



Rights violations of children in street situations in Philippines resulting from the campaign against illegal drugs

**A submission to the OHCHR Report on the situation of Human Rights in Philippines based
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“I hope that barbaric policemen will be removed from their positions. I hope that arrests of children will be stopped. I hope that the rights of every children will be implemented by the law. I hope that our president will be replaced. I hope that presidents of other countries will be able to help us.”¹

1. Introduction

This submission is being made to register grave concerns about the impact that the Philippine administration’s campaign on illegal drugs has had and is continuing to have on children in street situations in the Philippines. This impact includes serious, repeated and unremedied human rights violations that are in contravention of local and international laws and policies, such as illegal arrests, detention, intimidation, torture and extrajudicial killings.

The term “children in street situations” is used to describe children who: a) depend on the streets to live and/or work, either on their own, or with other children or family members; and b) have a strong connection to public spaces (e.g. streets, markets, parks, bus or train stations) and for whom the street plays a vital role in their everyday lives and identities.

Children in street situations are especially vulnerable in the campaign against illegal drugs for several reasons. Firstly, they are visible on the street and often have no place to hide or take refuge. Secondly, there are often assumptions made that these children and youth are involved in crime or otherwise reflect negatively on the society. This leads to a repressive approach that seeks to control and remove children in street situations without considering the push and pull factors that lead them to being on the street in the first place. This is in direct violation of the child rights approach promoted by the UN Committee on the Rights of the Child in General Comment No. 21 on Children in Street Situations.

Information and examples in this submission cover cases in Manila and Mindanao and come from cases documented by partners of the Consortium for Street Children (CSC) in the Philippines.² The Consortium for Street Children is a non-governmental organization whose purpose is to defend the rights of children in street situations and leads a global network of 100+ members working in 135 countries.

2. Legal Framework

The Philippines is a signatory to most international human rights treaties including the UN Convention on the Rights of the Child (1989) and the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

At the national level, children’s rights and human rights are protected in various pieces of legislation including:

¹ Quote from a child in street situation during a workshop held in Manila, Philippines, as part of a digital

² For security reasons these partners are not identified by name in this submission.

- The 1987 Philippine Constitution
- Juvenile Justice & Welfare Act – RA 9344
- Child and Youth Welfare Code – PD 603
- Anti-Torture Act of 2009 – RA 9745
- Special Protection of Children Against Abuse, Exploitation and Discrimination Act – RA 7610

Most local government units in the Philippines have a curfew ordinance that prevents children being on the street, unaccompanied by a parent or guardian, between 10pm and 4am. In some cities, these ordinances have been found by the Supreme Court to be invalid because they fail to provide the least restrictive means to address the compelling state interest they seek to further. Moreover, under the Juvenile Justice and Welfare Act (RA 9344), minors cannot be punished for curfew which is a designated status offence.

There are also various national level policies that aim to protect the rights of children on the street, including from arbitrary arrest or detention, including where this is done purportedly in the name of protecting the child. These include:

- Administrative Order 08 series of 2009 – Standards for Community Based Services for Street Children, Department of Social Welfare and Development
- Protocol to Reach Out to Street Children, 2011, Council for the Welfare of Children

Under these two policies, children and youth on the street cannot be arbitrarily removed, even in the name of their own protection. Rather, they are required to be given a process of social preparation, and their removal from the street, if necessary, must be governed by a social worker and comply with basic protections from violence, abuse or exploitation. In practice, these guidelines are not being followed and many children in street situations are being arbitrarily arrested under the guise of ‘protection’.

Violations of these laws and the rights of children in street situations are articulated throughout the next section.

3. Street children’s rights violations resulting from the ‘war on drugs’

3.1 Right to Life / Extrajudicial Killings

Children in street situations are being threatened and killed in the “war on drugs”. Numerous cases reported to CSC’s partner organizations through children and youth in street situations demonstrate that the Philippine government’s campaign against illegal drugs is motivating, inspiring or being used to justify actions against children and youth that are in violation of multiple local, national and international laws.

There are considerable difficulties in knowing how many people have been killed in the war on drugs due to a reticence to report cases, non-transparent or false reporting and a general desire to cover up the campaign. These issues are compounded for children and youth in street situations who are often not in regular contact with family and often lead very nomadic lives. As a result, when they go missing this may not be noticed at all or there may not be anyone with sufficient interest to report the case.

CSC's partner organisations have documented different cases of children and young people aged 14 to 18 years old being killed in the name of the "war of drugs" in different parts of the country (Digos City, Davao City, Island Garden City of Samal and Manila City). Most of these children were out of school, had strong connections to the streets and some of these were members of a street gang. Some children have been shot by the police on the street, often after being beaten or tortured. In some cases, the media reported that children who have been killed had drugs and have resisted arrest. None of these cases have been investigated.³

For example, an 18-year-old male youth with strong street connections and member of a street gang who was living in Davao City was killed in a joint police operation by two police stations at Davao City, in May 2018, three days after his 18th birthday. Local media reports⁴ claimed the suspect had previous records from both police stations and also the barangay for theft and physical assault. Both reports claimed the young man fought back ('nanlaban') during the arrest. Weapons and dried marijuana were on this young man, according to a local news report. Peers believed those weapons and marijuana were planted. His 16-year-old girlfriend, who was then pregnant, was allegedly physically assaulted by the police during the operation as she tried to stop them. Prior to the incident, the victim's friends/street gang co-members shared they saw what appeared to be an 'intel' in civilian outfit prowling around their area, showing and asking people in the neighborhood of the age and whereabouts of the persons they have pictures of. The group and their friends feared that children with police records were being tracked when they turned 18 so they can get executed.

Children and youth who are involved with CSC's partner organizations have reported cases of their friends going missing after being arrested by the police. Sometimes their bodies are found later while in other cases their bodies never reappear. One 16-year old male reported that he was shown various videos by police of people being killed. One of the videos was of his friend being killed. The video showed his friend strangled with steel wire around his neck, placed in a drum and cemented, with his head sticking out.

Children and youth are also being threatened with death. In one case, a 17-year-old boy reported to one of CSC's partner organizations that when he was arrested by police he was shown, on a cellphone, photos of people who had been killed. One had been shot in the head. Another was a child with stab wounds who was in a wooden box. There were photos of bodies dumped in streets and bodies with hands cut off. He was told that the same thing would be done to him. He believed that he was going to be killed. He said he saw cement and Styrofoam at the police station and believed that these were going to be used to kill him. According to the child, the reason he wasn't killed was because people saw him being arrested. He said the police told him that if they picked him up again when no one saw him, he would be killed.

A 21-year-old male youth in street situations reported to CSC's partner organization, in a case that was validated by other witnesses, that he was approached by the police while he was on a bridge high above the Pasig River in Manila. The police held a gun to his head and forced him to jump into the river even after he told them that he could not swim. Fortunately, his friends rescued him from

³ See local media report from Brigada News Davao, NANULIS OG TAXI DRAYBER NAPATAY DRUG BUST at https://web.facebook.com/brigadanewsdavao/videos/nanulis-og-taxi-drayber-napatay-drug-bustpatay-ang-usa-ka-17-anyos-nga-ulitawo-h/599234413921323/?_rdc=1&_rdr ; See also local media report at <https://www.youtube.com/watch?v=hm77NbaD5vI>

⁴ See local media reports: <https://rmn.ph/robbery-suspect-nisukol-patay/>

the water and then the police threatened them, with guns drawn, to hand him over to them. He was taken to the police station where he was beaten, his foot was hit with a fire extinguisher and then he was forced to confess. He was asked what case he would like filed against him – drugs or robbery. They eventually charged him with drugs, allegedly because they didn't need a complainant and could just plant evidence on him. He ultimately served six months imprisonment. Upon release he was told that the police were still looking for him and would kill him if they found him.

In another incident 2 male youths in street situations reported to workers from CSC's partner organization that they were swimming with another friend in the Pasig River, when the police shot at them so they dived under water to hide. One boy surfaced first and was shot at but the bullet missed. They were then dragged out of the river and shamed in front of many people. They were taken to a police station where they were beaten with a golf club and planks of wood. They had hot water poured over them and one of them was put in a box. One of these 15-year-old boys also reported that in another incident police used a magazine of bullets shooting at them while in 2016 his 16-year-old friend was shot in the leg by police.

3.2 Intimidation, persecution and violence

Children and youth in street situations are continuously reporting cases of violence, intimidation and persecution perpetrated by government officials including police officers, barangay tanod (watchman/guard) and "quasi-state officials". The quasi state officials include groups of private individuals who are behaving in ways that would make it appear that they have been delegated authority to implement the law. The actions of such groups have been documented by investigative journalists.⁵

In the process of working with children and youth in street situations over more than three years since the campaign against illegal drugs began, CSC's partner organizations have continuously documented cases of children and youth in street situations who have experienced serious violations of their rights. Sometimes these cases have been shared through activities that CSC's partner organizations have initiated while at other times children, youth and their families have approached CSC's partner organizations to seek assistance in relation to cases they are aware of or involved in. Each case has been documented by a trained worker

Most cases documented by CSC's partner organizations involved children and young people aged 16 to 18 years old, often victims of different acts of intimidation and violence, which are common practice, sometimes amounting to cruel, inhuman or degrading treatment or punishment. The police reportedly forced a child to stay in a wooden box for 2 hours at the police station, where they also used a mix of crushed fresh chilies and oil to put on this testicles, only to be replaced when it dried continuously for 5 hours throughout the night. Another child reported being arrested by the Manila Trafficking and Parking Bureau and then being punched, forced to sing, strangled by a seat belt, verbally abused and ridiculed by the police in their vehicle, before being beaten on his fingers, hands and feet with wood, had his ears stapled, and forced to eat chili at the police station. The police threatened him saying that he would be killed after being picked up on the street while sleeping when no one sees him. Another young male who has been arrested several time in Manilla when he was 16 and 17 years old reported being punched in the stomach, beaten with metal sticks, had

⁵ See four part series titled 'Murder in Manila' produced by Rappler
<https://www.rappler.com/newsbreak/investigative/tondo-vigilante-gang-war-on-drugs-series-part-one>

bullets inserted between his fingers and then smashed, electrocuted on his anus, had his arm brace/cast lit with the solvent the police found on him, and had a gun placed in mouth and the trigger pulled (without a bullet in the gun).

Other examples of coercion and intimidation reported to CSC's partner organization include:

- A 16-year-old boy was arrested by police in Manila in 2019 for alleged theft. He was grabbed around the throat by one police officer. His aunt, who cares for him in his mother's absence, was told by the police to bring the child's two companions to the police station or, she was threatened, that she would be given something to cry about. She understood that the police would kill the children if she didn't bring them to the police station. The other two children, both boys, 16 and 15 years old, were also taken to the station. All three children were beaten and one was electrocuted. They were forced to confess and forced to use marijuana. Police took photos of them using marijuana.
- A 16-year-old boy who lost his father in Oplan Tokhang in 2016 while his mother had been jailed on drug charge had been living in the streets since that time. He had several police arrests for alleged solvent use and robbery. Under police custody in 2018, he had metal sticks inserted between his fingers and then his hands were twisted. Bullets were inserted between his fingers and hammered down, he had a gun shown to him and he was forced to hold it, he had his head wrapped in a plastic bag and was shown pictures of dead bodies and videos of people getting killed. He was warned that if he was arrested again, they would do the same to him. In 2019, he was used as a police asset. Aside from cleaning the police station, in an anti-drug police operation he was ordered to go to the target area first, bringing with him a handcuff and was made to be the first one to engage with an alleged drug suspect. He also patted the alleged drug suspect down. He escaped the police station when he overheard the police officers saying that on the next operation, if there was going to be trouble, they would leave him in the area.

Male children in street situations in Manila have confided that they know of police molesting and sexually abusing female children such as the case of a female child that they know who was arrested for alleged robbery. They heard this girl was "binote" (a bottle was inserted in her vagina) by police officers. A couple of them also shared that when they get arrested as a group, they witnessed police asking sexual favors for the female children in return of release. One male child mentioned that when he was arrested and was visited by his girlfriend, they wanted to bring his girlfriend to a hotel "yung jowa ko gustong ihotel. His girlfriend was told by this officer that, "kung nagalaw kita, makakalabas jowa mo" (If I touch you, your boyfriend will be released). He was relieved he was then picked up by his mother.

Meanwhile, one female child shared in 2017 that when she and her female companions were arrested by the police for loitering in the streets, they were hit with police caps and asked to engage into sexual acts with the police officers in exchange for freedom. The child opted to be detained rather than engage in a sexual act with the police.

Some children reported receiving punishment when being rounded up by police officers for loitering on the streets. They were forced to slap their peers while lined up and do push-ups, squats or "pumps" before they are eventually released. Other forms of punishment they experienced were being forced to dance while police filmed them using cell phones, or being forced to do squats with

things placed on their hands. In some cases, female children's heads were shaved, purportedly to prevent them from roaming around the streets again.

In February 2019 various organizations working with children in street situations, convened a 'Street Children's Congress'. During this congress children and youth in street situations came together to discuss the issues and concerns facing them. In the Street Children's Congress children and youth issued a joint statement that said: "The police threaten to kill us. Sometimes they try to kill us for breaking the law. Sometimes they do kill us."

3.3 Right to security of the person, liberty and freedom from arbitrary detention / Right to freedom of assembly and association

Curfews

A major issue affecting children in street situation's rights to liberty, freedom from arbitrary detention, freedom of assembly and association is the enforcement of curfew against children as well as campaigns to "clean the streets". Throughout the Philippines curfews are frequently implemented to stop minors being on the street between 10pm and 4am. These curfews are purportedly implemented for the safety of children. However, children in street situations are indirectly discriminated against because these children often do not have safe alternatives to the street in which to take refuge. These curfews are often local ordinances and their legality has been challenged in the Supreme Court. Regardless, in many places they continue to be implemented, often by personnel who are untrained and unregulated. Children and youth report that they are apprehended and detained under curfew laws, often experiencing violence, torture and deprivation of their basic rights in the process. Most cases documented by CSC's partner organizations involved children of different ages, sometimes as young as age 6, caught for violating curfew and brought to the police station where they are beaten. Some children are detained with adults; others are transferred to shelters where they are victim of violence by older children. Intimidations of parents has been reported, with cases of parents being threatened to be jailed instead of their children.⁶

In Davao City, many female children in street situations reported to one of the CSC's partner organizations that when they are arrested for curfew they are asked to choose between 'palami o pasakit'. If they choose 'palami' they provide sexual favors to the arresting personnel in exchange for their release. If they choose 'pasakit', they get some form of physical punishment before being sent to the police. One 15 year old girl with strong connections in the streets (member of a street group/gang) reported that she refused to choose 'palami' when arrested for violating curfew. She had been arrested a few times, one of which was during the height of Oplan Tambahay in June 2018. It was here that she and her friends were forced into a police mobile and were sent to a lodge/inn owned by the Barangay Captain in their area. She refused to give sexual favors in exchange for release so she was then sent to the police station. There, she was forced to clean male and female toilets during the night until she was released in the morning. When she refused to go into a detention cell with adults she was hit with a plastic water container half-filled with water.

In September 2019 the Mayor of Manila issued a memorandum for strict implementation of the city's curfew ordinance. This led to the more than 435 minors being apprehended in the first 24

⁶ See for example media report at <https://www.youtube.com/watch?v=4okccCo3vzc>

hours and ongoing arrest and detention of minors over the succeeding months. In addition, the curfew ordinance, like others around the country, penalizes parents of children found out after curfew, including through imprisonment. This has dissuaded some parents from going to places of detention to have their children released out of fear that they will be detained in their children's place.

An ongoing concern for children in street situations in Metro Manila and other urban settings in the Philippines is the practice of "rescue" or "reach-out". Under this practice, which is officially justified under the name of child protection, children are normally arbitrarily identified and forcibly removed from the street to be placed in ill-equipped government facilities where they are detained for various periods of time. Cases of this forced "rescue" have been documented by CSC's partner organizations and led to some policy changes, however practice has not changed and children in street situations continue to experience arbitrary detention under the guise of child protection. This sometimes overlaps with the curfew implementation outlined above. The campaign against illegal drugs has also exacerbated the situation for children in street situations and prompted greater numbers of forced "rescue" from the street.

Conditions in detention centres

Conditions for children in detention are poor. In the City of Manila, children are normally detained in one of the government shelters. These include the Manila Youth Reception Center (MYRC) which is specifically for children in conflict with the law, the Reception and Action Center (RAC Manila) which is supposed to be a processing center or 'Boystown', a longer term residential shelter located outside of the city boundaries. As institutions providing for care of children, each of these facilities should be required to secure accreditation from the Department of Social Welfare and Development to ensure that basic standards are met. However, all of these shelters are unaccredited and fall well below many of the minimum standards required by law.

Children and youth frequently report the poor conditions in these shelters. According to various reports to CSC's partner organizations from children detained in the Manila Youth Reception Center, up to 60 children/youth are detained in one room/cell. They sleep on the floor, on either cardboard or mats. Those who escape and are caught are put into a separate punishment cell, in some cases for up to one month. In that cell they are given food in plastic bags, without any utensils. They have no access to toilet facilities and are required to defecate and urinate in the plastic bags from which they have eaten. They wear only underwear and are only allowed out of the cell (estimated 1 x 1.5m) once a day to bathe.

In the Street Children's Congress 2019 (mentioned above), the children and youth made a statement that children in detention centers are beaten and abused. They said they are "beaten and tortured by the police and locked up in MYRC and other dark hidden places". They called on government to make sure children in detention are kept safe.

3.4 Access to Justice

Children in street situations are extremely vulnerable to retaliation if they report the abuse and violence they experience. Accordingly, most children and youth that report cases of violence, intimidation, torture or killing are not willing to report these cases through official channels because they feel that their lives are at risk.

Witness protection programs do not adequately cater for the needs of children in street situations because they require immediate and absolute disconnection from the lives and relationships that these children/youth have established. This is not a realistic or practical solution for children in street situations who, even in non-life-threatening situations, often take months or years to transition from street life.

Children and youth report that mechanisms supposedly designed to protect them are abused or exploited. For example, children or youth taken into custody are required to be given a medical examination. Many children and youth report that they are told by the police to not reveal that they had been beaten or tortured to the examining medical officers. Moreover, police are often in the room when the child is examined and sometimes it is the accompanying officer who is interviewed by the doctor/medical personnel rather than the child/youth him/herself. Children and youth report that they are rarely ever actually physically examined or interviewed by the attending medical personnel.

One 17-year-old child reported to CSC's partner organization that: *"Nung dadalhin na kami sa doctor, sabihin nyo, hindi naming kayo ginulpi, ha, kundi yari kayo sa amin."* (When we take you to the doctor, tell them we didn't beat you ha? If not, we'll finish you off.) When asked about why he didn't report incidences of torture and abuse to police he said: *"Wala kaming magagawa pag nagsumbong pa kami... pulis yun eh. Eh yun may kaya pa. Kami wala. Kaya tahimik na lang kami."* (We can't do anything if we want to report... they are the police. And they are rich. We aren't. So we just stay quiet.)

A mother of a child who experienced torture at the hands of the police told CSC's partner organization that they were not considering filing cases against the police for arresting and torturing her child and his two companions because they were afraid they would be next if they did this. She also noted that the police involved torturing her son is known to be involved in killing drug users and pushers in her area.

Another mother expressed her fear and reluctance to file a complaint against the police officers despite the fact that two of her sons had been arrested and tortured several times already. One time when she had her son released from the police station she was told by a police officer that if they arrested her son again she would just get to choose where she would like to find him – dumped outside a local mall or floating in the Pasig River.

There is very little or no accessible legal assistance available to children and youth in street situations who would like to pursue legal action against their perpetrators. Many free legal services offered by civil society organizations do not have resources to assist cases that do not involve killings. Others are unwilling to assist children or youth who have been charged with offences. Although there are some government services available (through the Public Attorney's Office and the Commission on Human Rights), without assistance these are inaccessible to children and youth in street situations due to barriers such as geography, language, knowledge and capacity to seek out such services.

4. Conclusion and recommendations

The "war on drugs" has had and continues to have a significant impact on children in street situations. Their vulnerability to human rights violations is exacerbated because they are already

marginalized from society in many ways. They are easy targets for arbitrary arrest, detention, torture, violence and even killings because they are frequently without appropriate family support and have very limited access to justice.

We urge the Office of the High Commissioner for Human Rights to make the following recommendations to the Government of the Philippines:

1. Immediate and complete suspension of the administration's campaign against illegal drugs
2. Suspension of the implementation of curfew against children throughout the Philippines unless and until it can be done in a way that respects children's rights and does not unfairly discriminate or punish children in street situations for their status as such.
3. Immediate compliance with existing laws and policies designed to protect children and their safety
4. Stringent oversight and appropriate training of all government and quasi-government agents having contact with children and youth to ensure they are not violating children's rights
5. Regular monitoring of all places where children and youth are detained, sheltered or kept in custody, including by independent bodies
6. Improved supervision of police and other law enforcement officials including through the use of technology such as body-cameras to eliminate the rates of abuse and torture of children and youth
7. More funding and support for paralegal services for children and youth who are targeted by law enforcement officials, especially those who have experienced violation of their rights
8. Immediate implementation of the Philippine National Multi-Sector Strategic Plan for Children in Street Situations that seeks to uphold the rights of children as outlined in General Comment 21 for Children in Street Situations.