

Universal Periodic Review of the Human Rights Council 2011 UNICEF Philippines

This report, produced by UNICEF Philippines, focuses on progress made in country towards the realization of the rights of children as reflected in the Convention on the Rights of the Child (CRC) and its additional Protocols. This report is meant to build upon the Concluding Observations by the Committee on the Rights of the Child (October 2009). It also provides updates on compliance and progress made in the implementation of UN Security Council mandated programmes. This is not an exhaustive evaluation of the implementation of policies or legislation on child rights in the Philippines.

I. BACKGROUND & FRAMEWORK

A. Scope in international obligations

B. Constitutional and legislative framework

The Philippine Government (GPH) has provided an extensive protective and developmental policy environment for children and women, monitored through the Council for the Welfare of Children (CWC). The country was one of the first to ratify CRC and the GPH is committed to its full implementation as well as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Important laws for children are already in place, such as those covering early childhood care and development (2002), anti-trafficking in persons (2003), anti-violence against women and their children (2004) and the Juvenile Justice Welfare Act (2006). In the period since the first UPR, the following laws with provisions for the protection of women and children have been passed, but are not yet consistently nor effectively enforced: Republic Act (RA) 9710 Magna Carta for Women (2009), RA 9745 Anti torture (2009), RA 9775 Anti child pornography law (2009), RA 9851 IHL Law (2009), and the Expanded Breastfeeding Promotion Act (2010).

While improvements in the policy and legal environment are evident, there are gaps between the existence and the implementation of the laws and policies and the reality of life for many children, especially for those coming from disadvantaged and poorer families, urban dwellers and indigenous peoples. Implementation of laws and policies is mainly reliant upon compliance by the highly decentralized provinces, municipalities, cities and barangays (villages)¹.

The Committee on the Rights of the Child (CRC) noted in its concluding observations (02 October 2009) that, although much has been done by GPH to meet its obligations to children and harmonize legislation with the provisions and principles of the Convention, further efforts need to be made. The UPR Working Group (Mexico) also recommended in its 23 May 2008 report to the HRC that national legislation and customs and traditional practices should be harmonized with CRC and CEDAW².

The CRC and UPR Working Group noted the “legislative gaps” with regard to the prohibition of corporal punishment, the prohibition of torture, the status of children born out of wedlock, and the minimum age of sexual consent³. Some of the 2005 legislative recommendations of the CRC⁴ remain unmet, in particular the proposed legislation on the Special Protection of Children in Situations of Armed Conflict and the Positive and Non-violent Forms of Discipline Bill. Both bills were passed by the lower house in 2011 but have not yet undergone Senate processes. Additionally, House Bill No. 681 and 3049 on raising the Age of Statutory Rape and Acts of Sexual Abuse Act has been pending before the House of Representatives since the 3rd quarter of 2010.

1 GPH-UNICEF Country Programme Action Plan (CPAP) for CPC VII 2012-2016, pp 15 (point 42)

2 Universal Periodic Review: Report of the Working Group on the Universal Periodic Review, The Philippines. Human Rights Council. Eighth Session. Agenda item 6. A/HCR/8/28 23 May 2008 pp.15

3 CPAP point 33

4 CPAP

The existing Special Protection of Children against Abuse, Exploitation and Discrimination Act (RA 7610) declares children as 'zones of peace' and entitles them to special protection. The new draft bill on the special protection of children in situations of armed conflict prohibits the recruitment and use of minors into armed forces or groups, along with five other grave child rights violations (GCRV). This bill would complement other instruments such as: the Indigenous People's Rights Act (IPRA or RA 8371) which provides for the non-recruitment of children of indigenous cultural communities into the armed forces; ILO Convention 182 concerning the worst forms of child labour; the Paris Principles and Guidelines on CAAFAG, the United Nations Guiding Principles on Internal Displacement, the United Nations Security Council Resolutions related to children affected by armed conflict.

C. Institutional and human rights structure

Human Rights Institutions

The Philippine Commission on Human Rights (CHR), a Status A accredited NHRI, has produced a Strategic Plan for 2011-2015 that includes special provisions to address significant shortcomings in terms of mandate, methodology and resources. This document cites the "almost zero prosecution of human rights cases⁵" and proposes a series of institutional changes to strengthen monitoring and service provision. The ratification of Optional Protocol to the Convention Against Torture (OPCAT) and the Convention Against Enforced Disappearances are mentioned as goals in this road map.

Despite these measures, the CHR remains an institutionally weak body facing numerous challenges. Cases involving children, especially in conflict areas, routinely remain unresolved. Delays in processing cases and the lack of a functional witness protection program present serious obstacles for the securing of sworn testimony, especially when the case implicates state security forces. CHR has no power to prosecute cases and a severely limited operating budget; the entity's lack of credibility threatens its continued relevance in the Philippines.

The Council for the Welfare of Children (CWC) has been designated as the focal GPH agency for the implementation of the Monitoring and Reporting Mechanism (MRM) in the Philippines. A parallel government mechanism, the Monitoring and Response System (MRS) is being developed in coordination with the Country Task Force on Monitoring and Reporting (CTFMR) which will emphasize building response capacity for children affected by armed conflict .

The Armed Forces of the Philippines (AFP) has taken steps to broaden and strengthen the mandate of its Human Rights Office (HRO). The AFP HRO coordinates with the CTFMR on issues related to children and armed conflict. It has oversight of the mainstreaming of the human rights and IHL curricula for all enlisted personnel. The AFP HRO has proved to have limited capacity to address on-going violations, sanction accused personnel, or prevent grave child rights violations from happening.

Since 2009, the UNICEF-supported Child Protection Working Group (CPWG) and Gender-Based Violence (GBV) sub cluster have both become permanent mechanisms mainstreamed in government institutional structures. The CPWG and GBV sub cluster are mandated to mainstream prevention and risk reduction measures as well as provide a forum for raising child rights issues in the context of emergencies.

D. Policy measures

Further to the 2009 CRC recommendation to mainstream the Philippines National Plan of Action for Children (NPAC), the 2nd NPAC coordinated by CWC with the support of UNICEF is currently in the process of developing a comprehensive and integrated National Child Protection Strategy. This will provide the common roadmap to guarantee the right of the child to be free from all forms of abuse, exploitation and violence⁶.

⁵ Commission on Human Rights of the Philippines Strategic Plan 2011-2015

⁶ CPAP

The Department of National Defence (DND) and the AFP launched Internal Peace and Security Plan *Bayanihan* in December 2010. It promises a paradigm shift, moving the AFP away from combat operations and towards civil-military cooperation aimed at addressing the issues of underdevelopment and injustice which drive the multiple insurgencies.

II. PROMOTION & PROTECTION OF CHILDREN'S RIGHTS ON THE GROUND

A. Cooperation with international human rights mechanisms

GPH reported to the CRC and noted the concluding observations and recommendations issued on 02 October 2009. GPH underwent the first Universal Periodic Review and noted the concluding observations in its Working Group's report dated 31 March 2008. The Philippines currently sits on the United Nations Human Rights Council and is expected to uphold the highest standards in the promotion and protection of human rights. On 30 August 2011 GPH ratified the Rome Statute of the ICC.

In response to the recommendations of the Special Representative of the UN Secretary General (SRSG) on the involvement of children in armed conflict (CAAC), on 29 April 2010 the Permanent Representative of the Philippines reiterated to the UN Security Council Working Group on CAAC⁷ the GPH commitments for the protection of CAAC, highlighting its new Comprehensive Programme on Children Involved in Armed Conflict, the appointment of the Council for the Welfare of Children as a focal agency for MRM, a resource mapping study, and the intention to establish a quick response team for the purposes of responding to, verifying and documenting reports of violations and abuses committed against children⁸.

B. Implementation of international human rights obligations, (taking into account applicable international humanitarian law)

In the Philippines, in addition to poverty, malnutrition, and ill-health, growing numbers of children are vulnerable to and have become victims of various forms of abuse, violence, and exploitation. Data from reports and studies by various agencies provide details on the nation's working children (4.1 million as of 2001); street children (246,000 as of 2002); sexually abused and exploited children; trafficked children; children in armed conflict; children in drugs; children in conflict with the law; and children without parental care and at risk of losing parental care⁹.

1. Equality and non-discrimination

Equality and non-discrimination are principles enshrined in the Philippines Constitution and in its commitment to fulfil all of its CRC and CEDAW obligations. The CRC expressed concern for the situations of children living in poverty, indigenous and minority children, including Muslim children living in Mindanao, migrant children, street children, children living rural areas and conflict areas. It recommended the adoption of a comprehensive plan addressing all forms of discrimination, ensuring equal treatment for girls, and offering specific protections to child born out of wedlock. Such a comprehensive strategy has yet to be adopted. In 2008, GPH ratified the International Convention on the Rights of Persons with Disabilities (CRPD).

2. Right to life, liberty and security of the person

Children affected by armed conflict/Grave Child Rights Violations (GCRV)

The report of the Secretary General on children and armed conflict in the Philippines (21 January 2010) details how children suffer disproportionately from the effects of armed conflict. Children continue to be killed and maimed as well as recruited into armed forces and groups. The state military apparatus has been repeatedly accused of using disproportionate force against insurgent groups and of not observing the principle of distinction. Aerial bombings and use of artillery have serious consequences

⁷ United Nations Security Council, Working Group on Armed Conflict, Conclusions on Children and Armed Conflict in the Philippines 12 November 2010 (S/AC.51/2010/5)

⁸ United Nations Security Council Working Group on children and armed conflict in the Philippines S/AC.51/2010/5

⁹ CPAP

for civilians and especially children. The military rarely conducts clearing operations after using these munitions, and unexploded ordnance (UXO) remain a protection concern in many areas, especially in relocation/return sites. The CTFMR recorded 6 UXO incidents in 2010-2011 which left 2 children dead and 4 injured.

The CTFMR monitors GCRVs, recording progressively more incidents as MRM coverage improves. In 2010, twelve incidents of children being recruited into armed forces and groups were recorded, as well as 38 children recorded killed and 40 maimed as a result of armed conflict. In the same period, 11 children were reported abducted with many being held without legal justification for interrogation or for other military or strategic purposes. The CTFMR verified 4 incidents of abduction affecting 4 girls aged six, eight, and fifteen (x2) years-old, and a 13 year-old boy which were all perpetrated by state forces. This represents a significant increase over the preceding reporting periods. Data for 2011 indicates a continued increasing trend in these violations.

GPH must immediately address the issue of arbitrary arrest and detention of minors. Habeas corpus is often ignored in remote conflict affected areas; children are targeted, illegally detained and threatened or coerced by parties to the conflict for military intelligence gathering, spying, acting as guides and for other auxiliary roles. On at least two occasions in the past year, the CTFMR has investigated cases of soldiers targeting special needs children to exploit them for information gathering. Children are also being forced to attend “seminars” to promote good citizenry; during the discourse they are asked to identify members of their community in possession of firearms or involved with rebel groups. Children are also employed by soldiers in remote areas to provide information on enemy movements and community activities. Sources note how young boys in their communities suddenly own cell phones, spend money freely, and occupy areas where cellular reception is good.

Such prohibited practices must be more vigilantly monitored and punished as the AFP shifts towards *Oplan Bayanihan* and away from a combat focused approach. The success of this counter-insurgency strategy depends on the AFP guaranteeing the rights of citizens while engaging with populations in conflict-affected communities to promote peaceful, sustainable development. Special precautions must be taken and enforced to prevent troops from freely engaging with children. A clear zero tolerance policy for engaging with children without parental consent should be adopted.

Extrajudicial killings (EJK) and enforced disappearances

At present, no national legislation exists to penalize enforced disappearance and EJK. Despite the commitments made by the current administration to address these violations, little has been done to curb this trend or to bring perpetrators to justice. Civil society groups, including student and teacher organizations, have been labelled as rebel sympathizers and have been targeted. At least ten teachers have been victims of EJK in 2010-2011; some were killed by masked assailants in front of their students.

Child labour and children living and/or working the streets

Four million children between the ages of 5 and 17 work at least 4 hours a day, many for no pay and more than half (2.4 million) work in a hazardous environment (CPD). It is estimated that 12 percent of children between the ages of 5-14 are engaged in child labour¹⁰. The GPH is currently in the process of conducting the follow-up survey and data will be available in 2012.

Poverty and peer influence combined with stresses in family life push children to leave home and find solace, protection and support from their peers on the street. Some 246,000 children live on the streets of the Philippines. In a 2000 UNICEF-assisted study, over 11,000 children were living in the streets of Metro Manila alone, with an estimated 46,000 highly visible street children in 22 cities in the country. The study defined children living and working on the streets as “children who stay on the streets and in

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public areas at least four hours and above ¹¹every day, are engaging in varied types of activities in the streets and public places such as playing with friends as well as peers, sleeping, and earning a living”.

Violence against children (VAC)

VAC data is derived mainly from cases reported to the DSWD and PNP. No national data collection system currently exists which can reflect the scale of the problem. A 2007 Sub-Regional Multiple Indicators Cluster Survey (SR-MICS) which reached 4.2 million households showed that 60% of women reported using at least one form of psychological or physical punishment to punish or discipline their children, with 13% reporting that they used some severe physical punishment on their children.¹²

As a follow-up to the recommendations of the UN Secretary General's Study on VAC, the GPH with support from UNICEF Philippines, UNICEF East Asia and the Pacific Regional Office (UNICEF EAPRO) and the US Center for Disease Control and Prevention (CDC) is preparing to undertake a National Baseline Research on VAC/Child Maltreatment. The research aims to determine VAC prevalence in the Philippines, identify potential risk and protective factors for VAC/Child Maltreatment and assess the knowledge and utilization of health, legal and welfare services available. GPH expressed commitment but financial support has not yet materialized. The estimated cost of the study is \$300,000.

3. Administration of justice, including impunity, and the rule of law

Following the first UPR, the GPH accepted the recommendation of New Zealand to continue to develop a gender-sensitive approach to issues of violence and build a supportive environment for women and children within the judicial system, taking into account the particular needs of women and children in vulnerable situations. Despite the relatively advanced legal framework for the protection women and of children, the administration of justice in the Philippines remains an area of priority concern.

Juvenile Justice/Children in conflict with the law

The passage of the Juvenile Justice and Welfare Act of 2006 (RA 9344) was lauded as one of the Philippines greatest advances in the administration of juvenile justice. The law unequivocally addressed the points raised in the 2005 Concluding Observations of the CRC (CRC/C/15/Add.258) regarding the very low minimum age of criminal responsibility in the Philippines, then 9 years old. Section 6 of RA 9344 raised and set the minimum age of criminal responsibility and exempts a child 15 years of age or under at the time of the offense from criminal liability. Also, a child above 15 but below 18 is also exempt from criminal liability, unless the child is proven to have acted with discernment. RA 9344 recognizes that children who are 15 or under at the time of the offense may not be held criminally liable but can be held liable for civil damages and must also undergo an intervention to lessen the probability of re-offending.

Unfortunately, efforts to lower the age of criminal responsibility to 9 years of age have been initiated in Congress, following PNP intelligence reports attributing an increase on criminality involving children to the passage of RA 9344. UNICEF has made efforts to avoid this regression through advocacy with GPH partners and bringing forward evidence of good practice. The full implementation of the law is further challenged by local government units (LGUs) which are unable and/or unwilling to allocate sufficient human and financial resources to establish a comprehensive community-based juvenile delinquency prevention program.

Access to justice and rule of law

The prevailing climate of insecurity, corruption and lack of accountability has led to a lack of trust in both the security and law enforcement sectors. The CHR cites lack of evidence, in part due to the lack of witness protections services, as the single greatest obstacle in prosecuting human rights violations with

¹¹ *Ours to Protect and Nurture*, The Case of Children Needing Special Protection, DLSU- Social Development Research Center; National Project on Street Children; Exaltacion Lamberte, Ph.D. UNICEF Manila 2002

¹² In the SR-MICS, severe physical punishment/discipline includes to hit or slap a child on the face, head or ear, and to beat a child with an implement

women and children being most affected by ineffective and discriminatory judicial processes. The combination of lack of access and inefficient implementation creates an environment where alternative paths to justice and resolution are favoured. Amicable settlements involving the exchange of money or property for the life of a child have been documented. Also, in communities where the justice system is perceived as corrupt or ineffective, de facto capital punishment is a reality. The NPA continues to “sentence” individuals it deems guilty of crimes against the people to death. This absence of rule of law is best evidenced in the example of *rido*, or clan conflict, which promotes retributive justice and continues to be one of the key causal factors of conflict displacement in the country.

Impunity

State forces and non-state armed groups (NSAG) continue to commit violations against children in the Philippines without facing formal charges. In support of UNSCR 1612 (2005), the CTFMR has documented numerous cases of killing and maiming of children as well as other grave child rights violations committed by the AFP. These cases are rarely tried. Non-state forces continue to commit violations against civilians including children, as noted in the increased frequency of improvised explosive device (IED) attacks and other armed encounters in civilian areas. The climate of fear and the frequency of reprisal have created a situation of distrust in the judicial system that the GPH must take immediate measures to address.

4. Right to privacy and family life

AFP counterinsurgency campaigns have been accused of routinely violating the privacy of homes and conducting unofficial census in conflict affected communities. Information gathering is often conducted by combat ready soldiers and census forms include questions about family members, their past/present involvement in insurgency groups, and community members sympathetic to insurgent groups. This profiling creates divisions within communities and undermines existing local government structures.

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

Vilification

The Philippines enjoys a vibrant civil society environment. However, groups deemed opposed to the GPH security agenda are often vilified publicly and without recourse. Members of NGOs and national media report being harassed by agents of the security forces. The same tactic is applied to individuals and families – including children - who are witnesses or who vocally oppose state security operations, mining projects, development projects, or the actions of regional and local politicians. The current Department of Justice guidelines¹³ for dealing with children and the media are largely disregarded by state security forces; children’s names, personal details, and in some cases photos, are routinely released to the media. The CTFMR has documented multiple cases in 2010-2011 involving AFP vilification of minors, in several cases causing their displacement. The future security of these children and their families is a priority concern. Strong legislation prohibiting this practice and imposing criminal penalties should be enacted.

6. Right to social security and to an adequate standard of living

The Philippines has a population of 89 million people and 30% of this population lives below the poverty line. A significant number of children are prone to abuse, exploitation, violence, neglect and unnecessary separation from their caregivers. Child protection systems are weak, and in particularly rural, remote and conflict-ridden areas they are absent. State budget allocation of financial and quality human resources for child protection is limited¹⁴.

Child and infant mortality

13 Guide for Media Practitioners on the Reporting and coverage of Children, Philippines Department of Justice

14 Unicef Philippines Country Programme Document 2011

The national Under 5 Mortality Rate (U5MR) is 29.4/1000 live births and the national Infant Mortality Rate (IMR) is 23.2/1000 live births¹⁵. In many parts of Mindanao, the child health and nutrition situation is worse off compared to other parts of the Philippines. The IMR is highest in the Autonomous Region of Muslim Mindanao (ARMM) at 56/1000 live births while U5MR is 94/1000 live births. Among the 0-5 years old, 33.9% are underweight in Region 9 placing them second highest nationwide, next to ARMM with 38%.¹⁶

Birth registration

The National Statistics Office revealed that in 2005 there were 2.6 million unregistered children in the Philippines and most of them are Muslim and indigenous children.¹⁷ The percentage of under 5 children registered at birth is 83% (83% male/83%female, 87% urban/78 rural)¹⁸. UNHCR estimates that 50% of the population of Mindanao does not have a birth certificate¹⁹. This may deprive them of the legal basis for claiming various rights, such as education, social services, health care and protection, which contributes to their social, economic and political exclusion²⁰

7. Right to education and to participate in the cultural life of the community

The UNESCO EFA Global Monitoring Report warned that the Philippines could miss its target of universal primary education by 2015 due to lack of political will and inadequate budgetary allocation to basic education. The Asia Pacific MDG Report (September 2010) identified the Philippines as one of five countries of 32 that registered “regressing or no progress” status in reaching the universal primary education target²¹.

Attacks on education

An observable trend of attacks on education facilities and teachers significantly impacts children’s access to education in the Philippines. The AFP routinely uses school structures in remote conflict affected areas as temporary barracks and supply depots in contravention of RA 7610 and IHL. Non-state armed groups also occupy, use and cause physical damage to schools during their operations. Schools are also increasingly targeted by kidnappers and extortionists, depriving children of safe access to education. In April 2011, sixteen people, mostly teachers and students, were abducted from a school by armed men and held hostage for 5 days. The hostage takers were using the civilians to negotiate the release of a family member from prison. GPH needs to develop a comprehensive plan to protect students and teachers from attacks.

8. Minorities and indigenous peoples (IP)

The International Crisis Group flagged in a recent report the lack of consultation with indigenous communities in the on-going GPH-MILF peace talks²². Of the total estimated population of 12-15 million IP in the Philippines, 61% live in Mindanao²³. Their exclusion from this peace process greatly decreases the probability of achieving a lasting peace.

Disputes related to natural resources expropriation fuel regional conflicts across the Philippines, affecting indigenous people’s livelihoods and their claims to Ancestral Domain. The Philippine Mining Act of 1995 (RA 7942) contains provisions that are clearly in contradiction with the Indigenous People’s Rights Act of 1997 (RA 8371). The guarantees of free, prior informed consent have been manipulated by GPH agencies to fast track approval for development projects. The grievances that result from this poorly harmonized legislation have prolonged low intensity warfare in many parts of

15 World Bank, World Development Indicators 2010

16 Child Poverty Study, Philippine Institute for Development Studies, 2008

17 Government of the Philippines: Third and Fourth Periodic Reports on the Implementation of the UNCRC. 19 September 2007

18 Country Program Document, UNICEF

19 Briefing note, Mindanao Protection Cluster, 17 November 2011

20 CPAP

21 CPAP point 30

22 The Philippines: Indigenous Rights and MILF Peace Process. International Crisis Group, 22 November 2011

23 Briefing note, Mindanao Protection Cluster, 17 November 2011

the country, drawing children into conflict and insecurity. The Aquino administration went on record in 2011 saying that the AFP and Citizen Armed Force Geographical Units (CAFGUs) would be deployed to protect mining projects. An estimated 20% of all recorded GCRVs in 2010-2011 could be linked to conflict areas where IP groups oppose development projects such as mining.

12. Internally displaced persons

IDMC reports that close to 6 million people were displaced by natural disaster from 2008-2010, and that up to 3 million people were displaced by conflict and human rights abuses between 2000-2009²⁴. In 2008 alone, approximately 750,000 people were displaced by conflict in Central Mindanao. Prolonged displacement and continued insecurity are causing severe stress to the families, affecting women and children disproportionately. The Mindanao Protection Cluster estimates that nearly 80% of the displaced population are women and children²⁵. Parents are increasingly unable to provide for their children because of loss of income and livelihood. The lack of durable solutions for this cycle, especially in the province of Maguindanao, is a concern that requires full and comprehensive GPH commitment²⁶.

15. Situation in specific regions or territories

Protracted ethnic and political conflict in Mindanao has resulted in widespread poverty as indicated by the results of the 2009 NSCB study on poverty and well-being. It shows that 66.3% of the children and 58.9% of the women in the provinces of ARMM are poor²⁷, compared to the poverty incidence among families in Mindanao which is at 38.8% in 2006 or to the national poverty incidence of 26.9%. Poor families in ARMM account for 19.8% of total poor in Mindanao. The 2008-2009 Human Development Index (HDI) Report placed Sulu, Tawi-Tawi, Maguindanao, Lanao Del Sur, and Basilan among the 10 bottom provinces in HDI²⁸. Poor governance and lack of security exacerbate this situation.

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

Achievements

The Action Plan between the Moro Islamic Liberation Front (MILF) and the United Nations in the Philippines on the issue of the recruitment and use of child soldiers in the armed conflict in Mindanao came into effect on 1st August 2009, representing a concrete, time-bound commitment by the MILF and Bangsamoro Islamic Armed Forces (BIAF) to refrain from involving children in the armed agenda.

The Action Plan aims to promote respect for children's rights and increase accountability for violations across the full extent of MILF influence in Mindanao. The Action Plan, *inter alia*, facilitates supportive interventions for children associated with the MILF-BIAF, within an inclusive, community-based framework. It also a valuable entry-point for UN agencies and other organizations to build the capacity of communities to develop a protective environment for children while recognizing the need for multi-sector support in bringing opportunity and alternatives to young people in conflict affected areas.

In addition to this UN collaboration, the 20 January 2010 MILF *Supplemental General Order (SGO) for General Order Nos. 1 & 2; and in support of the Action Plan* [sic] reaffirms the MILF position on the non-recruitment and use of all children under 18, and sets out punitive sanctions for non-compliance. The SGO has a grace period of 180 days from the day after orientation on the Action Plan, and provides for the establishment of Child Protection Units within the 21 Base Commands and four Fronts.

The National Democratic Front of the Philippines (NDFP), the political front of the New People's Army (NPA), agreed on 7 April 2011 to meet for talks on the development of a concrete time-bound action plan to halt the recruitment and use of children. One of the strategic aims of the recently concluded SRSG CAAC mission to the Philippines, engaging the NDFP was also a recommendation of the 2nd

24 IDMC

25 Briefing Note, Mindanao Protection Cluster, 17 November 2011

26 Humanitarian Action Plan for the Conflict-Affected Provinces of Mindanao, 2011

27 Children in the Philippines: Poverty and Well-Being, National Statistical Coordination Board, 2009

28 Philippine Human Development Report 2008/2009

Philippine Country Report on MRM (S/2010/36) and SC Working Group Conclusions (S/AC.51/2010/Notes.3). In consultation with UNICEF NY and the office of the SRSG CAAC, the UNICEF Philippines team will prepare for the consultations in Utrecht, Netherlands.

Furthermore, the official visit to the Philippines of the SRSG included a meeting on 6 April 2011 on the Action Plan on the issue of the recruitment and use of child soldiers in Mindanao. The meeting focused on the timeline of the Action Plan with the MILF, exchanging insights for increasing the speed of implementation, as well as calling for better compliancy measures in respect of the MILF's Supplemental General Order. It was agreed that the registration of children across the 21 Base Commands will be completed within nine months, while more realistic criteria would be applied to the definition and identification of children associated within the armed agenda through the community dynamic prevalent in the region. The MILF, represented by Vice Chairman Ghazali Jaafar, and the chairman of the five-person panel for the Action Plan, Eid Kabalu, reaffirmed their position that no child under the age of 18 will be recruited or used in the armed conflict, yet acknowledged the potential for children to become involved through the community fabric.

Extension of the UN-MILF Action Plan on the issue of the recruitment and use of minors in the armed conflict in Mindanao remains pending the concurrence and signature of the MILF Leadership. The expiry of the Action Plan in July 2011 after two years of implementation coincided with the MILF's withdrawal from peace talks, and an escalation in armed skirmishes between the MILF, AFP and the breakaway Bangsamoro Islamic Freedom Movement. While communication between the UN and the MILF Five-Person Panel continues by telephone, and while a spirit of the compliance remains in principle, the MILF has not yet committed to meeting the UN on the proposed addendum on extension.

Meanwhile, in response to the recommendations from the Second Philippine Country Report on MRM (S/2010/36) and SC Working Group Conclusions (S/AC.51/2010/Notes.3) on strengthening the capacity of military and police forces to protect the children in conflict areas, the SRSG mission was able to gain the concurrence of the DND and the AFP to develop a strategic plan for the protection of children affected by armed conflict. This strategic plan would aim to address concerns of children's association with AFP paramilitary units, particularly the CAFGUs by devising activities that would address these issues conclusively. The strategic plan will also ensure the establishment of vetting procedures at the local level, child protection training for AFP personnel, and the secondment of specialized staff to the AFP Human Rights Office.

Significant progress has been reached with the intent of GPH to harmonize international standards with national legislations, particularly with the proposed legislation to ensure a more systematic process of handling children affected by armed conflict, and organise response on grave violations, as recommended in the Philippine country reports dated 24 April 2008 (S/2008/272) and 21 January 2010 (S/2010/36). The proposed bill on the protection of children in situations of armed conflict has been approved on 10 March 2011 by the House Committee on the Welfare of Children and has been endorsed to the Committee on Appropriations. Meanwhile, the first hearing of the Philippine Senate on the proposed legislation to ensure a more systematic process of handling & organize response for CAAC, was set on 28 September 2011. The meeting affirmed the need for the passage of this legislation, and generated support for the creation of a Technical Working Group (TWG) to harmonise the five Senate bills that were filed with this intent. Once the TWG has finalised a unified bill for the Senate level, a bi-cameral meeting will be convened. This bill also aims to codify the requirements of UN Security Council Resolutions on MRM.

Challenges

The security environment in the southern Philippines continues to present serious challenges for protecting children from violence, abuse, neglect and exploitation. In particular, in the highly conflict affected areas of Zamboanga, Basilan, Sulu and Central Mindanao, armed conflict and absence of rule of law has created a child protection crisis. Parties to the conflict and other criminal organizations are

known to fund their operations with human trafficking, kidnap for ransom, and smuggling. Children displaced by conflict or disaster are especially vulnerable to these risks.

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

With the Philippines prioritized in 2007 for implementation of the MRM for the recruitment and use of minors by the New People's Army (NPA), the Moro Islamic Liberation Front (MILF) and the Abu Sayyaf Group (ASG); as well as concerns of other violations committed by the AFP and its paramilitary groups; there is increasing global attention on grave child rights violations in the country. This was intensified with the issuance of UN Security Council Resolution 1882 (2009) and Resolution 1998 (2011), which give UN Country Teams the mandate to engage in Action Plans parties listed for the killing and maiming; rape and sexual violence; and attacks on schools and hospitals.

The Office of the Presidential Advisor on the Peace Process (OPAPP) has engaged openly with the UN in allowing a degree of flexibility in pursuing and implementing Action Plans with non-state actors, particularly the MILF and latterly with the National Democratic Front for the New People's Army. The OPAPP Secretary has also concurred with GPH commitments to work with the UN to develop a 'strategic plan' with the AFP, which would outline similar actions to protect children in conflict situations. GPH is also striving to strengthen its legislative framework for the protection of children to ensure that children associated with armed forces and groups are not prosecuted. This will be enforced through a Memorandum of Agreement (MOA) on the treatment and handling of children involved in armed conflict.

The country programme of UNICEF Philippines for 2012 to 2016 was designed to complement and support the Philippine Development Plan (PDP) 2011-2016. The GPH programs identified in the PDP focus on a variety of issues such as helping the Philippines meet its MDG commitments and promoting human security. For UNICEF, the protection of children affected by armed conflict has become a crosscutting issue as well as a standalone results area, indicating the importance of this work across sectors. The GPH should continue to support Action Plans and strategies with state forces and NSAG and groups that are identified in the Annexes of the UN Secretary General's Annual Reports on CAAC. Acknowledging the link between conflict and underdevelopment, the GPH should prioritize human security with special emphasis on children's rights, while observing the conclusions of the Security Council Working Group on Children and Armed Conflict (SCWG CAAC) and continuing its support for the MRM as mandated by Security Council Resolutions 1539 [2004], 1612 [2005], 1882 [2009], and 1998 [2011].