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Communication de la Commission des droits de l'homme* des Philippines

Note du secrétariat

Le secrétariat a l'honneur de transmettre au Conseil des droits de l'homme une communication soumise par la Commission des droits de l'homme des Philippines**, qui est distribuée conformément à l'article 7 b) du Règlement intérieur du Conseil (voir résolution 5/1, annexe) et selon les modalités et les pratiques que la Commission des droits de l'homme a arrêtées dans sa résolution 2005/74.

* Institution nationale des droits de l'homme accréditée avec le statut « A » par l'Alliance mondiale des institutions nationales pour la promotion et la protection des droits de l'homme.

** La communication est distribuée telle qu'elle a été reçue, dans la langue de l'original seulement.

Merci de recycler

Statement of the Commission on Human Rights of the Philippines in relation to the Report of the Special Representative of the Secretary-General for Children and Armed Conflict

1. The Commission on Human Rights of the Philippines commends and appreciates the work of the Special Representative of the Secretary-General (SRSG) in involving human rights entities in his comprehensive report on interventions for children affected by armed conflict. We agree with the findings and recommendations of the SRSG on the rights of children affected by armed conflict. As a National Human Rights Institution, the Commission continues to encourage and enjoin duty-bearers and rights-holders to engage in meaningful and responsive participation in all human rights mechanisms for guidance on child protection measures.

2. In the past two years, the Philippines has made efforts in the protection of children in situations of armed conflict namely, with the passing of the CSAC Law or the Special Protection of Children in Situations of Armed Conflict Act (Republic Act No. 11188) in January 2019,[1] and its Implementing Rules and Regulations in June 2021. The law encapsulates the government's programs and policy in providing special protection to CSAC. It also provides measures to prevent recruitment, use, and displacement of children; and procedures for their rescue, rehabilitation, reintegration, and release.[2] The IRR, on the other hand, serves as the minimum guidelines and standards for government officials and personnel of national government agencies, local government units, and other service providers.

3. On January 1, 2020, after several extensions since May 2017, martial law in Mindanao was lifted.[3] Seeing no more threats from terrorists and extremist groups, President Rodrigo Duterte decided not to extend martial law in Mindanao. Despite the lifting of martial law, the Commission remains committed in assessing its impacts on the human rights situation in the regions affected by the emergency declaration. Particularly, the Commission investigates reported cases of alleged human rights violations that may be directly linked to the implementation of martial law.

4. Since 2017, the CHR has been assessing the effects of martial law on the sociopolitical environment in communities in Mindanao. Within two years of conducting monitoring activities, the Commission found that alleged violations against individuals and communities are committed by the military and state law enforcers, including the police and auxiliary groups, and non-state armed groups. The most affected populations include indigenous peoples (IPs) and internally displaced persons (IDPs). IPs and IDPs are usually caught in between encounters or are in highly unstable living arrangements that threaten their safety. A particular and concerning policy on military presence in Mindanao was imposed upon the signing of Executive Order No. 70, s. 2018, "Institutionalizing the Whole-of-Nation Approach in Attaining Inclusive and Sustainable Peace, Creating a National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), and Directing the Adoption of a National Peace Framework (EO 70),"[4] which aims to curtail insurgency at the national level. Since the issuance of EO 70, the "red-tagging" of activists, human rights defenders, and civil society organizations, and members of indigenous peoples' communities have become more systematic, resulting in increased threats, harassment, and targeted killings.

5. The COVID-19 pandemic has aggravated the situation of children affected by armed conflict, particularly those who have experienced displacement. With the imposition of social distancing and community quarantine, internally displaced persons (IDPs) face a greater challenge in improving their shelter and hygiene conditions. Delivery of relief goods for the

[1] See the full text of the law here: https://lawphil.net/statutes/repacts/ra2019/ra_11188_2019.html.

[2] *Id.*

[3] Ian Nicolas Cigaral, "Martial law in Mindanao ends after 953 days," The Philippine Star, 1 January 2020, *available at https://www.philstar.com/headlines/2020/01/01/1981218/martial-law-mindanao-ends-after-953-days* (Last accessed: 12 February 2021).

[4] See the full text of EO 70 here: https://www.officialgazette.gov.ph/downloads/2018/12dec/20181204-EO-70-RRD.pdf.

IDP communities are delayed and/or hampered due to travel restrictions. Health, water, sanitation, and hygiene issues in evacuation camps also put IDPs at greater risk of being exposed to the virus. In some displacement sites, there were no established protocols related to the safety and security of camps that could limit or prevent the spread of COVID-19. Access to healthcare remains difficult for IDPs. Free medicine is unavailable in most IDP sites that are being monitored by the Commission (?). A month after the imposition of community quarantine, the Commission found that there were still no defined protocols in the reporting of suspected COVID-19 cases in displaced communities.[5]

6. In addition to the threat brought about by COVID-19, the immediate passage of the Anti-Terrorism Act of 2020 creates far-reaching implications to the lives of IDP communities, as well as to the humanitarian actors providing services and responding to the needs of these communities. The broad and vague provisions of this law can result to arbitrary enforcement and may be used as an instrument in stifling dissent. It is important for the government to ensure that persons in need of humanitarian assistance, and those providing it, will be protected in the implementation of the law.

7. The COVID-19 pandemic has also affected the capacity of the Commission to carry out its mandate of validating and investigating reported cases of grave child rights violations. Monitoring activities are seldom conducted in light of the pandemic. Due to the COVID-19 pandemic, monitoring of grave child rights violations in far-flung areas is difficult to undertake due to travel restrictions, health protocols, and geographic constraints. Nonetheless, the Commission, through its Child Rights Center and Regional Offices, continues to monitor and report cases of grave child rights violations by gathering information from partner agencies and organizations and reports from the media, and dispatching quick response teams as necessary.

8. The Commission wishes to mention its direct participation in the following initiatives of the Philippine government, specifically:

8.1 The Commission is an active member of the Inter-Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC). As a member of IAC-CSAC, the Commission works closely with concerned government agencies in coordinating and monitoring the implementation of the enhanced CSAC Program, and the provisions of RA 11188 or the CSAC Law.

8.2 The Commission is also a member of the UN Country Task Force on Monitoring and Reporting (UN CTFMR) on Grave Child Rights Violations. The Commission, as a member of the CTFMR, sits with other UN agencies and NGOs to monitor and give updates on the Grave Child Rights Violations (GCRV) cases, and provides inputs on a quarterly basis to the Global Horizontal Notes (GHN).

8.3 The Commission, as a member of IAC CSAC and UN CTFMR, has the unique role of participating in the monitoring and reporting mechanisms of both the government and the UN system, and is able to contribute to the UN's Monitoring and Response Mechanism (MRM) and the Philippines' Monitoring, Reporting and Response System (MRRS) by verifying information on grave child rights violations, and facilitating response, as may be needed.

8.4 In 2020, the Commission, through its Child Rights Center, was given the opportunity to take part in the National Child Protection Working Group (NPWG), a sub-cluster to the Protection Cluster that focuses on the concerns of children led by the Department of Social Welfare and Development (DSWD) and the Council for the Welfare of Children (CWC), with UNICEF as a co-leader. The NCPWG provides coordination support to government offices from the national to municipal levels in ensuring prevention of and response to child protection concerns in humanitarian settings. The group regularly convenes to discuss updates on the child-related concerns or issues that were brought to the

[5] Commission on Human Rights of the Philippines, CHR (V) A2020-004, Human rights standards on the protection of internally displaced persons (IDPs) during the COVID-19 Emergency, http://chr.gov.ph/wp-content/uploads/2020/04/CHR-Advisory_Human-Rights-Standards-on-the-Protection-of-Internally-Displaced-Persons-IDPs-During-the-COVID-19-Emergency-CHR-V-A2020-004.pdf.

member-agencies, and their responses to address these concerns. One of the issues identified during the COVID-19 Pandemic is the need to strengthen child protection measures at home to track VAC, OSEC, and online recruitment of children by armed groups. Members also reported difficulty in accessing VAWC desks, shelters, and other services that may respond to possible cases of abuse of children.

9. The Commission is resolute and assertive in its campaign against the use and/or association of children in armed conflict in its public education and information programs, projects, and activities for all stakeholders. In the regular conduct of the Commission's advocacy activities both in the central and regional offices, prevention of the recruitment and use of children in hostilities are incorporated in topics such as the rights of children (with UNCRC as the framework); International Humanitarian Law and RA 9851; The United Nations Guiding Principles on Internal Displacements (UNGPID), and other Domestic Child Protection Laws. CHR has also supported and will continue to support the popularization of the CSAC Law, its IRR, and the CSAC Handling Protocol by serving as resource persons in the nationwide roll-out.

10. The Commission, through the Center for Crisis Conflict and Humanitarian Protection (CCCP), continues to monitor the human rights situation of IDPs particularly in the conflict-affected areas of Visayas and Mindanao. The UN High Commissioner for Refugees (UNHCR) supports the Commission's monitoring activities through the deployment of IDP Protection Monitors in displacement areas. With the support of UNICEF, CHR also intends to install MRM verification officers in its regional offices in Mindanao to assist in verification and to facilitate responses to reported cases of GCRVs during the community quarantine period.

11. Regarding the Philippines' international commitments, the country has ratified core international human rights conventions but regrettably has not made strides in the ratification particularly of the Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure (OP3 CRC) and the International Convention for the Protection of All Persons from Enforced Disappearance The Philippine government is due to be reviewed for its compliance with the Convention on the Rights of the Child at the 89th session of the UN Committee on the Rights of the Child.[6]

12. The Commission wishes to mention its direct participation in the following initiatives of the Philippine government, specifically:

12.1 Properly implement and update on the progress of the enforcement of the Special Protection of Children in Situations of Armed Conflict Act;

12.2 Repeal EO 70 and instead use development solutions rather than a military-based approach in solving armed conflict; and

12.3 Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure (OP3 CRC).

13. In line with our constitutional mandate, the Commission will continue to monitor these recommendations to ensure that the State's implementation adheres to the required human rights standards geared towards the protection of the best interests of the child.

14. Finally, the Commission expresses its appreciation to the Secretary-General for developing the material entitled, "Practical Guidance for Mediators to Protect Children in Situations of Armed Conflict" where the good practices of the Philippines in integrating child protection priorities in the peace talks with the National Democratic Front of the Philippines and with the Moro National Liberation Front were highlighted. We hope that such recognition will further encourage our duty-bearers to continue these good practices in the course of peacemaking processes.

[6] https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1400&Lang=en.