on registration of birth is in the case of children who are born from surrogate mothers.There is no question that surrogacy is being practiced in the country. Many actors and actresses or other public personalities have tried it. It is usually done overseas and the fact is known to the public. However, there is no surrogacy law in the Philippines. The practice is considered unethical and against religious values.

Since surrogacy is not treated in the laws, these children will appear to be the illegitimate children of the birth (surrogate) mother and the father of the child. The biological mother is left out unless she would adopt the child so that the child will have the status of a legitimate child. The egg or sperm donors are not their biological parents. Thus, the child becomes confused about his/her identity.

**Recommendation**: The issue of surrogacy should be studied to come up with proposed legislation that will work for the best interest of the child and to respect their right to identity.

***Preservation of Identity.*** Simulating birth violates the right to preserve one’s identity. Although there are no concrete figures available, there are many simulated births in the Philippines.

Simulation of birth, a long-standing common practice, happens when children are directly registered under the names of their adoptive parents without undergoing the process of adoption. The adoption process takes a long time; the child may be unwanted by their biological parents. Although simulation of birth is a criminal offense, there are usually no formal complainants. The child grows up thinking that his adoptive parents are his real parents.

Although it is not yet covered in this reporting period, the Simulated Birth Rectification Act was passed in 2019. Under the law, persons who had simulated births are given the chance to rectify the error for the best interest of the child. There is a five-year moratorium on the filing of criminal cases involving simulation of births provided that parents will legally adopt the child according to the Domestic Adoption Act of 1998.

This law, however, has to be widely disseminated to achieve its objective. Many simulated births are yet to be rectified despite the passage of the law.

***Freedom of Expression, Thought, and Association.*** Aside from the 1987 Philippine Constitution, there are no laws specifically recognizing these kinds of rights for children who are often ignored by adults. They are not given ample chances to participate in decision-making processes; there is a prevailing culture that children should not be seen and heard. Children only participate to entertain adults such as singing and dancing, or their engagement can be merely considered as token participation. Children of the new generation, however, are gradually asserting and expressing themselves with the necessary guidance from adults.

There is also a negative perception of the children’s participation in rallies or mass actions related to several human rights issues such as extra-judicial killings (EJKs)and other national issues. It is clear under the Child and Youth Welfare Code[[10]](#footnote-10) that parents shall give the child every opportunity to form or join social, cultural, educational, recreational, civic or religious organizations or movements, and other useful community activities.It must be emphasized that mass actions or rallies are only dangerous for children if violence is employed to disturb such peaceful assemblies.

**Recommendation**: Strengthen the capacity of children to be able to participate in decision-making processes by providing venues for genuine participation. The State Party should also respect the right of the children to participate in rallies, as well as the rights of the parents to allow their children to join in movements and community activities. No violence shall be employed in peaceful assemblies.

***Protection of privacy and protection of image.*** Although the State Party has reported about the revised media guidelines for reporting cases involving children, there are still instances when media breaches confidentiality by mentioning other circumstances of the child.

**Recommendation**: Training and information drive on the media guidelines.

***Right to seek, receive and impart information.*** Being a constitutional right, this right is not exclusive for minors. However, the Freedom of Information Bill has not been passed until the present. Executive Order No. 2 series of 2016 mentioned in the State Party Report has set many limitations There also seems to be confusion on the implementation of the Data Privacy Act because it is more difficult to access information from government offices.

**Recommendation:** The Freedom of Information Bill should be passed into law.

***Access to information from diverse sources and protection from material harmful to his or her well-being.*** Children today prefer the internet as their source of information that may expose them to harmful materials. Internet cafe owners and parents can regulate their establishments and home computers, respectively.

However, there exists in some parts of the Philippines the so-called *pisonet* (coin-operated computer)where computers are placed in public places. The machine works by simply dropping peso coins in a slot attached to the computer. For just a peso, one gets access to the internet. Accessible websites include those harmful to children such as pornographic sites or those websites showing violence. Since these computers are placed in public places, they can readily see what adults are accessing. This *pisonet* is not regulated by any law. The owners of the machines are not necessarily present at all times.

**Recommendation**: Pass a law regulating the *pisonet*.

The Anti-Child Pornography Law penalizes those who use children in pornography or produce, publish or possess child pornographic materials, among other punishable acts. It does not, however, include those that expose children from child pornographic materials unless this is part of the grooming or luring process.

Online child sexual exploitation has also become a trend and more difficult to prosecute. The gadgets used for the crime are not only desktop computers but also tablets and cellular phones. It is especially difficult to prosecute the offenders (customers) who are watching the pornographic performance of children in another State unless there is an agreement with the other State or the extraterritoriality principle is upheld.

**Recommendation**: States shall explore agreements on child pornography so that the perpetrators in the other jurisdictions exploiting Filipino children can be arrested.

***Measures to promote physical and psychological recovery and social reintegration of child victims.*** Government-run shelters are catering to child victims as stated in the report. It is, however, noted by the CSOs that there is a lack of temporary shelters and facilities for boy victims of abuse and exploitation. There is an increasing number of boys who are sexually exploited in prostitution or pornography. According to a UNICEF study, more males (24.7 percent) than females (18.2 percent) experienced sexual violence, both at home and school.

Because of the lack of facilities for male victims, there are times when they get mixed with the Children in Conflict with the Law (CICL) because there are facilities available. This happened in one of the cases of CLB wherein the boys who were rescued from a pedophile could not be accommodated in the government shelter for the victims of abuse and had to be temporarily placed in a CICL Home pending the availability of the NGO-run shelter catering to abused boys.

**Recommendation:** For the government to provide more facilities as well as psychological services to child victims of abuse and exploitation as well as children in conflict with the law.

**Violence against Children**

***Abuse and neglect, physical and psychological recovery, and social reintegration***. The laws, manuals, and protocols about the handling of child abuse and other cases involving children may be available, but there is an apparent gap in its practice. The probable causes of the situation include the lack of familiarity with the issues, the lack of personnel and facility/equipment like in child-sensitive investigative interviews.

**Recommendation**: Training should not only focus on the law, protocols, and guidelines but attitude and lack of sensitivity to children must also be addressed. Aside from training, facilities, staff, and equipment must also be in place otherwise, these guidelines will never be implemented.

The Anti-Bullying Law[[11]](#footnote-11) is very limited because it only covers the schools and students. The law requires the schools to come up with a policy against bullying and a mechanism for its implementation. It does not cover bullying in other places.It does not cover bullying by adults or in the community environment.

**Recommendation**: To review the law and propose amendments to cover those situations of bullying not only in the schools but in other places as well.

***Measures to prohibit and eliminate all forms of harmful traditional practices, including but not limited to female genital mutilation, and early and forced marriages.*** The traditional practice of giving birth at home by the *hilot* (traditional birth assistant) has been discouraged by the Department of Health (DOH)in compliance with the UNCRC. This is also to avoid complications during the birthing process. The objective might be good, but there are also negative consequences. For one, it is expensive to give birth in a birthing center or facility. Second, there is a lack of health centers and service providers, especially in the far-flung areas in the country. Transporting the mother to the birthing centers can be detrimental to their welfare. Instead of decreasing maternal mortality with the said policy, it has increased with 221 deaths per 100,000 live births in 2016. The expected target is to lower the number to 52 f0r 2015.

**Recommendation**: There is a need to address the present problems in the health care system such as the lack of facilities and equipment as well as medical staff before implementing the policy of discouraging home births. Otherwise, it will only lead to more problems if the State will insist on this policy.

Early marriages are still being practiced in the ARMM. Another UNICEF study[[12]](#footnote-12)stated that child marriage in the indigenous-dominated ARMM is largely influenced by Article 16 of the Muslim Code, which sets the minimum age of marriage of both males and females at 15 years. The same Code also confers powers on Shari’a District Courts to sanction the marriage of a girl who has attained puberty.

**Recommendation:** This issue on early marriage entails further study. It has to be carefully addressed because it is not only a cultural issue but it is also related to Muslim religious beliefs.

***Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment.*** Filipino children continue to be subject to physical abuse and maltreatment, particularly at their homes. The National Baseline Study on Violence Against Children[[13]](#footnote-13) conducted by the Council for the Welfare of Children and UNICEF in 2015 and published in 2018 found a high prevalence of physical violence experienced by both boys and girls.

The study found an estimated total prevalence for boys at 81.5 percent and 78.4 percent for girls. More than half (54.5 percent) of the physical violence was identified as corporal punishment, such as spanking with a bare hand, rolled paper or small stick, and pulling one’s hair, pinching or twisting of one’s ears, slapping, kicking, smothering, drowning or burning. The most common perpetrators of physical violence at home were mothers, fathers, brothers, and sisters, with fathers being considered responsible for the most severe physical violence.

The Anti-Torture Act has been passed which is a general law for both children and adults. However, the Anti-Corporal Punishment Bill has not yet been passed. This has been pending for several years already.

**Recommendation**: Immediately pass the Anti-Corporal Punishment bill

***Sexual exploitation and abuse.*** It remains to be a problem in the Philippines. The National Baseline Study on Violence Against Children found that 17.1 percent of children aged 13 to 17 reported that they had experienced sexual violence during their childhood. More males (24.7 percent) than females (18.2 percent) experienced sexual violence, both at home and school.

There are laws against sexual abuse and exploitation but the prosecution of these cases is difficult. Most children do not report the abuse. Even if they report, it becomes too late and the medical examination usually yields negative results since the abuse happened months or years ago. Any physical injury or laceration may have healed and it is difficult to convince the judge that the abuse happened.

If it is a family member or an influential person abusing them, child victims tend to vacillate and may even recant their testimonies and file affidavits of desistance. Their families may not be supportive, or may even be pressuring them to desist. Even if it is not a ground to dismiss the case, it would result in insufficient evidence since the prosecution relies on the victim’s testimony.

**Recommendation:** Evidence gathering shall be improved, as well as obtaining forensic evidence and other types of evidence other than the victim’s testimony. More support services shall be provided to the victims.

**Family Environment and Alternative Care**

***Family environment and parental guidance in a manner consistent with the evolving capacities of the child.*** The Family Code provides that both parents shall exercise parental authority and guidance over the child. Parents usually guide their children the way they were raised by their parents. For others who were not raised well, they raise their children more positively.

Discipline sometimes leads to corporal punishment. A bill on positive discipline instead of anti-corporal punishment is being pushed by the CSOs instead.

***Separation from parents.*** The State Report emphasizes several programs the government is implementing for the children left by parents who are abroad as Overseas Filipino Workers (OFWs). Yet, more children are left behind every year as the government is encouraging Filipinos to go abroad.

**Recommendation**: There is a need for the government to improve opportunities for employment in the Philippines so that there will be no need for the parents to go abroad to work, leaving their children behind.

***Family reunification and Illicit transfer and non-return.*** No law addresses this concern for children.

***Parents’ common responsibilities, assistance to parents, and the provision of childcare*** services. Parental responsibilities are provided under the Family Code.

Passed in 2012, the Responsible Parenthood and Reproductive Health Act defined responsible parenthood as “the will and ability of a parent to respond to the needs and aspirations of the family and children.” It is likewise a shared responsibility between parents to determine and achieve the desired number of children, spacing, and timing of their children according to their family life aspirations. Taken into account are psychological preparedness, health status, and socio cultural and economic concerns consistent with their religious convictions. The law also assists parents in this aspect.

However, this law does not specifically provide childcare services. What we have is the Daycare Law or the Barangay Level Total Development Act, requiring all barangays to have daycare centers. These centers cater to children only for a few hours.

***Children deprived of a family environment.*** The passage of the Foster Care Act in 2012 is a welcome development for children deprived of a family environment. However, the law still needs to be widely disseminated. The LGUs are encouraged to implement the law. At the local level, foster care is not readily available as an alternative to institutional care. Most foster homes are not trained to handle children in need of special protection such as those who are abused and exploited and children in conflict with the law (CICL). Most foster homes cater to younger children, not adolescents. The law also excludes shelters that provide long term family-like care.

**Recommendation**: Intensify the campaign for foster home care and to capacitate foster parents in catering to children in need of special protection. Shelters providing long term family-like care should also be considered.

***Domestic and inter-country.*** The Philippines have both strict domestic adoption and inter-country adoption laws. Direct adoption is not allowed unless the child is related to the adopter, or the adoptee has been consistently considered and treated by the adopter/s as his/her child since minority. This rule on direct adoption is a problem for those who want to adopt because there is a possibility that they end up not adopting the particular child that they wanted to adopt. This policy discourages them from undergoing the process, which might not be for the best interest of the child.

***Periodic review of placement.*** Under the Foster Care Act, there is a provision on monitoring and supervision of foster placement. For long-term foster care, it is provided that the DSWD shall reassess and reevaluate the foster home situation every three years to determine whether it is in the best interest of the child to continue living in the foster home on a long-term basis. There is no law reviewing the placements in center-based facilities.

***Recovery of maintenance for the child.*** This remains to be a problem when the parents are separated, or the child is illegitimate. The law is clear that both parents have the responsibility to support their children.However, the parent who is left behind and asking for support has the burden of proving the income or capacity of the other parent before the court will order him/her to support the child. It is even more difficult if the parent who is being asked for support is abroad, or is a national of another country and has left the other parent in the Philippines.

**Recommendation**: Other modes of execution for orders of support other than the Rules of Court must be explored. A child support enforcement office can be created with the specific function of enforcing support orders. Some aggressive techniques include garnishment of wages and income tax refunds, revocation of licenses, direct contact with local and foreign employers, provision of translated copies of outstanding court orders, warrants, criminal enforcement proceedings, among others. The possibility of reciprocal agreements with other countries for children whose parents are foreigners or residents abroad should also be explored.

**Disability, Basic Health, and Welfare**

***Measures to ensure dignity, self-reliance and active participation in the community for children with disabilities.*** Several laws are mentioned in the report to improve the conditions of persons with disabilities, including children. Implementation, however, is still a problem, particularly in the far-flung areas.

Children with disabilities are often discriminated against, even by their families. They are usually kept at home and not sent to school. If they are sent to school, they are segregated from the “normal” children in special education (SPED) centers. Even SPED centers are only accessible in urban areas or town centers. There should be more effort at integrating these children into the mainstream rather than separating them from other children.

***Survival and development.*** Although there is an improvement in the indicators on the survival of children, it not as good as expected. For instance, the infant mortality rate was reduced to 21 deaths per 1,000 live births in 2015 from 40 in 1990. The under-5 mortality rate was also reduced to 27 deaths per 1,000 live births from 59 in 1990. However, this is still below the SDG target.

As the UNICEF Study on the Situation Analysis of Filipino Children found, overall child mortality rates in the Philippines compare unfavorably to the wider regional averages for East Asia and Pacific. As of 2015, neonatal mortality was estimated to stand at 9 deaths per 1,000 live births, infant mortality stood at 15 deaths per 1,000 live births, and under-5 mortality stood at 18 deaths per 1,000 live births.

This data is not surprising because the programs of the government on survival such as feeding programs have not reached the farthest *barangays* in the Philippines. If it reaches far-flung areas, the implementation becomes belated. Goods such as rice and vegetables are already expired once they reach the beneficiaries.

This is also true in terms of maternal mortality. In the same UNICEF study, the UN Maternal Mortality Estimation Inter-Agency Group statesthat the maternal mortality ratio in the Philippines stood at 114 deaths per 100,000 live births. This is significantly higher than the regional average for East Asia and Pacific of 62 deaths per 100,000 live births, and still short of the reduction targets set out in the Philippine Development Plan (PDP) and SDGs.

***Health and health services, in particular primary health care.*** The State Party Report enumerates several laws and programs being implemented by the government in terms of health. It seems that these efforts have not yielded the positive results expected as these programs do not reach the far-flung areas.

According to the UNICEF Study on the Situation of the Filipino children, the Philippines has very high levels of stunting(33 percent) and underweight(21.5 percent) children among those under 5 years in 2015. The levels have increased in recent years – marking a worrying reversal of overall downward trends in past decades. Childhood stunting is much higher in ARMM (45 percent) and falls considerably short of the regional average for East Asia and the Pacific (11 percent).

Although the law on mandatory immunization was enacted in 2011, the same UNICEF study showed that the nationwide coverage rate has dropped from 89 percent in 2013 to around 60 percent in 2015. Only 70 percent of children were fully immunized according to the Field Health Services Information System (FHSIS) Report in 2014.

Low and declining immunization coverage rates have resulted in an increased incidence of vaccine-preventable diseases in the Philippines. There were two major outbreaks- Rubella in 2001 and 2011, and a measles outbreak in 2014. Recently, a polio outbreak was declared in the country.

**Recommendation**. There is a need to intensify immunization efforts. With the dengvaxia scare in 2017, most parents are wary of having their children immunized. Thus, advocacy and information campaigns are needed to counteract the effects of the scare.

Adolescent reproductive health remains a concern. The Responsible Parenthood and Reproductive Health Act requires age and developmentally appropriate reproductive health education. Even with the enactment of the law, teen pregnancies and human immunodeficiency virus(HIV) cases have increased. Even with the decision of the Supreme Court affirming the constitutionality of the law, many Filipinos, including teenagers, are hesitant to use contraceptives because of the church’s opposition.

With the rise in HIV cases comes the stigma attached to HIV patients. Those at risk hesitate to have themselves checked for HIV, even if present law requires confidentiality and provides penalties for discrimination and breach of confidentiality. The Philippines AIDS Prevention and Control Act, enacted in 1998, was recently repealed and substituted by a new statute on the same subject, the Republic Act No. 11166 or the Philippine HIV and AIDS Policy Act.

According to the UNICEF study, there was a steep increase and reverse in declining teen fertility rates. There were 49 births to 59.2 births per 1,000 women (aged 15-19 years)between 1997 and 2015 – levels comparable to those in the 1960s. The Philippines also has one of the fastest-growing HIVepidemics in the world. Diagnosed cases increased from one a day in 2008 to 26 a day in 2016, 29 percent of which is among children and youth aged 15-24 years. HIV infections rose by 230 percent among at-risk groups of young people between 2011 and 2015.

**Recommendation**: More efforts have to be exerted to address the concern of early pregnancy and the growing HIV epidemic.

***Social security and childcare services and facilities.*** There is no social security for children other than being beneficiaries of their parents who are members of the Social Security System (SSS) and the Government Social Insurance System (GSIS). Childcare facilities are also inadequate as mentioned earlier in the other parts of this report.

***Standard of living and measures, including material assistance and support programs concerning nutrition, clothing, and housing, to ensure the child’s physical, mental, spiritual, moral and social development and reduce poverty and inequality.***The State Party Reportmentions the Conditional Cash Transfer (CCT) program. This program aims to address poverty and to ensure that children go to school, get immunized, among others. Under the program, family development sessions are conducted to assist families in the rearing of their children.

However,some parents stopped finding jobs or income as they have become dependent on the allowance. There are some reports that parents enter into loan agreements and give their automated teller machine(ATM) cards as collaterals. Other reports include using the allowance for gambling, drinking, and other vices.

**Recommendation:** There is a need to look into the Conditional Cash Transfer (CCT) program to discourage dependency and develop the capacities of families to fully provide for the needs of their children in the long term.

***Measures to protect children from substance abuse.*** Criminal laws are addressing the proliferation of dangerous drugs. Minors who are being used by syndicates for drug pushing or other illegal activities are considered as victims. Syndicates may be penalized under the Child Abuse Law and the Anti-Trafficking in Persons Act as well.

The present Philippine administration has launched the War on Drugs which supposedly eradicates the drug problem. It was this agenda that made President Duterte win the national elections in 2016. Even before he took his oath of office, drug-related killings started. People are found dead in their houses and along the streets. Killed persons were allegedly drug users or pushers who fought back against policemen trying to ask them to surrender.

According to the Philippine Drug Enforcement Agency (PDEA), around 4,948 suspected drug users and dealers died during police operations from July 1, 2016 to September 30, 2018. The figures exclude thousands of others who were killed by unidentified gunmen. According to the Philippine National Police (PNP), at least 22,983 deaths since the drug war began were classified as “homicides under investigation.”[[14]](#footnote-14)Unfortunately, casualties included minors who are dismissed as collateral damage like in the case of Kian delos Santos who surrendered and did not fight the police as shown on CCTV footage.

Operation *Tokhang* was implemented, which involves policemen knocking on the doors of the homes of suspected drug addicts or pushers to plead for them to surrender. The surrenderers included minors who were mere drug users. Some persons have even stopped using drugs but were “surrendered” by their parents. Others have surrendered out of fear. With the thousands of surrenderers, they could not be accommodated in rehabilitation programs. Some ended up being killed extra-judicially or illegally arrested.

Technically, these minors who surrendered are not yet CICL because there are no cases filed against them. Hence, the Juvenile Justice and Welfare Act (JJWA) is not being applied to them. However, there is a need to treat child surrenderers separately from adults. There should be separate guidelines when it comes to child surrenderers.

Not only are children killed and forced to surrender. Thousands have also lost their parents to the drug war. Some were even present when their parent was killed, causing trauma.

Furthermore, the Philippine Drug Enforcement Agency (PDEA) has proposed a mandatory drug testing in schools[[15]](#footnote-15), contrary to the random drug testing provided in the present law.

**Recommendation**: This issue of children affected by the War on Drugs as victims of EJK and illegal arrest, being witnesses to the killings, and losing their parents to the anti-drug operations should immediately be addressed. Alternatives should be explored and implemented to address the drug problem in the long term and the needs of the children affected in the short term.

**Education, Leisure, and Cultural Activities**

***Right to education, including vocational training and guidance.*** The State Party Reportmentions several laws and programs to improve the education of children from early childhood to basic education, and that education is prioritized in the budget. Still, there are many limitations on access to education. According to the UNICEF Study on the Situation Analysis of Filipino Children, only about 42 percent of children aged 3-4 years were enrolled in daycare centers in 2013.The net enrolment and completion rates in primary and secondary education were somewhat fluctuating from 2010 to 2015. Around 2.85 million children aged 5-15 years were also estimated to be out of school.

***Aims of education with reference also to the quality of education (Art. 29)*** The quality of education is also a concern. In 2014, fifty-nine percent (primary) and 63 percent (secondary) of teacher education institutions did not meet national passing rates for trainees. This observation is attributed in part to poor quality teacher training. Other challenges include limited numbers of teachers, low knowledge of teachers on the subject matter, and inadequate classrooms and school supplies.

The State Party Reportmentioned the K-12 Law, which added two years of high school education (Senior High School) to improve the quality of education. This law was faced with opposition as it would mean more expenses for families, and would require more teachers and facilities for implementation. With its implementation starting the school year 2015, there was less enrolment in Senior High School compared to the Grade 10 students. According to the Philippine Statistics Authority (PSA) in 2016, the net enrolment rate for Senior High School was only 37.4. The rate is lower thanin Junior High School, which was pegged at 74.2.

**Recommendation:** Education support requires improvement to increase participation and completion rates. The K-12 Program has to be reviewed and supported by allocating more subsidy, particularly for the Senior High School, to encourage enrollment.

***Cultural rights of children belonging to indigenous and minority groups.*** The violence/militarization in schools of the Lumads, a group of indigenous peoples, is a concern. Holding classes in Lumad schools is a struggle[[16]](#footnote-16)President Duterte threatened to bomb Lumad schools sometime in July 2017 because he believes that the children are being trained to rebel against the government. This threat was made a few months after the imposition of Martial Law in Mindanao in May 2017. Some teachers of Lumad schools were harassed with trumped-up charges.[[17]](#footnote-17) Lumad schools had been closed since 2018 until the present, displacing thousands of students.

**Recommendation:** The government should support Lumad schools instead of closing them down. Martial Law and militarization in these areas where the indigenous cultural communities (ICCs) resideshould be stopped.

***Rest, play, leisure, recreation, and cultural and artistic activities.*** Little importance is given by the government on the right of children to play. The State Party Report does not mention any program for children to enjoy this right. There is generally a lack of spaces for children to play, particularly in the urban areas. In malls, playhouses can be accessed for those who can pay. In recent years, most children play through gadgets and there is little concern in encouraging children to play outside. Public playgrounds are not prioritized by local government units (LGUs).

**Recommendation:** Local governments should have playgrounds for children to develop their motor, athletic, and social skills.

**Special Protection Measures**

***Children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children, and children affected by migration.*** Due to natural and manmade calamities that have happened in the country, there are many internally displaced persons, including children. Yet this is not a major concern of the government. The State Report does not even mention this issue. What the State Report discussed is on the children seeking refugee protection and those affected by migration.

After super typhoon Haiyan and earthquakes that hit the country in 2013, many international NGOs initiated programs to protect children in the evacuation centers. This includes the creation of child-friendly spaces and other efforts to protect children who might be displaced or orphaned due to disasters. This aspect is not a priority of the government. It was through the NGOs advocacy, particularly Save the Children, that Act No. 10821 or the Children’s Emergency and Relief Act was passed in May 2016.

Aside from calamities, children and families are displaced because of war and violence. The Internal Displacement Monitoring System (IDMS) has estimated at least four million Filipinos have been displaced in Mindanao alone since 2000. Apart from natural disasters and hazards, frequent conflicts in the Philippines, particularly in Mindanao, force residents to seek refuge in evacuation centers. The United Nations High Commissioner on Refugees (UNHCR) reported that there are 348,370 persons of concern in the Philippines by the end of 2016. More than 87,000 of these are internally displaced persons (IDPs) who fled home because of armed clashes, internal wars, and other forms of violence.[[18]](#footnote-18)

In a study on “Profiling Internally Displaced Persons in the Marawi Conflict”, it was found that 34 percent of those profiled were children.[[19]](#footnote-19) The Marawi conflict happened sometime in July 2017. Although there is no official data as to the number of children who are internally displaced, it may be inferred that it follows the same pattern, an estimated one-third, as the Marawi study.

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| **Recommendation**: The State needs to address the concerns of internally displaced children. There should be a comprehensive program not only for the displaced children but also for their families. |

***Children belonging to a minority or an indigenous group.*** Children of indigenous cultural communities (ICCs) are still discriminated against in the provision of services because they are located in far-flung areas. They are particularly marginalized in terms of education. The report mentioned the programs being implemented by the Department of Education (DepEd) for the ICC children but it is not sufficient. There is also a need to adjust the curriculum to make it relevant and appropriate for them. This is the reason why NGOs are trying to provide gaps and establish Lumad schools. However, these Lumad schools are being militarized, especially when Martial Law was declared in Mindanao. Many schools have been closed and the students are displaced. They are seeking refuge in Manila and other provinces.

**Recommendation**: The government should stop the militarization of Lumad schools.

***Economic exploitation, including child labor, with specific reference to applicable minimum ages.*** Many programs have been mentioned in the State Party Report to combat child labor, most of which are initiated or funded by international organizations such as the International Labour Organization (ILO), World Vision, and the European Union (EU). However, these initiatives are inadequate.

Under the law, child labor is “the employment of children below fifteen years of age or in hazardous work.” This does not cover the informal sector or contractors who are paid based on their production such as the agricultural workers. Thus, there was a non-government organization (NGO) that reported a possible child labor trafficking case involving children agricultural workers who were transported from one province to another in a truck. When they tried to stop the truck, the contractor had necessary permits and contractsfrom a government agency. It turned out that a particular government agency contracted out the planting of a certain area to a contractor, and it was the contractor who hired the children. There is a lack of awareness on the issue of exploitation even by government agencies. Otherwise, they would have been stricter in contracting out certain jobs.

**Recommendation**: Labor laws should be amended to address the issue of informal workers who are not directly working under a particular employer but through labor-only contracting.

***Use of children in the illicit production and trafficking of narcotic drugs and psychotropic substances***. The use of children in the production and trafficking of drugs and other related crimes have been reported, particularly those below the age of criminal responsibility. However, the actions of the government on this matter are absent in the report.

***Sale, trafficking, and abduction.*** Trafficking of children is still a problem in the Philippines despite positive developments on this matter. The country was already classified as Tier 1 in the U.S. State Trafficking in Persons from 2016 until the present from its Tier 2 classification since 2011. As noted in the report, there are still areas requiring to be improved.

For 0ne, there is a lack of official data on trafficking cases. There is also a lack of programs on labor trafficking, mental health services for trafficking victims, and services for boy victims, as well as prosecution of government officials involved in trafficking.

The CSOs confirmed the findings of the U.S. State Report, particularly on the lack of services for boys. The organizations also noted the sad reality that parents are the perpetrators in trafficking their children, making it difficult to prosecute. Children do not want to testify against their parents. It was also noted that certain forms of trafficking, specifically child sex tourism and online child exploitation, are still rampant. It is also difficult to prosecute perpetrators who are foreigners once they are out of the country.

***Other forms of exploitation.*** The use of children for criminal activities has been raised, especially when the Juvenile Justice and Welfare Act (JJWA) is put in issue. Police authorities blame the law because syndicates use children to commit crimes, as children do not incur criminal liability.

This issue has been addressed in the amendment of the JJWA and the expanded Anti-Trafficking in Persons Act (RA 10364). Using children in committing crimes is now considered as trafficking. There is, however, a lack of implementation of the law. Instead of improving police investigation to determine the syndicates behind it, the JJWA is always blamed for the use of children in crimes.

***Sentencing of children, particularly the prohibition of capital punishment and life imprisonment; the existence of alternative sanctions based on a restorative approach; children deprived of their liberty; and measures to ensure that any arrest, detention or imprisonment of a child shall be used as a measure of last resort and for the shortest appropriate time and that legal and other assistance is promptly provided***

The JJWA, where all these provisions are provided, was enacted in 2006. However, the law has not been fully implemented because there seems to be resistance from law enforcement authoritieswho prefer a more punitive approach. Even the general public is not wholly supportive and expressed opposition over the law.

Congress has continuously attempted to repeal the law or to amend the minimum age or criminal responsibility (MACR) to a lower age such as 12 or 9 years old. Because of these attempts, the law had been amended in 2012 to strengthen the interventions for the children in conflict with the law (CICL) below the MACR, allowing the institutionalization of children under 12 years old committing serious offenses and those considered as repeat offenders in the *BahayPag-asa*.

In the 2017 assessment of the Juvenile Justice and Welfare Council (JJWC), there are only 48 *Bahay Pag-asas*in the entire country, despite the clear mandate of the law requiring provinces and highly urbanized cities (HUCs)to establish and manage *Bahay Pag-asa* for their CICL. Only 36% of the local government units (LGUs) have *Bahay Pag-asa* or similar facilities.

It was not surprising that around474children were found to be detained in the facilities of Bureau of Jail Management and Penology (BJMP), regular jails and detention facilities. Only 126of these children were released and transferred to their parents or appropriate facilities. The figures were obtained during the inspections conducted by the JJWC in 319 detention and jail facilities.

The amendment provided a budget for the establishment of *Bahay Pag-asa* by theLGUs. Yet it is difficult to access the budget due to strict government regulations. For example, other LGUs have to wait for the first batch of LGUs to liquidate the released budget. The first batch of government units cannot immediately liquidate because their projects are still ongoing. Thus, a large part of the budget for *Bahay Pag-asa* becomes unutilized.

The violation of the presumption of minority provision of the law is another problem area in implementing JJWA. In the absence of birth certificates, police authorities tend to treat minors as adults to avoid the processes required by law for the minors. Diversion measures are not implemented, particularly at the police and prosecution levels.

According to the JJWC (see PowerPoint presentation on “A call for the strengthening of Juvenile Justice System in the Philippines” presented in 2017), only 3% of the LGUs have hired social workers. At least 33% of the LGUs have allocated a budget of theirinternal revenue allotment (IRA) for Local Councils for the Protection of Children (LCPCs). Only 36% of the highly urbanized cities (HUCs) and provinces have a *Bahay Pag-asa*. About 32% of the LGUs have been provided technical assistance to come up with their comprehensive local Juvenile Intervention Programs.

In 2017, the JJWC found that 87% of the CICL are males (5,287) while the remaining 13% are females (757). There are, however, no available facilities for girls, as most of the homes for CICL are designed to accommodate boys.

There has been gradual progress in several LGUswith the support of child-focused NGOs and the establishment of the Regional Juvenile Justice and Welfare Councils. Good practices and success stories in implementing the law such as diversion programs at the barangay level had been recognized.

The CSOs, however, are concerned about the persistent move in Congress, particularly with the present administration, to lower the MACR. One of the earlier bills (House Bill No. 2) filed focuses onlowering the MACR to 9 years old.President Duterte has been open in his desire to lower the MACR on many public occasions.

**Recommendation:** The State shall fully implement the Juvenile Justice and Welfare Act, as amended.

***Children in armed conflicts, including physical and psychological recovery and social reintegration.*** The age of recruitment for the armed forces remains at 17. Children have been displaced by the militarization of Lumad schools in Mindanao, especially that Martial Law has been declared on the island. According to the Report of the Secretary-General on children in armed conflict[[20]](#footnote-20), the United Nations (UN) verified 69 grave violations against children, 26 of which took place in 2017. The verification was only conducted in 2018, mainly owing to restricted access in Marawi after the siege.

These grave violations include the recruitment and use of 19 children; recruitment of a child to the armed forces; and detention of four children between the ages of 16 and 17, including one girl, by security forces for their alleged association with armed groups. The period of detention ranges between two days to one month.

Other cases involve the killing of 16 children; maiming of 41 children, eight of which were attributed to the Armed Forces of the Philippines (AFP). In the 34 cases, responsibility could not be attributed.

Attacks and threats to do the same in schools and against protected personnel have affected at two schools and 23 teachers. The teachers were threatened mainly because they were suspected to be supportive of the New People’s Army (NPA). There were 18 violations attributed to the AFP. Moreover, two schools were used by the AFP as bases during military operations for at least a week.

There is a lack of government response on these issues involving children in armed conflict, especially that the same institution is responsible for the violations (*e.g.*detaining, killing/maiming, and attacking schools). Services such as psycho-social debriefing are grossly absent for children.

Although a new law on children in situations of armed conflict is a welcome development, the implementation remains to be seen. The law was passed in 2019 and does not fall within the reporting period.

***Physical and psychological recovery, and social reintegration.*** The aftercare services for children is inadequate. Under the JJWA, aftercare services are tasked to the LGU social workers once a child is reintegrated into the community. However, there is a lack of social workers to provide services. Thus, there is a tendency for the CICL to commit another crime or child survivors to be re-victimized.

**Recommendation:** Strengthen aftercare services for the children in need of special protection.

***Administration of juvenile justice, the existence of specialized and separate courts, and the applicable minimum age of criminal responsibility.*** The JJWA provides for a separate justice system for CICL- prevention, administration of juvenile justice, rehabilitation, and aftercare. Even before the JJWA was enacted, the Family Courts Act of 1997 already gave jurisdiction of juvenile cases to the Family Courts. However, Family Courts are considered as designated courts and found in urban centers only such as Cebu City. These Family Courts also cater to other cases such as the declaration of nullity of marriage, violence against women and children (VAWC) and other family-related cases.

Even in the highly urbanized cities such as Mandaue and Lapu-Lapu and other cities and municipalities, no Family Courts have been designated. This is the reason why trial courts are handling cases for family courts aside from their regular cases. The judges of these courts are not specially trained to handle these cases since the target for the specialized training is usually limited to the Family Court judges. Thus, they are not sensitive to the needs of the CICL.

As for the minimum age of criminal responsibility (MACR), it is set at 15 years old based on the JJWA. Even those above 15 but below 18 years of age are exempted from criminal liability unless they are found to be acting with discernment at the time of the commission of the crime. This is a problematic area because social workers are supposed to conduct the initial assessment of discernment. However, not all of these workers are equipped to do this assessment. Although 15 is the MACR, the amendment of RA 9344 allowed children 12 years old and above to be placed in the *Bahay Pagasa* if they are found to be repeat offenders or have committed serious crimes.

What concerns the CSOs most is the current proposals in Congress to lower the MACR, as low as nine years old.

**Recommendation:** Retain the minimum age of criminal responsibility (MACR) at 15 years of age.

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1. UNICEF, *Situation Analysis of Filipino Children*, April 2018. Available at:

   https://www.unicef.org/philippines/reports/situation-analysis-children-philippines [↑](#footnote-ref-1)
2. S. de Leon, *PACC Bares State of Corruption in the Philippines*. Available at: <https://pia.gov.ph/features/articles/1013842> [↑](#footnote-ref-2)
3. Republic Act No. 8353 (Anti-Rape Law)

   Article 266-A. Rape; When And How Committed. – Rape Is Committed

   1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

   a) Through force, threat, or intimidation;

   b) When the offended party is deprived of reason or otherwise unconscious;

   c) By means of fraudulent machination or grave abuse of authority; and

   d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present. [↑](#footnote-ref-3)
4. Republic Act 7610 or the Special Protection Against Child Abuse, Exploitation and Discrimination Act [↑](#footnote-ref-4)
5. A barangay is the smallest political unit in the Philippines [↑](#footnote-ref-5)
6. JJWC, PowerPoint presentation on “A call for the strengthening of Juvenile Justice System in the Philippines” presented in 2017 [↑](#footnote-ref-6)
7. UNICEF, *Situation Analysis of Children in the Philippines*. Available at: https://www.unicef.org/philippines/media/556/file [↑](#footnote-ref-7)
8. # CNN Philippines. *House gives CHR ₱1,000 budget for 2018*. Available at: <https://cnnphilippines.com/news/2017/09/12/Commission-on-Human-Rights-CHR-House-budget.html>

   [↑](#footnote-ref-8)
9. Republic Act 10742 [↑](#footnote-ref-9)
10. P.D. 603, Article 53 [↑](#footnote-ref-10)
11. R.A. 10627 Section 2 states that "bullying" shall refer to any severe or repeated use by one or more students of a written, verbal or electronic expression, or a physical act or gesture, or any combination thereof, directed at another student that has the effect of actually causing or placing the latter in reasonable fear of physical or emotional harm or damage to his property; creating a hostile environment at school for the other student; infringing on the rights of the other student at school; or materially and substantially disrupting the education process or the orderly operation of a school. [↑](#footnote-ref-11)
12. UNICEF, Breaking the Silence on Violence against Indigenous Girls, Adolescents, and Young Women. Available at:https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/other\_do cuments/violence\_study\_summary.pdf [↑](#footnote-ref-12)
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    [↑](#footnote-ref-15)
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