



REPUBLIC OF THE PHILIPPINES  
COMMISSION ON HUMAN RIGHTS

**PROTOCOL AND  
GUIDELINES ON  
MONITORING,  
REPORTING, AND  
RESPONDING TO  
CASES OF  
CHILDREN IN  
SITUATIONS OF  
ARMED CONFLICT**

**REPUBLIC ACT 11188:  
“SPECIAL PROTECTION  
OF CHILDREN IN  
SITUATIONS OF ARMED  
CONFLICT”**

BACKGROUND

The Commission on Human Rights is mandated to strengthen its mechanisms on monitoring and investigating incidents or reports in relation to children in situations of armed conflict, assist in developing and implementing advocacy activities to promote the rights of children in situations of armed conflict and conduct capacity-building activities on the provisions of the Act, especially to their regional offices (Rule 31 (c) of the IRR of R.A. 11188). Hence, this protocol.

Prepared by:

**CHILD RIGHTS CENTER**

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## **I. PREFATORY STATEMENT**

On 10 January 2019, the Philippine Legislature enacted Republic Act No. 11188 (“An Act Providing for the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof”), which provided an unprecedented level of protection to children from the ravages of armed combat, as well as a far more comprehensive listing of grave violations of children’s rights in an armed conflict setting and their corresponding penalties. With this landmark legislation, and the issuance of its Implementing Rules and Regulations (“IRR”) on 4 June 2019, it has therefore become incumbent on the implementing agencies and other actors named in the law to fulfill their designated roles.

As one of the implementers of R.A. 11188 per Section 17 as well as a member of the Inter-Agency Committee on Children in Situations of Armed Conflict (“IAC-CSAC”) under Section 25, the Commission on Human Rights (“CHR”) adopts the instant protocol in order to further define its role as an agency responsible for training and deploying investigators of violations of R.A. No. 11188, to distinguish its own role from those of other implementing agencies such as the Department of Justice (“DOJ”), to distinguish cases involving CSAC from other cases handled by CHR investigators, and finally, to ensure that, throughout the entire process of investigation of children in situations of armed conflict, whether these are Children Involved in Armed Conflict (“CIAC”), Children Affected by Armed Conflict (“CAAC”) or Internally Displaced Children (“IDC”), they observe the utmost respect for the rights of the child.

Pursuant to Rule 31 (c) of the IRR of R.A. 11188, the CHR “shall strengthen its mechanisms on monitoring and investigating incidents or reports in relation to children in situations of armed conflict.” It shall assist in developing and implementing advocacy activities to promote the rights of children in situations of armed conflict and conduct capacity-building activities on the provisions of the Act, especially in their regional offices. It shall issue a Handbook or Guidelines on the monitoring of the rights of CSAC. Pursuant to Section 34 of the R.A. 11188, a Congressional Oversight Committee on Children in Situations of Armed Conflict will be formed. The CHR shall be one of the members of this committee. In addition, the CHR shall:

- a) Exercise its visitorial power, upon being informed of the detention/arrest of a child, visit him or her to determine the observance by the government agencies of the human rights of the child and to ensure the faithful observance by the law enforcement officers of the procedures in taking the child into custody as stated by the law;
- b) Conduct independent investigation, on its own or upon complaint by any party, of cases of violation and abuse of the rights of CSAC, and recommend the filing of appropriate cases;
- c) Conduct the human rights training component of this program;
- d) Independently monitor the compliance of the concerned government agencies with the UNCRC and other related human rights treaties; and
- e) Participate in the monitoring and evaluation of this program.

## **II. APPLICATION OF PROTOCOL**

II.1. This protocol shall serve as guidelines and apply strictly to the situations falling within the scope of responsibility of the Commission on Human Rights (CHR) as enumerated in Republic Act No. 11188 and its implementing rules and regulations, inclusive of the following tasks:

- A. Investigation of potential cases concerning Children in Situations of Armed Conflict (CSAC) including the alleged commission of Grave Child Rights Violations (GCRV) as well as other cases involving Children Involved in Armed Conflict (CIAC), Children Affected by Armed Conflict (CAAC), and Internally-Displaced Children (IDC);
- B. Monitoring of potential and actual cases concerning CSAC, including potential GCRV;
- C. Reporting of activities to the Inter-agency Committee on Children in Situations of Armed Conflict (IAC-CSAC) as well as to the Country Task Force on Monitoring and Reporting of the United Nations (UN-CTFMR); and

D. Preventive visits of camps of the Philippine National Police and the Armed Forces of the Philippines to ensure that no CIAC or CSAC are present.

II.2. Situations not strictly falling within the scope of those contemplated by Republic Act No. 11188, such as, but not limited to cases concerning any violation of International Humanitarian Law (IHL) without the involvement of any CSAC, or cases concerning Children in Conflict with the Law (CICL) or Children At Risk (CAR) without the involvement of any armed conflict situation, shall not fall within the scope of this protocol but shall instead be governed by other existing CHR procedures relating to such matters.

III.3. The instant protocol exclusively governs the manner in which the Commission on Human Rights fulfills its mandate under Republic Act No. 11188 and its Implementing Rules and Regulations. It does not impose any additional obligations on any other government agencies or non-governmental actors such as civil society or clergy groups not already provided for by the law.

III.4. The instant protocol shall in no way diminish the authority or derogate from the responsibilities bestowed by R.A. No. 11188 on other agencies tasked with enforcing it.

III.5. All efforts shall be made to ensure that the instant Protocol is harmonized with the protocols of all other agencies tasked with implementing R.A. No. 11188, and in the event of conflict between this protocol and that of another agency, the CHR shall refer to the relevant provisions of R.A. No. 11188 and the IRR.

III.6. As a member of the Inter-Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC), the CHR shall actively participate in its processes, including its regular meetings and its decision-making processes, and shall submit quarterly reports of its activities under this protocol to the IAC-CSAC.

III.7. All CSAC, including CIACs, are to be treated as victims in need of rescue and not as perpetrators. That said, in the event that any CIAC as defined by R.A. 11188 is involved in the perpetration of a GCRV, he or she shall, in conformity with the

IRR of R.A. No. 11188, be treated as a CICL and the provisions of Republic Act No. 9344 will apply to his or her case.

III.8. The Department of Social Welfare and Development has the primary authority and jurisdiction over the welfare of all CSAC. The CHR shall in all cases respect and defer to the sound judgment of the DSWD to act in the best interest of the child and shall enjoin all other agencies to do the same.

### **III. DEFINITION OF TERMS**

III.1. The terms contained in this Protocol shall be consistent with those used in Republic Act No. 11188 and its Implementing Rules and Regulations, as well as with terms used in the Revised Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance and Other Remedies<sup>1</sup> (CHR Omnibus Rules of Procedure) of the Commission insofar as they refer to processes unique to the Commission.

III.2. In the event of any conflict in the interpretation of terms found in Republic Act No. 11188 and its IRR, it is the interpretation of the term as found in R.A. No. 11188 and its IRR that shall prevail.

### **IV. INITIATING INVESTIGATION**

IV.1. Commencement of the Investigation. Consistent with the relevant sections of Rules 3 and 6 of the CHR Omnibus Rules of Procedure, an investigation into a case allegedly involving the violation of the rights of a CSAC may commence in any of the following instances:

A. Sworn complaint.

When a sworn complaint alleging a violation of the rights of the CSAC is filed by the child, either of the parents or a guardian, or any interested party with personal knowledge of the events constituting the violation.

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<sup>1</sup> *Revised Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance and Other Remedies – December 2020*

B. Referral.

When a case allegedly involving the violation of the rights of a CSAC is referred to the CHR based on information from the ground capable of personal verification by the investigative team.

C. Media reports or other sources.

When the Commission finds media reports or from other sources, such as civil society organizations or people's organizations, of a case allegedly involving the violation of the rights of a CSAC, it may *motu proprio* commence its investigation.

IV.2. Composition of the Investigating Team.

A. The composition of the investigating team shall be consistent with that provided in the CHR Omnibus Rules of Procedure on fact-finding investigations, as defined in Rule 3.

B. In all investigations involving CSAC, the guiding principles in Complaints Involving Children as enumerated in Section 6(c), Rule 3 of the CHR Omnibus Rules of Procedure shall be strictly observed by the team.

C. To ensure the protection of the CSAC, the team shall, as much as possible, coordinate with relevant agencies, such as the Department of Social Welfare and Development, in accordance with Sections 6(d) and 6(e) of Rule 3.

D. Prior to the commencement of the investigation, a plan must be completed in accordance with Section 12, Rule 3 of the CHR Omnibus Rules of Procedure.

E. At the discretion of the Regional Director, representatives from CSO, CTFMR, or member agencies of the IAC-CSAC may join the fact-finding investigation conducted by the Commission, provided that their participation shall not encroach on the CHR's mandate under R.A. No. 11188. Provided further that, they comply with the Child Protection Policy and other rules and regulations of the Commission regarding handling of

cases involving CSAC. The joint nature of the probe notwithstanding, the CHR shall issue an independent report. Any report or findings made by the organizations and/or agencies CHR conducted the probe with, shall not influence its own and they shall never be bound by any such report.

- F. To ensure that every member of the CHR's investigating team is properly trained to interview and interact with children, the Child Rights Center (CRC) and Human Resources Development Division (HRDD) shall actively be involved in the capacity building of all the personnel involved in handling children's cases.

#### IV.3. Time frame for Investigation.

- A. In accordance with Section 12, Rule 3 of the CHR Omnibus Rules of Procedure, the investigation involving the CSAC shall take no longer than sixty (60) days, after which the investigating team must submit its report. However, upon request and for meritorious reasons and consistent with Section 12, an extension of thirty (30) days may be given to submit the final investigation report.
- B. If the investigation cannot be completed within 60 days as a result of efforts to ensure that the best interest of the child was protected, such as, but not limited to, seeking the assistance of a social worker, these circumstances must explicitly be stated in the request for a 30-day extension.

### **V. GATHERING EVIDENCE**

#### V.1. All Modalities for Gathering Information.

- A. The team shall ensure that at the very outset, the proper CHR intake form has been accomplished by the individual who has filed the complaint, or, if the investigation was commenced *motu proprio*, by the parents or guardian of the CSAC, or in their absence of anyone duly authorized to transact on behalf of the CSAC, such as a social worker.
- B. Consistent with Rule 6 of the CHR Omnibus Rules of Procedure, the investigating team shall, in accordance with the investigation plan, gather

evidence by obtaining or receiving the statements of all witnesses to the alleged violation of the rights of the CSAC, whether eyewitnesses or corroborative witnesses as well as obtaining or receiving all other supporting evidence including but not limited to documents or photographs that may support the allegations.

- C. In gathering evidence for the investigation, the investigating team should ensure that all statements provided by eyewitnesses or corroborative witnesses should be reduced into sworn statements at the minimum. Such affidavits may be sworn before Special Investigators, CHR lawyers or all other individuals who are authorized to take oaths under Section 3(m), Rule 2 of the CHR Omnibus Rules of Procedure after an explanation to the witness of the significance of executing a sworn statement in a language the witness can understand.
- D. All documentary and photographic evidence should be capable of authentication by those who prepared them, and wherever possible, the team should also secure a sworn statement from the author of the document or photograph.
- E. Upon receiving and collating the evidence for the complainant, the team should now afford the named respondents the opportunity to submit their response and any supporting evidence they may have to support their assertion.

V.2. Guidelines on interviewing or otherwise approaching children, whether as witnesses, victims or CIICL.

- A. When interviewing CSAC, whether these are CIAC, CAAC, or internally-displaced children, utmost care must be taken to avoid further trauma, branding, or shaming, of the child, and the interviewer must at all times remember that all CSAC, even CIAC, are victims in need to rescue. The guiding principles of Section 6(c) of Rule 3 must always be observed.



- B. For this purpose, it is an indispensable requirement that the interviewer of the CSAC has undergone appropriate training and orientation on how to interview children who have undergone traumatic experiences.
- C. In all cases, the interview should be conducted at a place and time most conducive to the peace of mind of the CSAC. Whenever possible the interviewer should conduct the interview in the presence of the child's parent/legal guardian and a licensed social worker.
- D. All interviews with CSAC shall be conducted in a manner that is gender-sensitive. If the CSAC is female, especially if she has been the victim of rape or other forms of sexual violence, she may be interviewed by a female member of the team or at her own choice.
- E. It is advisable to avoid repeated interviews that would retraumatize the child or cause further mental distress. If an interview with the CSAC is not possible without causing further trauma due to the mental state of the CSAC, and if a written statement has already been provided to a first-responder such as a Social Worker or a member of the PNP, the fact-finding team shall adopt the statement as its evidence. In the event that the CHR investigator finds there is a need to conduct a follow-up interview, it shall do so only with the consent of the child and parent/legal guardian and the positive recommendation of the social worker in charge.

### V.3. Coordination with LSWDO or CWC.

- A. In all interactions with CIAC, whether these consist of interviewing and monitoring the CIAC or releasing financial assistance to their parents or guardians, the team shall coordinate with the handling social worker to ensure transparency and that maximum effort is taken to act in the best interest of the child.
- B. In the event that the CHR happens to be the first responder, i.e. if the CSAC or their family has approached the CHR through the national or local office, before any other government agency or service provider such as an NGO, it shall be incumbent upon the CHR to inform the parent/s or recognized

guardian of the child, LSWDO, LCPC, and CWC through the RSCWC within twenty-four (24) hours from the time the CSAC or their family have approached them and to endorse the CSAC and their family to the LSWDO within that time.

## **VI. REPORTING INVESTIGATION RESULTS**

### **VI.1. Contents of the Report**

- A. After gathering the available evidence, the CHR investigating team shall prepare a report to be signed by the team members, which should contain a detailed list of the findings made by the team based on the available evidence, its conclusions and its recommendation. All conclusions made in the report must be supported by substantial evidence.
- B. All supporting evidence should be attached to the report, including but not limited to sworn affidavits, photographs, news reports, documents and all other relevant and competent evidence that has been obtained in support of the conclusion contained in the report.
- C. The team shall endorse the report to the Regional Director with appropriate jurisdiction over the matter within the period provided for by the CHR Omnibus Rules of Procedure.

### **VI.2. Drafting a Resolution**

Upon the termination of the investigation, the Final Investigation Report, the case folder, and all documents deemed part of the records of the case shall all be endorsed to the Legal Section of the Regional Office for case evaluation and who shall draft the resolution of the case for approval of the Regional Director.

### **VI. 3. Action of the Regional Director**

- A. The Regional Director may adopt, reject or modify the draft resolution based on the Regional Director's personal evaluation of the documents and testimonies on record. Any recommendation included in the resolution should specifically state what should be done, the steps required to

implement the action, the resources needed, the benefits and advantages of the proposed action/s and the problems that would be avoided or corrected. As far as practicable, the recommendations made shall be implemented upon the sound discretion of the Regional Director.

- B. The Regional Director shall include in the CHR's regular report to the UN-CTFMR and IAC-CSAC any report in which the investigating team determines that a GCRV has taken place.

#### VI. 4. Financial Assistance

The grant of Financial Assistance to CSAC or their qualified families shall in all cases be done in accordance with Rule 17 of the Omnibus Rules of Procedure and Work Instruction Manual on the Grant of Financial Assistance<sup>2</sup> and only after the requirements for the grant thereof have been fully satisfied.

### **VII. FILING AN APPEAL**

VII.1. Any party aggrieved by the Resolution of the Regional Director may, in accordance with the CHR Omnibus Rules of Procedure, and after seeking reconsideration of the Resolution, seek a review through a verified petition of the Resolution from the Commission En Banc.

VII.2. The Decision of the Commission En Banc made upon the petition for review shall be final and executory.

### **VIII. MONITORING OF CASES**

VIII.1. Subject of Monitoring. The following instances shall be subject to monitoring:

- A. When a matter involving a CSAC or a GCRV which has been reported to the CHR has already been the subject of appropriate charges against the alleged perpetrators, whether criminal, civil or administrative, the CHR shall monitor the progress of the case to ensure that the rights of the CSAC, whether as a private complainant or as an accused, are duly respected.

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<sup>2</sup> PAWIM 2021

- B. When a suspected CIAC is detained, the CHR shall monitor his or her detention to ensure that he or she is receiving humane treatment, and to call the attention of the relevant authorities if detention is inappropriate under the circumstances. Such monitoring shall consist of regular, unannounced visits to the place of detention where the CIAC is detained, and refusal of the detaining authority to cooperate with the visits shall form part of the monitoring report.
- C. When a case involving an alleged CSAC has concluded within the justice system, whether it has resulted in a conviction or an acquittal, the CHR shall monitor the execution of the decision, including, but not limited to the reintegration of the CSAC into the community. The CHR shall monitor the actions of all relevant duty-bearers to ensure that they have fulfilled their obligations to the CSAC under all relevant laws and issuances including but not limited to the United Nations Convention on the Rights of the Child, Republic Act No. 7610, Republic Act No. 9851 and Republic Act No. 11188.
- D. When a given community has been home to incidents involving CSAC, the CHR shall also monitor preventive measures undertaken by the relevant agencies and actors within the local community to prevent the recurrence of GCRV including livelihood programs and related activities aimed at improving the welfare of children in the area.

#### VIII.2. Monitoring of Detained CIAC

- A. The concerned Regional Director shall designate a focal person within the regional office to monitor the specific case involving the detention of the CIAC.
- B. The Monitoring shall be done in a manner consistent with existing procedures of the CHR for monitoring other cases involving the deprivation of a child's liberty
- C. The CHR shall, during the monitoring, ensure that the basic needs of the CIAC including nutrition, healthcare, access to justice and psychosocial

support are met. The CHR shall make such regular recommendations to the detaining authority and coordinate with the LSWDO as may be necessary or useful in improving the conditions of detention of the CIAC.

- D. The CHR shall ensure that all reports compiled from its monitoring activities on cases involving CSAC shall be regularly shared with the Inter-Agency Committee on Children in Situations of Armed Conflict, as well as the Congressional Oversight Committee on the implementation of Republic Act No. 11188.
- E. If the family of the CSAC does not regularly participate in the case, especially if the CSAC is the one on trial, the CHR shall provide periodic updates to the family on the progress of the case.

### VIII.3. Monitoring of Rehabilitation Efforts

- A. The Regional Director shall designate a focal person to conduct monitoring of the rehabilitation efforts of a CIAC.
- B. The monitoring point person shall take note of the efforts of all the duty-bearers, the rehabilitation process, including government agencies such as but not limited to the Local Social Welfare and Development Office, the Department of Education, the Department of Health and the local government leaders, and all other relevant actors from the community as well as civil society actors enumerated in Republic Act No. 11188.
- C. The CHR shall monitor the progress of the rehabilitation against the obligations and duties enumerated in the provisions of RA No. 11188 and shall, whenever necessary, make appropriate recommendations to the concerned duty-bearers to improve the rehabilitation process.
- D. All monitoring of rehabilitation processes of CIAC shall be included in the CHR's regular report to the IAC-CSAC and shall also form part of its report to the UN-CTFMR.

### VIII.4. Monitoring of Preventive Efforts

- A. In communities in which CSAC have been found, the CHR, through the Regional Director, shall designate a point person to monitor efforts by the

concerned community to protect the CSAC and to prevent the occurrence or recurrence of the GCRV.

- B. The focus of the monitoring efforts shall center on psychosocial, economic and educational support for the children of the community and their families and shall include the efforts of both national and local government agencies such as but not limited to the Department of Social Welfare and Development, the Department of Education and the Department of Health as well as the efforts of community leaders, both elected and informal, as well as civil society groups.
- C. The CHR shall monitor the preventive efforts and shall regularly include the progress thereof in its reports. Whenever necessary, the CHR may put forward recommendations that may help improve the preventive efforts of the community.

## **IX. PREVENTIVE MONITORING VISITORIAL DUTIES**

IX.1. Even without the detention of a CIAC, the CHR shall regularly conduct preventive monitoring visits on military and police camps to ensure that the security sector complies with its obligation under Republic Act No. 11188 to refrain from detaining CSAC in its camps. These visits to military and police camps shall be unannounced and done at least four times in a year.

- A. All visits shall be conducted in a manner consistent with the CHR's mandate as contained in the 1987 Constitution, Executive Order No. 163, Republic Act No. 9745 and other laws and regulations expressly recognizing this mandate.
- B. The procedure for planning and conducting visits shall be consistent with that contained in the CHR's Omnibus Rules of Procedure.

IX.2. The CHR shall regularly share its reports, complete with conclusions and recommendations, on its visits with the IAC-CSAC as well as the Congressional Oversight Committee.