



COMMISSION ON HUMAN RIGHTS

ADVISORY ON HANDLING OF CHILDREN IN STREET SITUATION (CISS) IN TIMES OF NATIONAL HEALTH EMERGENCY

CHR (V) A2020-003

The Commission on Human Rights (CHR) commends the initiatives of the various government agencies aimed to protect the children in streets from the harmful effects brought by the COVID-19. In particular, the CHR acknowledges the efforts of the Department of Interior and Local Government (DILG) and all local government units that have instituted measures which they have considered appropriate and beneficial to children in street situations.

In situations of crisis, whether natural or man-made, children are especially vulnerable to activities that may endanger their life, their survival and their development. They are also at greater risk of abuse, violence and exploitation. This is especially true for children in street situations (CISS) as their situation and livelihood may be directly affected with the current efforts by the government to protect the people from corona virus by clearing the streets and emptying public spaces.

While the Commission recognizes the need to implement quarantine measures and impose movement restrictions as a means to prevent further spread of the Corona virus, we reiterate the need for the government to undertake holistic strategies in assessing and responding to the needs of CISS. This may be done using child rights standards and principles based on the following domestic and international legal frameworks:

1. The Philippine Government is a state-party to the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC provides what children need to survive, grow and reach their full potential. It enumerates the rights that every child must enjoy and be able to exercise at any given time, and in all circumstances. More importantly, it emphasizes that the best interest of the child must be given primordial consideration in the development and implementation of policies, programs and services concerning children.

2. In June 2017, the UN Committee on the Rights of the Child promulgated General Comment No. 21 on children in street situations (GC 21). Its publication was a historical moment for CISS, as this is the first piece of international law that recognizes their peculiar situations, needs and aspirations. GC 21 “provides authoritative guidance to States on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child”.

Under the present general comment, the term “children in street situations” refers to: (a) children who depend on the streets to live and/or work, whether alone, with peers or with family; and (b) a wider population of children who have formed strong connections with public spaces and for whom the street plays a vital role in their everyday lives and identities.

3. Article II, Section 11 of the 1987 Philippine Constitution provides that the State values the dignity of every human person and guarantees full respect for human rights. To protect and ensure the respect, dignity, development and welfare of children are inherent obligations of the state.
4. Presidential Decree 603 or the Child and Youth Welfare Code of 1974 declares that “the child is one of the most important assets of the nation”. It is for this reason that the State should exert efforts to promote children’s welfare and enhance their opportunities for a useful and happy life. The same law provides for the rights that all children shall enjoy regardless of their sex, religion, political antecedents, or any other status.
5. Section 17, paragraph (2) of the Local Government Code of 1991, otherwise known as Republic Act 7160 identified the Basic Services and Facilities that a LGU should provide for its constituents. The Code enumerated social welfare services which include programs and projects on child and youth welfare, family and community welfare, women’s welfare, welfare of the elderly, and disabled persons; community-based rehabilitation programs for vagrants, beggars, *street children*, scavengers, juvenile delinquents, and victims of drug abuse; livelihood and other pro-poor projects; nutrition services; and family planning services that must be provided at the municipal level.
6. Republic Act 7610 or otherwise known as the *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* declares that it shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control. Children in street situations are considered as vulnerable and victims of the situations.

7. The Juvenile Justice and Welfare Act or RA 9344, as amended by RA 10630 decriminalized status offenses. The act also provides that a child found violating a curfew ordinance is considered a “child-at-risk” and not a “child in conflict with the law”. Therefore, no penalty shall be imposed on the child. He/she shall instead be referred to Barangay station for registration and intake, and thereafter released to the custody of his/her parents. Appropriate interventions shall also be provided to the child and his/her parents or guardians.
8. In the Supreme Court’s decision in *Samahan ng mga Progresibong Kabataan (SPARK) vs. Quezon City, City of Manila and Navotas City* (GR No. 225442), the Court ruled that curfew ordinance must not contravene with existing statutory laws. Ordinances should be read and implemented in conjunction with related statutory law. In this case the related law is the Juvenile Justice and Welfare Act, as amended by RA 10630.
9. There are existing protocols that are primarily used when government agencies encounter CISS. These are the *Protocol to Reach Out to Street Children*, developed by the Council for the Welfare of Children, and the Philippine National Police’s Manual in *Handling Cases of Children at Risk and Children in Conflict with the Law*. These protocols set standards and provide a common framework for the conduct of reach out to street children.

In view of the foregoing, the Commission encourages our duty bearers to consciously apply the child rights approach in addressing the needs of CISS at this difficult time. In a child rights approach, children are treated as rights holder and not merely beneficiaries of benevolent activities. It ensures respect for the dignity, life, survival, well-being, health, development, and participation of every child regardless of his or her age, race, gender, wealth, social origin, property, birthplace or other status. Concretely, the Commission recommends the following:

1. **Develop a mechanism for reaching out to CISS during the state of national health emergency.** A standard process should be in place every time a child is rescued on the streets while the enhance community quarantine is in effect. In developing this measure, the principles and standards provided in the UNCRC, GC 21 and relevant domestic laws must be integrated in the guidelines. In addition, mechanisms for monitoring and reporting violence, discrimination, exploitation and other forms of child abuse; and holding perpetrators accountable for these violations must be established and made accessible to children.
2. **Adopt a uniform guideline on handling CISS.** The DSWD and the DILG should adopt and implement a uniform guideline on handling CISS following the framework provided for by the UN

General Comments No. 21. Whether this will entail the crafting of a new guideline or the implementation of an existing protocol, what is important is that the Local Government Units as the direct service provider are made aware, and are capacitated to observe the protocol.

3. **Provide temporary shelter for CISS, and their families.** In managing cases of children, the general rule is that institutionalization should be a measure of last resort. However, the current health condition warrants immediate removal of children from the health risk situation they are in. The preservation of the lives of the children, and their families, is the outmost consideration. In providing accommodation for these children, emphasis must be on protection rather than punishment. The use of police lock-up or other detention cells to accommodate children owing to lack of alternative care facilities is not acceptable.
4. **Deputize the Local Council for the Protection of Children (LCPC) to handle CISS.** Together with the local social welfare officers, LCPC members may assist in convincing children to be rescued and temporarily reside in the shelter during the period of community quarantine.
5. **Install gender-sensitive responses.** Children in street situations are particularly vulnerable to sexual violence and exploitation so that gender-sensitive responses must be made available by professionals who are trained in understanding the specific circumstances and needs of children in street situations.
6. **Ensure access to health services.** CISS should also have access to free basic health-care services, including sexual and reproductive health services. Such services should be friendly and supportive, confidential, non-judgmental, non-discriminatory, respectful of autonomous decision by the children, and, if warranted in cases of emergency, without the requirement for parental consent.
7. **Offer education and formation programs.** While staying at the shelter, aside from the provision of food and lodging, CISS must be given access to an education program that includes lessons on proper hygiene, values formation, life skills and other structured learning activities that could build their character to be more responsible children and citizens. LGUs could tap non-government organizations or well-meaning individuals in their locality that can assist them in running such undertaking.
8. **Extend support to parents and caregivers.** The government must also take appropriate measures to assist parents and legal guardians in fulfilling the rights of children under their care and custody. This can be done by providing material assistance and support programmes, particularly with regard to nutrition, clothing,

housing, medical care and education. On the other hand, direct material assistance in the form of services may be provided directly to unsupervised children or those with abusive family connections.

Having been exposed to the harsh realities of life while living on the streets, CISS are perceived to be strong and resilient. For this reason, their needs and concerns are often misunderstood and not properly addressed. Still, the fact remains that they are children who, by reason of their age and maturity, are in need of special protection from the State, and a community where they can live free and accepted. By applying a child rights approach, the Government will be able to address the need for respect, dignity and rights of these children by giving them alternatives so that they will no longer depend on the streets and their street connections for their survival and development, or be forced to accept placements against their will.

ISSUED this 1st day of April 2020, Quezon City, Philippines.

JOSE LUIS MARTIN C. GASCON

Chairperson

KAREN S. GOMEZ DUMBIT

Commissioner

GWENDOLYN LL. PIMENTEL-GANA

Commissioner

LEAH C. TANODRA-ARMAMENTO

Commissioner

ROBERTO EUGENIO T. CADIZ

Commissioner